

# CONNECTICUT MODEL ZONING CODE PROJECT

1/20/2010

**I. AUTHORITY, PURPOSE, APPLICATION**

A. Authority

1. These regulations are adopted under the authority of Chapter 124 of the Connecticut General Statutes, as amended.

2. The [Town] shall have all the powers conferred upon municipalities by the Connecticut Constitution and General Statutes, as amended from time to time. In addition to all of the powers granted to the [Town] under the Connecticut Constitution and General Statutes, particularly Sections 7-148 and 7-194 of the General Statutes, as amended, the [Town] shall have all the powers necessary to the management, government and affairs of the [Town].

The [Town] shall have the power to enter into contracts for any purposes not prohibited by law.

The enumeration of specific powers in this and other chapters of this regulation shall not be construed as limiting this general grant of powers but shall be considered as an addition thereto.

Adapted from chapter 2 of the zoning code for the town of Windham, CT (<http://tiny.cc/vkPNi>)

B. Purpose. The purpose of these regulations is to protect and provide for the public health, safety and general welfare. These regulations are adopted to guide the future growth and development of Connecticut and further the goals and objectives of the Plan of Conservation and Development. In furtherance of such purposes, the following objectives guide these regulations:

1. To protect the social and economic stability of all areas of the [Town] by ensuring that development is orderly and beneficial.

Canaan Zoning Regulations §1.2.
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2. To foster smart growth zoning

3. To provide for adequate light and air

4. To protect and conserve the value of land and buildings appropriate to the various zones established by these regulations.

Adapted from § 1.2 of the zoning code for the town of Ridgefield, CT (<http://tiny.cc/mH0kP>)

5. To protect environmentally sensitive areas including but not limited to ground water, surface water, watercourses, forest land, ridgelines, critical habitat area, areas of co-occurring natural resources, and wildlife corridors.
6. To protect cultural and historical resources.
7. To minimize sprawl and traffic congestion by concentrating density in select areas of the municipality while preserving open space.
8. To allow for multi-use zones where residential and business uses may overlap.
9. To preserve the [rural-or any other adjective that describes the town] characteristics of the municipality.
10. To protect agricultural resources and uses within the municipality.
11. To provide for housing choice and economic diversity in housing, including affordable housing for low and moderate income households.

Adapted from § 1.2 of the zoning code for the town of Ridgefield, CT (<http://tiny.cc/mH0kP>)

12. To regulate and restrict the location, use, height and bulk of buildings, structures, yards and open spaces within the municipality.

Adapted from Stamford Zoning Regulations § 1, available at <http://tiny.cc/EcuNb>

13. To secure safety from fire, panic, flood and other dangers.
14. To minimize conflicts among uses of land and buildings, and to increase conformity with the State Plan of Conservation and Development adopted pursuant to Sections 16a-24 through 16a-33 of the Connecticut General Statutes.

Adapted from § 010-010 of the zoning code for the town of New Milford, CT (<http://tiny.cc/n9Bi5>).

15. To encourage energy-efficient patterns of development, the use of solar and other renewable forms of energy, and conservation.

Bristol Zoning Regulations §1.0, available at <http://tiny.cc/ad2aN>

16. To Control development to an amount commensurate with the capacity of the land and the availability and capacity of public facilities and services, thereby

facilitating the adequate provision for transportation, water, sewerage, schools, parks and other public requirements.

Canaan Zoning Regulations §1.2.

17. To prevent the overcrowding of land and to avoid the under utilization of land capable of sustaining higher densities by establishing zones consistent with soil types, terrain and infrastructure capacity, for all residents of [Town] and the planning region.

C. Application

1. Compliance with Regulations. No portion of land, building, or premises shall be used and no building or part of that building or other structure shall be constructed, reconstructed, extended, enlarged, moved or altered except as permitted or required by these zoning regulations or by the subdivision regulations.

Madison Zoning Regulations § 2.1 (this regulation also includes the following language “No lot shall have an area, width or front, side or rear yard less than and no building shall occupy in the aggregate percentage of the lot area nor be greater in height than as set forth in the applicable paragraph hereof. . . . No land, building or premises or parts thereof shall be used in any manner which shall create any objectionable noise, smell, smoke, light or radio or television interference”), available at <http://tiny.cc/skf9c>

2. If any section, subsection, paragraph, clause, or provision of these Regulations shall be adjudged invalid, such decision shall apply only to the section, subsection, paragraph, clause, or provision in question, and the remainder of these Regulations shall be deemed valid and effective.

Stonington Zoning Regulations §1.2.1, available at <http://tiny.cc/b4Nro>

3. Where any conflict arises between the provisions of these Regulations and any other law, ordinance easement, covenant, rule, regulation, or permit, the provision that imposes the highest standard or establishes the greatest restriction upon the use of land, buildings or structures shall control.

Canaan Zoning Regulations §1.5.

## II. DEFINITIONS

***Abutter:***

The owner(s) of land adjacent to the subject parcel, within a radius of one hundred (100) feet, or a distance prescribed in C.G.S. Section 8-8(a)(1), whichever is greater, including land across any road, street, highway, pentway, river, stream, cove, or brook. (Stonington, CT)

***Accessory Building:*** (*See, Accessory Structure*)

***Accessory Dwelling Unit:***

A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family dwelling. (Livermore, CA)

***Accessory Structure:***

A subordinate structure detached from but located on the same lot as a principal building. The use of an accessory structure must be identical to the use of the principal building(s). Accessory structures shall also include garages, sheds, decks and fences. (Ames, IA)

***Accessory Use:***

A use that is incidental and subordinate to that of the main building or use of land and that is located on the same lot and under the same ownership in all respects. (Oxford, CT)

***Activity:***

An economic unit designated in the classification system given in the Standard Industrial Classification (SIC) Manual published by the U.S. Department of Commerce.

This definition is necessary only if the street graphics ordinance applies to specific “activities” independently of the zoning districts included in the zoning ordinance. The Table of Basic Design Elements and Table of Auxiliary Design Elements that were included in the previous edition of the model ordinance applied to “activities.” It is also possible to define an activity without reference to the SIC Manual.

***Adaptive Reuse:***

The conversion of obsolescent or historic buildings from their original or most recent use to a new use. For example, the conversion of former hospital or school buildings to residential use, or the conversion of an historic single-family home to office use. (California Planning Roundtable)

***Addition:*** (*See also, Alteration*)

Any construction that increases the floor area, footprint, height or cubic volume of an existing building or structure, or an increase in that portion of a tract of land occupied by an existing use. (New Milford, CT)

***Adult bookstore:***

An establishment having as a substantial or significant portion of its stock in trade motion pictures, video recordings, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to obscene or sexual activities for observation by patrons thereof or an establishment with a segment or section devoted to the sale, rental or display of such material.

***Adult cabaret:***

A nightclub, bar, restaurant or similar establishment that regularly features live performances that are characterized by the exposure of specific anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by any emphasis upon the depiction or description of specified activities or anatomical areas.

***Adult establishment:***

An adult bookstore, adult cabaret, adult mini-motion-picture-theater or adult motion picture theater, or any combination thereof.

***Adult mini-motion-picture-theater:***

An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to obscene activities for observation by patrons therein.

***Adult motion-picture-theater:***

An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to obscene or sexual activities for observation by patrons therein.

***Affected Water Company:***

Means “affected water company” as defined in §22a-354h of the Connecticut General Statutes.

***Affordable Housing:***

Housing renting for a monthly rent of not more than 30 percent of the total monthly household income of low-income households (defined to be a household earning less than 80 percent of the median annual income adjusted for household size, as determined by the United States Department of Housing and Urban Development.)

***Agency:***

The board or commission authorized by the municipality under §22a-354o of the Connecticut General Statutes.

***Agriculture:***

Means “agriculture” as defined in the §1-1(q) of the Connecticut General Statutes. [This term applies only to the regulations set forth in the aquifer protection area section]

***Agricultural Use:***

The employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops, or feeding (including grazing), breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees, or by dairying and the sale of dairy products, by any other horticultural, floricultural or viticultural use, by animal husbandry, or by any combination thereof. It also includes the current employment of land for the primary purpose of obtaining a profit by stabling or training equines including, but not limited to, providing riding lessons, training clinics and schooling shows. (Growing Smart Guidebook)

***Air Rights:***

The ownership or control of all land, property, and that area of space at and above a horizontal plane over the ground surface of land used for railroad or expressway purposes. The horizontal plane shall be at a height that is reasonably necessary or legally required for the full and free use of the ground surface. (Chicago, IL – A Planners Dictionary)

***Aircraft, Civil Air Patrol:***

See Aircraft, except these are Congressionally chartered, federally supported, and part of a non-profit corporation that serve as the official civilian auxiliary of the United States Air Force (USAF). These aircraft perform three congressionally assigned key missions: emergency services, which includes search and rescue (by air and ground) and disaster relief operations; aerospace education for youth and the general public; and cadet programs for teenage youth. <http://tinyurl.com/4kldbc>

***Aircraft:***

Any contrivance now known or hereafter invented for use in or designed for navigations of or flight in air. (Normal, IL – A Planners Dictionary)

***Airport Approach Plan:***

A description of an imaginary surface longitudinally centered on the runway centerline, extending outward and upward from the end of the runway, and is based upon the type of approach available or planned for that runway end. (Thurston County, WA – A Planners Dictionary *See Airport Approach Area*)

***Airport Hazard, Lighting:***

Lights or marking indicators as shall be deemed necessary by the appropriate officials to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. <http://tinyurl.com/yzccr59>

***Airport Hazard, Marking:*** (See Airport Hazard, Lighting)

***Airport Hazard:***

Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft; <http://tinyurl.com/yzccr59>

***Airport Manager:***

To manage, supervise and coordinate operations and maintenance of the Hollister Municipal Airport, coordinate assigned activities with other City Departments and outside agencies and to provide administrative support to the Director of Public Works. <http://tinyurl.com/y8vephk>

***Airport Operations:***

Airport Operations include businesses operating international, national or civil airports or public flying fields. It also includes operators supporting airports (except special food services contractors), offering services such as aircraft refueling, aircraft parking, rental of hangar space, air traffic control services, baggage handling services, cargo handling services and others. These services are commonly provided by fixed base operators (FBO). <http://tinyurl.com/ygpntly>

***Airport, Private:***

Any airport licensed by the state as a private airport, used primarily by the airport licensee, but available for use by others upon specific invitation of the licensee.

***Airport, Public:***

Any publicly or privately owned airport licensed by the state as a public airport, which meets minimum safety and service standards and is open for use to the general flying public. (Polk County, FL – A Planners Dictionary)

***Airport:***

Facilities for the takeoff and landing of aircraft, including runways, aircraft storage buildings, helicopter pads, air traffic control facilities, informational facilities and devices, terminal buildings, and airport auxiliary facilities, including fences, lighting and antennae systems, on-premise signs, driveways, and access roads. This term includes aircraft maintenance facilities, aviation instruction facilities, and heliports when part of a larger airport facility. (Milwaukee, WI – A Planners Dictionary)

***Alley:***

A narrow public or private thoroughfare which provides only a secondary means of vehicular access to abutting properties. (Dewey Beach, FL – A Planners Dictionary)

***Alteration:*** (See also, Addition)

Any change to the exterior surfaces of a building or part thereof, including but not limited to renovation, rehabilitation, reconstruction, restoration, replacement, or rearrangement of structural parts or elements, or any change that affects the plan configuration of walls, spaces, or bulk of a building. (Planners Dictionary)

***Alternate Member or Commissioner:***

A member of the Commission elected or appointed in accordance with Town Ordinance. An alternate member may participate and vote on any organizational or procedural matter that comes before the Commission, including but not limited to, voting for officers and the adoption or amendment of these bylaws. An alternate member may be selected to participate and vote in place of a regular member who is absent or has disqualified himself or herself from a particular matter. Alternate members when seated in the place of a regular member of the Commission may initiate and vote on all motions.

**Amendment:** (See, Zoning Amendment)

**Antenna:** (See also, Telecommunications Tower)

Any structure designed for transmitting signals to a receiver or receiving station or for receiving television, radio, data communication, or other signals from other antennas, satellites, or other services. (Hartford, CT)

**Apartment:**

A part of a dwelling consisting of a room or rooms, intended, and designed to be occupied as a residence of a single family or individual, and which has only one complete kitchen and at least one complete bathroom. (Lake Lure, NC)

**Applicant:**

Any person, firm, or corporation requesting approval of any land-use, development, or improvement application, or similar entitlement regulated by the municipal code. (San Juan Capistrano, CA)

A person who applies for an exemption under §22a-354i-6 of the Regulations of Connecticut State Agencies, a permit under §22a-354i-8 of the Regulations of Connecticut State Agencies or a permit under Section 9 of the APA Regulations. [This term applies only to the regulations set forth in the aquifer protection area section]

**Application:**

An application for an exemption under §22a-354i-6 of the Regulations of Connecticut State Agencies, an application for a permit under §22a-354i-8 of the Regulations of Connecticut State Agencies or an application for a permit under Section 9 of the APA Regulations. [This term applies only to the regulations set forth in the aquifer protection area section]

**Aquaculture:**

The production of aquatic plant or animal organisms for food or other commercial purposes, within naturally occurring bodies of water (Fresh or Salt). (Planners Dictionary)

**Aquifer:**

A saturated geological formation that will yield a sufficient quantity of water to serve as a private or public water supply. (Planners Dictionary)

**Aquifer Protection Area:**

Means "aquifer protection area" as defined in §22a-354h of the Connecticut General Statutes and any extension of such area approved by the Commissioner pursuant to §22a-354i-4 of the Regulations of Connecticut State Agencies.

**Arcade:**

Any building or premises which contains 3 or more electronic and/or mechanical pinball and/or video machines intended for public use. (Stonington)

**Architectural Composition:**

The scale, height, mass, proportion, color, form, style, detail, treatment, texture, construction material, and roof design of a project or building. (Palm Beach County, FL)

**Architectural detail:** (See also, signable area, wall and roof graphics):

Any projection, relief, cornice, column, change of building material, window, or door opening on any building (Wilmette, Illinois).

This definition defines a term that is included in the definition of the "signable wall area" for wall and roof graphics.

**Architectural, historic, or scenic area:**

An area that contains unique architectural, historic, or scenic characteristics that require special regulations to ensure that street graphics displayed within the area enhance its visual character and are compatible with it. (Columbus, Ind.)

This definition defines "areas" that can be designated as Areas of Special Character.



***Area of Contribution:***

Means "area of contribution" as defined in §22a-354h of the Connecticut General Statutes and as mapped in accordance with §22a-354b-1 of the Regulations of Connecticut State Agencies.

***Artist:***

A person who is skilled and regularly engaged in one or more art forms such as, but not limited to, visual, performing, literary, architectural, crafts, photographic, film and video. (Hartford)

***Assisted Living:*** (*See*, Retirement Home)

***Attic:***

The area between roof framing and the ceiling of the rooms below that is not habitable, but may be reached by ladder and used for storage or mechanical equipment. (Litchfield)

***Automotive Sales and/or Rental:***

The use of any building, land area, or other premises or portion thereof, for the display, sale, lease, and rental of new or used automobiles, panel trucks or vans, trailers, or recreational vehicles, and including any warranty repair, other repair service, taxicab dispatch areas, and auto rental agencies, conducted as an accessory use. (Southaven, MS; Blacksburg, VA – A Planners Dictionary)

***Awnings:***

A roof-like cover, often of fabric, metal, or glass, designed and intended for protection from the elements or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walkway, door, or the like. (Planners Dictionary)

A cloth, plastic, or other nonstructural covering that either is permanently attached to a building or can be raised or retracted to a position against the building when not in use.

***Bank:***

A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments and fiduciary activities. (Palm Beach County, FL)

***Base Flood:***

The standard adopted by the Federal Emergency Management Agency to identify areas where there exists a one percent annual chance of a flood occurring. (Planners Dictionary)

***Basement:***

The portion of a building all or partly underground by having at least one-half of its height, the distance between the ceiling and the floor, below grade. (Planners Dictionary)

***Bed and Breakfast Inn:***

An establishment, which provides temporary travelers' accommodations and breakfast in a single-family residence for a fee. (New Milford, CT)

***Bedroom:***

A room within a dwelling used or intended to be used by human beings for sleeping purposes. (Planners Dictionary)

***Best Management Practices:***

Methods or techniques found to be the most effective and practical means in achieving an objective (such as preventing or minimizing pollution) while making the optimum use of the firm's resources.

<http://tinyurl.com/ydbcaen>

***Blasting:***

The use of explosives for mining, construction, seismology, demolition, or industrial cleaning, shall be conducted only by licensed blasters or persons supervised by a licensed blaster. <http://tinyurl.com/ybmwbc>

***Boardinghouse:***

A private dwelling with at least two but not more than five rooms offered for lodging and where meals are regularly provided for compensation, payable in money and or other consideration. (Planners Dictionary)

***Boat Chandlery:***

A facility or business which deals in cordage, canvas, and other supplies for boats. <http://tinyurl.com/ybf34yh>

***Boating Facility:*** (See, Marina)

***Boat Livery:***

A facility where small boats can be rented by the hour and which may be connected with a store which sells fish bait and refreshments during the summer season only. (Stonington, CT)

***Boat Ramp:***

A facility to launch and retrieve recreational boats from a trailer. Most ramps have breakwater protection from large waves, parking lots, a courtesy dock to assist in launching, toilets, refuse containers, lighting and telephones. (Green Bay, WI – A Planners Dictionary)

***Boat Rental:*** (See, Boat Livery)

***Boat Storage:***

An enclosed or partially enclosed structure designed for the use and storage of watercraft and marine equipment. (Traverse City, MI – A Planners Dictionary)

***Boat:***

A vehicle designed for operation as a watercraft propelled by oars, sails or one or more internal combustion engine(s). A boat shall not be considered as a recreational vehicle even though it has facilities for temporary living quarters. (Indian River County, FL – A Planners Dictionary)

***Bonafide Emergency:***

Actions that must be undertaken immediately or within a time frame too short to allow full compliance with this Regulation to avoid an immediate threat to public health or safety, to prevent an imminent threat of serious environmental degradation. (Renton, WA – A Planners Dictionary)

***Broad-based Dip:***

A surface drainage structure specifically designed to divert water from the access road while vehicles maintain normal travel speeds.

***Brownfield:***

Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant. (42 U.S.C. § 9601(39)(A) (2009))

***Buffer:***

An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural vegetation and/or created by the use of trees, shrubs, fences, and/or berms, with the primary purpose of providing visual, noise or odor insulation from adjacent property or roadways. (New Milford, CT; Stonington, CT)

***Building:***

Any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals or chattel. (New Milford, CT)

***Building Line:***

The line within a property which defines the minimum horizontal distance to be provided between an exterior building wall or building support and the adjacent property line. (Hot Springs, AR)

***Building Area and/or Footprint:***

The portion of a lot or site, exclusive of required yard areas, setbacks, landscaping or open space, within which a structure may be built. (Renton, WA)

***Building Height or Height:***

The distance vertically from the highest point of the roof to the lowest point of the structure exposed above the ground. Chimneys, vents, or utility service structures shall not be included in the measurement of vertical dimensions. (Litchfield, CT)

***Building, Principal:***

A building or buildings in which is conducted the principal use of the lot on which it is situated. (Planners Dictionary)

***Bulk Storage Facility:***

Property where oil or petroleum liquids are received by tank vessel, pipeline, railroad car or tank vehicle for the purpose of storage for wholesale distribution.

***Camp Trailer (camper):***

A vehicular unit on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold to provide temporary living quarters for recreational, camping or travel use. (Hedwig Village, TX)

***Canopy: (See, Awning)***

A structure other than an awning made of cloth, metal, or other material with frames affixed to a building and carried by a frame that is supported by the ground. (Schaumburg, IL)

***Cellar: (See, Basement)***

***Certified Hazardous Materials Manager:***

A hazardous materials manager certified by the Institute of Hazardous Materials Management and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable laws and identify appropriate pollution prevention practices for such activities.

***Church: (See, Place of Public Assembly)***

***Citation:***

A written statement of the relevant conditions and facts giving rise to a violation, including a reference to the specific section(s) of the regulation which has been violated, the time period during which the violation has existed, the potential fine and the cited party's right to appeal. <http://tinyurl.com/yk89y67>

***Club: (See, Membership Club)***

***Coastal Resources:***

"Coastal resources" means the coastal waters of the state, their natural resources, related marine and wildlife habitat and adjacent shorelands, both developed and undeveloped, that together form an integrated terrestrial and estuarine ecosystem; coastal resources include the following: (A) "Coastal bluffs and escarpments" means naturally eroding shorelands marked by dynamic escarpments or sea cliffs which have slope angles that constitute an intricate adjustment between erosion, substrate, drainage and degree of plant cover; (B) "rocky shorefronts" means shorefront composed of bedrock, boulders and cobbles that are highly erosion-resistant and are an insignificant source of sediments for other coastal landforms; (C) "beaches and dunes" means beach systems including barrier beach spits and tombolos, barrier beaches, pocket beaches, land contact beaches and related dunes and sandflats; (D) "intertidal flats" means very gently sloping or flat areas located between high and low tides composed of muddy, silty and fine sandy sediments and generally devoid of vegetation; (E) "tidal wetlands" means "wetland" as defined by Connecticut General Statutes Section 22a-29; (F) "freshwater wetlands and watercourses" means "wetlands" and "watercourses" as defined by Connecticut General Statutes Section 22a-38; (G) "estuarine embayments" means a

protected coastal body of water with an open connection to the sea in which saline sea water is measurably diluted by fresh water including tidal rivers, bays, lagoons and coves; (H) "coastal hazard areas" means those land areas inundated during coastal storm events or subject to erosion induced by such events, including flood hazard areas as defined and determined by the National Flood Insurance Act, as amended (USC 42 Section 4101, P.L. 93-234) and all erosion hazard areas as determined by the commissioner; (I) "developed shoreline" means those harbor areas which have been highly engineered and developed resulting in the functional impairment or substantial alteration of their natural physiographic features or systems; (J) "island" means land surrounded on all sides by water; (K) "nearshore waters" means the area comprised of those waters and their substrates lying between mean high water and a depth approximated by the ten meter contour; (L) "offshore waters" means the area comprised of those waters and their substrates lying seaward of a depth approximated by the ten meter contour; (M) "shorelands" means those land areas within the coastal boundary exclusive of coastal hazard areas, which are not subject to dynamic coastal processes and which are comprised of typical upland features such as bedrock hills, till hills and drumlins; (N) "shellfish concentration areas" means actual, potential or historic areas in coastal waters, in which one or more species of shellfish aggregate. <http://tinyurl.com/ya6easf>

***Coastal Resource Areas:***

Tidal wetlands (measured from the upland boundary of tidal wetland), coastal bluffs and escarpments (measured from the crest of the bluff), beaches and dunes (measured from the landward boundary of the frontal or primary dune), rocky shore fronts, and tidal or coastal waters (measured from the high tide line determined by locating a visible line of oil, scum, crushed shell, debris, vegetation or any combination of these indicating the highest point reached by water. The high tide line should be calculated to include spring high tides and other unusually high tides exclusive of storm surges). See C.G.S. §22a-93 for more information on these definitions. (Madison, CT)

***Coastal Site Plan:***

Plans and applications for activities or projects to be located fully or partially within the coastal boundary and landward of the mean high water mark shall be defined as "coastal site plans" and shall be subject to the requirements of this chapter: (1) Site plans submitted to a zoning commission in accordance with Connecticut General Statutes Section 22a-109; (2) plans submitted to a planning commission for subdivision or resubdivision in accordance with Connecticut General Statutes Section 8-25 or with any special act; (3) applications for a special exception or special permit submitted to a planning commission, zoning commission or zoning board of appeals in accordance with Connecticut General Statutes Section 8-2 or with any special act; (4) applications for a variance submitted to a zoning board of appeals in accordance with subdivision (3) of Connecticut General Statutes Section 8-6 or with any special act, and (5) a referral of a proposed municipal project to a planning commission in accordance with Connecticut General Statutes Section 8-24 or with any special act. <http://tinyurl.com/ya6easf>

***Coastline:***

A line on a map indicating the disposition of a coast, but the word is often used to refer to the coast itself. The adjective coastal describes something as being on, near to, or associated with a coast. <http://tinyurl.com/y9qko8s>

***Coin Operated Amusement Device:***

Any machine which upon the payment of a charge or upon insertion of a coin, slug, token, plate or disk, may be operated by the public for use as a game, entertainment or amusement, whether or not registering a score and whether or not electronically operated. (New Milford, CT)

***Co-Location:*** (See, Telecommunications Tower, co-location)

***Commercial Day Care Center:***

A facility: (1) licensed by the state, if applicable; (2) providing care for seven or more children or adults who does not reside in the facility; are present primarily during daytime hours, and do not regularly stay overnight; and (3) which may include some instruction. (Boulder, CO – A Planners Dictionary)

***Commercial Fishery:***

A parcel or building where commercial water dependent fishery facilities are located, including structures for the packing, processing, canning, or freezing of fin fish, crustaceans, mollusks, amphibians and reptiles, including related activities such as wholesale and retail sales, product storage facilities, crab shedding, off-loading docks,

shellfish culture operations, and share-based facilities necessary for aquaculture operations. (Cecil County, MD – A Planners Dictionary)

***Commercial Kennel:***

An establishment where dogs or cats are boarded for compensation or where dogs or cats are bred or raised for the purpose of being sold. (North Liberty, IA – A Planners Dictionary)

***Commercial Logging:***

The cutting or removal of forest trees larger than ten inches in diameter at breast height with the exception of the following:

- (a) the cutting or removal of trees on a lot for the purpose of preparing a site for the construction of a subdivision road or other required improvement in an approved subdivision; the construction of a building or structure pursuant to a building permit, or an excavation operation for which a special permit has been issued pursuant to these regulations;
- (b) the cutting of trees for the personal use of the owner of the lot
- (c) the cutting of firewood by the owner or family members of the lot personally, without employees or independent contractors, for sale to others
- (d) Incidental cutting, girdling, or pruning of trees and shrubs as part of normal property maintenance and forestry management, or
- (e) harvesting of commercially grown Christmas trees and nursery stock.

(Willington, CT)

***Commercial Use:***

A business use or activity at a scale greater than home industry, involving the retail or wholesale marketing of goods and services. (Planners Dictionary)

***Commissioner:***

Regular and Alternate Members of the Town Planning and Zoning Commission.

The commissioner of environmental protection, or his or her agent. [This term applies only to the regulations set forth in the aquifer protection area section]

***Compact Car:***

Any vehicle less than six feet wide and 15 feet long. (Fayetteville, AR – A Planners Dictionary)

***Convalescent Home:*** (See *Retirement Home*)

***Connecticut Coastal Management Act:***

See Connecticut General Statutes §§ 22a-90 to 22a-112, inclusive.

***Corduroy:***

Logs placed close together perpendicular to the direction of travel to protect the integrity of the underlying soils. (Connecticut Department of Environmental Protection)

***Corner lot:***

A lot having at least two adjacent sides that abut for their full length upon streets. (Planners Dictionary)

***Crosswalk:***

A municipal owned right-of-way that crosses a block and furnishes pedestrian access to adjacent streets and properties. (St. Paul, MN – A Planners Dictionary)

***Culvert:***

A pipe, conduit, or similar enclosed structures with appurtenant works which carries surface or storm water under or through an embankment or fill, roadway, or pedestrian walk or other structure. (Conemaugh Township, PA – A Planners Dictionary)

Buried pipe or structure that allows stream flow or road drainage to pass under a road. (Connecticut Department of Environmental Protection)

***Dance Studio:*** (See, Physical Fitness Center)

***Day Camp:***

A building or structure, together with its lot and its accessory uses, buildings and structures, used as an organized recreational facility for five (5) or more enrolled children other than the children of the resident family, but not provided with customary commercial public recreation features such as Ferris wheels and roller coasters, and not furnishing sleeping quarters except for the resident family.

***Day-Care Center, Adult:***

A facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day. (Planners Dictionary)

***Day-Care, childrens:***

A facility providing care and educational instruction for five (5) or more children of less than kindergarten age , who do not reside in the facility, are present primarily during standard business hours, and do not regularly stay overnight. (Planners Dictionary)

***Decibel (dBA):***

A unit for describing the amplitude of sound as measured on a sound level meter using the A weighting network. (Nashville, TN)

***De-icing Chemical:***

Sodium chloride, calcium chloride, or calcium magnesium acetate.

***Design Standards:***

A set of guidelines regarding the architectural appearance of a building, or improvement, that governs the alteration, construction, demolitions, or relocation of a building or improvement. (Champaign, IL – A Planners Dictionary)

***Development:***

Any human-caused change to improved or unimproved real estate that requires a permit or approval from an agency of the city, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations and the storage of materials. (Planners Dictionary)

***Domestic Sewage:***

Means "domestic sewage" as defined in §22a-430-3(a) the Regulations of Connecticut State Agencies.

***Drive-in establishment:***

A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to either serve patrons while in the motor vehicle or else intended to permit consumption in the motor vehicle of food or beverage obtained by a patron from such business establishment. (Hartford, CT)

***Drive through, Motor Vehicles:***

A building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle or automobile receive or obtain a product or service. (Albuquerque, NM – A Planners Dictionary *See drive-through window service*)

***Drive through, Pedestrians:***

A building opening, including windows, doors, or mechanical devices, through which pedestrians, not situated in a motor vehicle or automobile receive or obtain a product or service. (Albuquerque, NM – A Planners Dictionary)

***Driveway:***

A paved or unpaved access strip of land providing a vehicular connector between the public right-of-way and the parking space or garage of a private or public property. (Planners Dictionary)

***Dump:*** (*See*, Landfill)

***Dwelling, Duplex:***

A structure containing two dwelling units sharing a common foundation, each of which is totally separated from the other by a common unpierced wall extending from ground to roof or a common unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units. (Stonington, CT)

***Dwelling, Multiple Family:***

A building or group of buildings on one lot, containing separate dwelling units for three or more families, having separated or joint entrances, and including apartments, row houses, and condominiums. (Stonington, CT)

***Dwelling, Single-Family:***

A building, containing one dwelling unit designed exclusively for and occupied exclusively by one family. (Planners Dictionary)

***Dwelling, Triplex:***

A structure containing three dwelling units sharing a common foundation, each of which is totally separated from the other by common unpierced walls extending from ground to roof or common unpierced ceilings and floors extending from exterior wall to exterior wall, except for a common stairwell exterior to all dwelling units. (Stonington, CT)

***Dwelling Unit:***

A building or portion thereof, designated as the residence of one family or individual with suitable approved provisions for eating, sleeping, cooking, and sanitation. (Maynard, MA)

***Earth Material:***

Any mineral, rock, natural soil, overburden, or fill, or combinations of such materials. (Boulder County, CO)

***Easements:***

A right to use or limit the use of land in specific ways without acquiring fee simple title to land. More common types of easements are drainage, utility, conservation, slope, scenic, and sewer and water lines. Terms of easements may vary and shall be set forth by legal documents.

***Easement, Access:***

An easement created for the purpose of providing vehicular or pedestrian access to property. (Renton, WA – A Planners Dictionary)

***Easement, Conservation:***

A non possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property; assuring its availability for agricultural, forest, recreational, or open space use, protecting natural resources; maintaining air or water quality. (Muskegon, MI – A Planners Dictionary)

***Elderly Housing:***

Typically one and two bedroom apartments or condominiums designed to meet the needs of persons [55, 62, or 65] years of age and older, and restricted to occupancy by them. (California Planning Roundtable – A Planners Dictionary)

***Elderly Person:***

Means a person of 62 years of age or older (Stamford, CT)

***Electrical Interference:***

Any electromagnetic disturbance that interrupts, obstructs, or otherwise degrades or limits the effective performance of electronics and electrical equipment. It can be induced intentionally, as in some forms of electronic warfare, or unintentionally, as a result of spurious emissions and responses, intermodulation products, and the like.

<http://tinyurl.com/2ey6fo>

***Elevated Building:***

A building without a basement, built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls, as allowed under applicable standards. (Westport, CT)

***Elevation:***

The height in feet relative to mean sea level (MSL). (Westport, CT)

***Eminent Domain:*** The authority of a government to take, or authorize the taking of, private property for public use. (Iowa State University Extension Service – A Planners Dictionary)

***Erosion:***

The detachment and movement of soil or rock fragments by water, wind, ice or gravity. (Westport, CT)

***Excavation:***

The process of altering the natural grade elevation by cutting or filling the earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated. (Sandy, OR – A Planners Dictionary)

***Extended Approach and Departure District:***

Land below the air space in which the actual operation of increasing or decreasing the altitude of an aircraft takes place. Depending on whether the aircraft is in an approach or departure, it follows a Primary Departure from the runway and precedes the initiation of cruising speed over the Primary Traffic Pattern District during which an increase in altitude to a predetermined level is effected, or it follows the closing stages of cruising speed and preceded the initiation of the Final Approach during which an decrease in altitude to a predetermined level is effected.

***Façade*** (*See also*, signable area):

The side of a building below the eaves.

Facade is a term included in the definition of the “signable” area for wall, roof other graphics. It may be necessary to define facades that are blank walls and require a smaller signable area for them

***Facade, blank:***

The side of a building below the eaves that is blank and does not have windows or architectural detail.

***Façade coverage:***

The exterior wall of a building exposed to public view, extending from ground level to the top of the parapet, wall, or eaves, and including the entire width of the building elevation. (Naugatuck, CT)

***Facility:***



Property where a regulated activity is conducted by any person, including without limitation any buildings located on the property that are owned or leased by that person; and includes contiguous land owned, leased, or for which there is an option to purchase by that person.

***Fall Zone:***

The area or location within which a Tower, Antenna or any other material (such as ice) would drop, slide or settle in the event the Tower is blown from its support structure, collapses, or otherwise is dislodged from its foundation or mounting. (Colchester, CT)

***Family:***

One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that, unless all members are related by blood or marriage, no such family shall contain more than five persons. The term family shall not include a fraternity, sorority or institutional dormitory. (New Milford)

***Family, Functional:***

Not more than five people who are granted a Special Use Permit as a single nonprofit housekeeping unit:

- (i) To qualify as a functional family, the following must be met:
  - a. The functional family shares a strong bond or commitment to a single purpose (e.g. religious orders);
  - b. Members of the functional family are not legally dependent on others not part of the functional family;
  - c. Can establish legal domicile as defined by Connecticut law;
  - d. Share a single household budget;
  - e. Prepare food and eat together regularly;
  - f. Share in the work to maintain the premises; and
  - g. Legally share in the ownership or possession of the premises.

(Ames, IA)

***Family Day Care Home:***

Private family home caring for not more than six children, including the provider's own children not at school full time, and which is licensed by the State. A zoning permit is required. (Westport, CT)

***Farm:***

A parcel of land containing no less than five acres, devoted wholly or in part to agriculture, horticulture, floriculture or viticulture, including facilities for the sale of produce, wine, and dairy products, insofar as the majority of the products for sale have been produced or grown by the owner of the farm on which the facilities are located. The term "farm" shall not include: (a) truck gardens; (b) commercial tree farms; (c) sales of agricultural equipment or chemicals; (d) commercial storage of agricultural produce or chemicals; (e) commercial feedlots and poultry lots; (f) nurseries; and (g) slaughterhouses. (Mashpee, MA)

***Farmland, Prime:***

Land used primarily for purposes of agriculture that contains soils of the first, second, or third class, as defined by the United States Department of Agriculture.

***Fence or Wall:***

Any rigid barrier which serves to separate one portion of land from another and may serve to prevent intrusion. (Westport, CT)

***Fill:***

Sand, gravel, earth, or other materials of any composition whatsoever placed or deposited by humans. (Siskiyou, CA – A Planners Dictionary)

***Final Approach and Primary Departure District:***

Land below which the final approaches and primary departures are conducted. These are either the last leg in an aircraft approach to landing or first leg in an aircraft's departure and increase in altitude after leaving the runway surface, in either of which the aircraft is operating at very low altitudes, usually within one to two miles of the airport.

***Fishing Pier:***

A pier, dock, or wharf used for crabbing, fishing, and similar activities, but not for boating. (Anne Arundel County, MD – A Planners Dictionary)

***Floating District:***

A zoning district whose requirements are fully described in the text of the ordinance, but which is unmapped. The district is "applied" to the land in response to an applicant's petition for a rezoning. This technique has commonly been used for large-scale unified developments such as shopping centers, planned unit developments and industrial parks. (Naugatuck, CT)

***Flood Boundary and Floodway Map:***

An official map of the [town name] upon which the boundaries of flood areas having special hazards as well as the regulatory floodway have been delineated. (Westport, CT)

***Flood Insurance Rate Map (FIRM):***

An official map of the [town name] upon which both the special hazard areas and the risk premium zones applicable to the Town have been delineated. (Westport, CT)

***Floodplains:***

The areas adjoining a watercourse at or below the water surface elevation associated with the regional flood that have been or hereafter may be covered by the regional flood. (St. Paul, MN – A Planners Dictionary)

***Floodproofing:***

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, including water and sanitary facilities, structures and their contents. (Westport, CT)

***Floor:***

The top surface of an enclosed area in a building (including basement) i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. (Westport, CT)

***Floor Area:***

The floor area of a building shall be the sum of the total horizontal areas of all the floors of that building measured from the interior faces of the exterior walls. Floor areas shall include the area of basements, cellars, and half-stories. Attics and crawl spaces (as defined in these regulations) are not included in the floor area. (Westport, CT)

***Floor Area, Gross:***

The total area of the building measured by taking the outside dimensions of the building, at each floor level intended for occupancy or storage. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in an accessory building or in the main building intended and designed for the parking or motor vehicles in order to meet the parking requirements if this Regulation, or any such floor space intended and designed for accessory heating and venting equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevators. (Jacksonville, NC; Hot Springs, AR – A Planners Dictionary)

***Floor Area Ratio (F.A.R.):***

The aggregate floor area of all buildings on a lot divided by the gross lot area of such lot, as defined within these regulations, that lies within the applicable zoning district. (FAR = Floor Area divided by Gross Lot Area). (Westport, CT)

***Floor Drain:***

Any opening in a floor or surface which opening or surface receives materials spilled or deposited thereon.

***Ford:***

A stream crossing where vehicles travel directly through the stream. (Connecticut Department of Environmental Protection)

***Fraternal Club/Organization:*** (See, Membership Clubs)

***Frontage:***

The front boundary of a lot on a street. (Goshen, CT)

***Fully Shielded Luminaire:***

A lamp and fixture assembly designed with a cutoff angle of 90 degrees so that no direct light is emitted about a horizontal plane. (Lexington, KY)

***Game Room:***

A building or portion thereof used or intended to be used for the operation of coin operated amusement devices for the use of the general public or specific invitees. (Westport, CT)

***Garages, Commercial:***

A commercial garage or gasoline station used for repairing, overhauling, removing, adjusting, replacing, assembling or disassembling any parts of any motor, engine, or vehicle. (Naugatuck, CT)

***Garages, Private:***

A detached or accessory building or portion of a main building for the parking and storage of automobiles belonging to the occupants of the premises. (Canton, CT)

***Gas Station:*** (See, Motor Vehicle Fueling Station)

***General Office Building:*** (See, Office, Professional Office)

***Glare:***

Light emitted from a luminaire with intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see. (Lexington, KY)

***Grade:***

The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than ten (10) feet from the building, between the building and a line ten (10) feet from the building. (Windham, CT)

***Gross Floor Area:*** (See, Floor Area, Gross.)

***Group Day Care Home:***

A home which offers or provides a program of supplementary care to not less than seven nor more than twelve related or unrelated children and which is licensed by the State. (Westport, CT)

***Grouping:***

A development design technique that concentrates buildings on a portion of the site to allow the remaining land to be used for recreation, open space, or preservation of sensitive land areas. (Clarkdale, AZ – A Planners Dictionary See Cluster Development)

***Gymnasium:*** (See, Physical Fitness Center; See also, Health, Fitness, and Recreational Facility)

***Harbor Master:***

An officer charged with the duty of executing the regulations respecting the use of a harbor.

<http://tinyurl.com/y9bspcu>

***Hazardous Material:***

(A) any hazardous substance as defined in 40 CFR 302.4 and listed therein at Table 302.4, excluding mixtures with a total concentration of less than 1% hazardous substances based on volume, (B) any hazardous waste as defined in §22a-449(c)-101 of the Regulations of Connecticut State Agencies, (C) any pesticide as defined in §22a-47 of the Connecticut General Statutes, or (D) any oil or petroleum as defined in §22a-448 of the Connecticut General Statutes.

***Hazardous Waste:***

Means "hazardous waste" as defined in §22a-449(c)-101 of the Regulations of Connecticut State Agencies.

***Headroom:***

The vertical distance from the top of the floor or floor beams to the bottom of the next higher floor or floor beams or the bottom of the roof or roof rafters. (Westport, CT)

***Health, fitness, and recreational facility:***

A freestanding building offering, within the building, one or more of the following facilities for the development and maintenance of health, well-being and fitness: (a) swimming pool; (b) tennis, racquetball or squash courts; (c) gym; (d) exercise rooms and equipment; (e) classrooms; (f) physical therapy facilities; (g) showers, lockers and dressing rooms. (New Britain, CT)

***Health Spa:***

A nurturing, safe, clean commercial establishment, which employs professional licensed therapists whose services include massage and body or facial treatments. Private treatment rooms are provided for each client receiving a personal service. Massage treatments may include body packs and wraps, exfoliation, cellulite and heat treatments, electrolysis, body toning, waxing, aromatherapy, cleansing facials, medical facials, nonsurgical face lifts, electrical toning, and electrolysis. Hydrotherapy and steam and sauna facilities, nutrition and weight management, spa cuisine, and exercise facilities and instruction may be provided in addition to the massage and therapeutic treatment services. Full service hair salons, make-up consultations and application and manicure and pedicure services may be provided as additional services. (Rancho Mirage, CA – A Planners Dictionary)

***Healthcare Professional:*** (See also, Medical Professional)

A practitioner with an advanced degree, certification or trained specialist who works with people to resolve health related issues and except as specifically provided, who is not a licensed medical doctor, such as psychologists, social workers, counselors, naturopaths, massage therapists, and nutritionists. (Westport, CT)

***Hearing Officer:***

A public official who usually has authority to hold public hearings in connection with applications for variances, special permits, and small parcel rezoning, and, occasionally, has the authority to make approval or denial decisions. The purpose of the office is to professionalize the making of such decisions and free the process from political pressures. (American Planning Association – A Planners Dictionary)

***Height:***

The vertical distance measured from the average elevation of the finished grade adjacent to the exterior walls of the building to the level of the highest point of the roof's surface, if the roof is flat, or to the mean level between the eaves and the highest point of the roof if any other type. Where the finished grade is established by filling, the average elevation of any filled portions shall be measured from not more than three feet above the existing grade prior to any proposed development. (Norwalk, CT)

***Height of Luminaire:***

The vertical distance from the finished grade of the ground directly below to the lowest direct-light-emitting part of the luminaire. (Lexington, KY)

***Highway:***

A multilane road or thoroughfare, whether divided or undivided, that: (1) is a major artery of the county circulation network; (2) serves a high volume of traffic for both long and short trips; (3) allows turning movements at

intersecting roads; and (4) is designed with access to abutting properties under some degree of control and safe standards of design. (Planner's Dictionary)

***Hillside:***

Land having an average of greater than 25% for 200 feet or more. (New Milford, CT)

***Historic:***

Any site approved by the Connecticut State Historical Commission and listed on the National Register of Historic Places as maintained by the National Park Service of the Department of the Interior of the United States of America shall be classified as an historic site. Within the boundaries of any such historic site as hereinabove defined, there may be undertaken for the purpose of restoration, reconstruction or recreation the erection of any building, outbuilding, accessory building, fence, wall or any other structural feature incidental to the historical significance of the property and appropriate to its period and culture. (Stamford, CT)

***Home Industries:***

Industries in the home in which at least 75% of the articles offered for sale require the skillful use of the hands in the production of articles on the premises which are not mass-produced, such as pottery and weaving. (Madison, CT)

***Home Occupation:***

Any use customarily conducted for remuneration entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. The conducting of a clinic, hospital, or any similar use shall not be deemed to be a home occupation. (Stamford, CT)

***Hospital:***

Any establishment for the diagnosis, treatment or other care of human ailments. (Canton, CT)

***Hotel:***

A building, or portion thereof, containing rooms occupied primarily by transients who are lodged with or without meals, and in which are provided such services as are incidental to the use thereof as a temporary residence. (New Britain)

***Hydrodynamic Loads:***

Loads that are caused on buildings or structures by the flow of flood water moving at moderate or high velocity around the buildings or structures or parts thereof, above ground level which allows the free flow of flood water. Hydrodynamic loads are basically of the lateral type and relate to direct impact loads by the moving mass of water, and to drag forces as water flows around the obstruction. (Westport, CT)

***Hydrostatic Loads:***

Loads that are caused by water, either above or below the ground surface, free or confined, and which is either stagnant or moves at slow velocities up to 5 feet per second. Hydrostatic pressures at any point are equal in all directions and always are perpendicular to the surface on which they are applied. (Westport, CT)

***Impervious surfaces:***

A surface that significantly changes the water absorption rate, including areas for parking, building roads, sidewalks, driveways and all areas covered with concrete or asphalt. (Goshen, CT)

***Indoor Recreation Facilities:*** (See, Physical Fitness Center; See also, Health, Fitness, and Recreational Facility)

***Industrial Park:***

A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space. (Windham, CT)

***Industrial Plant:***

A building assembly or system of building subassemblies manufactured in its entirety, or in substantial part, off-site and transported to the point of use for installations or erection, with or without other specified components, as a finished building or as a part of a finished building comprising two or more industrialized building units. (Ocean City, MD – A Planners Dictionary)

***Industrial Laundry:***

A facility for washing clothes, cloth or other fabric used in industrial operations.

***Industry, Heavy:***

A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. (Windham)

***Industry, Light:***

A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing. (Windham)

***Infiltration Device:***

Any discharge device installed below or above the ground surface that is designed to discharge liquid to the ground.

***Inland Wetland and Watercourse Areas Map:***

Means a map pursuant to §22a-42a of the Connecticut General Statutes.

***Intermittent Stream:***

A stream or portion of a stream that does not flow year-round. This definition is not applicable to Inland Wetland Statutes. (Connecticut Department of Environmental Protection)

***ISO 14001 Environmental Management System Certification:***

A current ISO 14001 environmental management system certification issued by an ISO 14001 environmental management system registrar that is accredited by the American National Standards Institute (ANSI) - American Society for Quality (ASQ) National Accreditation Board (ANAB).

***Item of information:***

A syllable of a word, an initial, logo, abbreviation, number, symbol, or geometric shape.

The definitions of “item of information” provide the basis for deciding how many items of information can be displayed if a community decides to include this provision. Two definitions are offered here. **Communities should use only one of these definitions once it is decided which approach works better to achieve the community’s goals.** The first definition is restrictive because each syllable of a word and each number is counted as an item. It is intended to define a telephone number, a street address, and a price or rate for a service or product as one item of information each. Some street graphics ordinances define “item of information” as a number with fewer than a designated number of digits. Additional digits over the numerical limit count as additional items. The alternative definition increases the number of items street graphics can display. If the definition for “item of information” is modified to count each word as one item, no matter how many syllables it contains, signs will be allowed to display more elements (i.e., syllables, initials, etc.) than are allowed under definition 1. Some street graphics ordinances also define items of information explicitly to include a photograph, an emblem, a company trademark, and a painted picture. These additions elaborate what the definition intends to include as a symbol or a logo. When drafting this definition, communities should consider whether: (1) to allocate items of information to each graphic a premises may display or (2) to provide a limitation on items for each premises and allow each premises to decide how to allocate them. A larger number of items may be necessary if the limitation is based on how many items are displayed on an entire premises. A community may also prefer to use the term “unit” rather than “item” of information.

***Junkyard:***

Any land or building used in whole or in part for the collection, storage, and/or sale of wastes, paper, rags, a clutter of metal, scrap metal, glass or similar accumulations of appliances, articles or material; or any place in or on which old material, glass, paper, cordage, or other waste or discarded or second hand material which has not been a part, or is not intended to be part, of any motor vehicle, is stored or deposited. It includes also any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two or more unregistered motor vehicles which are no longer intended or in condition for legal use on public highways; or used parts of motor vehicles or old iron, metal, glass, paper, cordage or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle. (Stonington, CT)

***Kitchen:***

An area of a dwelling unit, as herein defined, house or apartment used for the preparation, storage and/or service of food which contains any or all of the following fixtures and/or equipment in whole or part: storage cabinets (plastic, metal or wood), kitchen sinks, refrigerator, dishwasher, stove, hot plate, oven, table top broiler, including fans and hoods; all of which are installed or plugged into related plumbing and electrical fixtures or connections. (Norwalk, CT)

***Land Bank:***

An entity that purchases land and reserves it for later use or development. Land could be leased for immediate use. Essentially, land banking is a land trust operated by the government and funded by real estate transfer taxes, either at the local or state level. (Washtenaw County, MI – A Planners Dictionary)

***Landfill:***

A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, offal, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or nontoxic waste material of any kind. (Planners Dictionary)

***Landing(s):***

A landing pad, area, strip, deck, or building roof used to launch or receive aircraft, including but not limited to power-driven winged or delta winged aircraft, gliders, balloons, and helicopters. (Traverse City, MI – A Planners Dictionary)

***Landscaped Island:***

An area set aside from structures and parking which is surrounded by impervious surfaces and developed with natural materials (ie., lawns, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences, and street furniture. (Concord, NC – A Planners Dictionary *See landscaped area*)

***Landscaping:***

An expanse of scenery including lawns, trees, plants, and other organic or inorganic materials used to soften or mitigate the impacts of development. (Clarkdale, AZ – A Planners Dictionary)

***Level A Mapping:***

The lines as shown on Level A maps approved or prepared by the Commissioner pursuant to §22a-354c, §22a-354d or §22a-354z of the Connecticut General Statutes encompassing the area of contribution and recharge areas.

***Library:***

A public, nonprofit facility in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, records, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale. (Milwaukee, WI – A Planners Dictionary)

***Light Trespass:***

The shining of direct light produced by a luminaire beyond the boundaries of the lot or parcel on which it is located. (Lexington, KY)

***Lighting, artificial:***

Any fixed source of light emanating from a man-made device, including but not limited to incandescent mercury vapor, metal halide, or sodium lamps, spotlights, street lights, construction or security lights. (Planner's Dictionary)

***Lighting, Cutoff Angle:***

The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted. (Lexington, KY)

***Lighting, Direct Light:***

Light emitted from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire. (Lexington, KY)

***Lighting Fixture:***

The assembly that house a lamp or lamps and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector mirror, and/or a refractor, lens or diffuser lens. (Lexington, KY)

***Lighting, Fully Shielded Luminaire:*** (See, Fully Shielded Luminaire)

***Lighting, Glare:*** (See, Glare)

***Lighting, Height of Luminaire:*** (See, Height of Luminaire)

***Lighting, Indirect:***

Direct light that has been reflected off other surfaces not part of the luminaire. (Lexington, KY)

***Lighting, Lamp:***

The component of a luminaire that produces the actual light. (Lexington, KY)

***Lighting, Light Trespass:*** (See, Light Trespass)

***Lighting, Lumen:*** (See, Lumen)

***Lighting, Luminaire:*** (See, Luminaire)

***Live/Work Units:***

Any place where:

A. Workers perform their primary occupations, which are otherwise permitted in that zoning district, and where businesses and artists create original and creative works (such as books, writings or compositions for sale, paintings, sculptures, traditional and fine crafts, creation or acting of films, creation or performance of dances);

B. Those workers and artists and their immediate families live in the same building or property as where they work, although not necessarily in the same unit; and

C. Residential space is clearly secondary to work space and consists of no more than 50% of the total residential/work space. (Northampton, MA)

***Livestock:***

Farm animals kept for use and/or profit, except those listed under Prohibited Uses. (Stonington, CT)

***Living Quarters:***

That portion of the total floor area of a residential dwelling unit which has ceilings, walls, and floors finished in a manner which is clearly intended for human occupancy, and which conforms to the Building Code. (Goshen, CT)

***Lot:***

A parcel of land occupied or to be occupied by a building or a group of buildings and their accessory uses, or for storage space, including such open spaces as are required by these regulations and such other open spaces as are arranged, designed and/or used in connection with such buildings. (Stamford, CT)

***Lot Area:***

The total horizontal area included within the lot lines. One half (1/2) of any private right-of-way common to two (2) adjoining lots may be included in the lot area, in the lot frontage, and in the side yard requirements. (Stamford, CT)



***Lot, Corner:***

A lot located at the intersection of two or more streets. (Canton, CT)

***Lot Depth:***

The mean distance from the street line of the lot to its rear line measured in the average direction of the side lines of the lot (Stamford, CT)

***Lot, Interior:***

A lot with no frontage other than that of the driveway or easement used to access the land. (Cape Canaveral, FL)

***Lot Line:***

The dividing line between the street and lot. (Stamford, CT)

***Lot Line, Front:***

In the case of a lot abutting upon only one street the line separating the lot from the street; in the case of any other lot, the owner shall, for the purpose of these Regulations, have the privilege of electing any street lot line as the front lot line. (Canton, CT)

***Lot Line, Rear:***

The lot line which is generally opposite the front lot line; if the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line not less than 10 feet long, lying wholly within the lot and farthest from the front lot line. (Canton, CT)

***Lot Line, Side:***

Any lot line which is not a front lot line or a rear lot line, as defined herein. (Canton)

***Lot, Rear:***

A lot of which the buildable area is located generally to the rear of other lots having frontage on the same street as said lot and having access to the street via a private right-of-way. (Canton, CT)

***Lot Shape:***

Configuration of lot shall be such that a minimum rectangle as specified herein shall be contained within the lot lines, and that the Regularity Factor shall be 0.55 or greater. In determining compliance with minimum rectangle requirements, land of severe topography having slopes of twenty-five (25) percent or greater, and land covered by waterbodies, watercourses and/or wetlands may be used to satisfy no more than twenty (20) percent of the minimum area rectangle requirements. Each new lot created by a subdivision, resubdivision, or first cut as of November 1, 2000 shall have a Regularity Factor of not less than fifty-five one hundredths (0.55). In calculating the Regularity Factor, the perimeter of the lot may be configured to exclude any portion of the lot in excess of the minimum required lot size. This is done when including the excess area would cause the Regularity Factor to be less than 0.55. The Regularity Factor shall be determined by the following formula:

$$16A / P^2 = R$$

A= Gross area of lot in square feet

P=Lot Perimeter

R=Regularity factor

(Westport, CT)

***Lot, Through:***

A lot having both front and rear yards abutting on a street. Front yard requirements shall be maintained on both street frontages, when the minimum depth of the lot is greater than one hundred and twenty feet (120'). When the minimum depth of the lot is less than one hundred and twenty feet (120'), the total front yard requirements on both streets shall equal that specified in the SCHEDULE OF REQUIREMENTS FOR AREA, HEIGHT AND BULK OF BUILDINGS for that of the more restricted district in which the property is located. A lot with a rear yard abutting on an alley or a private right-of-way is not considered a through lot. (Stamford)

A lot other than a corner lot which has frontage on two or more streets. Corner and through lots have two or more front lot lines and generally no rear lot lines. (Westport, CT)

***Lot Width:***

The distance between the side boundary lines measured along the front setback requirement. (Goshen, CT)

***Low impact development:***

The protecting, maintaining, and enhancing of public health, safety, environment and general welfare through the establishment of minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. (Class Handout- Model Low Impact Development Bylaw)

***Low Impact Development (LID) Parking Area Design:***

An approach that combines a hydrologically functional site design with pollution prevention measures to compensate for land development impacts on hydrology and water quality by storing, infiltrating, evaporating, or detaining runoff and to ensure adequate groundwater recharge. <http://tinyurl.com/y9rfqoe>

***Lubricating Oil:***

Oil that contains less than 1% chlorinated solvents and is used for the sole purpose of lubricating, cutting, grinding, machining, stamping or quenching metals.

***Lumen:***

A measure of light energy generated by a light source. One footcandle is one lumen per square foot. For purposes of this ordinance, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer. (Lexington, KY)

***Luminaire:***

A complete lighting system, including a lamp or lamps and a fixture. (Lexington, KY)

***Managed Residential Community:***

A Managed Residential Community shall consist of private residential units and common supportive facilities and provide or make available services required by State of Connecticut statutes or regulations for an Assisted Living Services Agency (ALSA). The common supportive facilities shall include, but are not limited to: meal service offering 3 meals per day, laundry service, housekeeping, maintenance including routine chore services the resident is unable to perform, programs of social and recreational activities, personal transportation, 24 hour security and health and personal services in a group setting to persons of sixty-two (62) years of age and older who require help or aid with activities of daily living.

A Managed Residential Community shall provide common facilities for use by the occupants including common rooms, laundry facilities, mailboxes, entertainment facilities, communal dining area(s) with kitchen and supportive food preparation areas, administrative offices, a convenience store for the residents of the facility, and areas for periodic medical examinations, limited treatment and therapy, or similar uses. Also, the building must have one (1) interior area capable of accommodating 100% of the tenant population at one time.

In addition, services offered to residents shall include a common kitchen area on each floor equipped with conventional ovens or microwave ovens available for use by all residents. Also, appropriate exercise facilities, equipment and instruction must be available to all tenants.

A Managed Residential Community shall offer nursing-type services by a licensed ALSA in accordance with the State of Connecticut statutes or regulations. However, a Managed Residential Community is not a nursing home or convalescent facility as defined by the State of Connecticut statutes or regulations. (See definition of Private Residential Unit.) Residents may include those having dementia and physical disabilities. (Westport)

***Manufactured Home:***

A structure, transportable in one or more sections, which is built on a permanent chassis designed to be used with or without a permanent foundation when connected to the required utilities, including recreational vehicles and similar transportable structures placed on a site for 180 consecutive days or longer if in a Special Flood Hazard Area. (Westport, CT)

***Manufacturing:***

Any process whereby the nature, size, or shape of articles is changed through processing, fabrication, assembly, treatment, packaging or other means. (blend of Northampton, MA and Stonington, CT)

***Market Value:***

The Value of Real Property (i.e. building.) as determined by dividing the assessed value of the building as shown on the official Tax Assessor's records by the current assessment sales ratio established by the State Office of Policy and Management (OPM). (Westport, CT)

***Marina:***

A boat basin with facilities for berthing, securing, and servicing of recreational craft, the sale of marine motors, the sale and brokerage of recreational craft, as well as providing adequate supplies, provisions, storage, fueling and other facilities for the same, including parking. (Stonington, CT)

***Marine Police:***

Respond to numerous types of calls on the water. They handle emergency calls such as boaters in distress, sinking vessel fires. They routinely search for missing boats or persons around the shoreline. They also enforce all state and local boating laws and regulations as well as perform safety inspections of vessels within their area of responsibility. The marine police also work closely with the United States Coast Guard and other local police units.

<http://tinyurl.com/ya99quv>

***Marine Research Laboratory:***

See Research Laboratory, provided the scientific nature of the research and development of manufactured products is strictly limited to that directly related to a coastal or ocean ecosystem, or plants and animals therein.

***Marquee:***

A permanent structure other than a roof attached to, supported by, and projecting from a building and providing protection from the elements.

***Masonry Sound Barrier:***

A sound barrier, fence, wall or combination of fence and berm or wall and berm constructed in a board-to-board or stone, masonry or brick and mortar style may be erected that prevents sound penetration and decreases the noise levels along the back or side yard abutting a roadway that is posted with speeds greater than 45 miles per hour shall not be less than 14 feet not more than 20 feet in height, as measured from the grade of the adjacent major roadway. Plans from a state certified engineer/architect that assure structural integrity may be required by the Planning and Zoning Commission for fences higher than eight feet. <http://tinyurl.com/yj65rbf>

***Mean Sea Level:***

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced. (Stonington, CT)

***Medical Center:***

A building or group of buildings used for the offices and facilities accessory to the practice of licensed medical practitioners, (including physicians, dentists, optometrists, ophthalmologists, and persons engaged in all fields related generally to medicine, but not including veterinarians) and including such common facilities as an outpatient clinic or emergency treatment rooms, but not including inpatient facilities. (Northampton, MA)

***Medical Clinic:***

Facility or institution principally engaged in providing services to individuals, including offices of physicians, dentists, other health practitioners and medical and dental laboratories designed for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity, or physical condition on an out-patient basis. (Stonington)

***Medical Office Building:*** (See, Office, Professional Office)

***Medical Professional:*** (See also, Healthcare Professional)

This term shall mean use by a licensed medical doctor, doctor of dental surgery and doctor of medical dentistry and other similar uses such as chiropractors, physical therapists, rehabilitation centers, but not psychiatrists. (See Healthcare Professional) (Westport, CT)

***Membership Club:***

An association or membership corporation whose object is the health and recreation of its members and which does not carry on any activities for profit or for the profit of any other person or corporation except a non-profit corporation and which restricts the use of its premises, building or other facilities to its members and bonafide guests. (Madison)

***Merchandise Stand:***

Any cart, table, equipment, or apparatus which is not a structure, which is designed and intended so as to not be a permanent fixture on a lot, and which is used for the retail sale, display, and accessory advertising or merchandise or food. (Philadelphia, PA – A Planners Dictionary *See Stand*)

***Mixed Residential/Work Space:***

Where:

- A. Workers perform their primary occupations which are otherwise permitted in that zoning district and where businesses and artists create original and creative works (such as books, writings or compositions for sale, paintings, sculptures, traditional and fine crafts, creation or acting of films, creation or performance of dances); and
- B. Those workers and artists and their immediate families live in the same building or property as where they work, although not necessarily in the same unit; and
- C. Residential space is clearly secondary to work space and consists of no more than 50% of the total residential/work space; and
- D. Residential space is located above the first floor. (Northampton, MA)

***Motel:***

An establishment providing sleeping accommodations for transient guests with a majority of all rooms having direct access to the outside, without the necessity of passing through the main lobby of the building. (Aliquippa, PA)

***Motion picture theaters:***

Facilities that provide indoor space for the showing of motion pictures to twenty or more people, which are visible from (or have signage on) and are accessible to the pedestrian circulation system as shown on the pedestrian circulation element of the downtown development plan. (Hartford)

***Motor Vehicle:***

Any vehicle self propelled by a battery-powered, electric or internal combustion engine, which are permitted and requires a valid registration legally issued by a governmental authority in order to be operated on a public way. A motor vehicle shall include but not be limited to automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors. (Northampton, MA)

***Motor Vehicle, General Repair and Service:***

The business of repairing, overhauling, removing, adjusting, replacing, assembling or disassembling parts of any motor vehicle. (Hartford, CT)

***Motor Vehicle, Limited Repair and Service:***

The business of minor repairs to any motor vehicle, including repairs and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and repairs, wheel alignment and balancing, and repair and replacement of shock absorbers. (Hartford, CT)

***Motor Vehicle Fueling Station:***

A building or structure designed or used primarily for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats, including the customary space and facilities for the installation of such commodities on or in such vehicles, but does not include body repair. (Tolland, CT)

***Motor Vehicle Service Station:***

A building designated or used for the retail sale or supply of fuels (stored only as prescribed by existing legal regulations), lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for facilities for the storage, minor repair, or servicing, but not including bumping, body repair, painting, refinishing, steam cleaning and rustproofing where the primary use of the premises is such, or high speed washing thereof. (Hartford, CT)

***Motor Vehicle Wrecking or Junk Yard:***

Any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two (2) or more motor vehicles. Such terms shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material which are parts of a motor vehicle or cut up the parts thereof. (Hartford, CT)

***Multitenant/ multibuilding complex:***

A grouping of two or more business establishments that either share common parking on the lot where they are located, or that occupy a single structure or separate structures that are physically or functionally related or attached. (Pierce County, WA)

***Multi-use building:***

A building consisting of [four] or more separate commercial uses.

Commentary: Several commercial uses may be located in a single building, and a community may want to provide different regulations for graphics displayed by these businesses. An alternate definition also includes buildings related to each other though not physically attached:

***Multiple Use Development:***

A use of land, buildings or structures with a combination of office, retail or other commercial uses and two-family or multi-family dwellings on a lot. (Westport, CT)

***Municipality:***

Means "municipality" as defined in §22a-354h of the Connecticut General Statutes.

***Museum:***

A non-profit institution that collects, stores, preserves and exhibits artifacts with the primary purpose of public or private education; which may include such uses as indoor and outdoor exhibits, educational facilities, classrooms, collections storage and preservation facilities, maintenance facilities, administrative offices and supporting commercial activities providing visitor service, such as dining facilities and retail stores. (Stonington, CT)

***Natural Resource:***

Existing natural elements relating to land, water, air, plant and animal life, including but not limited to soils, geology, topography, surface and subsurface waters, wetlands, vegetation, animals habitats, and the elements thereof, valued for their existing and potential usefulness to man. (Concord, NC; Deschutes County, OR – A Planners Dictionary)

***New Construction:***

Structures for which the "start of construction" commenced on or after [date of adoption of these regulations], and included any subsequent improvements of such structures. (Stonington, CT)

***Night Club:***

A commercial enterprise whose primary function is to supply music or live entertainment or both and which may provide food and/or beverages for on-premises consumption. (Stonington, CT)

***Non-Building Use:***

A principal use of land to which the buildings on the lot, if any, are accessory, such as a trailer park, junk yard, public parking lot or an open storage yard of materials. (Stonington)

***Non-Conforming Structure:***

A structure that does not conform to one or more of the standards required in the zoning district in which it is located, such as setback, coverage, floor area and height. (Westport)

***Non-Conforming Lots:***

A parcel of land that does not meet the requirements of the zoning district in which it is located such as, but not limited to, area, shape, frontage, depth, width or access. (Westport, CT)

***Non-Conforming Use:***

A continuous use of land or of a structure which is currently not a permitted use in the district in which it is located, but which either legally existed at the time these regulations were first established, or which was a permitted use under these regulations prior to their being amended. A use which is permitted by variance shall be deemed to be a non-conforming use. (Westport, CT)

***Non-Infringement Area:***

The area designated by the Commission, or these Regulations, adjoining a stream, floodway, wetland, tidal area, that may not be disturbed, filled or improved, but may be used, with permission from the Planning and Zoning Commission for public trails, greenways, boat access, and water quality restoration activities. The dimension or width of such an area shall be set by the Commission in view of local conditions in terms of soils, slope, use, streams, flood potential, and local geography. (Stonington, CT)

***Nursing Home:***

Also known as extended care home, rest home, or convalescent home. A nursing home is any state-licensed facility for two or more patients that provides beds and domiciliary and/or nursing care for chronic or convalescent patients and which is properly licensed by the state, but not including assisted living residences. (Northampton, MA)

***Obscene activities:***

Means representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated and/or representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals. (Waterbury)

***Occupant:***

A use located in a multi-use building or shopping center.

***Office or Business Office:***

A room, studio, suite or building in which a person transacts his business or carries on his stated occupation. For the purpose of this chapter, an office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair or storage of materials, goods and products which are physically located on the premises. An office shall not be deemed to include a veterinary hospital. (Northampton, MA)

***Open Space:***

The space on a lot unoccupied by buildings or structures, unobstructed to the sky by man-made objects other than walks, swimming pools, and terraced areas, not devoted to streets, driveways, off-street parking or loading spaces and expressed as a percentage of total lot area. (Northampton, MA)

***Open space, usable:***

Usable open space shall consist of that space on the same lot and contiguous to the principal building or buildings which is either landscaped with shrubs, planted with grass, or developed and maintained for recreation purpose, and excludes those portions of the lot which are utilized for off-street parking, driveway, or building purposes and areas which have a slope in excess of ten (10) per cent. (Waterbury, CT)

***Outdoor Advertising Board:***

The Outdoor Advertising Board of the Commonwealth of Massachusetts or any board or official which may hereafter succeed to its powers or functions. (Northampton, MA)

***Outdoor Commercial Recreation Use:***

A principal (but not accessory) use operated either for profit or not for profit, with the principal purpose being the provision of outdoor recreational facilities, whether these be provided to the public at large or to the members of any particular organization, and including but not limited to any of the following uses: country, fishing, golf, tennis, or swimming club, or golf driving range, sports camp, campground, marina, or horseback riding establishment. (Northampton, MA)

***Outdoor Vendors:***

Individuals seeking to sell wares, produce, crafts or any merchandise from a non-permanent location on a private open lot, or other location not in a public street or on a public sidewalk. (Stonington, CT)

***Owner:***

The duly authorized agent, attorney, purchaser, devisee, trustee, lessee, or any person having vested or equitable interest in the use, structure or lot in question. (Northampton, MA)

Owner or lessee of the facility in question. [This term applies only to the regulations set forth in the aquifer protection area section]

***Owner, Principal:***

A person who owns at least 50% of the interest in the real property. The principal owner of any corporate owned property shall be a person who owns at least 50% of the shares of the Corporation. (Westport)

***Parking, Angled:***

Any parking space that is not parallel to the curb or driving aisle. (Sandy, OR – A Planners Dictionary *See parking space, angled*)

***Parking Aisle:***

An area within a parking facility intended to provide ingress and egress to parking spaces. (Orlando, FL – A Planners Dictionary)

***Parking Garage:***

A detached or accessory building or portion of a principal structure used for the parking or storage of vehicles belonging to occupants, tenants, visitors, employees or patrons. (Tolland)

***Parking, On-street:***

The storage space for an automobile or motor vehicle that is located within the street right-of-way. (Hilton Head, SC – A Planners Dictionary)

***Parking, Off-street:***

A site or a portion of a site, devoted to the off-street parking of vehicles, including parking spaces, aisles, access drives, and landscaped areas, and providing vehicular access to a public street. (Santa Rosa, CA – A Planners Dictionary *See parking area, off-street*)

***Parking, Shared:***

The approved use of the same off-street parking space for two or more distinguishable uses where peak parking demand of the different uses occurs at different times of the day, or where various uses are visited without moving the automobile; and where the division of parking spaces is a net decrease from the combined total of each use's individual off street parking requirements if required separately. (Palm Beach County, FL – A Planners Dictionary)  
The development and use of parking areas on two or more separate properties for joint uses by the businesses or residents on those properties. (Park City, UT – A Planners Dictionary)

***Parking Stall:***

Useable space within a public or private parking area, or building of sufficient size and area, or a building of sufficient size and area, exclusive of access drives, aisles or ramps, for the storage of one properly spaced passenger automobile or motor vehicle, or commercial vehicle. (Belmont, CA – A Planners Dictionary *See parking space*)

***Parking lot, commercial:***

Public parking lot for which a fee is charged for the parking or storage of motor vehicles. (Hartford, CT)

***Parking lot, private:***

Any tract of land which is used for the parking or storage of motor vehicles for the occupants, tenants, visitors, employees or patrons of a use or uses. No commercial repair work or service of any kind shall be conducted on such a parking lot, and no display of vehicles for the purpose of sale shall be carried on or permitted upon such parking lot. There shall be no parking or storage of inoperable or unregistered motor vehicles on such parking lot. A private parking lot shall be open only during the hours of operation of the use to which it is associated unless a joint use agreement regarding the use of the parking lot is recorded in the offices of the zoning administrator. (Hartford, CT)

***Parking lot, public:***

Any tract of land which is used for the parking or storage of motor vehicles for the occupants, tenants, visitors, employees or patrons of a use or uses and is not a private parking lot. (Hartford)

Any lot used for the storage of motor vehicles that contains space available to the general public by the hour, day, week, month or year. (Stonington, CT)

***Parking Space, Loading Space:***

An area of not less than eight (8) feet wide by eighteen (18) feet long, for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles. (Hartford)

One standard parking space (stall) shall constitute an area nine (9) feet in width and eighteen (18) feet in stall length with a vertical clearance to accommodate one (1) automobile.

A small car space (stall) shall constitute an area eight (8) feet in width and sixteen (16) feet in stall length with a vertical clearance to accommodate one (1) automobile.

A handicapped parking space (stall) shall constitute an area of fifteen (15) feet in width and eighteen (18) feet in stall length with a vertical clearance to accommodate one (1) automobile or van.

One (1) loading space (stall) shall constitute an area twelve (12) feet in width and thirty (30) feet in stall length with a vertical clearance of fifteen (15) feet. (Westport, CT)

***Peak:***

The highest point on a roof or the highest point on another architectural element that blocks the rear view of a street graphic.

***Peak Discharge:***

The maximum instantaneous flow of water from a given storm at a given location. (Tolland)

***Pedestrian Facilities:***

Any roadway, or portion of the roadway, including but not limited to those between the curb line and the adjacent property lines, restricted only for the use by pedestrians, and shall be any of the following; sidewalk, shared roadway, bicycle lane, shared use path, pedestrian bridge, pedestrian ramp, ramp running slope, shared use path bridge, and walking path. <http://tinyurl.com/yku4hsg>

***Perennial Stream:***

A stream that has running water on a year-round basis under normal climatic conditions. This definition is not applicable to Inland Wetland Statutes. (Connecticut Department of Environmental Protection)

***Performing arts space:***

Facilities that provide spaces for the performing arts, including but not limited to concert halls and legitimate theaters, which are visible from (or have signage on) and are accessible to the pedestrian circulation system as shown on the pedestrian circulation element of the downtown development plan. (Hartford)



***Person:***

Any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency, political or administrative subdivision of the state, or other legal entity of any kind.

***Personal Services:***

Establishments primarily engaged in providing services involving the care of a person or personal goods or apparel. (Aliquippa, PA)

***Pet:***

An animal that is domesticated and ordinarily kept in the home for personal use or enjoyment. (Tolland)

***Pet Services:***

A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed, except that no animals shall be kept, boarded, etc., overnight. (Binghamton, NY)

***Physical Fitness Center:***

A building or a portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities, operated for profit or not-for-profit and which can be open only to bona fide members and guests of the organization or open to the public for a fee. (St. Paul, MN – A Planners Dictionary *See health club*)

***Pilings:***

Columnar support members which may be of any approved type capable of resisting all applied loads and shall, as far as practicable, be compact and free from unnecessary appendages which would trap or restrict free passage of debris during a flood. (Westport)

***Place of Public Assembly:***

All buildings or portions thereof, the spaces used or intended to be used for gathering together fifty (50) or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes. Manufacturing establishments and similar employment centers are not considered places of public assembly for purposes of this ordinance. The facility is open to the public as a theater, meeting hall, hearing room, amphitheater, auditorium, or in any other similar capacity. (Binghamton, NY)

***Place of Worship:*** (*See, Place of Public Assembly*)

***Planned Development:***

A tract of land which is developed as a unit under single ownership or control, which includes two (2) or more principal buildings, and which is at least one (1) acre in area for a planned residential development and ten (10) acres or an entire city block in area for a planned area development. (Hartford)

***Planning and Zoning Commission:***

The administrative body of the local government, consisting of such [elected and appointed, or appointed] members who are charged with the formulation and administration of the zoning map and regulation. (Growing Smart Legislative Guidebook *See Planning Commission*; Walnut Creek, CA *See Planning Commission* – A Planners Dictionary)

***Play lot or tot lot:***

A small area developed especially for preschool or elementary school aged children. It may contain such facilities as sandboxes, slides, teeters, swings, climbing apparatus, and the like. (Hartford)

***Playfield or athletic field:***

A developed recreation area which may contain a playground as well as fields for competitive sports such as baseball, football or soccer. Bleachers or grandstands may be provided. (Hartford)

***Playground:***

An area which has been developed for active play and recreation, and may contain courts for such games as basketball or tennis. (Hartford)

***Pollution:***

Means “pollution” as defined in §22a-423 of the Connecticut General Statutes.

***Pollution Prevention:***

The use of processes and materials so as to reduce or minimize the amount of hazardous materials used or the quantity and concentration of pollutants in waste generated.

***Porch, open:***

A porch open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash. (Hartford)

***Potable Water:***

Water that is satisfactory for drinking, culinary, and domestic purposes, meeting current drinking water standards. (Troy, OH – A Planners Dictionary)

***Potable Water Facilities:***

A system of structures designed to collect, treat, or distribute potable water, and includes water wells, treatment plants, reservoirs, and distribution mains. (Temple Terrace, FL – A Planners Dictionary)

***Primary Traffic Pattern District:***

Land below the air space in which a pattern of aircraft routes, set out by United States Government authorities to regulate the movement of aircraft, are conducted before conducting an approach to, or after conducting a departure from, the airport. (Austin, TX – A Planners Dictionary *See Air Traffic Pattern*)

***Principal Building:***

See Building, Principal.

***Premises:***

A lot, plot or parcel of land including the buildings, structures and uses thereon. (Westport)

The lot or lots, plots, portions, or parcels of land considered as a unit for a single use or development, whether owned or leased, and not located in a shopping center or multi-use building.

This definition applies to the display of street graphics not located in shopping centers or multi-use buildings, and defines the premises to which the regulations in the model ordinance apply. A premises may be either owned or leased. This definition is not necessary if the ordinance applies to “activities.”

***Private Occupational School:***

An enterprise certified by the Connecticut Commissioner of Higher Education pursuant to Connecticut General Statutes §10a-22b, to offer instruction in a trade, industrial, commercial or service occupation, as defined in Connecticut General Statutes §10a-22a. (Westport)

***Private Residential Unit:***

Any room or group of rooms including a full bathroom and kitchenette devoted to the exclusive use or occupancy of up to two residents, (see §32-15.12.1) of a Managed Residential Community. Kitchenette facilities are not required for those units serving dementia residents. Since common kitchen and dining facilities are provided for all residents within the Managed Residential Community, a residential unit shall not be considered a dwelling unit even though it shall have a small kitchenette facility for occasional use by the resident(s). Each residential unit shall be equipped with an emergency call system. (Westport)

***Processing of earth material:***

Alteration of earth material, including mixing of different earth material, including but not limited to screening and crushing, but not including the making of concrete, asphalt, or other earth material byproducts. (Waterbury)

***Professional Engineer:***

A professional engineer licensed in accordance with Chapter 391 of the Connecticut General Statutes, and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable law and identify appropriate pollution prevention practices for such activities.

***Professional Office:***

The office of recognized professions, such as doctors, lawyers, dentists, architects, engineers, artists, musicians, designers, teachers and others who, through training or experience, are qualified to perform services of a professional as distinguished from a business nature. (New Milford)

The office of a member of a recognized profession including doctors or physicians, dentists, optometrists, ministers, architects, surveyors, engineers, lawyers, artists, authors, musicians, and other recognized professional occupations. The issuance of a state or local license for regulation of any gainful occupation need not be deemed indicative of professional standing. (Waterbury)

***Provider:***

An entity authorized by the Federal Communications Commission (FCC) to be a signal carrier for cellular telephones, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), and paging services or other modes of communication as described in the Federal Telecommunications Act of 1996. (Westport)

***Public Service Company:***

Means "public service company" as defined in §16-1 of the Connecticut General Statutes.

***Public Supply Well:***

Means "public supply well" as defined in §19-13-B51b of the Regulations of Connecticut State Agencies.

***Public utility:***

Electric, electric distribution, gas, telephone, telegraph, pipeline, sewage, water and community antenna television companies. (Hartford)

Any person, firm, corporation, municipal department, or board, duly authorized to furnish and furnishing under state or municipal regulations to the public, electricity, gas, steam, communications, telegraph, transportation, or water. (Waterbury)

***Public Waterfront Access (PWA):***

A dedicated portion of land along a public body of water, created through an easement or donation of fee ownership, that may be accessed by the public from dawn to dusk. Each PWA will differ depending on topography and/or geological circumstances, but shall satisfy the following design criteria:

1. **Pedestrian Corridors** – Linear pedestrian connections shall be established or continued from the public street level to the shorefront and along the waterfront. A minimum six (6) foot wide path shall be provided unless deemed unnecessary by the Planning and Zoning Commission.
2. **Parking** – Signed and delineated public parking spaces shall be provided and shall be located on site between the public street and the waterfront unless specifically modified by the Planning and Zoning Commission. The number of actual spaces shall be not less than 1 parking space per 100 linear feet of shoreline as measured generally parallel to the shorefront, or 1 parking space per 10,000 square feet of floor area, whichever is greater.
3. **Signage** – Uniform, informational, interpretive and locational signs shall be included within each public waterfront access component. Signage may be required to be both on site and adjacent to the site within public rights-of-way.
4. **Handicap Accessibility** – Where feasible, handicap accessibility to the waterfront shall be provided.
5. **Sustainable Design** – PWA facilities, including walkways, permeable paths, timber boardwalks, interpretive signage, protective railings, and ornamental landscaping, shall be designed and constructed of quality, sustainable materials requiring minimal maintenance.
6. **Site Amenities** – Site amenities such as landscaping, historical or interpretive signage, benches, stationary binoculars, small rain or sun shelters, fishing piers, commercial fishing docks, and public boat slips are encouraged to be incorporated into the PWA.

7. Site amenities shall not be counted in calculating coverage subject to approval from the Planning and Zoning Commission. (Westport)

***Publicly Owned Treatment Works:***

Means “publicly owned treatment works” as defined in §22a-430-3 of the Regulations of Connecticut State Agencies.

***Pumping Station:***

A house where pumps (e.g. to irrigate) are installed and operated. <http://tinyurl.com/yeq5zb9>

***Pump-out Facility:***

Any device, equipment or structure that allows for the removal of sewage from the sewage holding tank of a marine sanitation device as defined by Connecticut General Statutes 15-170(c) or from a portable toilet and the transfer of such sewage to a system for sewage treatment or disposal, and included any associated sewage storage tank, portable or permanently installed pump, fitting, hose or piping. <http://tinyurl.com/y8anar5>

***Pyrotechnics:***

Fireworks or similar devices used to ignite a combustible substance or produce an explosion.

***PZC:***

See Planning and Zoning Commission.

***Quasi-judicial Function:***

Similar to a court proceeding where affected parties are afforded more procedural safeguards. The quasi-judicial process is an action which involves the application of adopted policy to a specific development application, or land-use decision that applies to a small number of individuals or properties. (Sandy, OR *See Quasi-judicial decision*; Beaverton, OR *See Quasi-judicial action* – A Planners Dictionary)

***Recharge Area:***

Means “recharge area” as defined in §22a-354h of the Connecticut General Statutes and as mapped in accordance with §22a-354b-1 of the Regulations of Connecticut State Agencies.

***Recreational Vehicle:***

A vehicle which is :

- built on a single chassis;
- 400 sq.ft. or less when measured at the largest horizontal projection;
- designed to be self-propelled or permanently towable by a light duty truck; and
- designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. (Westport)

***Recreation Center:***

A building including diversified recreation for a wide variety of activities for all ages and interests. It may contain, but is not limited to, a gymnasium, social rooms or playrooms, gamerooms, arts and craft shops, and the like. (Hartford)

***Recreational Facility:***

Building and/or other facility designed and equipped for the conduct of sports and other customary leisure activities.

***Recycling:***

The process of sorting, cleansing, treating and reconstituting waste or other discarded material for the purpose of using the altered form. (Hartford)

***Recycling facility or plant:***

Any facility at which recyclable material is processed or stored, separated or prepared for reuse or resale. (Hartford)

**Recycling Processing Facility:**  
See Recycling Facilities or Plant.

**Redevelopment:**

Development activity characterized by the removal of an existing building and/or structure to be replaced with new construction. (Westport)

**Registered Regulated Activity:**

A regulated activity which has been registered under §22a-354i-7 of the Regulations of Connecticut State Agencies or Section 8 of the APA Regulations, and is conducted at the facility identified in such registration.

**Registrant:**

A person, who or which, has submitted a registration for an existing regulated activity under §22a-354i-7 of the Regulations of Connecticut State Agencies or Section 4 of the APA Regulations.

**Regulated Activity:**

Any of the following activities, which are located or conducted, wholly or partially, in an aquifer protection area, except as provided for in §22a-354i-5(c) and §22a-354i-6 of the Regulations of Connecticut State Agencies, or Section 4 of the APA Regulations:

- (A) underground storage or transmission of oil or petroleum, to the extent such activity is not pre-empted by federal law, or hazardous material, except for (i) an underground storage tank that contains number two (2) fuel oil and is located more than five hundred (500) feet from a public supply well subject to regulation under §22a-354c or §22a-354z of the Connecticut General Statutes, or (ii) underground electrical facilities such as transformers, breakers, or cables containing oil for cooling or insulation purposes which are owned and operated by a public service company,
- (B) oil or petroleum dispensing for the purpose of retail, wholesale or fleet use,
- (C) on-site storage of hazardous materials for the purpose of wholesale sale,
- (D) repair or maintenance of vehicles or internal combustion engines of vehicles, involving the use, storage or disposal of hazardous materials, including solvents, lubricants, paints, brake fluids, transmission fluids or the generation of hazardous wastes,
- (E) salvage operations of metal or vehicle parts,
- (F) wastewater discharges to ground water other than domestic sewage and stormwater, except for discharges from the following that have received a permit from the Commissioner pursuant to §22a-430 of the Connecticut General Statutes: (i) a pump and treat system for ground water remediation, (ii) a potable water treatment system, (iii) heat pump system, (iv) non-contact cooling water system, (v) swimming pools,
- (G) car or truck washing, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- (H) production or refining of chemicals, including without limitation hazardous materials or asphalt,
- (I) clothes or cloth cleaning service which involves the use, storage or disposal of hazardous materials including without limitation dry-cleaning solvents,
- (J) industrial laundry activity that involves the cleaning of clothes or cloth contaminated by hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- (K) generation of electrical power by means of fossil fuels, except for (i) generation of electrical power by an

emergency engine as defined by §22a-174-22(a)(2) of the Regulations of Connecticut State Agencies, or  
(ii) generation of electrical power by means of natural gas or propane,

- (L) production of electronic boards, electrical components, or other electrical equipment involving the use, storage or disposal of any hazardous material or involving metal plating, degreasing of parts or equipment, or etching operations,
- (M) embalming or crematory services which involve the use, storage or disposal of hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- (N) furniture stripping operations which involve the use, storage or disposal of hazardous materials,
- (O) furniture finishing operations which involve the use, storage or disposal of hazardous materials, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- (P) storage, treatment or disposal of hazardous waste subject to a permit under §22a-449(c)-100 to §22a-449(c)-110, inclusive, of the Regulations of Connecticut State Agencies,
- (Q) biological or chemical testing, analysis or research which involves the use, storage or disposal of hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works, and provided that on-site testing of a public supply well by a public water utility is not a regulated activity,
- (R) pest control services which involve storage, mixing or loading of pesticides or other hazardous materials,
- (S) photographic finishing which involves the use, storage or disposal of hazardous materials, unless all waste water from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- (T) production or fabrication of metal products which involves the use, storage or disposal of hazardous materials including (i) metal cleaning or degreasing with industrial solvents, (ii) metal plating, or (iii) metal etching,
- (U) printing, plate making, lithography, photoengraving, or gravure, which involves the use, storage or disposal of hazardous materials,
- (V) accumulation or storage of waste oil, anti-freeze or spent lead-acid batteries which are subject to a general permit issued by the Commissioner under §22a-208(i) and §22a-454(e)(1) of the Connecticut General Statutes,
- (W) production of rubber, resin cements, elastomers or plastic, which involves the use, storage or disposal of hazardous materials,
- (X) storage of de-icing chemicals, unless such storage takes place within a weather-tight water-proof structure for the purpose of retail sale or for the purpose of de-icing parking areas or access roads to parking areas,
- (Y) accumulation, storage, handling, recycling, disposal, reduction, processing, burning, transfer or composting of solid waste which is subject to a permit issued by the Commissioner pursuant to §22a-207b, §22a-208a, and §22a-208c of the Connecticut General Statute, except for a potable water treatment sludge disposal area,
- (Z) dyeing, coating or printing of textiles, or tanning or finishing of leather, which activity involves the use, storage or disposal of hazardous materials,

(AA) production of wood veneer, plywood, reconstituted wood or pressure-treated wood, which involves the use, storage or disposal of hazardous material, and

(BB) pulp production processes that involve bleaching.

***Regular Member or Commissioner:***

A member of the Commission elected or appointed in accordance with Town Ordinance. Regular members shall be permitted to participate and vote on all matters, which may concern or come before the Commission.

***Regularity Factor:***

The Regularity Factor is a numerical expression of a ratio between the perimeter of a lot, and the gross lot area. The Regularity Factor is currently set at fifty-five one hundredths (0.55). The intent of the Regularity Factor is to minimize the creation of irregularly-shaped lots. A perfect 4-sided square lot will have a Regularity Factor of 1.0. (See Appendix D) (Westport)

***Reinforced Turf:***

A non-degradable composition of UV stabilized, synthetic fibers, nettings and filaments processed into three dimensional reinforcement matrices designed for permanent and critical hydraulic applications where design discharges exert velocities and shear stresses, that exceed the limits of the mature, natural vegetation.

<http://tinyurl.com/y9fnv6y>

***Release:***

Means "release" as defined in §22a-133k-1 of the Regulations of Connecticut State Agencies.

***Research Laboratory:***

Any use devoted to scientific research and development of manufactured products, processed products, compounded products and any investigative activities of a scientific nature. It may also include a combination of research activities and manufacturing activities provided that:

- (a) The manufacturing is the direct outcome of the research activity conducted therein; and
- (b) The manufacturing activity does not constitute more than seventy-five percent (75%) of the total use conducted on the premises, measured by such criteria as floor space allocation, man-hour consumption, operating expenditures and personnel; and
- (c) The manufacturing activity is light in intensity; and
- (d) Combinations containing manufacturing uses which constitute more than twenty-five (25%) of the total use shall not exceed twenty-five thousand (25,000) square feet in total floor area. (Westport)

***Residence: (see Dwelling)***

One (1) or more dwelling units for permanent occupancy located in a permanent structure or building. (Stonington)

***Restaurant:***

A business establishment, in a suitable and permanent building, kept, used, maintained and advertised to the public to be a place whose principal business is the regular sale of hot, unpackaged meals to the customer in a ready-to-consume state, and where the customer consumes these foods while seated at tables within the establishment. A restaurant shall be provided with an adequate and sanitary kitchen and dining room and any sale of alcoholic beverages shall be from a service bar only and incidental to the sale of meals. No sleeping accommodations for the public shall be provided in any restaurant. (Hartford)

A commercial enterprise containing a kitchen and seats for more than eight (8) patrons whose primary function is the preparation and selling of food and/or beverages to the patron in a ready-to-consume state. (Stonington)

A place having an adequate kitchen and dining room, the primary business of which is the service of hot meals to patrons seated at tables or counters. Meals are served by waiters or waitresses and consumed at the table or counter where they are ordered. A Restaurant may have a Restaurant Permit to allow the retail sales of alcoholic liquor to be consumed on the premises, as granted by the Department of Liquor Control (See Restaurant, Fast Food; Restaurant, Drive-in). (Westport)

***Restaurant, Fast Food:***

A place whose primary business is the quick sale of

- (1) frozen desserts,
- (2) food, already prepared, or prepared and cooked quickly, or cooked or heated in a microwave oven, or
- (3) non-alcoholic beverages for consumption on or off the premises. Generally, service is cafeteria style in disposable plates or containers, and food and beverages are not consumed at the point where they are ordered or paid for. (Westport)

***Restaurant, Carry-Out:***

An establishment which by design of physical facilities or by service or packaging procedures permits the purchase of prepared ready-to-eat foods to be consumed off the premises, and where the consumption of food in motor vehicles on the premises is not permitted. All prepared food shall be ordered and purchased from within the facility and, in no instance, shall a patron receive service or obtain a product without entering the facility. This shall not preclude a patron from placing an order by telephone or having a product delivered to an off-premises location. (Hartford)

***Restaurant, Drive-In:***

A place that delivers prepared food and/or non-alcoholic beverages to patrons in motor vehicles, regardless of whether it also serves said items to patrons who are not in motor vehicles, for consumption in or out of motor vehicles, on or off the premises. (Westport)

A Restaurant or Retail Restaurant with a drive-in window. (Stonington)

***Restaurant, Retail:***

A business that sells both packaged and prepared foods and beverages primarily for consumption off the premises, but which may have seating for on-site consumption for up to eight (8) patrons. The definition shall also include food service providers (caterers) who prepare and deliver and/or serve food off premises, with the exception of authorized Home Occupations. (Stonington)

***Restoration Plan:***

A description of how an applicant will return a critical area or its buffer to a state in which its stability and functions approach its unaltered state as closely as possible. (Burien, WA – A Planners Dictionary *See Restoration*)

***Retirement Home:***

A facility that provides primarily nonmedical resident services to seven or more individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, excluding members of the resident family or persons employed as facility staff, on a 24-hour-a-day basis. (Sacramento, CA - A Planners Dictionary *See elderly housing, residential facility*)

***Right-of-Way:***

Any strip of land acquired by reservation, dedication, prescription, or condemnation and used or intended to be used by specific persons or the public for a specific purpose or purposes. "Right-of-way" includes any public ways. (Ames, IA)

***Riprap:***

Stone placed at the end of a culvert or on a steep slope to reduce erosion. (Connecticut Department of Environmental Protection)

***Riverine:***

Relating to, formed by or resembling a river, including tributaries, streams, brooks and creeks. (Westport)

***Roadside Stand:***

A facility for the sale of seasonal agricultural products grown on the premises, a portion of which may be grown on other land owned or leased by the operator of the roadside stand. (Tolland)

***Roadside Stand, Regional:***

A facility for the sale of seasonal agricultural products, at least fifty percent (50%) of which must be grown on the premises or on other land owned or leased by the operator of the roadside stand and up to fifty percent (50%) can be



regionally grown in the State of Connecticut. A maximum of 20% of gross sales may be farm related products (i.e. birdhouses, maple syrup, birdseed) subject to approval by the Zoning Enforcement Officer. (Tolland)

***Rooftop Deck:***

A structural platform located above the finished roof material of a building, always enclosed by a railing or balustrade defined by the building code, accessed from below the roof, and designed to function as an outdoor patio or observation platform. (Dewey Beach, DE – A Planners Dictionary)

***Rooming Unit:***

A portion of a building providing a partial housekeeping unit with incomplete living quarters. A rooming unit shall not include an area for cooking facilities within the unit, but may include board within the building. (Westport)

***Scenic Vista:***

A view which because of its natural beauty, is in the best interests of the welfare of the entire community to preserve. (Westport, CT)

***School, Private:***

Any building or group of buildings, the use of which meets the State of Connecticut's requirements for primary, secondary, or higher education and which is not operated by the municipality or state. (Tolland, CT)

***School, Public:***

Any building or group of buildings, the use of which meets the State of Connecticut's requirements for primary, secondary, or higher education and which is operated by the municipality or state. (Tolland, CT)

***School:***

A public school or private school, consisting of any building or group of buildings, having a comprehensive curriculum of study comparable to that of a public school, a nursery school, a kindergarten or a religious school. (Westport, CT)

***Sediment:***

Solid material, either mineral or organic, that is in suspension, is transported or has been moved from its site or origin by erosion. (Tolland, CT)

***Sediment & Erosion Control Plan:***

A scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative. (Westport, CT)

A plan that indicates necessary treatment measures to minimize soil erosion and sedimentation resulting from development, and includes, but is not limited to, a map and a narrative. (Tolland, CT)

***Sedimentation:***

The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land disturbing activity or into a lake or natural watercourse. (Concord, N.C. – A Planners Dictionary)

***Self-service storage warehouse:***

Any building or group of buildings comprised of one or more individual storage compartments, which are rented or leased to individuals or businesses for storage of non-hazardous materials, personal property and equipment. (Binghamton, NY)

***Setback:***

The minimum required horizontal distance from any street line or lot line to the closest point of the building, structure, or structural projection and measured in a straight line, most perpendicular to such street line or lot line. (Westport, CT)

***Setback, Front:***

The minimum required horizontal distance from the front street line or lot line to the closet point of the building, structure, or structural projection and measured in a straight line, most perpendicular to such street line or lot line. (Westport, CT)

***Setback, Line:***

The line parallel to a street or lot line at a distance established by the minimum yard requirements of these regulations, behind which buildings and structures may be legally erected. (Tolland, CT)

***Setback, Rear:***

The minimum required horizontal distance from the rear street line or lot line to the closet point of the building, structure, or structural projection and measured in a straight line, most perpendicular to such street line or lot line. (Westport, CT)

***Setback, Side:***

The minimum required horizontal distance from the side street line or lot line to the closet point of the building, structure, or structural projection and measured in a straight line, most perpendicular to such street line or lot line. (Westport, CT)

***Shellfishery:*** (*See, Commercial Fishery*)

***Shopping center:***

A commercial development under unified control consisting of [four] or more separate commercial establishments sharing a common building, or which are in separate buildings that share a common entranceway or parking area (Schaumburg, IL)

***Sidewalk:***

An improved pedestrian surface that is typically located adjacent to a roadway or street. (Farragut, TN – A Planners Dictionary)

***Sidewalk, raised:***

A raised hump (a pavement undulation) in the roadway with a flat top, extending across the road at right angles to the direction of traffic flow. <http://tinyurl.com/y8dzt78>

***Sign:***

Any advertisement, announcement, direction, communication or device produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure which shall be used to advertise products, goods, services or otherwise promote the sale or rental of objects or identify objects for sale or for rent or the occupancy or use of any land, structure or building. A “sign” shall also mean any of the aforementioned activities produced by printing on or posting or placing any printed lettered, pictured, figured or colored material on any building, structure or surface. For the purpose of this definition, the word sign does not include flag, pennant or insignia of any national, state, or municipal or other geographical unit or official traffic control signs or notices required by law. (Tolland, CT)

An illustration or display of any kind painted, attached or erected in any manner and displayed or in view of the general public for advertising purposes. The term "sign" shall include logos and signs erected inside the window display area of a building and outside business flags, but shall not include temporary, non-illuminated, on-premises sale signs erected inside the window display located on the ground floor of a building. (Westport, CT)

***Sign, above-roof graphic:***

A street graphic displayed above the peak or parapet of a building.

***Sign, animation or animated:***

The movement or the optical illusion of movement of any part of the street graphic structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a street graphic. (Flagstaff, AZ)

***Sign, area:***

The area of any sign shall be determined by actual measurement, except, that the area of irregularly shaped signs made up of individual letters, logos or symbols shall be determined by measuring the smallest rectangle which will enclose the sign. Sign, Single Faced – the gross area shall be the area of the single face. Sign, Double Faced – the gross area shall be the area of the largest face or the area of one face if both faces have equal area. Sign, Multiple Faced – the gross area is the combined area of all faces. (Tolland, CT)

***Sign, banner:***

A graphic composed of a logo or design on a lightweight material either enclosed or not enclosed in a rigid frame and secured or mounted to allow motion caused by the atmosphere.

***Sign, bare-bulb illumination:***

A light source that consists of light bulbs with a [20]-watt maximum wattage for each bulb.

***Sign, business:***

A sign which directs attention only to a business, commodity, service, activity or product sold, conducted or offered upon the premises where such a sign is located. (Tolland, CT)

***Sign, changeable copy:***

Copy that changes at intervals [of more than once every six seconds]. A sign or portion thereof which has a readerboard for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects, not consisting of an illumination device and may be changed or re-arranged manually or mechanically with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

***Sign, commercial or off-premises (Billboards):***

A sign owned or operated by any person, firm or corporation engaged in the business of outdoor advertising for compensation for the use of such signs, or any sign advertising a commodity or activity not sold, produced or conducted on the premises. (Westport, CT)

***Sign, construction:***

A temporary sign located on the premises on which construction is taking place during the period of such construction which may indicate the names of the design professionals, contractors, owners, financial supporters, sponsors and/or similar individuals or firms having a role or interest with respect to the structure or project. (Tolland, CT)

***Sign, directional graphic:***

A street graphic at the exit or entrance of a premises that has two or more driveways.

A directional graphic is a small sign that usually designates the entrance or exit to a premises or provides other directional information. The definition of this graphic avoids free speech problems because it describes the sign in terms of its location; thus, it is content-neutral. The section on Special Street Graphics states how many directional signs a premises may have and their size, height, and location.

***Sign, directional:***

A sign which guides or directs pedestrian or vehicular traffic to a point of interest, historical sites, recreational and educational facilities and similar locations or for the control of traffic and parking. (Tolland, CT)

A non-conforming sign intended to direct the way to a place or activity. (Westport, CT)

***Sign, directly illuminated:***

A sign emitting any artificial light directly or through any transparent or translucent material from a source of light in the interior of such a sign.

***Sign, double faced:***

A sign with two faces where the faces are mounted back to back and parallel to one another. (Tolland, CT)

***Sign, electronic changeable copy sign:***

A sign or portion thereof that displays electronic, non-pictorial, text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs do not include official or time and temperature signs. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or other objects.

***Sign, electronic graphic display:***

A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixelization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

***Sign, external illumination:***

Illumination of a sign that is affected by an artificial source of light not contained within the sign itself. (Schaumburg, IL)

***Sign, face:***

A plane defined by the continuous perimeter enclosing the extreme limits of the message of the sign, including other representation or material or color lying within said plane that draws attention to a message. However such a perimeter shall not include any structural elements lying outside the limits of such a sign and not forming an integral part of the display. (Tolland, CT)

***Sign, flashing illumination:***

Illumination in which the artificial source of light is not maintained stationary or constant in intensity and color at all times when a street graphic is illuminated, including illuminated lighting. (Schaumburg, IL)

***Sign, flashing:***

A directly or indirectly illuminated sign or portion thereof [which] that exhibits changing light or color effect by any means, so as to provide intermittent illumination [which] that changes light intensity in sudden transitory bursts and [includes] creates the illusion of intermittent flashing light by [means of animation.] streaming, graphic bursts showing movement, or [Also] any mode of lighting which resembles zooming, twinkling or sparkling.

***Sign, free-standing:***

A sign supported by uprights or braces, placed upon the ground and not attached to any part of any building. (Tolland, CT)

A sign supported by one or more uprights or braces in or on the ground. (Westport, CT)

***Sign, grand opening graphic:***

A banner displayed on a premises on which a grand opening is in progress.

“Grand Opening graphic” is another example of a content-neutral definition. Grand opening graphics are a temporary graphic that are often displayed by commercial businesses. The term “banner” is defined above.

***Sign, graphic:***

A street graphic or special street graphic, as defined by this ordinance.

***Sign, ground graphic:***

A street graphic supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building. It includes a **pole graphic** and a **monument graphic**. (Bridgeton, Mo.)

Note in these definitions that the “graphic” is the message displayed. The definition indicates how it is displayed.

***Sign, halo illuminated:***

A sign that is back lit and designed so no light projects through the sign. (Tolland, CT)

***Sign, height:***

The vertical distance measured from grade at the edge of the adjacent right-of-way to the highest point of the street graphic.

The height of any monument sign base or other structure erected to support or adorn the sign is measured as part of the sign height.

***Sign, identification or on-premises:***

Any sign advertising a commodity sold or produced on the premises or a business(es) or activity conducted on the premises where the sign is located. (Westport, CT)

***Sign, identification:***

A sign on the premises bearing the name of a subdivision, the name of a group housing project or a school, college, park, church, or other public or quasi-public facility or a professional or firm nameplate or the name of the person, firm or corporation occupying the premises but bearing information pertaining only to the premises on which such sign is located. (Tolland, CT)

***Sign, illumination/ illuminated:***

A source of any artificial or reflected light, either directly from a source of light incorporated in, or indirectly from an artificial source, so shielded that no direct illumination from it is visible elsewhere than on and in the immediate vicinity of the street graphic. (Madison, WI)

***Sign, indirect illumination:***

A light source not seen directly. A source of external illumination, located away from the sign, that lights the sign, but which is itself not visible to persons viewing the sign from any street, sidewalk or adjacent property. (Scottsdale, AZ)

A sign illuminated with an artificial light external to the sign.

***Sign, internal illumination:***

A light source that is concealed or contained within the street graphic and becomes visible in darkness through a translucent surface.

Definitions of illumination are useful if a community wants to distinguish between direct and indirect lighting in its sign regulation.

***Sign, mobile:***

A sign which is not permanent and not affixed to a building, structure, or ground. (Tolland, CT)

***Sign, monument graphic:***

A ground graphic permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole. (Pierce County, WA)

A sign displayed on a decorative feature of brick, wood, metal or other material, which is intended to serve as an entry feature or focal point. (Schaumburg, IL)

***Sign, moving:***

Any sign which has any visible revolving or rotating parts or any visible mechanical movement of any description, excepting clocks and thermometers. (Tolland, CT)

***Sign, multiple faced:***

A sign with two or more faces, except a double-faced sign. (Tolland, CT)

***Sign, multi-vision:***

Any sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time one of two or more images.

***Sign, nameplate:***

A sign located on the premises that indicates the name and occupation or profession of each occupant of the premises. (Tolland, CT)

***Sign, neon tube illumination:***

A source of light for externally lit street graphics supplied by a neon tube that is bent to form letters, symbols, or other shapes. (Pierce County, WA)

***Sign, nonconforming street graphic:***

A street graphic that was lawfully constructed or installed prior to the adoption or amendment of this ordinance and was in compliance with all of the provisions of this ordinance then in effect, but which does not presently comply with this ordinance.

This definition is adapted for the model ordinance from the definition of a nonconforming use in Section 8-1-1, p. 8-23 of *The Growing Smart Legislative Guidebook: Model Statutes for Planning and Management of Change* (Meck 2002). In order to restrict nonconforming graphics to those that present serious nonconformity problems, a community may want to adopt the following additional qualification: A street graphic is nonconforming only if its size, height, or setback exceeds the size, height, and setback regulations in this ordinance by more than [10] percent. Nonconforming use problems also arise when a single premises contains more than the number of street graphics the ordinance allows. The following provision addresses this problem: If a premises has more street graphics than this ordinance allows, any street graphic in excess of that number is nonconforming. [The owner of the premises shall register with the [name of department] the street graphics it designates as nonconforming.

***Sign, official notices:***

Signs and notices erected and maintained by public officers or public agencies within their territorial jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local governmental agencies or nonprofit historical societies.

***Sign, off-premises:***

A sign that is located on property that is not the premises, property or site of the use identified or advertised in the sign.

A sign which directs attention to a business, community, service or activity which is generally sold, offered or conducted elsewhere than upon the premises where such a sign is located. (Tolland, CT)

***Sign, on-premises:***

A sign that is located on property that is the premises, property or site of the use identified or advertised in the sign.

***Sign, overhanging:***

Any sign extending from a building which is its sole support. (Tolland, CT)

***Sign, pole graphic:***

A freestanding street graphic that is permanently supported in a fixed location by a structure of poles, uprights, or braces from the ground and not supported by a building or a base structure. (Pierce County, WA)

***Sign, political:***

A sign pertaining to the election of a candidate in any municipal state or federal election, or primary or fundraising event or pertaining to a referendum question in conjunction with an election. (Tolland, CT)

***Sign, portable graphic:***

A street graphic not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building.

***Sign, projecting graphic:***

A street graphic attached to and projecting from the wall of a building and not in the same plane as the wall. (Bridgeton, MO)

***Sign, roof graphic (See also above-roof graphic):***

A street graphic that is displayed above the eaves and under the peak of a building. A street graphic painted, erected, constructed, or maintained on the roof of a building. (Bridgeton, MO)

***Sign, roof:***

Any sign erected, constructed or maintained upon the roof of any building. (Tolland, CT)

A sign attached to a building and erected upon the roof or extending above the main roof line of such building. (Westport, CT)

***Sign, rotating:***

A sign or portion of a sign which in any physical part or in total turns about on an axis, rotates, revolves or is otherwise in motion, including without limitation a multi-vision sign.

***Sign, signable area for projecting graphics and awnings:***

(1) One area enclosed by a box or outline, or (2) within a single continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures. (Lakeland, FL; Schaumburg, IL)

The model ordinance defines the percentage of the “signable area” that can be used on these graphics. This surface, it is not necessary to select an area free of architectural detail.

***Sign, signable area for roof and wall graphics:***

One area free of architectural details on the facade of a building or part of a building, which shall include the entire area (1) enclosed by a box or outline, or (2) within a single continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures. A “facade” is the side of a building below the eaves.

The model ordinance specifies the percentage of the “signable area” that can be used for display by these wall graphics. A signable area must be calculated on the “facade” of the building. “Facade” is defined here and is also separately defined. The model ordinance does not explicitly limit the signable area to regular shapes, though this is the intent. The following alternate definition limits signable areas to regular shapes:

***Sign, signable area:***

A two-dimensional area that describes the largest square, rectangle, or parallelogram on the facade of a building which is free of architectural details. (Culver City, CA; Wilmette, IL)

***Sign, single faced:***

A sign with one face. (Tolland, CT)

***Sign, size:***

The total area of the face used to display a street graphic, not including its supporting poles or structures. If a graphic has two faces that are parallel, [not more than two feet apart], and supported by the same poles or structures, the size of the graphic is one-half the area of the two faces.

*The ordinance contains regulations for the “size” of ground graphics.*

***Sign, street graphic:***

A street graphic, other than a ground, roof, or wall graphic, regulated by Section [insert section number] of this ordinance. A lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, or inform that is visible from a public right-of-way.

The ordinance uses the term “street graphic” rather than “sign” to define the visual displays it regulates. The definition is content-neutral. “Street graphic” is an inclusive term, and the definitions included in street graphics ordinances vary considerably. The choice is between a broad definition, such as the definition included here, and a definition specifying which street graphics are covered. Though neither alternative is entirely satisfactory, a broad definition is preferable because a detailed definition may unintentionally exclude street graphics the ordinance should include. The definition includes noncommercial messages, so it is important to be careful when regulating these messages in the ordinance. Note that the street graphic is defined as the “structure” that displays the graphic message. See the definition of “structure” below. Bridgeton, Missouri, added the following language to its definition. “The term ‘street graphic’ includes banners, pennants, streamers, moving mechanisms, and lights.”

***Sign, temporary window graphic:***

A window graphic displayed for a limited period of time.

***Sign, temporary:***

A sign which is intended to advertise community or civic projects, construction projects, real estate for sale, or lease or other special events on a temporary basis. any sign painted directly on any such wall. (Tolland, CT)

***Sign, time and temperature:***

Any sign which displays exclusively current time and temperature information.

***Sign, vehicle:***

Any sign exceeding ten square feet in area mounted, painted, placed on, attached or affixed to a trailer, watercraft, truck, automobile or other form of motor vehicle so parked or placed so that the sign thereon is discernable from a public street or right-of-way as a means of communication and which by its location, size, and manner of display is reasonably calculated to exhibit commercial advertising identifying an on-site business or supplying directional information to an off-site business. A vehicle sign may be defined as a vehicle that functions primarily as a sign rather than as a transportation device, as determined by consideration of any combination of the following factors:

- (A) The absence of a current, lawful license plate affixed to the vehicle on which the sign is displayed;
- (B) The vehicle on which the sign is displayed is inoperable as defined by this Regulation;
- (C) The vehicle on which the sign is displayed is not parked in a lawful or authorized location or is on blocks or other supports or is parked in a manner that is not in conformity with the identified parking space on the lot;
- (D) The vehicle on which the sign is displayed is not regularly used for transportation associated with the use it advertises;
- (E) The vehicle remains parked on the premises after normal business hours when customers and employees are not normally present on the premises; or
- (F) The vehicle remains parked in the same vicinity on the property in a location which maximizes its visibility from the public street or right of way on a regular basis.

***Sign, video display:***

A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

***Sign, wall graphic:***

A graphic attached directly to an exterior wall of a building or dependent upon a building for support, with the exposed face of the graphic located in a place substantially parallel to the exterior building wall to which the graphic is attached or which supports the graphic. (Schaumburg, IL)



A street graphic painted on or attached to a wall of a structure and in the same plane as the wall. (Bridgeton, MO)

***Sign, wall:***

Any painted sign or poster on any surface or place that may be affixed to the front, rear or side wall of any building or structure, or any sign painted directly on any such wall. (Tolland, CT)

A sign which is affixed to the exterior walls of any building and projecting not more than 18 inches from the building wall or parts thereof. Wall signs shall also include permanent signs erected inside window display areas of a building and theater marquee signs that regularly change to announce movies or events. (Westport, CT)

***Sign, window graphic:***

A street graphic applied, painted or affixed to or in the window of a building. A window graphic may be temporary or permanent. (Bridgeton, MO)

***Single-Use Development:***

A use of land, buildings or structures comprised of only permitted commercial uses or only permitted residential uses, but not both, on a lot. (Westport, CT)

***Skid Trails:***

Access roads that are intersected with multiple watercrossings. <http://tinyurl.com/yadgt2d>

***Slash:***

Any residual woody material left on the site after a harvest operation and usually includes tree stems, branches and foliage. (Connecticut Department of Environmental Protection)

***Small Commercial Centers:***

Commercial zoning/development immediately adjacent and parallel to a collector or arterial street that is generally less than 250 feet in depth. (Jefferson County, CO – A Planners Dictionary *See strip development*)

***Small Stock:***

Limited to sheep, goats and poultry, small livestock which requires less land for keeping than large animals. (Tolland, CT)

***Snow Storage:***

An area used for or intended for the storage of snow or other frozen precipitation. Storage areas shall not incorporate any other areas of the project development such as parking areas, landscaping, and yard areas, unless specifically authorized by this Regulation. (Lake Elsinore, CA – A Planners Dictionary *See storage*)

***Social Club/Organization:***

See Membership Clubs.

***Soil:***

Any unconsolidated mineral or organic material of whatever origin. (Tolland, CT)

***Soil Contamination:***

Any physical, chemical, biological, or radiological substance that enters then hydrological cycle through human action and may cause a deleterious effect on the natural or processed, unconsolidated, mineral, and organic material on the immediate surface of the earth that was or is suitable to serve as a natural medium for the growth of land plants. (Sioux Falls, SD; Redmond, WA – A Planners Dictionary *See soil; contaminant*)

***Special Flood Hazard Area:***

Land within the flood plain zone of the municipality subject to a one percent or greater chance of flooding in any given year as shown on the flood rate map. (Westport, CT)

***Special Permit:***

A use which is subject to special regulations, which regulations may be more restrictive than those in effect for any particular zone. (Tolland, CT)

***Special Permit Use:***

A permitted use only when all of the requirements set forth for the particular special permit are met. (Tolland, CT)

***Stable:***

A place where horses are kept, ridden, fed, bred or housed. (Tolland, CT)

***Stable, Commercial:***

Livery, boarding or riding stables for more than three horses, which may include facilities for showing and training horses. (Tolland, CT)

***Staging Area:***

A location where organisms, people, vehicles, equipment or material are assembled prior to their use. is a designated area where vehicles, supplies, and construction equipment are positioned for access and use to a construction site.

<http://tinyurl.com/y8meh6g>

***Stalls:*** (See, Merchandise Stand)

***Start of Construction:***

The date the permit is issued, provided the actual start of construction, repair, reconstruction, or improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site such as pouring of slabs, piling, footings, or columns beyond the actual excavation and does not include land preparation or clearing of land or grading or filing, temporary pouring of footings, pilings, slabs or columns, or the installation of streets or walkways/sidewalks, or the installation of accessory structures or buildings. (Westport, CT)

***State Aquifer Protection Regulations:***

Means §22a-354i-1 to §22a-354i-10, inclusive, of the Regulations of Connecticut State Agencies.

***Storage:***

The holding or possession of any hazardous material.

***Storage Tank:***

A stationary device which is designed to store hazardous materials, and is constructed of non-earthen materials including without limitation concrete, steel, fiberglass or plastic.

***Storm Drainage System:***

The system of inlets, conduits, channels dikes, and appurtenances which serve to collect and convey storm water through and from a given drainage area. (Concord, N.C. – A Planners Dictionary)

***Stormwater Management Plan:***

A description of any stormwater management technique, apparatus, or facility that controls or manages the path, storage, or rate of release of stormwater runoff. Such facilities may include storm sewers, retention or detention basins, drainage channels, drainage swales, inlet or outlet structures, or other similar facilities. (Champaign, IL – A Planners Dictionary)

***Stoop:***

Any raised building entrance platform with one (1) or more steps leading up to it. (Tolland, CT)

***Story:***

Part of the building between the upper surface of the floor and the floor next above which is not an attic, cellar, crawl space, cellar or half story. These are counted in height measurements under the general regulations. (Westport, CT)

***Story, Half:***

Part of the building or structure directly under the roof with 25-50 % of the floor space having headroom of 5.5 feet of headspace or more and the remaining must have less than 5.5 feet of headroom. The area must be measured vertically from the top surface of the floor to the bottom surface of the roof and horizontally from inside surface of the exterior walls for half story area. (Westport, CT)

***Stratified Drift:***

Unconsolidated, sorted sediment composed of layers of rocks, sand, gravel, silt or clay deposited by melt water from glaciers. (Tolland, CT)

***Streamcrossing:*** (*See, Watercrossing*)

***Street:***

A road, highway, lane, avenue, boulevard or any other public way, which provides a principal means of access to a lot. "Street" shall be deemed to include the entire width of the right-of-way but shall not include private driveways and private rights-of-way. (Tolland, CT)

Includes public highways, and public and private roads. (Westport, CT)

***Street Line:***

A common line between a street right-of-way and a lot. (Tolland, CT)

***Street Lines:***

A dividing property line between the street and lot. (Westport, CT)

***Street Right-of-Way:***

The area of a street between the parallel boundary lines of that street. (Tolland, CT)

***Street, Accepted:***

A street which has become public by virtue of dedication to and formal acceptance by the [enter the name of the municipality.] (Tolland, CT)

***Street, Public:***

Any town road or state or federal highway. (Westport, CT)

***Structure:***

Anything constructed or erected, the use of which requires location on the ground or water or attachment to something having location on the ground or water. A "structure" shall be deemed to include, but not be limited to, buildings, swimming pools, tennis courts, towers, paddle or platform tennis courts, docks, balconies, open entries, porches, decks, signs, permanent awnings, ground-mounted antennas, ground-mounted solar panels and satellite dishes and fences or walls more than eight feet in height, other than retaining walls. (Tolland, CT)

Anything constructed or erected which requires location on the ground and or/ attachment to or placement on something having a location on the ground. Except as otherwise indicated, "Structures" as used in these regulations shall be deemed to include buildings, parapets, turrets, ground-mounted and roof-top mechanical units, swimming pools, tennis courts, towers, paddle or platform tennis courts, balconies, open entries, porches, decks, signs, permanent awnings, ground mounted antennas, ground mounted solar panels, satellite dishes, flagpoles and fences or walls more than eight feet in height and a gas or liquid storage tank that is principally above ground. Any structure, such as a deck or porch, attached to a building shall be deemed to be part of the building. Ground-mounted mechanical units, such as air conditioning compressors, shall not be deemed structures for purposes of coverage, for permitted uses, (as distinct from special permit uses) in residence districts. Patios or terraces shall not be deemed structures for purposes of coverage but shall adhere to all required setbacks. If the patio/terrace is three feet or more above adjacent grade at any point, such as with a retaining wall, it will be included in total coverage. Handicapped ramps are not considered structures. An arbor or pergola is considered a structure if it has any type of roof or covering over a deck or patio floor or is over 8 feet in height. (Westport, CT)

***Structure, Accessory:***

A structure, the use of which is customarily incidental and subordinate to that of the principal structure or use on the same lot. (Tolland, CT)

***Substantial Damage:***

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. (Westport, CT)

***Substantial Improvement:***

Any combination of repairs, reconstruction, alteration or improvements to a structure, during any five year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the existing structure before “the start of construction” of the improvement. This term also includes structures which have incurred “Substantial damage,” regardless of the actual repair work performed. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, building, fire or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. (Westport, CT)

***Supportive Housing:***

Affordable Housing in accordance with CT General Statutes §8-30g that provides for persons who have been homeless or at-risk of being homeless, supportive services by the [enter the name of the municipality] Housing Authority, [enter the name of the municipality], or qualified 501(c) 3 non-profit organizations specializing in providing supportive services in residential settings. These services include individualized health and employment case management and other services such as accessible mental health, substance addiction, or employment. (Westport, CT)

***Surety Bond:***

A bond issued by an entity on behalf of a second party, guaranteeing that the second party will fulfill an obligation or series of obligations to a third party. In the event that the obligations are not met, the third party will recover its losses via the bond. <http://tinyurl.com/ygv2851>

***Swimming Pool:***

A water-filled structure, permanently constructed or portable, having a depth of more than 24 inches and a water surface area of more than sixty 60 square feet, used for bathing or swimming. (Tolland, CT)

***Synagogue:*** (See, Place of Public Assembly)

***Tax Increment Financing (TIF):***

A real estate development technique applicable to industrial, commercial, and residential projects to cover the costs of publicly provided project improvements. TIF uses anticipated increases in real estate tax revenues resulting from increased property values to pay off bonds sold to finance qualifying redevelopment costs. TIF allows the financing of land acquisitions and redevelopment improvements with tax-free borrowing, thereby reducing interest costs. In addition, use of TIF allows businesses to purchase renovated sites and buildings at less than market costs (State of Kansas – Planner’s Dictionary)

***Telecommunication Tower:***

A structure designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and including all appurtenant devices attached thereto. A tower can be free standing (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires), of either lattice or monopole construction. (Hudson, NH)

***Tennis Courts:***

A specially prepared level playing surface which may have either a full or partial enclosure or fence protecting a playing area for the game of tennis. A tennis court shall be deemed a structure but only 50% of its surface area shall be used in computing Total Coverage. (Westport, CT)

***Terrace or Patio:***

An improved, surfaced or graded area located on the ground with no structural supports other than subsurface base material and retaining walls. A terrace" or "patio" located not more than 8 inches above grade shall not be deemed a structure. (Tolland, CT)

An improved or graded area located on the ground with no structural/supports other than subsurface base material and retaining walls. The concrete or other paved areas round a swimming pool which is the pool apron is considered a terrace/patio. A patio or terrace shall be flush to the ground with no air spaces beneath. A terrace or patio shall not be deemed a structure for purposes of total coverage except if the terrace or patio is 3 feet or more above the adjacent grade at any point, such as with a retaining wall. Terraces and patios shall always adhere to all required setbacks except as otherwise provided in section 24A of these Regulations. (Westport, CT)

***Test Pit:***

A small, exploratory excavation that is dug to discover whether the topsoil contains particular concentrations of artifacts. Test pits are dug before a large excavation to determine a site's depth and contents.

<http://tinyurl.com/yhelb5f>

***Till:***

Unconsolidated, unsorted material composed of a mixture of rock sizes ranging from clay to boulders that were deposited by glacial ice. (Tolland, CT)

***Topographic Feature:***

An object, whether natural or man-made, located on the earth surface and of sufficient size that it appears on a 1:24,000 scale topographic quadrangle map drawn by the United States Geological Survey.

***Town center:***

The central business district designated by the zoning ordinance.

A town center may be designated as an Area of Special Character under this ordinance. A community may wish to modify this definition to meet local conditions. For example, the definition could specify a designated area of the community as the town center, such as a major shopping or community center.

***Topography:***

The existing configuration of the earth's surface including the relative relief, elevations, and position of land features. (Cecil County, MD – A Planners Dictionary)

***Townhouse:***

A one-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation. (St. Paul, MN – A Planners Dictionary)

***Trailer:***

Any vehicle which is or can be used for short-term human occupancy or carrying materials, goods or objects and which is, has been or can be mounted on wheels or can be towed or hauled by another vehicle, excluding recreational vehicles. (Tolland, CT)

***Transfer Station:***

An establishment utilized for the temporary storage of municipal solid waste or debris from demolished buildings or structures, from which such material is transported to landfill and other disposal sites. (Binghamton, NY)

***Travel Lane:***

Is a lane for the movement of vehicles traveling from one destination to another, not including shoulders and auxiliary lanes. <http://tinyurl.com/y94meoa>

**Treatment Facility:** (See, Potable Water Facilities)

**Tree:**

Any self supporting woody plant growing upon the earth that usually provides one main trunk and produces a more or less distinct and elevated head with many braches or any self supporting woody plant, usually having a single woody trunk and a potential diameter at breast height of two inches or more. (Loveland, CO – A Planners Dictionary)

**Underground Shelter:**

A facility for the temporary shelter and feeding of indigents or disaster victims, operated by a public, nonprofit, or private entity, located completely underneath the surface of the earth. (Truckee, CA – A Planners Dictionary)

**Underground Storage Tank or Storage Tank Component:**

That ten percent or more of the volumetric capacity of such tank or component is below the surface of the ground and that portion which is below the surface of the ground is not fully visible for inspection.

**Unified Shopping Center:**

A retail or mixed retail and office shopping area containing six or more retail tenants in one or more buildings, all situated on one lot. (Westport, CT)

**Usable Open Space:**

That portion of the ground space on the same lot as the principal building which is either landscaped or developed and maintained for recreation purposes. Usable Open Space shall not include those portions of a lot that are utilized for off-street parking or loading, drive-way or building purposes, nor wetlands, waterbodies, watercourses or land of severe topography having slopes of 25% or greater. (Westport, CT)

**Use:**

The specific purpose or activity for which a building, structure or lot is intended. (Tolland, CT)

The specific activity for which a lot, a building or a structure is designed, used or intended to be used. The term permitted use, special use or its equivalent shall not be deemed to include any non-conforming use. (Westport, CT)

**Use, Accessory:**

A use subordinate and customarily incidental to the principal use, structure or land and located on the same lot. (Tolland, CT)

A use of land, buildings or structures which is incidental and subordinate to and customarily used in connection with, and located on the same lot with the principal building, structure or use. (Westport, CT)

**Use, Principal:**

The primary or predominant use of a lot, structure or building. (Tolland, CT)

The main or primary use of a premises. (Westport, CT)

**Use, Similar:**

A use which is similar to the permitted used as to the type of operation, employment, traffic generated the effects of the use upon the district and the appropriateness of the use is accomplishing the stated objectives of the district in which it is to be located. (Tolland, CT)

**Use, Temporary:**

A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period. (Tolland, CT)

**Utilities:** (See also, Public Utility)

All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable and includes facilities for the generation of electricity. (Renton, WA – A Planners Dictionary)

***Utility, Facility:***

A building or structure used or intended to be used by any utility, including but not limited to any gas treatment plant reservoir, tank, or other storage facility, water treatment plant, well, reservoir, tank, or other storage facility; electric generating plant, distribution, or transmission substation; telephone switching or other communication plant, earth station, or other receiving or transmission facility; any storage yard for utility equipment or vehicles; and any parking lot for parking vehicles or automobiles to serve a utility.

***Variance:***

Permission to depart from this development code when, because of special circumstances applicable to the property, strict application of the provisions of this Regulation deprives such property of privileges enjoyed by other property in the vicinity that is under identical zoning. (Temecula, CA – A Planners Dictionary)

***Vegetation, Height:***

The highest point on the uppermost branches or stems of vegetation above which only leaves or needles actually grow. (Loveland, CO – A Planners Dictionary)

***Vegetation:***

All live trees, shrubs, ground cover, and other plants, including without limitation trees both over and under four inches in diameter measured at four and one half feet above ground level. (Limington, ME – A Planners Dictionary)

***Vehicle:***

A “vessel” as defined by §15-170 of the Connecticut General Statutes, and any vehicle propelled or drawn by any non-muscular power, including without limitation an automobile, aircraft, all-terrain vehicle, tractor, lawn mower or snowmobile. [This term applies only to the regulations set forth in the aquifer protection area section]

***Vehicle, Commercial:***

Any motor vehicle bearing a commercial registration. (Tolland, CT)

***Vernal Pools:***

A seasonal wetland area that supports the spring growth of certain specific species. In the winter vernal pools may be frozen over after having been filled with fall rains. In the spring usually around mid March through April, the season of the vernal equinox, the pools melt and animals begin to lay their eggs there. <http://tinyurl.com/ydkcvu9>

A small depression that contains water for approximately two months during the growing season, that lacks a permanent outlet, lacks fish, and dries out most years usually by late summer. (Connecticut Department of Environmental Protection)

***View Lane:***

The line of sight identified as to height, width and distance of an observer looking toward a visually sensitive area. (Loveland, CO – A Planners Dictionary)

***Violation:***

A violation of the regulation occurs when there is: (1) any work on property which requires approval of the ZEO and (a) which has not been approved, or (b) exceeds the scope of, or is not in compliance with, any permit issued or exceeds the scope of, or is not in compliance with, any order or action of the PZC or ZBA, or is otherwise not in compliance with the regulation, or (c) any use of property which is not in compliance with the regulation; (2) the owner, tenant, or occupant of a property shall not cause or allow a violation of the regulations and shall be jointly and severally liable for any such violation. <http://tinyurl.com/ygl7xdq>

***Visual Access:*** (See, View Lane)

**Visual arts space:**

Facilities that provide space for the visual arts, including but not limited to exhibition halls and galleries, which are visible from and directly accessible to the pedestrian circulation system as shown on the pedestrian circulation element of the downtown development plan. (Hartford, CT)

**Walkway:** (See also, Sidewalk)

An improved pedestrian sidewalk, path, trail or accessory at least three (3) feet in width. (Westport, CT)

**Warehouse:**

A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are inflammable or explosive or that present hazards or conditions commonly recognized as offensive. (California Planning Roundtable – A Planners Dictionary)

**Water Bars:**

A ditch and hump across a trail or road for the purpose of carrying water runoff into vegetation, litter layer, ditch, or dispersion area to reduce water volume and velocity. (Connecticut Department of Environmental Protection)

**Water Dependent Uses:**

Those uses and facilities which require direct access to, or location in, marine or tidal waters and which therefore cannot be located inland, including but not limited to: Marinas, recreational and commercial fishing and boating facilities, finfish and shellfish processing plants, waterfront dock and port facilities, shipyards and boat building facilities, water-based recreational uses, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or process water which cannot reasonably be located or operated at an inland site and uses which provide general public access to marine or tidal waters.

<http://tinyurl.com/ya6easf>

**Water Supply Reservoir:** (See, Potable Water Facilities)

**Water Tower:** (See, Potable Water Facilities)

**Waterborne Transportation:**

It consists of maritime transportation, short-sea shipping, inland navigation, sea-river going shipping, and a certain part of land operations, which consists in cargo handlings/transferring between the waterborne transport and the other modes. In the transportation domain, waterborne refers to the waterway arteries relative transport activities, vehicles/handlings technologies, and operational/organizational management. <http://tinyurl.com/y9vut6a>

**Waterbody:**

Any pond, lake or body of standing water either natural or artificial; excluding swimming pools. (Westport, CT)

**Watercourse:**

As defined in Section 22a-38(16) of the General Statutes. (Tolland, CT)

**Watercrossing:**

Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the watercourse. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables, as well as maintenance work on these crossings. (Limington, ME – A Planners Dictionary)

**Waters:**

Means “waters” as defined in §22a-423 of the Connecticut General Statutes.

**Waterfront Club:** (See, Yacht Club)

**Well:** (See, Potable Water Facilities)

**Well Field:**

Means “well field” as defined in §22a-354h of the Connecticut General Statutes.



***Wetlands:***

"Wetlands" means land, including submerged land, not regulated pursuant to sections 22a-28 to 22a-35, inclusive, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture. (Conn. Gen. Stat. § 22a-38(15))

***Workforce Housing:***

A dwelling unit for sale or rent at a price that is affordable for a person or family whose income is not more than 110% of the most recently published United States Department of Housing and Urban Development Standard Metropolitan Statistical Area (HUD – SMSA) Median Family Income for a Family of Four encompassing [enter the name of the municipality and its provided formula] ie. Westport (\$111,000 x 110% = \$122,100) (Westport, CT)

***Yacht Club:***

An institutional use that is classified as either a private club or community club that consists of structures or related grounds and/or moorage used for social and recreational purposes related to pleasure boating and/or swimming, the use of which is primarily restricted to members and their guests. (Seattle WA – A Planners Dictionary)

***Yard:***

An open space between the facing wall of a structure and the nearest lot line and which is unoccupied except as may be specifically authorized by these regulations. Any measurement shall be taken at a right angle from the nearest lot line to the nearest point of the structure. (Tolland, CT)

***Yard Width or Yard Depth:***

The width of side yards and the depth of front and rear yards, measured perpendicularly to the respective lot lines. (Tolland, CT)

***Yard, Front:***

An open space extending across the full width of a lot and lying between the closest edge of the street right-of-way and the nearest facing wall of a principal structure on the same lot. (Tolland, CT)

***Yard, Rear:***

An open space extending across the full width of a lot and lying between the rear lot line of the lot and the nearest facing wall of a principal structure on the same lot. (Tolland, CT)

***Yard, Required:***

An open space between a lot line and the permitted buildable area within which no structure shall be located except as specifically permitted by these regulations. (Tolland, CT)

***Yard, Side:***

An open space parallel to a side lot line extending from the front yard to the rear yard and lying between the side line of the lot and the nearest facing wall of a principal structure on the same lot. Any yard not a rear yard or a front yard shall be deemed a "side yard." (Tolland, CT)

***ZBA:*** (See, Zoning Board of Appeals)

***ZEO:*** (See, Zoning Enforcement Officer)

***Zoning Amendment:***

A change in the wording, context, or substance of this title or change in the zoning or district boundaries of the official zoning map, to be made a part of this title. (West Des Moines, IA – A Planners Dictionary)

***Zoning Board of Appeals:***

A quasi judicial body which hears and decides matters relating to the application of the zoning ordinance and considers appeals from the decisions of the Planning and Zoning Commission (PZC), or the similarly situated

commission(s), the Zoning Enforcement Officer (ZEO), and the building official, and considers variance and special exception applications. (Merrimack, N.H. – A Planners Dictionary See Zoning Board of Adjustment)

***Zoning District Map:***

Any map showing zoning districts prepared in accordance with maps adopted pursuant to §8-3 of the Connecticut General Statutes.

***Zoning Enforcement Officer:***

Agent designated by the Planning & Zoning Commission, or the similarly situated commission(s), responsible for the enforcement of the regulations contained herein. (Tolland, CT)

A local official responsible for granting zoning permits and, following a determination by the Zoning Board of Appeals (ZBA), for special permits and variances. Decisions of this official are appealable. (American Planning Association – A Planners Dictionary)

An official or designated person charged with enforcing and administering the zoning ordinances. (Merrimack, N.H. – A Planners Dictionary)

***Zoning Map:***

The map or maps that are a part of this zoning code and that delineate the boundaries the boundaries of all mapped zoning districts within the physical boundary of the city. (Newport, RI – A Planners Dictionary)

### III. GENERAL REGULATIONS

#### Section 1: Resolving Conflicts

- A. Where there are conflicts, disputes, or disagreements concerning the application of the standards, requirements, and prohibitions established by this ordinance interested parties are encouraged to submit in writing their concerns to be heard at the next meeting of the Zoning Commission. Parties are also encouraged to request that the Zoning Commission to make a formal ruling on the issue.
- B. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety and comfort, convenience and general welfare. It is not intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of the law or ordinance, or any rules, regulations, or permits to the use of buildings or premises, nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits or by such easements, covenants or agreements, the provisions of this ordinance shall control.

#### Section 2: Requirements for All Districts-

- A. No land, building or structure shall be used, no building or structure shall be erected, and no existing building or structure shall be moved, added to or altered except in conformity with these Regulations. Every development must comply with all applicable General and Conditional Use Development Standards set forth in these Regulations. Any use not listed in these Regulations as a Permissible Use or as an accessory to a Permissible Use is prohibited.

Among the well-recognized purposes of size requirements is the need to ensure that the use of the property does not impair the rights of adjacent property owners. These requirements are also helpful to ensure that there is adequate light and air for the health and safety of those residing on or visiting the land. Finally, certain setbacks are required to ensure that fire and rescue personnel and equipment will have sufficient access to the side and rear of the structures in an emergency.

- a. Lots
  - i. No Lot shall be reduced in size or changed in shape so that the total area, minimum frontage, setbacks, lot area per Dwelling unit, or other Development Standards required by these Regulations are not maintained. No Lot shall be divided so as to create an additional Lot which is not in conformity with these Regulations unless such Lot is deeded, dedicated and accepted for public use.
  - ii. Except as may otherwise be expressly provided in these Regulations, no building permit or zoning permit shall be issued for any building, structure, or use unless the lot for which the permit is sought has the required lot frontage and width. Lot frontage shall be measured on an existing street or a street under construction as shown on a properly

approved and filed subdivision plan or other plan approved by the Zoning Commission.

- iii. No yard or other open space provided, for the purpose of complying with the provisions of these Regulations, shall be included as any part of the yard or open space for any other building; no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot. Should a lot hereafter be formed from a part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of these Regulations with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot thus created unless it complies with all the provisions of these Regulations.
- iv. No more than 25 percent of the minimum area requirement of a lot may be fulfilled by land which is under water, or is subject to periodic flooding at mean high tide, or by land with a 30% or greater slope. Land which is under water that is open to use by persons other than the owner of the lot shall be excluded entirely from the computation of the minimum area of that lot.
- v. Where a question exists as to the proper application of any of the requirements of these Regulations to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the ZBA shall determine how such Regulations shall be applied.
- vi. Cul-de-sac Lots: Where the front lot line is along the terminus of a cul-de-sac, the distance may be measured at the required front yard depth setback, along an arc concentric with the street line.
- vii. Corner Lots: Within the triangle formed by the lines of intersecting ways and a line joining points on such lines fifteen feet distance from their point of intersection, or in the case of a rounded corner, the point of intersection, or in the case of a rounded corner, the point of intersection of their tangents, no structure and no foliage shall be maintained between a height three and one-half (3.5) feet and height of eight (8) feet above the plan through their curb grades.
- viii. Interior lots may be created if they are in accordance with the following requirements:
  - 1. Only one interior lot may be created from a lot of record.
  - 2. The interior lot shall include an access strip no less than 30 feet wide for its entire length and having access to and from a public street.
  - 3. Both the front lot and the interior lot must conform to all minimum lot area and other dimensional standards applicable to the zone in which the Lots are located, provided, however, that the access strip serving the interior lot shall not be included in computing the minimum lot area for the front and interior lots.
  - 4. The front property line of the interior lot shall be deemed to be coincident with the rear property line of the front lot.

## B. Zone Boundaries

- a. Unless otherwise clearly designated on the Zoning Map, zone boundaries shall be interpreted as:
  - i. Following the center line of a street, road or highway.
  - ii. Running parallel to any of the above mentioned lines, at measured distances, where zone boundaries appear to be set back from such lines.
  - iii. Following the center line of a river, stream, or other watercourse and, in the case of bodies of water having a designated Harbor Line, extending to that line. Where the precise location of any zone boundary is uncertain, the Planning and Zoning Commission shall determine the boundary.

In this section, it will be helpful to include a map of the municipality for which this code will apply. The map should indicate where the zoning boundaries and different districts are located.

#### C. Use Regulations

A. No building or land shall be used or occupied and no structure shall be constructed or altered to be used for any purpose other than a Permissible Use, including any use lawfully accessory to a Permissible Use. Any use not listed in these Regulations as a Permissible Use or as an accessory to a Permissible Use is prohibited.

#### B. Permissible Uses

- a. Uses permitted by right shall be allowed if they comply with all applicable regulations.
- b. Uses subject to conditions are allowed if they comply with the conditions listed in this ordinance applicable to each zone and comply with all other applicable regulations
- c. Special permit uses are allowed if approved through the special permit process and if they comply with all other applicable zoning regulations.

#### D. Building Drainage

A. Whenever a new building, or a lateral addition to an existing building, is to be constructed, adequate grades should be maintained around the building, or sufficient subsurface drainage should be provided, in such a manner as to prevent surface water from flowing against the walls of the building.

#### E. Building Restoration

A. Nothing in these Regulations shall prevent the strengthening or restoring to a safe condition of any part of a building or structure declared unsafe by the proper official or where required by any lawful order.

#### F. Traffic Sightlines

A. No obstruction, such as vehicles, machinery, materials, signs, hedges, trees, shrubs, or other growth, shall be created, placed, established, or erected in such a way that it interferes with a clear view of drivers of vehicles on a curve or at any street intersection and endangers the safety of those traveling upon any street. The Commission or its authorized agent may order the removal of any object that

unreasonably obstructs the clear view of drivers or otherwise endangers the safety of those traveling on a street.

G. Swimming Pools

- A. No swimming pool, either above ground or inground, or artificial pond shall be located closer than 20 feet to any boundary of the lot to the use of which it is accessory.

H. Patios

- A. A paved patio shall not be considered a building or part of a building in determining maximum building coverage or in determining required setbacks under these Regulations if such patio is unroofed, by canvas or otherwise, and without walls, parapets or other forms of enclosure, (except for one wall of the building to which it is accessory and except for shrubs not exceeding 3 feet in height), and does not project into any setback to a point closer than 10 feet from any lot line.

I. Driveways

- A. Driveways are permitted in front yards and side yards, and entrances to a street shall be so located as to provide maximum visibility and safety to the general public. No obstructions will be permitted near a driveway which interfere with the visibility of those using such driveway or those passing by.

Sections G-I do not constitute an exhaustive list of uses that could fall in this section. Instead, this list includes uses that are commonly regulated in the same manner across all districts. Uses should be included in this section only if the regulations will be the same across all districts and do not deviate based on location.

**Section 3: Public Right-of-Way**

- A. Public rights-of-way are established and maintained for the purpose of providing a means of safe and unrestricted travel of persons and vehicles. The purpose of permitting is the regulation of the use of public rights-of-way in the interest of public safety and convenience, and the operation and protection of public works infrastructure. Excavation and restoration standards are required to preserve the integrity, operational safety and function of the public right-of-way.
- B. The following types of operations within the limits of existing or proposed Town right-of-way require a written application for a “Right-of-Way” permit issued by the Public Works Department before any work can be performed:
  - a. To construct, repair, install and maintain sanitary sewers, storm sewers, drains, water mains, gas mains, telecommunications and electrical conduits and service connections thereto, driveways, pavement extensions, manholes, inlets, catch basins, fire hydrants, sidewalks, curbs, steps, retaining walls or fences.
  - b. The temporary storage of equipment or construction materials.

- c. To erect and maintain poles, wires, guys cables and other overhead structures by persons other than public service companies regulated or exempted by law.
  - d. Any other operations which may cause abnormal wear to or deface or damage existing structures, pavement, curbs or sidewalks. In addition, the following work performed on private property may require a written application for a “Right of Way” permit if:
    - e. The work involves the traversing or parking of heavy equipment on or across sidewalks, curbs or grass shelves.
    - f. The work is performed along the frontage of a property.
    - g. Any other use of the Town’s “Right of Way” beyond its intended use.
- C. Permittees should be aware that a town is in no way obligated to issue a permit for work within its right-of-way and only does so when it is in the best interest of its residents. Consideration is given to maintenance and any inconvenience the work may pose on the public when determining whether a permit should be issued. When it appears that the proposed work would cause substantial or needless damage to a road or create excessive disturbances to traffic or exceptionally dangerous conditions not commensurate with the benefits to the permittee, the request for permit will be denied. The permittee will be informed of such rejection in writing which will state the reasons for the rejection. The Director of Public Works, or his designee, may refuse to issue a permit to any person, company or utility when, in their opinion, work performed under a permit theretofore issued to the permittee has not been properly executed or when said permittee has failed to reimburse the Town for recoverable charges billed under the terms governing the previous permit. A permit will only be issued when all of the following criteria are met:
- a. The application form is completed and signed;
  - b. The work as shown has been approved by the Town;
  - c. Town is in receipt of required bonds and insurance;
  - d. Payment of the permit fee made payable to the Town;
  - e. Payment of any outstanding fees due for Town services or violations;
- The permit form must be signed by the Director of Public Works or his designee before it becomes valid. Approved permits will be issued by the Public Works Department two (2) working days after application for permit has been received in good order. The permittee is forbidden to commence work until the permit is valid and the permittee has notified the Town Inspector at least twenty-four (24) hours in advance of the exact date and hour he proposes to begin work.
- D. Urgent Work
- a. When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Town shall have the full power to order, at the time the permit is granted, that a crew and adequate facilities be employed by the permittee beyond normal working hours, including up to twenty-four (24) hours a day, to the end that such excavation work may be completed as soon as possible.
- E. Emergency Action

- a. Nothing in this document shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe which may be a threat to life or property, or for making emergency repairs, provided that the person making such excavation shall apply to the Town for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact all utilities for on the spot locations.
- F. Prompt Completion of Work
- a. After an excavation is commenced, the permittee shall carry out with diligence and expedition all excavation work covered by the permit and shall promptly complete such work and restore the street or sidewalk as specified in this document. The permittee shall perform the work so as not to obstruct, impede or create a safety hazard to public travel. All excavations shall be covered or backfilled at the end of each workday. Covered shall mean steel plated over the entire trench plus two feet (2') around the edges. The steel shall be of strength to hold vehicular traffic. Barriers must be installed if the excavation is to be plated.
- G. Revoking a Permit
- a. Permits issued by the Town may be revoked at any time when work does not comply with regulations, laws or local ordinances or creates a nuisance. The permit is revocable upon written notification to the permittee.
- H. Violations
- a. Any person violating the terms of any of the ordinances or statutes or regulations covering the issuance of permits and the work to be performed there under shall be fined one hundred dollars (\$ 100.00) in addition to all costs due to damages by each violation. Any permittee or party who continues to violate any section these regulations and fails to correct violations in a timely manner shall receive no further permits and will be invoiced for permanent repairs until such time as the Town is satisfied that the permittee or party shall have corrected all violations in compliance with the terms of this document. The Town reserves the right to notify a permittee's insurance and/or bond carrier of repeated violations.
- I. Failure to Obtain a Permit
- a. Any person or utility found to be conducting any excavation activity within the public right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted. A surcharge of one hundred dollars (\$100.00) shall be required in addition to all applicable permit fees.
- J. Clean-Up
- a. At the completion of work, the Permittee shall remove all materials, equipment, waste, rubbish and other debris resulting from the work from the premises. The site shall be clean and ready for occupancy by the Town. The Permittee shall



restore to its original condition those portions of the site not designated for alteration by the approved plans.

**K. Final Inspection**

- a. Upon completion of the maintenance period, the Permittee shall request a final inspection, in writing, of all completed public improvements. Any outstanding punchlist items generated from the final inspection shall be immediately corrected to the satisfaction of the Engineer.

**L. Safety of Work Area**

- a. The Permittee shall comply with all requirements of the Occupational Safety and Health Act (OSHA), applicable laws, building and construction codes. At all times, the Permittee shall protect his/her work from the motoring or walking public. It will be the Permittee's responsibility to supply and utilize flagmen or Town Police personnel, barricades, signs, drums, cones, etc. throughout the construction. Any sidewalk left excavated at the end of the work shift shall be cordoned off and properly signed to restrict pedestrian access.

**M. Protection of Existing Facilities**

- a. The Permittee shall make every effort to minimize damage to all access routes, and he shall be required to restore them to their original conditions. All costs of the protection, removal and/or restoration to original condition of signs, walls, fences, structures, utility lines, poles, guy wires or anchors, and other improvements required for passage of the permittee's equipment or performance of Work shall be borne by the Permittee. The Permittee shall notify the proper authorities of the Town and all utilities of any intended modification or disruption to their property, prior to the start of construction, and shall cooperate with them in the scheduling and performance of his operations. The Permittee shall be responsible for, and reimburse the Town and others for, any and all losses, damage or expense which the Town or those others may suffer, either directly or indirectly or through any claims of any person or party, for any trespass outside the spaces and rights of way provided by the Town to the Permittee, or any violation or disregard of the terms and conditions established for the use or occupancy of those rights or for negligence in the exercise of those rights.

**Section 4: Private Right of Way**

Each private road right of way and its roadway shall meet the following minimum requirements and specifications.

- A. The roadway surface and turnaround area shall be centered in the right of way.
- B. The connection between the right of way and the public road shall conform to the standards and specifications of the [County Road Commission]. The applicant shall obtain a permit issued by the [Road Commission] prior to approval of any road permit by the municipality.
- C. Underground crossroad, drainage shall be provided where the proposed right of way crosses a stream or other drainage course. Necessary culverts and erosion treatments shall be provided in accordance with the specifications of the [County Road Commission].

- D. The right of way and roadway shall be adequately drained so as to prevent flooding or erosion of the roadway. Ditches shall be located within the right of way. Roadway drainage shall be constructed so that the runoff water shall be conveyed to existing watercourses or water bodies. Runoff water shall not be discharged onto the land of another property owner unless the water is following an established watercourse. Connection to the county drains shall be approved by the proper authorities prior to the issuance of the road permit. Connection to roadside ditches within public rights of way shall be approved by the [Road Commission] prior to the issuance of a road permit.
- E. Road signs shall be erected and maintained in accordance with the municipality's traffic control.
- F. The right of way shall provide for ingress, egress, drainage, and installation and maintenance of public and private utilities.

The difference between a public and private right-of-way is determined by who holds the right-of-way. A public right-of-way is held in the public's interest by the municipality and is intended for the accommodation of traffic movements, utilities, drainage and other similar public uses. On the other hand, an individual or entity holds a private right-of-way. An example of this is a private right-of-way in the control of a Homeowner's Association.

**Section 5: Lots in Two or More Districts**

Where a zone boundary divides a Lot in one ownership into two or more zones, the area, coverage, frontage and setback requirements for that Lot shall comply with those of the most restrictive zone within the Lot. All other use, density, and zone development standards for each zone within the Lot shall be applicable to that portion of the Lot within each zone. Except for maximum building coverage, where portions of any lot are in different districts, the Commission may, by the grant of a special exception, except from the requirements of all but one of such districts, a particular use or improvement upon such portion of the lot as is within 30 feet of the boundary of the district the requirements of which are to apply.

**Section 6: Outside Storage**

- A. General Outside Storage
  - a. Except as otherwise allowed in these regulation, no more than [ ] cubic yards of junk may be stored on any property.
  - b. No materials or wastes shall be stored or deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces.

The issue of outside storage can be contentious. For example, October 24, 2009, in Durham, CT a request from Greenland Realty, LLC for permission to store a fuel tank, construction equipment and vehicles outside on its property at 10 Mountain Road was met with resistance from both members of the Planning and Zoning Commission and neighbors at a recent public hearing. See Middletown Press article, "PZC, Residents Unhappy with Company's Excessive Outdoor Storage."

- B. Vehicles

- a. Except as otherwise allowed by these regulations, no more than [ ] unregistered motor vehicles, including trailers or recreational homes, and/or [ ] cubic yards of unassembled motor vehicle parts may be stored in the open on any property.

The town may wish to address the storage of recreational vehicles in a separate section. Anderson’s Treatise on the American Law of Zoning states that because recreational homes are used for seasonal trips, “storage of unoccupied vehicles has become a problem...” That treatise also states that adjoining land owners may object to the storage of these unoccupied mobile home “as an ugly sight which mars the beauty of the neighborhood and adversely affects property values.”

- b. Vehicles exempted from the definition of MOTOR VEHICLE may still be regulated under the definition of JUNK.
- c. A resident of a residential property may not store or authorize more than [ ] motorized vehicles for sale on the property at any time.
- d. No more than [ ] commercial vehicles shall be allowed on a residential district property.

Anderson’s Treatise on Zoning cites that many towns include within the definition of “Junkyard” the storage of vehicles that are not in running condition. That treatise cites one Connecticut town’s ordinance as example: Town of Somers Zoning Code § 214-4 “JUNKYARD — A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded materials or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or discarded solid materials, including garbage, scrap metal, junk and refuse materials, including inert matter and landscape refuse”.

C. Prohibited from all districts

- a. The sale, production, use, storage or disposal of hazardous materials or wastes, except as these regulations may specifically allow. The use or storage of minor amounts of such materials, when clearly incidental to the principal use of a building, structure or land shall be exempt from this regulation.
- b. The following uses involving commercial processing or incineration of animal and vegetable products, except as these regulations may specifically allow: slaughterhouses, stockyards, fat rendering, soap manufacturing, glue manufacturing, tanneries, paper manufacturing, wool scouring and cleaning, cotton textile sizing, scouring, bleaching, dyeing and similar operations, paint and varnish manufacturing, and creosote and creosote products manufacturing.

**Section 7: Accessory buildings**

A. General Limitations on Accessory Buildings and Structures

- a. **SETBACKS:** Minimum setback requirements for accessory buildings, structures and uses shall be the same as the minimum setback requirements specified in the general district requirement sections of these regulations. Accessory buildings or structures may not be located directly in front of the principal building or structure.
- b. **HEIGHT:** No accessory building or structure shall be greater than the allowance for the main building.

- i. This height restriction may be waived by the Commission, upon written request by an applicant, for structural elements of principal and accessory uses permitted by these regulations which because of reasonable necessity and customary practice exceed such height provided no portion of the structural element is used for human habitation. In granting such waiver the Commission may impose such conditions as it deems reasonable and necessary to protect the health, safety, property values of adjacent lots. Spires, cupolas, towers, chimneys, flagpoles and similar features may be subject to such a waiver.
- c. **SQUARE FOOTAGE BULK:** No building or structure, which is accessory to a residential use other than an agricultural building, shall have a building footprint more than 50% of the principal building or structure.
- d. Except as otherwise provided, all provisions of these regulations relating to principal buildings, structures or uses, including the necessity for permits and site plans, shall apply to accessory buildings, structures and uses.
- e. No Accessory building permitted by right will be used as a permanent residence unless specifically permitted by other regulation.
- f. Expiration
  - i. Upon expiration or termination of the special use permit, the accessory apartment shall be removed within 120 days. Removal of the accessory apartment is herein defined as the removal of all kitchen appliances and fixtures, and the removal of the utility lines and pipes servicing these appliances and fixtures; or the permanent and safe capping or cutting of these lines and pipes to the satisfaction of the Building Official. The Commission shall be notified of any expiration or termination of an accessory apartment by the owner/applicant.

**B. Accessory Uses Permitted**

- a. Except as otherwise provided in these regulations, Accessory structures customarily incidental to any use permitted herein are allowed, provided that such accessory structures shall not include any advertising signs, signboards or posters.

The Connecticut Supreme Court has defined this term “customarily incidental” in *Lawrence v. Zoning Bd. of Appeals of Town of North Branford*, 264 A.2d 552 (Conn. 1969). The Court held that “incidental” as employed in ordinance defining “accessory use” as one which is subordinate and customarily incidental to main building and use on same lot incorporates two concepts; it means that use must not be primary use of property but rather one which is subordinate and minor in significance, and also incorporates concept of reasonable relationship with primary use, it is not enough that use be subordinate, it must also be attendant or concomitant. Further, the Court analyzed the term “customarily” as used in this context and found that “in applying the test of custom, we feel that some of the factors which should be taken into consideration are the size of the lot in question, the nature of the primary use, the use made of the adjacent lots by neighbors and the economic structure of the area.” More recently, the Supreme Court stated in *Loring v. Planning and Zoning Com'n of Town of North Haven*, 950 A.2d 494 (Conn. 2008) that custom, for purposes of an accessory use, is determined by reference to similarly situated properties, not by reference to the permitted use defined at its highest level of abstraction.

- C. An accessory building, structure or use shall be deemed to be a specially permitted use on any lot on which the principal use is listed as a specially permitted use under these regulations.
- D. Accessory buildings on a residential lot may include private garages in which no more than [ ] commercial vehicle can occupy the space.
- E. A building attached to the principal building by a covered passageway or by having a wall or part of a wall common with it, shall be considered an integral part of the principal structure and not an accessory use.
- F. With the exception of sheds or barns used for agricultural purposes, no permanent accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

**Section 8: Accessory Apartments**

- A. In addition to the above requirements for Accessory building, accessory apartments must be authorized by a provisional use permit.

Smart growth supporters suggest both benefits and negatives to allowing accessory apartments. On one hand, accessory apartments help to increase a town's supply of affordable housing and enhance the social stability and mix of neighborhoods with little or no negative impact on the physical character of the neighborhood. Additionally, they may help to maximize use of existing public infrastructure and services and reduce the pressure on open space and farmlands from sprawling development. Alternatively, the town should also consider that they could be construed as burdensome to parking, traffic and other commodities utilized in a population.

- B. Any property containing an accessory apartment shall comply with the following:
  - One of the two dwelling units on the subject property must be occupied by the owner of the property dwelling unit comply with all applicable building code regulations.
  - a. Notwithstanding any other residential occupancy provisions set forth within this zoning ordinance, no accessory apartment may be occupied by more than two persons.

The definition of an accessory dwelling unit can restrict tenants to family members, low- or moderate-income tenants, or be unrestricted. Smart growth supporters suggest that tenants are not restricted because although allowing only family members is easiest politically and may limit the overall impact of the units, it will also limit the use (and reuse) of these units and may result in additional administration costs associated with enforcement. Having no restrictions on accessory dwelling unit tenants gives greater control over the unit to the homeowner while offering more diverse housing opportunities.

- b. The following shall apply to exterior accessory apartments
  - i. Exterior accessory apartments must be located within an accessory structure, and the accessory structure must itself be in compliance with all applicable zoning and building code regulations.
- c. The following shall apply to interior accessory apartments:
  - i. The accessory apartment may not have its own separate entrance located on any facade of the principal structure that fronts on a public street. No exterior stairs providing access to the accessory apartment shall be visible from any public street.

- ii. The gross floor area of the accessory apartment may not exceed [ ] percent of the gross floor area of the principal structure in which it is located.

## **Section 9: Temporary structures**

### **C. General Limitations on Temporary Structures**

- a. Temporary structures or the temporary use of trailers or mobile manufactured homes may be authorized by the Zoning Agent through the issuance of a Zoning Permit, provided the following conditions are met:
  - i. the applicant demonstrates that the subject structure, trailer or mobile manufactured home is necessary during the active construction of a conforming building(s) or is a seasonal use associated with an active agricultural operation;
  - ii. the temporary structure, trailer or mobile manufactured home is removed immediately from the subject site upon completion of the conforming building(s), or upon completion of the agricultural season;
  - iii. the temporary structure, trailer or mobile manufactured home may require screening from abutting residences or businesses. Where possible, applicable setbacks for the subject zone shall be met.
  - iv. The zoning permit shall not be issued for a period longer than one (1) year, but upon application may be renewed for successive 6-month periods.
  - v. The provisions of this section may be applied to allow the continuing occupancy of an existing residence during the period when a replacement residence is being constructed on the same lot provided suitable arrangements are made to ensure the removal of the existing residence within sixty (60) days of the occupancy of the new residence.

## **Section 10: Portable Outdoor Storage Units (Hoop Buildings)**

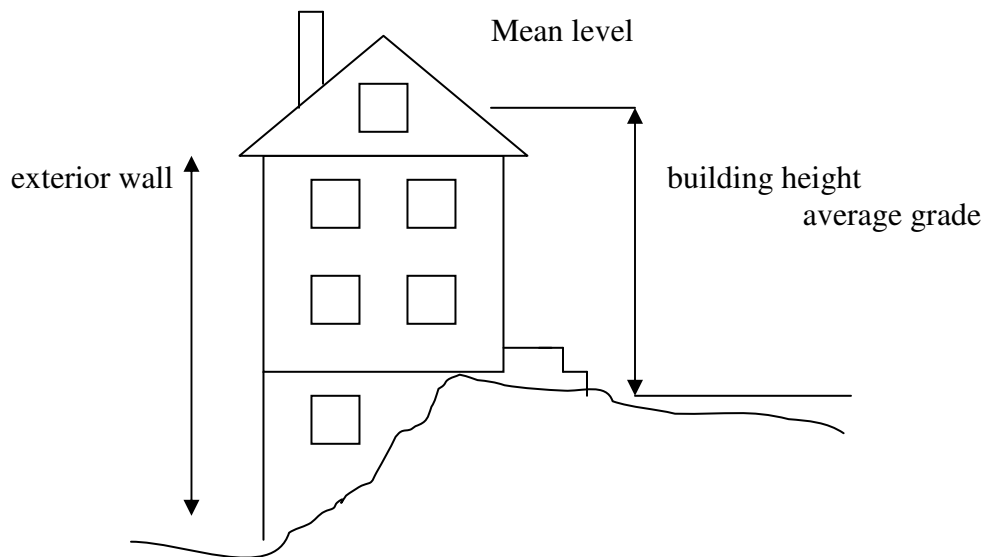
Although these regulations are based on those in Charlottesville, VA and Coral Springs, FL, zoning issues with membrane structures and hoop buildings are being addressed by Connecticut zoning commissions as well. See Washington, Connecticut suggestions [www.washingtonct.org/zoning.html](http://www.washingtonct.org/zoning.html), and the Suffield Town Zoning Notes, noting the increasing popularity of outdoor storage units, available at <http://tinyurl.com/ynajes>.

- A. Notwithstanding any contrary provision of this ordinance, portable storage containers located outside of a fully-enclosed building or structure shall be allowed only in residential, commercial or mixed use districts subject to the following restrictions:
  - a. In residential districts and mixed-use districts, a maximum of [ ] portable storage containers may be allowed on a lot for a period no longer than [ ] days in any consecutive twelve-month period.
  - b. The portable storage container must be placed a minimum of [ ] feet from the property line, or on the driveway of the lot.
  - c. No portable storage container located in a residential or mixed-use district shall have dimensions greater than [ ] in length, [ ] feet in width or [ ] feet in height.
  - d. Any resident with one (1) portable storage container on their lot for less than fifteen (15) calendar days shall not be required to obtain a permit.

- e. A permit issued by the zoning administrator is required for any portable storage container located on a lot for more than fifteen (15) calendar days. This permit is to be visibly placed on the storage unit.
- f. Other than the permit, no sign shall be attached to a portable storage container except as authorized by the sign regulations set forth within section ?.
- g. All portable storage containers shall be maintained in a condition free from evidence of deterioration, weathering, discoloration, rust, peeling paint, ripping, tearing or other holes or breaks.
- h. The owner and operator of any site on which a portable storage unit is placed shall also be responsible that no hazardous substances are stored or kept within the portable storage units.

**Section 11: Building Height**

- A. **Building height:** The vertical distance to the level of the highest point of a flat roof or, if the roof is of any other shape, to the mean level between the eaves and the highest point of the roof, measured from the average level of the finished grade along the exterior walls of the building, permitted that at no point shall an exterior wall exceed the permitted heights by more than twelve feet. The height limitations of this chapter shall not apply to church spires, belfries and domes not used for human occupancy nor to chimneys, skylights, water tanks, bulkheads, antennas, air-conditioning equipment, ventilating equipment or elevator lift equipment, including their enclosures and similar features usually carried above the roof level, except as may be specifically modified by other provisions of this chapter or other regulations. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve. (figure not to scale)



**Section 12: Oil Tanks**

- A. **Materials:** Supply tanks shall be listed and labeled and shall conform to UL 58 for underground tanks and UL 80 for indoor tanks

- B. **Above-ground tanks:** The maximum amount of fuel oil stored above ground or inside of a building shall be 660 gallons (2498 L). The supply tank shall be support on rigid noncombustible supports to prevent settling or shifting. **Exception:** the storage of fuel oil, used for space or water heating, above ground or inside buildings in quantities exceeding 660 gallons shall comply with NFPA 31
- C. **Tanks within buildings:** Supply tanks for use inside of buildings shall be of such size and shape to permit installation and removal from dwellings as whole units. Supply tanks larger than 10 gallons shall be placed not less than 5 feet from any fire or flame either within or external to any fuel-burning appliance
- D. **Outside above-ground tanks:** Tanks installed outside above ground shall be a minimum of 5 feet from an adjoining property line. Such tanks shall be suitably protected from the weather and from physical damage.
- E. **Underground tanks:** Excavations for underground tanks shall not undermine the foundations of existing structures. The clearance from the tank to the nearest wall of a basement, pit or property line shall not be less than 1 foot. Tanks shall be set on and surrounded with noncorrosive inert materials such as clean earth, sand or gravel well tamped in place. Tanks shall be covered with not less than 1 foot of earth. Corrosion protection shall be provided.
- F. **Flood-resistant installation:** In areas prone to flooding as established by the proper authorities, tanks shall be installed at or above the elevation required in section R322.2.1 or shall be anchored to prevent flotation, collapse and lateral movement under conditions of the design flood.

### **Section 13: Non-Conforming Uses**

- A. Any building or use of land or building legally existing at the time of enactment of this Regulation, or of any amendments thereto, or authorized lawful permit issued prior to the adoption of these Regulations which does not conform to the provisions of these Regulations for the Use Districts in which it is located, shall be designated a non-conforming use. Such use may be continued but may not be extended or expanded, or changed to a less restrictive use.

Also note that C.G.S. § 8-13a allows for structures to become non-conforming uses even if they were built after the enactment of the zoning code. The relevant part of this statute holds that: “When a building is so situated on a lot that it violates a zoning regulation of a municipality which prescribes the location of such a building in relation to the boundaries of the lot or when a building is situated on a lot that violates a zoning regulation of a municipality which prescribes the minimum area of the lot, and when such building has been so situated for three years without the institution of an action to enforce such regulation, such building shall be deemed a nonconforming building in relation to such boundaries or to the area of such lot, as the case may be.”

- B. The total structural repairs and alterations that may be made in a structure which is non-conforming in use only shall not exceed fifty percent (50%) of its replacement value at the time of application for the first structural change, unless changed to a conforming use.



- C. Any non-conforming building or structure or one or more of a group of non-conforming buildings or structures which has been or may be damaged by fire, flood, explosion, earthquake, war, riot, act of God or act of any governmental authority, may be reconstructed and used as before, if reconstruction is started with twelve (12) months of such calamity, provided that the restored building covers no greater area or has no greater cubic content and has equal or greater front, side and rear yards.
- D. A building structure or portion thereof, non-conforming as to use, which is, or hereafter becomes vacant or remains unoccupied for more than 90% of the time during a one year period shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

Within the state of Connecticut, “amortization,” which requires nonconforming uses to be terminated at the expiration of a specified length of time, is prohibited because this would conflict with C.G.S. § 8-2 which “ ‘protects the ‘right’ of a user to continue the same use of the property as it existed before the date of the adoption of the zoning regulations.’” Bauer v. Waste Management of Connecticut, Inc., 234 Conn. 221, 242 (1995).

- E. Nothing in this Section shall be deemed to prohibit work on any nonconforming building or other structure when required by law to protect the public health or safety and when ordered by the Fire Marshall or Director of Health, provided that such work does not increase nonconformity. This Section shall not be deemed to prohibit work on ordinary repair and maintenance of a nonconforming building or other structure or replacement of existing materials with similar materials.

## IV. RESIDENTIAL DISTRICTS

### I. Purpose.

The purpose of these residential zoning districts is to set aside and protect areas to be used for single-family dwellings and agriculture. In addition, certain other uses, consistent with the residential nature and density of this zone, are allowed as of right, by permit issued by the zoning enforcement officer or by special permit issued by the zoning commission. All uses allowed in this district shall be compatible with single-family development and consistent with local street characteristics, the use and protection of private water and sewer facilities and the level of public infrastructure already in place. These regulations are adopted to protect these districts from non-residential uses, from unconstrained development and to provide for varied population densities dependent upon the nature, resources and character of the underlying zone.

Adapted from Madison Zoning Regulations, § 3.1, Norwalk Zoning Regulations, § 118-310. Multiple residential districts should be established based on desired density. Considerations for distinguishing high density areas from low density areas include current infrastructure, agriculture, areas targeted for conservation because of valuable natural resources, and the comprehensive plan. North Stonington, for example, has established high density, medium density, and rural density residential zones. North Stonington Zoning Regulations, §§ 400, 410, 420. For a town that would like to establish several different residential districts, Ridgefield Zoning Regulations § 3.1 provides the following purpose:

The various residential districts are intended to provide suitable areas for residential use and development appropriate to the environmental characteristics of the land and the character of the neighborhood.

The differentiation among the residential districts is intended to provide for variety in the size and density of residential neighborhoods and a diversity of housing opportunities after consideration of soil types, terrain, and infrastructure capacity.

The residential districts may allow for certain non-residential uses when it can be demonstrated that they are compatible with nearby residential uses and preserve neighborhood character and property values.

### II. Districts. The following residential zones are established:

The following numbers were determined after looking at examples from East Hartford, CT, Wilton, CT, New Haven, CT, Bristol, CT and Coventry, CT.

- a. High Density Residential District R-10 Minimum Lot Size 10,000 square feet.
  1. Types of Structures.
    - i. Single Family Detached
    - ii. Duplex.
    - iii. Multi-family.
  2. Lot Width: min. 50 ft.
  3. Lot Depth: min. 60 ft.
  4. Front Setback: 10 ft.
  5. Side Setback: 6 ft.
  6. Rear Setback: 10 ft.
  7. Lot Coverage: max 45%

8. Height: max 40 ft.
- b. Medium Density Residential District R-40 Minimum Lot Size 40,000 square feet.
    1. Minimum Lot Size.
      - i. Single-Family Detached
      - ii. Duplex.
    2. Lot Width: min. 85 ft.
    3. Lot Depth: min. 70 ft.
    4. Front Setback: 20 ft.
    5. Side Setback: 12 ft.
    6. Rear Setback: 25 ft.
    7. Lot Coverage: max. 30%
    8. Height: max. 40 ft.
  - c. Low Density Rural Residential District R-80 Minimum Lot Size 80,000 square feet.
    1. Building type.
      - i. Single-Family Detached
    2. Lot Width: min. 200 ft.
    3. Lot Depth: min. 200 ft.
    4. Front Setback: 50 ft.
    5. Side Setback: 30 ft.
    6. Rear Setback: 50 ft.
    7. Lot Coverage: max. 10%
    8. Height: max 35. ft.

### **III. Uses as-of-Right.**

In any Residence District, a building or other structure may be erected, altered, designed or used and a lot may be used as-of-right for any of the following purposes and no other:

- a. Single-family detached dwelling;
- b. Agricultural Uses subject to the conditions set forth below in § XXX;
- c. Group homes; or
- d. Accessory uses customary with and incidental to the residential or agricultural use.

### **IV. Permitted Uses. Zoning Permit Required.**

The following uses are permitted only after a zoning permit is obtained from the Zoning Enforcement Officer. The purpose of the permit is to ensure compliance with all applicable regulations.

#### **a. Home Occupations.**

These regulations are adapted from Canton, CT Zoning Regulations § 8.13, Stonington, CT Zoning Regulations § 1.2.2, Madison, CT Zoning Regulations, § 3.3 and Columbia, CT Zoning Regulations § 8.5. Several municipalities set a maximum floor area that the home occupation is allowed to encompass. For example, Brooklyn, CT Regulations § 6.3.4 requires that “[t]he Home Business shall not utilize more than 50% of the floor area of the primary residence.” Columbia, CT Regulations § 8.5.1 (c) require that “[t]he home occupation shall be contained wholly within the dwelling or a permitted accessory building. The total floor area used for the home occupation, whether conducted in the dwelling or a permitted accessory building, shall not exceed 25% of the total living area of the dwelling or 750 square feet, whichever is less. However, in no case shall a combination of home occupation use and related storage for equipment/vehicles exceed 1000 square feet of building area.”

The town of [insert town name] recognizes the longstanding tradition and necessity of conducting limited activities of a commercial nature within ones home. This section establishes standards through which such limited commercial activities are permitted within residential districts. Such standards seek to protect the integrity and character of the underlying residential district. Customary home occupations, including business or professional offices, home industries and service occupations shall be allowed within this zone by permit issued by the zoning enforcement officer.

Some municipalities require this permit be renewed annually.

To qualify for a permit, the use shall conform to the standards and conditions set forth below. If the zoning enforcement officer denies a permit, the landowner may appeal to the Zoning Board of Appeals.

- i. The person conducting the home occupation shall be a resident of the premises;
- ii. No more than two non-residents may work on the premises;
- ii. Such use of the premises shall not change the residential character of the neighborhood;
- iii. Such use of the premises shall not be detrimental to the neighborhood, and shall not create noise, smell, smoke or radio or television interference off the premises;
- v. Such use shall not change the physical appearance of the property, excluding signs as permitted under §\_\_\_\_\_, and off street parking as permitted under § \_\_\_\_ of these regulations;
- vi. Traffic generated by the home occupation shall not significantly exceed the volume of traffic consistent with the site and neighborhood;

Litchfield, CT Zoning Regulations Art. V § 13.2 (k). Other methods to regulate traffic include that employed by Stonington, CT Zoning Regulations § 1.2.2 which read “[s]uch use does not result in substantial patronage in excess of five appointments per hour.”

- vii. There shall be no outside display or storage of materials, goods, supplies or equipment.

#### **b. Roadside Farm Stand.**

Adapted from Lebanon, CT Zoning Regulations § 7.2, Columbia, CT Zoning Regulations § 52.7.1.

Roadside stands shall be allowed pursuant to a permit issued by the Zoning Enforcement Officer for the display and sale of farm products and subject to the following conditions: Roadside stands shall not exceed a maximum ground coverage of 400 square feet, shall observe all setbacks required for buildings and other structures, and shall be provided with at least one (1) off-street parking space for each 50 square feet of ground coverage. No zoning permit is required for temporary, moveable roadside stands.

## V. Special Permit Uses

In any residential district the following uses may be permitted through the special permit process set forth in §\_\_\_\_\_ of these regulations and subject to the standards contained in this section.

- a. Publicly-owned buildings, parks and open space.
- b. Kennels.
- c. Commercial Horse Operations.
- d. Nursery schools or child day-care centers, provided that the facility is an accessory use which is incidental to the principal use of the premises.

Norwalk Zoning Regulations, §118-310.

- e. Multi-family dwellings.
- f. Places of public assembly, including civic clubs but excepting those that serve alcohol for non-religious purposes.

If a municipality would like to allow civic clubs that serve alcohol in residential districts, for example the VFW or the Elks Club, then the language “excepting those that serve alcohol for non-religious purposes” should be removed from the provision above.

- g. Cemetery established and operated by an ecclesiastic society, governmental unit or cemetery association.
- h. Additional uses that are not typically deemed to be customary and incidental to the primary residential purpose but which are clearly subordinate to the residential use and consistent with the residential character of the zone.

This provision allows for uses that will not compromise the residential character of the zone, but are not contemplated by traditional zoning regulations, and so are permissible by special permit. Some such uses include processing vegetable oil for diesel fuel, erecting a wind turbine and building large solar panel installments.

## VI. Agriculture

### i. Right to farm

As per Connecticut General Statute § 19a-341, as amended, farms within the Town of [insert town name] are protected by the Right to Farm Act. Accordingly, no agricultural or farming operation, place, establishment or facility, or any of its appurtenances, or the operation thereof, shall be deemed to constitute a nuisance, either public or private, due to alleged objectionable (1) odor from livestock, manure, fertilizer or feed, (2) noise from livestock or farm equipment used in normal, generally acceptable farming procedures, (3) dust created during plowing or cultivation operations, (4) use of chemicals, provided such chemicals and the method of their application conform to practices approved by the Commissioner of Environmental Protection or, where applicable, the Commissioner of Public Health, or (5) water pollution from livestock or crop production activities, except the pollution of public or private drinking water supplies,

provided such activities conform to acceptable management practices for pollution control approved by the Commissioner of Environmental Protection; provided such agricultural or farming operation, place, establishment or facility has been in operation for one year or more and has not been substantially changed, and such operation follows generally accepted agricultural practices. Inspection and approval of the agricultural or farming operation, place, establishment or facility by the Commissioner of Agriculture or his designee shall be prima facie evidence that such operation follows generally accepted agricultural practices.

The provisions of this section shall not apply whenever a nuisance results from negligence or willful or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances.

**ii. Agricultural Uses Permitted as of Right.** Agricultural and farming uses, along with any accessory uses incidental and customary to the agricultural use, are consistent with Connecticut's agricultural past and the future of Connecticut farming. Agricultural uses, excluding roadside farm stands, are permitted as of right subject to the setback requirements for the district in which they are located and to the following standards:

- a. **Buffer for Farm Buildings.** A one-hundred (100) foot buffer between a proposed farm building and any adjacent lot lines shall be required where one or more farm buildings are proposed adjacent to an existing residential dwelling. The planting of trees and shrubbery may be required as part of an agricultural buffer.

Lebanaon, CT Zoning Regulations, § 2.2.

- b. **Buffer for Hog Farms.** There shall be a three-hundred (300) foot buffer between any building or pen housing pigs and any adjacent lot lines.
- c. **Manure Pits and Stables.** No manure pit or stable may be located within one hundred (100) feet of any lot line or watercourse. Normal fertilization of land with manure or chemical fertilizer is permitted regardless of proximity to lot lines or watercourses. Between May 1<sup>st</sup> and October 31<sup>st</sup> all manure piles shall be covered with plastic or some other impervious cover.

The purpose of the impervious cover is to reduce the accumulation of flies.

- d. **Maintenance.** The area shall be maintained in character with the neighborhood, and the land shall be maintained so as not to create a nuisance to the extent possible following accepted farming practices.
- e. **Fencing Requirements.** Adequate fencing must be installed and maintained to contain the livestock within the livestock lot area.
- f. **Fertilizers, pesticides, fungicides and other chemicals.** All agricultural uses shall meet all State and Federal requirements, including pest control and provisions for the storage and use of fertilizers, pesticides, fungicides and other chemicals. The Planning and Zoning Commission shall have the right to require from the subject property owner complete records and data required by State or Federal agencies that pertain to the subject agricultural or horticultural use, including information on fertilizers, pesticides, fungicides and chemical uses onsite. All agricultural and horticultural uses shall follow

"Best Management Practices" and "Integrated Pest Management" practices as recommended by the State Department of Agriculture and the University of Connecticut Agricultural Experiment Station.

Mansfield CT, Zoning Regulations § G-13.

- g. **Sawmills.** No permanent saw mill may be located on a lot containing less than five acres or within five-hundred (500) feet from any residence except a residence on the same premises.

Durham, CT Zoning Regulations, § 8.01.05.

- h. **Shelter for Farm Animals.** A shelter of forty square feet per thousand pounds of animal weight shall be provided for all farm animals.
- i. **Commercial Slaughtering.** Commercial slaughtering, except animals raised on the premises, is prohibited.
- j. **Lighting.** Exterior lighting shall be the minimum needed to provide safe conditions. All exterior lighting shall have full cutoff fixtures which prevent any horizontal or upward lighting and any off-site glare.

**iii. Commercial Horse Operations.** The purpose of this section is to provide for commercial horse-related activities and uses while at the same time ensuring that such activities and uses shall be 1) in harmony with the surrounding properties with respect to scale and density of development, and 2) shall neither endanger the general public nor in any way create a nuisance, a health hazard, depreciate surrounding property, or adversely affect the environment, and 3) shall blend with the historical character of surrounding buildings and landscape.

a. Applicability. Permitted operations include but are not limited to: riding schools, breeding services, training services, stabling services, horse shows and other special events.

b. Exemptions. The following uses are exempt from the requirements of this section:

- (1) Stabling only of up to two horses on a lot.
- (2) Riding lessons limited to two private lessons per day on a lot. A home business permit only is required.

c. Required Approvals. A special exception with site plan is required.

d. Application Requirements. A complete application shall include: application form and fee; a written statement describing the scope of operation, detailing hours and days of operation, number of clients served, number of employees, supporting facilities and structures, etc; a written statement of approval by the Town Sanitarian, a site plan, including proposed buildings, paddocks, riding rings, food and watering troughs, exterior lighting, fences, parking and loading areas including provision for horse trailers, water and waste disposal systems, pastures, a plan for disposal of waste

materials and any other proposed supporting structures and uses of land, in addition to existing site features; and any other information deemed necessary to describe the operation and determine compliance with these regulations

- e. Standards. An application made under this section is subject to the Special Permit requirements set forth in Section XXX , in addition to the following:
1. Lot Area.  
Five acres minimum is required. Where there is a dwelling unit on site, the minimum lot area required in the zone shall be deducted from the area counted toward the minimum area requirement. The Commission may increase the area requirement for very large or intensive operations in order to achieve compliance with these Regulations.
  2. Lot Coverage.  
Coverage by nonresidential primary and nonresidential accessory buildings on the lot is 5% maximum. Total lot coverage is per Section 7.2
  3. Setback from boundaries and offsite dwellings.  
No stable, barn, feed or watering trough, paddock, ring, or other area of animal confinement shall be constructed, established or moved within 75 feet of any property line or within 100 feet of any dwelling on an adjacent lot.
  4. Trailers.  
The use of trailers for stabling horses is prohibited.
  5. Parking and Loading.  
The area required for parking and loading will be based on the scope of the operation and shall be approved by the Commission. Parking and loading areas shall be a minimum of 50 feet from any property lines. Parking areas shall be screened from adjacent properties and roads except where existing features screen such areas. Parking area and driveway surfaces shall be maintained in a dustfree condition and shall not be paved, except where durable, dustfree surfaces cannot be maintained due to traffic conditions and site conditions, in which case paved surfaces shall be provided.
  6. Waste Materials.  
Horse manure, bedding material, and any other waste products associated with the operation shall not be allowed to create a health hazard or nuisance. Such waste products shall not be stored or accumulated within 200 feet of any property line.
  7. Lighting.  
Exterior lighting shall be the minimum needed to provide safe conditions. All exterior lighting shall have full cutoff fixtures which prevent any horizontal or upward lighting and any off-site glare.



8. Vegetative cover.  
Continuous vegetative cover shall be maintained in all pasture areas.
  9. Stormwater runoff.  
Stormwater runoff leaving the property shall not increase in volume from pre-development rates and water quality shall not be degraded.
- f. Horse Shows, Competitions, and Other Special Events.
1. Applicability.  
For gatherings of more than 15 persons on the lot for the purpose of attending a horse show, competition or other special event, the requirements of this section shall apply.
  2. Permits Required.  
In addition to any other requirements and permits, a zoning permit issued by the Zoning Enforcement Officer is required for up to two events in a year. For additional events in a year, special exception approval by the Commission is required.
  3. Setback Requirements.  
For more than two events on a lot in a year, the requirement for the third and all subsequent events is a minimum setback of 100 feet from all property lines for all event-related activities, including parking and drives.
  4. Traffic.  
For events with more than 75 attendees, review by the Resident State Trooper shall be required. Traffic control personnel may be required depending on lines of sight and level of traffic.
  5. Health and Safety.  
Approvals by the Sanitarian and Fire Marshal are required.
  6. Overnight camping.  
In no case shall overnight camping be authorized as a part of any approval made under this section.

Columbia, CT Zoning Regulations, § 52.7.16.

## **VII. Residential Wind Facilities.**

The National Renewable Energy Laboratory suggests that residential wind facilities not be allowed in urban and suburban areas. The California state Assembly Bill 1207, covering small wind energy systems, also limits the installation to jurisdictions outside of any “urbanized area.” California Statutes Chapter 562, Section 65892.13(d).

The following sections are largely based on the “Model Amendment to a Zoning Ordinance or By-law: Allowing Wind Facilities by Special Permit” by the Massachusetts Division of Energy Resources and Massachusetts Executive Office of Environmental Affairs.

### **i. Special Permit Granting Authority.**

No wind facility over 60 kilowatts of rated nameplate capacity shall be erected, constructed, installed or modified without first obtaining a permit from the special permit granting authority. All such wind energy facilities shall be constructed and operated in a manner that minimized any adverse visual, safety, and environmental impacts. Such permits may also impose reasonable conditions, safeguards and limitation on time and use and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind facility.

### **ii. Siting Standards.**

**a. Height.** Wind Facilities shall be no higher than 400 feet above the current grade of the land, provided that wind facilities may exceed 400 feet if:

1. the applicant demonstrates by substantial evidence that such height reflects industry standards for a similarly sited wind facility;
2. such excess height is necessary to prevent financial hardship to the applicant, and
3. the facility complies with the performance standards in section XXX of this code.

**b. Setbacks.** Wind turbines shall be set back a distance equal to 1.5 times the overall blade tip height of the wind turbine from the nearest existing residential or commercial structure and 100 feet from the nearest property line and private or public right of way.

**c. Shadow/Flicker.** Wind facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.

**d. Noise/Vibration.** The wind facility and associated equipment shall conform with the noise and vibration limits outlined in the performance standards section of this code.

## **VIII. Accessory Dwelling Units.**

**i. Special Permit Granting Authority.** The construction of an accessory dwelling unit shall be allowed in single-family residences upon approval of a special permit by the appropriate zoning authority.

### **ii. Use and Dimensional Regulations.**

<p>The following regulations are based on Section 29-4.D of the Zoning Regulations of Wilton, CT, and Model Bylaw for Accessory Dwelling Units from the Smart Growth/Smart Energy Toolkit.</p>
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**a. Maximum size.** The floor area of the accessory dwelling unit may not exceed one-fourth of the gross floor area of the building or 900 square, whichever is greater. No more than two bedrooms are permitted in the accessory dwelling unit.

**b. Occupancy.** The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence.

**c. Location of Units.** At least one side of each dwelling unit must be at or above grade. Each unit shall have separate entrances, which can be from a common hall. Both units shall be contained within one building, attached by a common wall, floor or ceiling.

**d. Outdoor Stairway.** Any new separate outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building.

**e. Disabled and Handicapped Unit Exceptions.** In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the zoning authority of the town may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

## V. NON-RESIDENTIAL DISTRICT REGULATIONS

### A. Business Zoning Districts

#### 1. Purpose

To address conventional business districts as well as business districts of the following character: community, neighborhood, general, commercial, and office districts.

These business zoning regulations were adapted from the [Village of Lake in the Hills, Illinois, zoning code](http://tiny.cc/T3iBc) which can be found at: <http://tiny.cc/T3iBc>. For [information](http://tiny.cc/wsKMu) about Lake in the Hills, see <http://tiny.cc/wsKMu>. Village of Lake in the Hills was chosen as a model for the Business Zoning District regulations because it is easy to read, simple, and current.

#### **This general purpose includes the following objectives:**

- a) To promote the most desirable use of land in accordance with a well-considered plan so as to ensure that adequate space is provided in appropriate locations for the various types of business uses, thereby protecting and strengthening the economic base of the Town or City.
- b) To place in separate zoning districts those businesses which may create noise, odors, hazards or unsightliness, or those which may generate excessive traffic.
- c) To establish compatible neighborhood convenience centers in or adjacent to residential areas in order to provide efficient and convenient services for daily or frequent needs of the people of the Town or City.
- d) To encourage the grouping of compatible businesses in appropriate locations which will draw mutually interchangeable modes of trade, thus promoting public convenience and business prosperity.
- e) To arrange commercial centers in order that traffic and pedestrian congestion will be minimized.
- f) To provide for the establishment of off-street parking facilities, permitted and required, so as to alleviate traffic congestion and promote shopping convenience and business prosperity.

#### 2. Districts Established

The following Business Zoning Districts are hereby established:

- B-1 Transitional Business District
- B-2 Neighborhood Convenience Business District
- B-3 General Business District
- B-4 Commercial Business District
- B-5 Office Business District

- a) **Transitional Business District:** The B-1 District is established for uses which may be reasonably in a building originally designed and constructed

for residential use. The Transitional Business District is intended to provide land and structures to be used primarily as space for professional office and service uses. Residences, built and designed as a home, are allowed in this district as a permitted use, and a single dwelling unit is allowed in a building containing a business use. The uses permitted are characterized by a low volume of traffic and limited outdoor signing.

This zoning classification is further intended for houses along heavily traveled main thoroughfares so long as the initiation of a business use does not tend to interfere with, significantly escalate, or impede the traffic flow on the thoroughfare. In this manner, the residential appearance of the roadway corridor shall be maintained.

b) **Neighborhood Convenience Business District:** The B-2 District is established to meet the needs of the immediate neighborhood and for supporting community health by encouraging walking and biking and reducing driving. It is intended to provide convenience shopping for persons living in adjacent residential areas. Permitted uses shall be those that are appropriate to satisfy basic shopping needs which occur on a frequent or daily basis. What is not intended for the Neighborhood Convenience Business District is the creation of business which will significantly attract traffic from outside the zoned district.

c) **General Business District:** The B-3 District is established to provide for a more intense amount of business than found in the B-2 District. This district will provide a large variety of facilities, stores and services. It is intended that within this district the business use may attract traffic from outside the immediate adjacent neighborhood and care must be taken to allot sufficient infrastructure such as, but not limited to parking and traffic flow planning.

d) **Commercial Business District:** The B-4 District is established to provide locations for major commercial centers that would facilitate large volumes of traffic. This District is intended to provide for a broad base of commercial users and services. This district will provide for greater traffic than the General Business District.

e) **Office Business District:** The B-5 District is established to allow the development of areas attractive to executive headquarters or offices on open sites.

### 3. **General Provisions**

a) **Permitted, Special Permitted Uses:** Permitted and special permitted uses are listed in the Use Chart and referenced in Section VI.

b) **Bulk, Lot, Area, Yard Requirements:** Bulk lot area and yard requirements are listed in the Business Districts Bulk Chart found below.

c) **Temporary Uses, Accessory Structures and Uses:** Accessory structures and uses and temporary uses are permitted subject to the provisions of Section VI.

d) **Parking, Loading Requirements:** Parking and loading requirements are established in Section IX of this Zoning Regulation.

e) **Sign Regulations:** Signs are permitted subject to the provisions of Section XI.

f) **Processing and Assembly:** Any establishment in a business district may devote up to 30 percent of its floor space to processing or assembly.

g) **Vehicular Access:** Vehicular access to the rear yard must be provided along one side of a building unless the rear yard abuts a public street or alley.

h) **General Regulations:** Regulations for site plan review and architectural standards are presented in Section III.

<b>BUSINESS DISTRICTS BULK CHART</b>									
	<b>LOT AREA, PARCEL AREA &amp; FRONTAGE</b>		<b>YARD REQUIREMENTS<sup>1,5</sup></b>			<b>BULK LIMITS<sup>6</sup></b>			
	Minimum Area	Minimum Width Frontage	Minimum Front Yard <sup>2</sup>	Minimum Rear Yard <sup>3</sup>	Minimum Side Yard <sup>2,3</sup>	Height Limit For Principal Use		Height Limit For Accessory Use	
<b>District</b>	Square Feet	Feet	Feet	Feet	Feet	Feet	Stories	Feet	Stories
<b>B-1</b>	10,000	50	30	25	15	25	2	20	1
<b>B-2</b>	10,000	50	30	25	15	25	2	20	1
<b>B-3, B-4</b>	10,000	50	30 <sup>4</sup>	25	15	35	2	20	1
<b>B-3, B-4 Shopping Business Center</b>	1 acre	150	30 <sup>4</sup>	25	15	35	3	20	1
<b>B-5</b>	2 acres	150	30	25	15	35	3	20	1

A town or city adopting this bulk chart should consider whether to allow by special permit a reduction in the minimum side yard standard to 0 or to have a 0 lot all around. In these instances it is necessary to account for firewall standards.

A town or city adopting this bulk chart should consider whether to adopt a “square on the lot” regulation. This would require a minimum square or rectangle on a lot for preventing irregular shaped lots. For instance, a town or city could implement a 200’, 150’ or even a 100’ square requirement. Within the square requirement it will need to be determined whether irregularities such as slopes will be prohibited.

**Business District Bulk Chart Corresponding Foot Notes:**

1 No building shall be constructed or enlarged unless the yards established in this chart are provided and maintained in connection with such building.

2 See definition of Yard, Front.

3 Where a lot line abuts upon a residential zoning district, there shall be a yard of not less than 30 feet.

4 The minimum setback along a major route [insert route name] for structures, paving and parking shall be 100 feet. Sidewalks, bike paths and driveways perpendicular to the roadway are allowed.

5 The storage of materials, equipment or vehicles shall not take place within 10 feet of any rear or side yard or within any front yard.

6 The maximum height for the storage of any materials shall be 20 feet.

**B. MANUFACTURING DISTRICTS**

**1. Purpose**

The manufacturing districts are established to protect the public health, safety, comfort, convenience and general welfare, and to protect the economic base of the community, as well as the value of real estate by regulating manufacturing developments in appropriate locations.

These manufacturing zoning regulations were adapted from the [Village of Lake in the Hills, Illinois, zoning code](#) which can be found at: <http://tinyurl.com/yakamyc>. For [information](#) about Lake in the Hills, see <http://tiny.cc/wsKMu>. Village of Lake in the Hills was chosen as a model for the Manufacturing Zoning District regulations because it is easy to read, simple, and current.

**These general objectives include the following:**

a) To protect established residential and business areas, and the health of families living or working therein, by restricting those nearby manufacturing

activities which may create offensive noise, vibration, smoke, dust, odors, heat, glare, fire hazards and other objectionable influences to those areas which are appropriate therefor.

b) To provide adequate space in appropriate locations for most types of manufacturing and related activities so that the economic structure of the community may be strengthened, and that employment opportunities may be found to be in the interest of public prosperity and welfare.

c) To provide more space for manufacturing activities in locations accessible to rail and highways, so that the movement of raw materials, finished products and employees can be carried on efficiently and with a minimum impact on public life and property.

d) To establish proper standards of performance which will restrict obnoxious manufacturing activities, while at the same time encourage and permit the manufacturing activities which have adopted facilities for the processing of finished products without adversely affecting the health, happiness, safety, convenience and welfare of the people living and working in nearby areas.

e) To protect manufacturing districts from incompatible uses of land by prohibiting the use of such space for new residential development, thereby preserving the land for a more appropriate use in accordance with the plans for Community improvement and development, including the [Community's Official Comprehensive Plan].

f) To promote the most desirable use of land in accordance with a well considered plan of land use for all of the Community; to conserve the use of property; to promote stability of manufacturing activities and related development; to protect the character and established development in each area of the community; to enhance and stabilize the value of land; and to protect the tax base of the Community.

## **2. Zoning District Classifications**

The following Manufacturing Zoning Districts are hereby established in order to provide for a wide range of light and heavy manufacturing uses.

a) **Limited Manufacturing District:** The M-1 District allows adequate space for high quality, nuisance free, light manufacturing, wholesale, research, administrative and related uses of such nature that they do not create significant problems of compatibility with other types of land uses.

b) **General Manufacturing District:** The M-2 District allows adequate space for more intensive operations than can be found in the M-1 Zoning District. The uses must be regulated and located so as to avoid adverse impacts on residential and other less intensive districts.



### 3. General Provisions

- a) **Permitted, Special Permitted Uses:** Permitted and special permitted uses are listed in the Use Chart and referenced in Section VI.
- b) **Bulk, Lot, Area, Yard Requirements:** Bulk, lot, area, and yard requirements are listed in the Manufacturing Districts Bulk Chart below.
- c) **Temporary Uses, Accessory Structures and Uses:** Accessory structures and uses and temporary uses are permitted in the manufacturing districts subject to the provisions of Section VI.
- d) **Parking, Loading Requirements:** Parking and loading requirements are established in Section IX.
- e) **Sign Regulations:** Signs are permitted in the manufacturing districts subject to the provisions of Section XI.
- f) **General Regulations:** Regulations for site plan review and architectural standards are presented in Section III.

MANUFACTURING DISTRICTS BULK CHART										
	PARCEL AREA & FRONTAGE AREA LOT		YARD REQUIREMENTS <sup>1,5</sup>				BULK LIMITS <sup>6</sup>			
	Minimum Area	Minimum Width Frontage	Minimum Front Yard <sup>23</sup>	Minimum Rear Yard <sup>4</sup>	Minimum Side Yard <sup>4</sup>	Maximum Coverage of Buildings & Structures	Height Limit for Principal Use		Height Limit for Accessory Use	
District	Square Feet	Feet	Feet	Feet	Feet	Feet	Feet	Stories	Feet	Stories
<b>M-1, Limited</b>	10,000	80	30	30	20; 30 on a corner lot	50%	35	3	20	1
<b>M-2, General</b>	15,000	100	30	30	20; 30 on a corner lot	60%	45	3	20	1

**Manufacturing District Bulk Chart Corresponding Foot Notes:**

1. No building shall be constructed or enlarged unless the yards established in this chart are provided and maintained in connection with such building.
2. See definition of Yard, Front.
3. There shall be no structure of any kind including open materials, equipment or the parking of vehicles within said setback.
4. Where a lot line abuts upon a residential zoning district, there shall be a yard of not less than 30 feet.
5. The storage of materials, equipment or vehicles shall not take place within 10 feet of any rear or side yard or within any front yard.
6. The maximum height for the storage of any materials shall be 20 feet.

## VI. SPECIAL DISTRICTS/REGULATIONS

### Airport Protection Overlay Zone (APOZ)

This regulation can be implemented with any airport or airfield that handles air traffic. See [Oxford, CT Zoning Regulations Sec. 23] <http://tinyurl.com/yjp673n>; [Danbury, CT Zoning Regulations Sec. 7B] <http://tinyurl.com/yhf6hws>; [Bloomington, MN Zoning Regulations Sec. 19.38.03] <http://tinyurl.com/ya7484>; [Riverside, CA Zoning Regulations Ch. 19.170] <http://tinyurl.com/yj5dbmd>; [New Haven, CT Code of Ordinances Chapter 4] <http://tinyurl.com/y9d46e5>; [New Hampshire Statutes Art. 39 Sec. 424] <http://tinyurl.com/yzz2wtg>; [Taylor County, WI Zoning Regulations Ch. 35.19] <http://tinyurl.com/yep78n6>.

**A. Purpose.** This Regulation is intended to minimize risks to the public safety, hazards to aircraft using the [enter name of airport], and to protect the capacity of the [enter name of airport] to serve the regional air transportation needs.

More specifically, this Regulation is intended to provide for certain land development controls on the area surrounding the [enter name of airport], which may be affected by aircraft, accidents, noise, vibrations, fumes, dust, smoke, fuel particles, and other annoyances and influences from the [enter name of airport] operations.

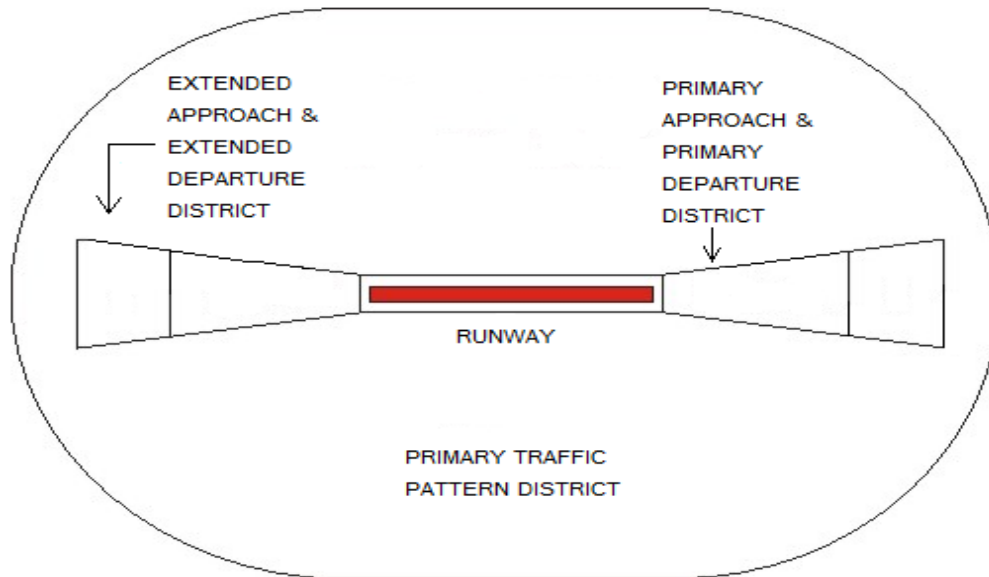
**B. Scope and Application.** The Airport Protection Overlay Zone (APOZ) shall be extended at a minimum to any building, structure, place, premises, land, or property within the Airport Approach Plan. In addition the APOZ may be applied on any underlying base zone and may be applied in conjunction with other overlay zones but only when the [enter the name of the municipality] has adopted an airport approach plan for a given airport.

#### **C. Airport Approach Plans.**

It is highly recommended if an Airport Approach Plan does not exist, that a municipality obtain a plan before implementing this overlay zone. Otherwise, the municipality may run the risk of regulating arbitrarily or capriciously as enabled under Section **D.** of this regulation.

**1. Formulation.** The State of Connecticut Aeronautics Commission, or its equivalent agency, is empowered to formulate, adopt, amend or revise Airport Approach Plans. Every airport, publicly-owned and privately-owned, within [enter the name of the municipality] shall have an effective Airport Approach Plan.

**2. Required Contents of the Airport Approach Plan.** A plan for every airport within [enter the name of the municipality] shall indicate the area in which measures shall be taken for the protection of aerial approaches to the airport, the character of flying operations, existing heights of buildings and structures, existing topography and the height of any existing vegetation.



**SIMPLE AIRPORT APPROACH PLAN**

See Minnesota Department of Transportation – Aeronautics & Aviation

**D. Enforcement of the Airport Approach Plan.**

The purpose of giving the municipality this zoning enforcement power is to minimize the safety risks to both the public and the airport operations, and hence the reason for the more restrictive zoning regulation be it the APOZ or underlying zone regulations.

**1. Zoning Regulations.** The [enter the name of the municipality] shall adopt, administer and enforce, under its police power, zoning regulations in which the [enter the name of the municipality] regulates height, restricts the discharge of smoke steam, dust or other obstructions to visibility, regulates and restricts lighting, and restricts the use of electronic impulses and other disturbances which interfere with the radio or electronic instruments and aids used on approaching aircraft, as it may be necessary to effectuate a safe approach to the airport.

**2. Conflicts in Zoning Regulations.** Where a conflict exists between an APOZ regulation and a regulation from an underlying base zone or other overlay zone, whether the conflict is with respect to height or use, the more stringent regulation will prevail.

**3. Acquisition of Air Rights.** Upon recommendation by the State of Connecticut Aeronautics Commission, or its equivalent agency, the [enter the name of the municipality] may acquire by purchase, grant, or condemnation, in the manners provided by law, real property to provide for an air rights easement, or other interest in property when:

- a) It is desired to remove, lower or otherwise terminate a non-conforming use;
- b) The Airport Approach Plan, because of constitutional limitations, cannot be provided by the zoning regulations; or
- c) It appears the necessary Airport Approach Plan be provided by acquisition of property rights rather than zoning regulations.

**E. Pre – Existing Uses.**

**1. Conforming Use.** Nothing contained in this APOZ regulation shall require any change in the construction, alteration, replacement, rebuild, repair, renovate, planting or replanting, if such was begun prior to the effective date of this regulation, so long as the pre existing use is not an abuse of this waiver. Any abuse will be determined in light of the zoning district in which it is located, and the hazard it imposes to the airspace and those parties assembled within the preexisting use.

**2. Non-Conforming Uses.**

**a)** All uses determined to abuse the waiver under subsection **E.1.**

**b)** Destruction or abandonment. A preexisting use which, as a result of fire, explosion, or other casualty is destroyed, torn down, deteriorated or decayed beyond 80% , or abandoned for [enter a time period], is a non-conforming use and shall be subject to the restrictions of this regulation.

The administrative and enforcement agency may deny a permit to rebuild, etc. a preexisting use when the use has decayed or has been torn down 80% or more, or abandoned. [New Hampshire Statutes Art. 39, Sec. 424:6] <http://tinyurl.com/yeodr32>

**3. Eminent Domain.** Nothing in this section shall interfere with or prevent the removal of a pre-existing permitted use by purchase or the use of eminent domain.

**F. Prohibited Use in the APOZ Zoning Districts.** No use shall be made or exist within the APOZ that in any manner creates electrical or electronic interference with the navigational instruments on the airport or in the approaching aircraft or disrupts radio or radar communications between the airport and the aircraft.

This furthers the purpose set forth in Section **A.** of this regulation as these activities would also be violations of state and federal aviation laws.

**G. APOZ Zoning Districts.**

This section provides for three basis districts to be implemented according to the Airport Approach Plan and a municipality may adjust the approach plan depending on the traffic patterns, traffic volume, geography, topography, etc., and a municipality may be inclined to include more districts depending on these factors. However the prohibited uses listed, even though it is not a comprehensive list, in this section are strongly recommended to be adhered to and provides an direction for municipalities if they wish to include additional prohibited uses in these districts.

**1. In General.** The locations and boundaries of the districts shall be set forth in the on the [enter the name of the zoning map for the municipality]. In addition, no buildings, structures, places, premises, land or property shall be raised or altered, and no vegetation, except for existing woodlots, shall be allowed to grow, to a height in excess of the height depicted on the [enter the name of the municipality zoning map].

**2. Final Approach and Primary Departure District.** All permitted principal, provisional, conditional, interim, and accessory uses allowed in the underlying base zone are permitted with the exception of the uses indicated in the Zoning Use Summary Table.

Permitted uses in the Final Approach and Primary Departure District include the purchase of pre-existing single family buildings, structures, or dwellings, agriculture facilities, floriculture, horticulture,

silviculture, hatcheries, orchards, game farms – except for poultry, bird, waterfowl and mink production, transportation routes, parking lots and parking facilities, airport owned and operated facilities, automotive repair, automotive parts and supply distributors, automotive rental/leasing agents or sales service, bakeries, commercial printing, florists, furniture repair and upholstery, greenhouses, landscaping services, laundry and garment cleaning services, wholesale lawn and garden supply, wholesale lumber and construction materials, machinery equipment and supplies, mail order houses, manufactured/mobile home sales – only, motor vehicle sales, newspaper printing and publishing, plumbing and heating equipment and supply, service industries for the printing trade, veterinary services, industrial parks, light industry, heavy industry, or any other commercial activity that does not encourage concentrations of people. [See Taylor County, WI Zoning Regulations Ch. 35.19] <http://tinyurl.com/yep78n6>

**3. Extended Approach and Departure District.** All permitted principal, provisional, conditional, interim, and accessory uses allowed in the underlying base zone are permitted with the exception of the uses indicated in the Zoning Use Summary Table.

**4. Primary Traffic Pattern District.** All permitted principal, provisional, conditional, interim, and accessory uses allowed in the underlying base zone are permitted with the exception of the uses set forth in subsection **F** of this regulation.

## **H. Permits and Variances.**

**1. Permits.** Before any nonconforming use may be created, replaced, altered, repaired, rebuilt, allowed to grow higher or replanted, one of the following procedures shall be undertaken by a party desiring to implement the use:

**a) Procedure One.** If it appears, after consulting the zoning map, that the proposed new use, or changed existing use, clearly would not violate the terms of this Regulation, then the new use may be created, or existing use changed, without applying for a permit hereunder or taking any further action under this Ordinance.

**b) Procedure Two.** If it appears, after consulting the permit map, that the proposed new use, or changed existing use may violate the terms of this Regulation, then inasmuch as the height limitations imposed in the Airport Approach Plan steadily incline from the airport center, and at various rates according to location of approaches, the zoning maps are only approximations for any given segment of the airport hazard area and therefore a height limitation may be somewhat greater than accorded by the maps, depending upon the particular plat of land involved. Therefore the purpose of this procedure is to enable an exact mathematical determination to be made and enable users of the land within the hazard area to avoid violations of this Regulation.

**c) Procedure Three.** If it appears, after consulting the zoning map, that the proposed new use, or change in existing use, will violate the provisions of this Regulation, then no such new or changed use shall be undertaken unless the person proposing to undertake it shall first apply to the Zoning Board of Appeals (ZBA) and obtain a variance in accordance with the procedures contained in these Regulations.

The procedure set forth in this section for permits is designed to offer several choices to the municipalities and not all of them have to be required. A municipality may choose to implement one or two procedures rather than the other.

**2. Variances.** Any party desiring to erect any structure or increase the height of any structure or permit the growth of any vegetation, or otherwise use his property in violation of the APOZ regulations may apply to the ZBA for a variance.

The municipality may choose a less strict standard for a variance and utilize a practical difficulties standard if the airport approach would allow for such flexibility. [New Hampshire Statutes Art. 39, Sec. 424:6] <http://tinyurl.com/yeodr32>

**I. Bar on Claims for Damages Resulting From Airport, and Aircraft Operations.** Any party constructing, purchasing, improving, or renovating any building, structure, dwelling, place, premises, property, or land within the APOZ is hereby advised that such building, structure, dwelling, place, premises, property, or land may be subject to noise or damage, or occupants therein may have their health adversely impacted by [enter name of airport] operations.

Noise and damages or even nuisances are inevitable in the APOZ, and the grantor and the municipality shall not be liable for an ill informed or ill advised grantee thereby creating an unnecessary burden on the municipality and current owners. A municipality if they chose, may implement a requirement that the grantor upon transacting a sale for property, simply disclose that the property is within the APOZ and is subject to the restrictions of this Regulation. Otherwise leaving the grantor and the municipality open to liability would devalue the property, land, and the current uses. Therefore, this section will ensure proper growth and development in the APOZ free of any liability.

The grantor, upon proper disclosure, of any building, structure, dwelling, place, premises, property, or land, the [enter the name of the municipality], or the [enter the name of airport] are not liable for any damages resulting from airport and aircraft operations performed in accordance with the Airport Approach Plan.

**J. Hazard Marking and Lighting.** The [enter name of municipality], may at its own expense, install operate and maintain such markers, lights and other aids, to navigation as may be necessary to indicate to aircraft the presence of an aircraft hazard, if such action is deemed advisable by the State of Connecticut Aeronautics Commission, or its equivalent agency, or the Federal Aviation Administration (FAA).

The cost of Hazard Marking and Lighting may be offset to the party seeking the variance as a condition for approval of the variance. [New Hampshire Statutes Art. 39, Sec. 424:6] <http://tinyurl.com/yeodr32>

**K. Noise Standards.** It is suggested that construction techniques provide a minimum of [enter number] decibel noise reduction over the industry standard for similar structures. In addition, the goal for aircraft noise abatement shall be to reduce the area within the residential community which is exposed to aircraft noise in excess of [enter a decibel amount], by implementing noise abatement actions that, do not shift the burden of noise from one part of the surrounding community to another, and do not inappropriately curtail operation of the airport.

See New Haven, CT Code of Ordinances Secs. 4-61 – 4-73 for a more in depth noise standard regulation. <http://tinyurl.com/y9d46e5>

**1. Prohibited noise levels of aircraft taking off or landing.** No party shall take off or land an aircraft at the airport if the noise level for that model of aircraft exceeds the following noise levels, for the following time periods:

<i>Time Period</i>	<i>Maximum A-Weighted Sound Level</i>
<i>12:00 a.m.--6:00 a.m.</i>	<i>68.0 dB(A)</i>
<i>6:00 a.m.--7:00 a.m.</i>	<i>73.0 dB(A)</i>
<i>7:00 a.m.--10:00 p.m.</i>	<i>78.0 dB(A)</i>
<i>10:00 p.m.--12:00 a.m.</i>	<i>73.0 dB(A)</i>

This table has been included as a sample and the municipality may change the time restrictions and decibel levels to their own preference. This table has been adopted from New Haven’s Tweed Airport so some of the decibel levels may be too high for some more rural communities with regional airports. <http://tinyurl.com/y9d46e5>

**2. Exemptions.** The following categories of aircraft shall be exempt from the noise standards under this regulation.

**a)** Aircraft operated by the United States of America or the State of Connecticut, including law enforcement, emergency, fire or rescue aircraft operated by any town or city of said state.

**b)** Aircraft used for emergency purposes during an emergency which has been officially proclaimed by competent authority pursuant to the laws of the United States, said state or the city.

**c)** Civil Air Patrol aircraft when engaged in actual search and rescue missions.

**d)** Aircraft engaged in landings or takeoffs while conducting tests under the direction of the airport manager in an attempt to rebut the presumption of an aircraft noise violation.

**e)** Aircraft involved in a bona fide emergency which requires a landing and/or takeoff for the preservation of life or property.

**f)** If an airline flight scheduled to land by or at the end of the time period during which it is permitted to do so, is delayed due to circumstances beyond the airline's control, such aircraft on such occasion shall be exempt from the noise standards of this regulation so long as such aircraft can land and take off again, if scheduled to do so, within [enter a time period] from the end of such time period.

**g)** If an aircraft owner believes that he or she is aggrieved in that during certain time periods, operates in a manner to prevent an aircraft landing when such landing would otherwise be permitted based upon information contained in the advisory circular.



## Agricultural Preservation Overlay/Floating Zone

### I. Purpose

The primary purpose of this zone is to protect prime farmland by stabilizing the agricultural land base.

Prime farmland is defined as “land that has the best combination of physical and chemical characteristics for producing food, feed, forage fiber, oilseed crops, and is also available for these uses.” Connecticut Department of Environmental Protection.

Farmland offers many important environmental benefits, from wildlife habitat and flood control to recreational opportunities and access to fresh locally grown foods. Farmland preservation is threatened by increased development because land, once divided, cannot easily be converted back to farmland.

Connecticut Department of Agriculture, available at <http://www.ct.gov/doag/cwp/view.asp?A=3260&Q=399016>

Accordingly, the purpose of this zone is

- a) to provide for the retention of suitable areas for agricultural uses
- b) to preserve and protect the community’s cultural heritage and visual open space,
- c) to preserve and protect farmlands economic value,
- d) to permit, with limited exceptions, only agricultural land uses and activities
- e) to separate agricultural land uses and activities from incompatible residential, commercial, and industrial development, and public facilities.
- f) to put into action the municipal comprehensive plan, which contains the goal of protecting agricultural lands and promoting agriculture as a component of the local economy.

**II. Conservation Easement or Restriction Required.** Only land containing a permanent conservation restrictive covenant or easement shall be made part of the Agricultural Preservation Zone.

Suffield, CT Zoning Regulations § IV (C).

### III. Uses as of Right

- a. Field crop growing, flower gardening, non-intensive livestock and poultry raising, excluding the commercial raising of pigs; nurseries and greenhouses, orchards, seed growing, tobacco growing, truck or market gardening and offices for the practice of veterinary medicine.

The above language is from Windsor Zoning Regulations, § 10 and Suffield, CT Zoning Regulations § IV. In a model agricultural zoning ordinance prepared by the Lancaster County Agricultural Preserve Board in Pennsylvania, written by Tom Daniels, uses as of right are described as “all forms of agriculture (except new intensive agricultural activities), horticulture, animal husbandry, including necessary farm structures.

- c. Dwellings occupied by the farm owner, a member of the farm owner's family employed on the farm or by a permanent paid farm employee;
- d. Wildlife refuges and fish hatcheries;
- e. The following accessory uses:
  - a. Roadside stands for the sale of agricultural products,

Some municipalities allow farm stands as a special permit use. Suffield, CT Zoning Regulations §

- b. Signs pursuant to the local sign ordinance (see section \_\_\_\_ ),
- c. Beekeeping;
- d. Manure storage facility,
- e. Non-commercial recreation (family pool, tennis court, etc),

#### **IV. Accessory Uses**

The following accessory uses are allowed provided no building is located closer than 50 feet of any property line:

- a. All types of uses which are traditionally or customarily a part of the agricultural use such as barns, sheds, manure storage facilities, silos, stables, chicken houses, garages for motor vehicles and farm machinery,
- b. Beekeeping,
- c. Roadside farm stands for the sale of agricultural products,
- d. Greenhouses, hothouses and other facilities for vegetables or flower-growing,
- e. Pumping stations and water lines for irrigation purposes and private roads for access to all parts of the cultivated land and for fire protection;
- f. Warehouses, processing plants, refrigeration plants and other secondary uses frequently a part of the primary agricultural use.
- g. Housing for permanent workers and camps or living quarters for workers, not exceeding the ratio of two workers per cultivated acre.
- h. Accessory uses associated with single family dwellings, as per applicable provisions of the residential district section xxx.

#### **V. Special Permit Uses.**

The following uses are subject to the special permit procedure set forth in Section XXX:

- a. Riding clubs or stables. Provided that the site is at least ten acres.
- b. Sale of nursery stock and related products
  - a. Nursery and related products as referred to in this Section shall be: shrubs, trees, plants, seeds and landscape materials such as mulch, stones, etc.
  - b. A small office may be allowed as incidental to the operation of this use.
  - c. The commission may require that any and all storage of bulk material and the overnight parking of vehicles be inside a building or not within 100 feet from any street or property line and shall be screened from abutting properties.

- c. Single family dwelling.
- d. Home Occupations, (see Section \_\_\_\_ )
- e. Communications antennas, towers and equipment, provided that:
  - a. The communications structures are no more than 200 feet high; and
  - b. The communications structures are sited so as to separate them from adjacent farming activities.

**VI. Site Design Guidelines**

- a. New dwellings or accessory structures must be located on the least fertile soil on the property.
- b. Lot Area Requirements: Agriculture uses shall require a minimum area of 25 acres, and no farm parcel shall be subdivided from a parent track unless it shall meet the 25 acre minimum area requirement for agricultural uses.

The above 25 acre minimum is suggested in the Lancaster County Agricultural Preserve Board’s Model Agricultural Zoning Ordinance. Larger lot area requirements may be desirable depending upon the existing agricultural character of the municipality. Smaller lot area requirements are not recommended.

**VII. Limitation on Subdivision**

- a. In order to protect agricultural uses within the Agriculture Preservation District, it is the intent of this provision that the subdivision of farm parcels from parent tracks shall be limited in order to provide for the retention of tracts of sufficient size to be used reasonably for agricultural purposes.
- b. Each parent tract containing in excess of 25 acres shall be permitted limited rights of subdivision. Each parent tract in excess of 25 acres shall be permitted to subdivide one farm lot for each 25 acres of area within the parent tract. For example, a parent tract having 105 acres of is permitted an ultimate subdivision into a total of four lots or parcels.
- c. Regardless of size, no parcel or lot subsequently subdivided from its parent tract shall qualify for additional single family detached dwelling.

**VIII. Yard, Coverage and Height Requirements**

- a. All lots or parcels shall have a minimum width of 100 feet at the building setback line and sixty feet at the street right of way line.
- b. All structures shall have front, rear, and side yard setbacks of at least 50 feet.
- c. The total impervious coverage, including both buildings and other impervious surfaces shall not be more than 10%.
- d. The maximum height of a residential building shall be 35 feet.

**XIV. Intensive Agricultural Setbacks**

- a. No new slaughter area, area for the storage or processing of manure, garbage, or spent mushroom compost, structures for the cultivation of mushrooms or the raising of livestock shall be permitted within 200 feet of any existing residence located on an adjacent property.

## Coastal Overlay Zones

### A. Coastal Conservation Zone.

[See Waterfront Vision Plan Stratford, CT December 2004] <http://tinyurl.com/yjrcxn2>

**1. Purpose.** Land designated as part of the Coastal Conservation Zone has been determined to be environmentally significant and special in nature and is of such character in its natural state that it should be protected from development. The goals of this zone are to:

- a) Preserve and enhance the coastal resources consistent with local, state, and federal laws.
- b) Protect and improve the water quality of the coastal water bodies.
- c) Preserve flood storage capacity of flood plains.
- d) Preserve unique natural, historic, and scenic areas, views and vistas, and the natural topography of the coastline.
- e) Encourage the development of agricultural land uses which contribute to the preservation and conservation of the district's soil and water resources.
- f) Promote and protect the recreational potential of the coastline area and public access to the coastline.

See [Westbrook, CT Zoning Regulations Sec. 4.104.01] <http://tinyurl.com/yg8dfhe>; [Clinton, CT Zoning Regulations Sec. 18.1] <http://tinyurl.com/yhkv4rg>.

**2. Eligible Districts.** The following districts, located in the [enter the name of the municipality] are eligible for a Coastline Conservation Zone.

- a) [Insert the title or name identifying the desired districts]

**3. Coastal Resource Protection.** No new building construction increasing the building area, including minor additions to existing buildings or detached accessory buildings such as garages and sheds and no pools, tennis courts, driveways, parking areas, terraces, other impervious surfaces or alteration of existing contours, shall be permitted within 75 feet of the following coastal resources as defined by Connecticut General Statutes § 22a-93(7) and in this Regulation; tidal wetlands, coastal bluffs and escarpments, beach and dune systems, except for direct water dependent/public access structures and uses as defined by the Connecticut Coastal Management Act and when consistent with coastal management policies therewith. All building elevations shall conform to the national flood damage prevention ordinance.

[See Connecticut General Statutes § 22a-93(7)] <http://tinyurl.com/ykojpm5>

**4. Uses.** The uses from the underlying zone, or otherwise indicated in the Zoning Use Summary Table are permitted as a matter of right, or upon approval of a Special Permit with a corresponding Coastal Site Plan by the [PZC/ZBA], and all other uses not indicated shall be prohibited, and not permitted by variance or special exception.

It may be provided that all Special Permit uses shall have suitable pedestrian access from an existing or proposed street, shall result in preservation and enhancement of water-dependent uses along the water's edge and shall have such shape, dimensions, character and location to accomplish the purpose and intent of subsection A. of this Regulation. [See Connecticut General Statutes §§ 22a-90 – 113j]

<http://tinyurl.com/ykojpm5>

**5. Water Dependent Use Standards/Public Access Requirements.**

**a)** All uses bordering on the waterfront or marine and tidal areas except exempted as provided for in Section **A.11.**, of this Regulation shall provide the following minimum standards in addition to other requirements as may be required by the Coastal Area Management Act. The [PZC/ZBA], after further review, shall exempt other minor uses such as single family residential, excluding residential subdivisions, from having to provide the following minimum standards. It is further required that all public amenities be properly marked on the property to increase public awareness and shall be improved where applicable with such features as benches, picnic tables, lighting and landscaping. All public amenities must be designed and constructed to minimize adverse impacts to coastal resources on and adjacent to the site.

[See Connecticut General Statutes §§ 22a-90 – 113] <http://tinyurl.com/ykojpm5>

**(1) View lane.** Provisions must be made on the property for a maximum view of the water from the nearest public street. The view, at a minimum, shall be a straight line uninterrupted, rectangular view lane whose width is not less than [enter the percentage] of the lineal road frontage. There shall be no building or other permanent obstruction in said view lanes including fences, shrubbery, trees or other landscaping features higher than [enter height in feet].

**(2) Pedestrian access easement.** This easement shall be located as close to the high tide line as is feasible and designed so that it retains an unobstructed view of the marine frontage to permit public viewing and shall be a minimum of [enter the number of feet] feet wide. The easement shall extend the entire length of the water or marine frontage unless it can be demonstrated to the [PZC/ZBA] that areas of the public walkway would clearly pose unacceptable coastal resource impacts or public health and safety hazards. It shall be improved as a public walkway and shall be connected to a public street or public parking area by a public right-of-way having a minimum width of [enter the number of feet] feet.

**(3) Vehicular access easement and additional public parking.** This easement shall be of a width and size suitable to provide safe public ingress and egress to and from the property and shall be located as close to the marine frontage as is feasible. The number and location of public parking spaces shall bear a direct relationship to the anticipated use of the public amenities; however in no instance shall the amount of public parking be less than one space for every 2,500 square feet of the area providing the amenities excluding vehicular easements.

**(b)** Water dependent uses shall be those uses defined in Connecticut General States § 22a-93(16), except that a water dependent use that is water dependent by virtue of providing "general public access to marine and tidal waters" only shall also provide two or more of the following amenities for general public use. For projects involving mixed (water dependent and non-water dependent) uses, the water dependent use, such as a marina, may be used to satisfy one of these two required amenities. The use of public access and public amenities may be considered in lieu of a water dependent use on a site if, and only if, it can successfully be demonstrated that a given site is not suited to a water dependent use. It must be further demonstrated that the level or size of the amenities are in just proportion to the size of the property or to the intensity of uses existing and/or proposed on the property. It is important to note that some of the following amenities would likely involve work seaward of the high tide line requiring state and federal permits prior to construction. In this instance all applicants are urged to obtain state and federal permission prior to applying to the PZC. If in-water amenities are selected without prior state and federal permits, applicants shall also present an alternative plan incorporating landward public amenities not requiring state and federal permits.

[See Connecticut General Statutes § 22a-93(16)] <http://tinyurl.com/ykojpm5>

(1) **Open space easement for a public park.** The open space easement shall be a minimum of 10% of the lot area in addition to the minimum requirement for the district. The open space area shall be generally contiguous usable land that is unimproved, adequately landscaped and be of a shape that is conducive to passive public park use.

(2) **Conservation easement for natural preservation.** In cases where 10% or more of the entire parcel consists of the following sensitive coastal resources as defined by Connecticut General Statutes § 22a-93(7); tidal wetlands, coastal bluffs and escarpments, beach and dune systems, the applicant may provide a conservation easement over all of the sensitive coastal resource area to preserve and maintain it for future passive use and public enjoyment.

(3) **Canoe and/or boat ramp.** The ramp shall be of such size as to accommodate general public use and shall be connected to a public street by a public right-of-way. The ramp must be constructed of a durable surface to the mean low water mark and constructed at a grade as to accommodate easy launching and removal from the water.

(4) **Fishing pier/Public viewing walkway.** The pier shall be so located as to provide reasonable fishing opportunities, be of a size and length as to accommodate general public use and be connected to a public street or public parking area by a public right-of-way. The viewing walkway shall extend from the public pedestrian walkway into the water or marine area a reasonable distance so as to maximize the water and marine views.

(5) **Public docking facilities.** The number of docks available to the public for transient boaters, short term tie up and/or public safety use by the town shall not be less than 1 boat slip for each 10,000 sq.ft. of proposed non water dependent commercial floor space, shall not be less than 1 boat slip for each 10 residential units or be less than 10% of the total number of boat slips, whichever is the greater number.

(6) **Upland winter boat storage.** The area of boat storage shall bear a direct relationship to the size of the property, the intensity of the proposed use and shall be connected to a public street by a public right-of-way.

(7) **Boat rentals.** The number of boat rentals shall bear a direct relationship to the intensity of existing or proposed uses.

[See Connecticut General Statutes § 22a-93(7)] <http://tinyurl.com/ykojpm5>

## 6. Area/ Bulk Requirements.

	<i>District Name 1</i>	<i>District Name 2</i>
<b>STANDARDS</b>		
<b>Minimum Zone Requirements</b>		
Area (acres)		
Frontage (feet)		
<b>Open Space/ Recreation Area:</b> (% of Total Zone Area)		
<b>Development Area:</b> (% of Total Zone Area)		

<b>Maximum Density: Accessory Building or Structures Per Acre</b>		
<b>Maximum Accessory Building or Structure Height (feet)</b>		
<b>Maximum Accessory Building or Structure Floor Area (square feet)</b>		
<b>Minimum Off-street Parking, Loading, and Driveway Setbacks Per Lot (feet)</b>		
Front		
Side(s)		
Rear		
<b>Accessory Building or Structure: Setback From (feet)</b>		
Front Lot Line		
Side Lot Line(s)		
Rear Lot Line		

**7. Design objectives.** All development within the zone must be consistent with the following objectives:

- a) The direction of development will be in keeping with the [enter the name of the municipality].
- b) To insure that high intensity and bulk uses do not encroach into this zone.
- c) The establishment of a coordinated pattern of land uses which allows safe access and movement of pedestrians, bicycles, and vehicles throughout the zone.
- d) Structural rehabilitation, wherever feasible, will be encouraged in order to preserve and enhance the historic and diverse qualities of the coastal area.
- e) Architectural and site design which promote aesthetic qualities while sustaining and enhancing the unique qualities of the coastal area shall be encouraged.
- f) A circulation pattern and related facilities within the zone such as sidewalks, benches, and bike racks, which will give priority to pedestrian movement and bicycle travel, should be provided.
- g) The coastline is the most vital element within the zone and as such must be given primary consideration in any proposed development. To this end, special consideration must be given to the area of the water and land interface; the preservation and creation of views from public and other areas to the water, and the preservation and integrity of the existing coastline. Pedestrian access to the coastline should be encouraged.

**8. Site development standards.**

- a) Environmental impacts to coastal resources shall be suitably mitigated using best available technology;

b) The siting of structures and uses shall serve to protect and harmonize with the significant waterfront resources and unique characteristics of the site. The direct loss of significant natural resources or scenic values of the harbor area shall be mitigated by comparable on-site or off-site replacement.

c) Public views to and along the water shall be maintained and enhanced wherever possible through careful design and siting of structures. Dedication of public accessways or provision of walkways and similar public amenities shall be provided except where public safety would be at risk or where public access would conflict with the purposes set forth in subsection A.1.

d) Provision shall be made to prevent trespass onto adjacent private property from public access areas. Satisfactory public facilities such as vehicle access, water supply, sewage, and drainage shall be available with adequate capacity and capability to service the requirements of the site.

**9. Design standards.** Architectural and site designs shall be compatible with the neighborhood. Buildings or structures shall be designed to harmonize with each other and the coastal environment, and shall be of such a scale and mass that they relate to each other and to the streets.

a) **Accessory buildings and structures.** The maximum floor area is set forth in subsection A.7. Accessory buildings or structures within the zone shall be separated by at least [enter the number of feet] feet.

b) **Streets and parking.**

(1) All streets within the zone shall be constructed in accordance with these regulations. In addition, street surfaces may use pavement in the zone, however it shall be constructed with a pervious aggregate [enter the type of aggregate or pervious grade], otherwise streets shall have pervious surfaces. Streets shall be [enter the number of feet] feet in width for access roads connecting to a town road, otherwise the minimum width shall be [enter the number of feet] feet.

(2) All parking surfaces within the zone shall be pervious as set forth in these regulations. One parking space shall be provided for every [enter the number of square feet] square feet of open space or recreational space in the zone. Adequate, unobstructed space shall be provided for snow removal of parking spaces.

c) **Utilities.**

(1) There shall be provided within the zone, a sanitary sewage disposal system which shall be of sufficient size and design to collect and dispose of all sewage from and present and probable uses to be constructed within that zone, and shall be otherwise built and maintained in conformity with these Regulations.

(2) There shall be provided within the zone, a storm drainage system which shall be of sufficient size and design, as will in the opinion of the [enter the name of the municipality] Department of Public Works collect, carry off and dispose of all predictable surface water run-off within that zone and shall be so constructed as to conform with these regulation.

(3) It shall be provided within the zone, that all the utilities facilities be placed [underground/ above ground].

(4) There shall be provided within the zone, a potable water system which shall be of sufficient size and design to supply potable water to all the uses to be constructed in the zone. There shall be provided a fire hydrant where required, of a type and in a manner prescribed by these regulations and to the satisfaction of the Fire Marshal.

(5) Proper site lighting shall be provided and such lighting shall not be directed toward or spread to adjoining properties, and shall remain as minimal as possible, and used only where deemed necessary for the use.



d) Signage. Signage shall be governed by the standards set forth in these regulations.

**10. Coastal site plan review.**

a) All structures and uses, wholly or in part, within this, unless exempt under this regulation and Connecticut General Statutes § 22a-109(b), shall comply with the Coastal Site Plan review requirements in Connecticut General Statutes §§ 22a-105 through 22a-109, the Coastal Management Act, as amended, in addition to complying with the other requirements of these Regulations.

[See Connecticut General Statutes §§ 22a-105 – 109] <http://tinyurl.com/ykojpm5>

b) No activity or use for which a Coastal Site Plan is required shall start or commence before the site plan is approved by the [PZC/ZBA].

c) **Application: General content.** Applicants for Zoning Permits, Special Use Permits, Variances, Subdivision or Re-Subdivision approval, municipal improvements or multi-unit development within the coastal boundary, shall file with the [PZC/ ZBA], as the case may be; a Coastal Site Plan and Application on such forms as are prescribed by the [PZC/ZBA]. Such application and site plan shall include the following information:

(1) A plan showing the location and spatial relationship of coastal resources contiguous to the site.

(2) A description of the entire project with appropriate plans, indicating project location, design, timing and method of construction.

(3) An assessment of the capability of the coastal resources to accommodate the proposed use.

(4) An assessment of the suitability of the project for the proposed site.

(5) An evaluation of the potential beneficial and adverse impacts of the project.

(6) A description of proposed methods to mitigate adverse effects on coastal resources.

(7) A statement demonstrating that the adverse impacts of the proposed activity are acceptable and that such activity is consistent with the coastal policies of Connecticut General Statutes §22a-92 and that the proposed project is in compliance with all pertinent zoning regulations.

[See Connecticut General Statutes § 22a-92] <http://tinyurl.com/ykojpm5>

d) **Application: Special content for coastline property** – In addition to the information set forth above under subsection A.10.(c), applications filed for land or property adjacent or abutting the coastline shall be subject, where applicable, to the following special requirements:

(1) **Visual access.** Waterfront property shall be developed in a manner that is consistent with a coastline setting and so that visual access to and from the water is maximized. In reviewing the plans for development of coastline property, the [PZC/ZBA] shall consider the following guidelines:

(i) The quality and extent of views from the adjacent streets through the property to the water.

(ii) The design and relationship of the development to the coastline as viewed from the water.

(iii) The quality and extent of view of adjacent property owners.

**(2) Pump-out facilities for marinas.** Construction of any new or the expansion of any existing commercial marina with mooring slips capable of handling boats [enter the size of the boat in feet] feet or greater in length shall provide, on the marina site, an approved pump-out facility for the disposal of sanitary wastes as follows:

**(i)** The pump-out facility must be of adequate design and capacity to properly handle the wastes from all boats over [enter the size of the boat in feet] feet with approved marine sanitation devices that are moored at the marina. In addition, the pump-out facility must provide sufficient capacity and be capable of accepting sanitary wastes from portable toilets on boats of less than [enter the size of the boat in feet] feet and those without approved marine sanitation devices. The pump-out facility must be approved by the Director of Health and be submitted for review by the Department of Environmental Protection, or the equivalent agencies.

**(ii)** The [PZC/ZBA] may, at its option, permit a marina to enter into a suitable agreement with other marinas to share a single pump-out facility. In any such case, the pump-out facility must be of suitable design and capacity to handle the sanitary wastes from boats of all the marinas using the facility. In addition, the agreement between the marinas must be approved by [enter the agencies the municipality desires to have approve this activity such as the Director of Health, or the Harbor Management Commission].

The pump-out facility must be approved by the Director of Health or the equivalent official.

**(3) Marina expansion.**

**(i)** No expansion of slips and moorings for boats within [enter the name of the municipality] will be permitted unless applicant can demonstrate to the PZC that adequate measures will be taken to protect water quality consistent with State DEP Water Quality Standards.

**(ii)** No expansion of mooring slips will be permitted unless adequate pump-out facilities exist and adequate shore services such as parking and refuse collection are provided.

**(e) Application: Review.** In addition to reviewing Coastal Site Plans for compliance with the applicable standards, requirements or criteria set forth elsewhere in these Regulations, for the [PZC/ZBA], as the case may be, shall take into consideration compliance with the following criteria:

**(1)** Consistency of the proposed activity with the applicable coastal policies in CGS §22a-93(16).

**(2)** The acceptability of potential adverse impacts of the proposed activity on coastal resources as defined in Connecticut General Statutes § 22a-93(15).

**(3)** The acceptability of potential adverse impacts of the proposed activity on future water dependent use opportunities as defined in Connecticut General Statutes § 22a-93(17) for the Coastal Overlay Zone.

**(4)** The adequacy of measures to mitigate the adverse impacts of the proposed activity on coastal resources, and for the Coastal Overlay Zone, future water dependent use opportunities.

[See Connecticut General Statutes §§ 22a-93(15-17)] <http://tinyurl.com/ykojpm5>

**(f)** After a public hearing, the [PZC/ZBA], as the case may be, shall approve, modify, condition, or deny the activity proposed in a Coastal Site Plan on the basis of the criteria listed in CGS §22a-106, to ensure that the proposed activity is consistent with the coastal policies in CGS

§22a-92, and that the potential adverse impacts of the proposed activity on both coastal resources and future water dependant development opportunities are acceptable.

[See Connecticut General Statutes §§ 22a-92; 106] <http://tinyurl.com/ykojpm5>

(g) Pursuant to CGS §22a-106, the [PZC/ZBA], as the case may be, shall state in writing the finding and reasons for its action with respect to any Coastal Site Plan approved, conditioned, modified or denied. Further, in approving any Coastal Site Plan, the [PZC/ZBA] shall make a written finding that:

(1) The proposed activity with any conditions or modifications imposed by the PZC or ZBA is consistent with the coastal policies in CGS §22a-92.

(2) The proposed activity incorporated as condition or modifications, all reasonable measures which would mitigate potential adverse impacts on both coastal resources, and for the zone's, future water dependent development activities.

(3) The potential adverse impacts of the proposed activity on coastal resources, and the zone's, future water dependent development opportunities are acceptable.

[See Connecticut General Statutes §§ 22a-92; 106] <http://tinyurl.com/ykojpm5>

(h) **Application Fee.** All applications for Coastal Site Plan Review shall be accompanied by an application fee as specified in Administration and Enforcement.

### Coastal Site Plan Review Fee Schedule

Proposed Use	Fee
<b>Residential</b>	
1-6 dwelling units	<b>\$100.00</b>
Over 6 dwelling units	<b>\$200.00</b>
<b>Commercial</b>	<b>\$400.00</b>
<b>Industrial</b>	<b>\$400.00</b>
<b>Modifications to approved plan (over 6 units, commercial, and industrial) revised without prior Commission approval</b>	<b>\$1,000.00</b>

See [Madison, CT Zoning Regulations Sec. 25] <http://tinyurl.com/yly219t>; [Westbrook, CT Zoning Regulations Sec. 11.00.00] <http://tinyurl.com/yg8dfhe>; [Clinton, CT Zoning Regulations Secs. 18.4 – 18.9] <http://tinyurl.com/yhkv4rg>; [Norwalk, CT Zoning Regulations Sec. 118-1110.B(2)(c) – fee schedule] <http://tinyurl.com/yfshtsu>.

**11. Coastal site plan review exemptions.** Pursuant to Connecticut General Statutes § 22a-109(b), the following activities, whether authorized as a matter of right, subject to approval of a site plan, subject to approval of a special use, or granting of a variance, are exempt from the Coastal Site Plan Review Requirements, except when the subject activity takes place within 100 feet of a critical coastal resource:

- a) Gardening, grazing, and the harvesting of crops.
- b) Minor additions to or modification of existing buildings or detached accessory buildings, such as garages and utility sheds.
- c) Construction of new or modification of existing structures incidental to the enjoyment and maintenance of residential property including but not limited to walks, terraces, driveways, swimming pools, tennis courts, docks, and detached accessory buildings.
- d) Construction of new or modification of existing on-premise structures including fences, walls, pedestrian walks and terraces, underground utility and sewer service lines, signs, and such other minor structures as will not substantially alter the natural character of coastal resources or restrict access along the public beach.
- e) Construction of an individual single family residential structure except when such structure is located on an island not connected to the mainland by an existing road, bridge, or causeway.
- f) Activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife, and other coastal land and water resources.
- g) Interior modifications to buildings.
- h) Minor changes in use of a building, structures, or property, except those changes occurring on property adjacent to or abutting waters.

See [Connecticut General Statutes § 22a-109(b)] <http://tinyurl.com/ykojpm5>; [Branford, CT Zoning Regulations Sec. 45.2] <http://tinyurl.com/y19exfo>

## **B. Coastal Development Zone.**

See [Stamford, CT Zoning Regulations Sec. 4.AA.10.1] <http://tinyurl.com/yzprjga>; [New Haven Zoning Ordinance Sec. 55] <http://tinyurl.com/yknxx7y>; [Groton, CT Zoning Regulations Sec. 6.3.1] <http://tinyurl.com/yfvnp7e>; [New London, CT Zoning Regulations Sec. 540.1] <http://tinyurl.com/yf6etul>; [Old Saybrook, CT Zoning Regulation Sec. 35.0] <http://tinyurl.com/yjlddhw>; [Stratford, CT Zoning Regulations Sec. 3.1.1.1.] <http://tinyurl.com/yho7hpp>

1. **Purpose.** Land designated as part of the Coastline Overlay Zone that has been determined to be consistent with land capable of mixed use and water dependent development while:
  - a) Maintaining the unique environmental qualities without disruption of scenic views and vistas, recreational quality of the coastline and water bodies, and consistency with local, state and federal laws.
  - b) Promoting and encouraging public access to the coastline and water bodies.
  - c) Avoiding the need for costly public sewage collection and treatment.
2. **Eligible Districts.** The following districts, located in the [enter the name of the municipality] are eligible for a Coastal Development Zone.
  - a) [Insert the title or name identifying the desired districts]
3. **Uses.** The uses from the underlying zone, or otherwise indicated in the Zoning Use Summary Table are permitted as a matter of right, or upon approval of a Special Permit with a corresponding Coastal Site Plan by the [PZC/ZBA], and all other uses not indicated shall be prohibited, and not permitted by variance or special exception..

[See Stratford, CT Zoning Regulations Sec. 10.1.4] <http://tinyurl.com/yho7hpp>

4. Area/ Bulk requirements.

	<i>District Name 1</i>	<i>District Name 2</i>
<b>STANDARDS</b>		
<b>Minimum Zone Requirements</b>		
Area (acres)		
Frontage (feet)		
<b>Open Space/ Recreation Area:</b> (% of Total Zone Area)		
<b>Development Area:</b> (% of Total Zone Area)		
<b>Maximum Density: Units Per Acre</b>		
<b>Maximum Number of Units Per Building or Structure</b>		
<b>Maximum Building or Structure Height</b> (feet)		
<b>Minimum Yard Setback Requirements Per Building</b> (feet)		
Front		
Side(s)		
Rear		
<b>Maximum Floor Area Per Unit</b> (square feet)		
1 Room Efficiency Unit		
1 Bedroom Unit		
2 Bedroom Unit		
3 Bedroom Unit		
One Story		
Split Level		
Two Story		
<b>Minimum Patio/Deck Area Per Unit</b> (square feet)		
1 Room Efficiency Unit		
1 Bedroom Unit		
2 Bedroom Unit		
3 Bedroom Unit		
One Story		

Split Level		
Two Story		
<b>Minimum Off-street Parking, Loading, and Driveway Setbacks Per Building or Structure (feet)</b>		
Front		
Side(s)		
Rear		
<b>Detached Accessory Building or Structure: Setback From (feet)</b>		
Principal Building		
Front Lot Line		
Side Lot Line(s)		
Rear Lot Line		

**5. Design objectives.** All development within this zone must be consistent with the following objectives:

- a) The direction of development will be in keeping with the [enter the name of the municipality]’s Plan of Development.
- b) A viable commercial, residential, and cultural area which serves the needs of the residents of the immediate coastal area must be maintained.
- c) In recognition of the attraction the area holds for tourists, a limited degree of commercial development should be provided to accommodate this tourist market; however, this should be secondary to the area's primary role of providing the services to its residents.
- d) To insure that high intensity and bulk uses do not encroach into this zone.
- e) The establishment of a coordinated pattern of land uses which allows safe access and movement of pedestrians, bicycles, and vehicles throughout the zone.
- f) Structural rehabilitation, wherever feasible, will be encouraged in order to preserve and enhance the historic and diverse qualities of the coastal area.
- g) Architectural and site design which promote aesthetic qualities while sustaining and enhancing the unique qualities of the coastal area will be encouraged.
- h) A circulation pattern and related facilities within the zone such as sidewalks, benches, and bike racks, which will give priority to pedestrian movement and bicycle travel, should be provided.
- i) The coastline is the most vital element within the zone and as such must be given primary consideration in any proposed development. To this end, special consideration must be given to the area of the water and land interface; the preservation and creation of views from public and other areas to the water, and the preservation and integrity of the existing coastline. Pedestrian access to the coastline should be encouraged.

**6. Design Standards.** Architectural and site designs shall be compatible with the neighborhood and the coastal environment. Buildings and structures shall be designed to harmonize with each other and the coastal environment, and shall be of such a scale and mass that they relate to each other and to the streets.

a) Buildings and structures. The minimum floor areas are set forth in subsection **B.5**. Principal buildings and structures within the zone, shall be separated by at least [enter the number of feet] feet.

b) Streets and parking.

(1) All streets constructed within the zone shall be constructed in accordance with these regulations. In addition, all pavement shall be [enter the number of feet] feet in width for access roads connecting to a town road, otherwise the minimum width shall be [enter the number of feet] feet.

(2) All parking within the Coastal Development Zone shall be constructed in accordance with these Regulations. [Enter the number of spaces per unit] parking spaces shall be provided for each principal building or structure. Parking which serves more than one unit, [may/may not] have its only egress backing out into a street. Garages shall not constitute parking spaces in determining the conformance to this parking standard. One parking space shall be provided for every [enter the number of square feet] square feet of open space or recreational space in the zone. Adequate, unobstructed space shall be provided for snow removal of parking spaces.

c) Landscaping. There shall be suitable landscaping within the zone. Suitable landscaping, which may include lawns or existing vegetation, will be required in all areas not covered by impervious surfaces. Large trees and stands of mature trees and shrubs are to remain undisturbed where practical and reliable.

d) Utilities.

(1) There shall be provided within the zone, a sanitary sewage disposal system which shall be of sufficient size and design to collect and dispose of all sewage from and present and probable structures to be constructed within that zone, and shall be otherwise built and maintained in conformity with these Regulations.

(2) There shall be provided within the zone, a storm drainage system which shall be of sufficient size and design as will in the opinion of the [enter the name of the municipality] Department of Public Works collect, carry off and dispose of all predictable surface water run-off within that zone and shall be so constructed as to conform with all of these regulation.

(3) It shall be provided within the zone, that all the utilities facilities be placed [above ground/underground].

(4) There shall be provided within the zone, a potable water system which shall be of sufficient size and design to supply potable water to all the buildings and structures to be constructed in that zone. There shall be provided a fire hydrant where required, of a type and in a manner prescribed by these regulations and to the satisfaction of the Fire Marshal.

(5) Proper site lighting shall be provided and such lighting shall not be directed toward or spread to adjoining properties.

7. **Coastal site plan review.** The coastal site plan review is set forth in subsection **A.10**.

8. **Coastal site plan review exemptions.** The coastal site plan review is set forth in subsection **A.11**.

## Traditional Neighborhood Development (TND)

See [Pennsylvania State Association of Township Supervisors - Act of 1968, P.L.805, No. 247 as reenacted and amended. Eighteenth Edition, February 2005 Art. 7-A] <http://tinyurl.com/yzhyz4p>; [Georgia Model Ordinance Tool Kit - Traditional Neighborhood Development Model Ordinance and Design Standards] <http://tinyurl.com/yg2cyc8>; [A Model Ordinance for Traditional Neighborhood Development, approved by the Wisconsin Legislature July 28, 2001] <http://tinyurl.com/ygx6fa4>; [Massachusetts Smart Growth/Smart Energy Tool Kit Bylaw – A Model Ordinance for a Traditional Neighborhood Development] <http://tinyurl.com/yj5a6cv>; [Overland Park, KS Zoning Regulations Mixed-Use Design Standards July 1, 2009 DRAFT] <http://tinyurl.com/yzvd7th>; [Danbury, CT Zoning Regulations Sec. 4.H] <http://tinyurl.com/yg8rsfl>

**A. Purpose.** The purpose of this Regulation is to allow the optional development and redevelopment of land consistent with the design principles of traditional neighborhoods and:

1. To encourage innovations in residential and nonresidential development and renewal which makes use of a mixed used form of development so that the growing demand for housing and other development may be met by greater variety in type, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses.
2. To extend greater opportunities for better housing, recreation and access to goods, services and employment opportunities to all citizens and residents.
3. To encourage more efficient use of land and public services to reflect changes in the technology of land development so that economies secured may benefit those who need homes and for other uses.
4. To allow for the development of fully integrated, mixed-use pedestrian-oriented neighborhoods.
5. To minimize traffic congestion, infrastructure costs and environmental degradation.
6. To promote the implementation of the objectives of the municipal or multimunicipal comprehensive plan for guiding the location for growth.
7. To provide a procedure, in aid of these purposes, which can relate the type, design and layout of residential and nonresidential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within the existing residential and nonresidential areas.
8. To insure that the increased flexibility of regulations over land development authorized herein is carried out under such administrative standards and procedure as shall encourage the disposition of proposals for land development without undue delay.

See Pennsylvania State Association of Township Supervisors - Act of 1968, P.L.805, No. 247 as reenacted and amended. Eighteenth Edition, February 2005 Section 701-A. <http://tinyurl.com/yzhyz4p>



The purpose statement should reflect the principles and objectives of Traditional Neighborhood Development and local community character.

- B.** Forms of TND. A TND may be developed and applied in any one of the following forms:
1. As a new development.
  2. As an outgrowth or extension of an existing development.
  3. As a form of urban infill where existing uses and structures may be incorporated into the development.
  4. In any combination or variation of the above.

See Pennsylvania State Association of Township Supervisors - Act of 1968, P.L.805, No. 247 as reenacted and amended. Eighteenth Edition, February 2005 Section 705-A.

<http://tinyurl.com/yzhzy4p>

**C. Eligible Districts.** The following districts located in the [enter the name of the municipality] are eligible for TND.

1. [Insert the title or name identifying the desired districts]

**D. Application Procedure and Approval Process.** Prior to the issuance of any [permits/special permits] for development within a TND, the following process shall be completed according to the procedures outlined in this section:

For infill projects, the existing development review procedures found in local regulations may be sufficient to ensure proper review. The optional procedural requirements below are more appropriate for new development projects. [See Massachusetts Smart Growth/Smart Energy Tool Kit Bylaw – A Model Ordinance for a Traditional Neighborhood Development Sec. 3.0.]

<http://tinyurl.com/yj5a6cv>

The “Procedural Requirements” outlined below provide one approach to development review of large and complex projects, and is more applicable to greenfield development projects. Cities and towns should examine their development review processes to find ways that the review process can be streamlined so developers are encouraged to use the Traditional Neighborhood Development bylaw/ordinance. In particular, submittal requirements should conform to those required by the subdivision rules and regulations for preliminary and definitive plan submittals to the greatest extent possible. [See Massachusetts Smart Growth/Smart Energy Tool Kit Bylaw – A Model Ordinance for a Traditional Neighborhood Development Sec. 3.0.] <http://tinyurl.com/yj5a6cv>

**1. Initial conference.** Before submitting an application for a Traditional Neighborhood Development project, the applicant shall schedule an appointment and meet with the [planner/ municipal staff/ Planning and Zoning Commission (PZC)] to discuss the procedure for approval of a Traditional Neighborhood Development project, including submittal requirements and design standards. At the conclusion of the meeting(s), the city/town planning staff will prepare summary notes of the meeting results for distribution.

**2. General implementation plan and zoning map amendment.**

a) General implementation plan process. Following the initial conference, the applicant shall submit a general implementation plan to the [enter the name of the municipality] PZC together with an application for a zoning map amendment to a TND

District. Within [enter the number of days] days, the PZC shall conduct a public hearing to consider the zoning map amendment request and to consider a recommendation for approval or disapproval of a general implementation plan. At this public hearing, the PZC shall receive a report from the [enter the name of the municipality] [enter the agency, commission, or other municipal official or staff] recommending approval, disapproval or approval with specified modifications within [enter the number of days] days, and the PZC shall either:

- (1) Approve the General Implementation Plan and zoning map amendment,
- (2) Approve the General Implementation Plan and zoning map amendment with modifications, or
- (3) Deny the General Implementation Plan and zoning map amendment.

b) General implementation plan submittal requirements. The purpose of the general implementation plan is to establish the intent, density, and intensity for a proposed development. The General Implementation Plan shall include the following:

(1) A general location map of suitable scale, but no less than one inch = [enter the number of feet] feet, which shows the location of the property within the community and adjacent parcels including locations of any public streets, railroads, major streams or rivers and other major features within [enter the number of feet] feet of the site.

(2) A site inventory and analysis to identify site assets or resources, and constraints, including but not limited to floodplains, wetlands and soils classified as “poorly drained” or “very poorly drained,” soils with bedrock at or within [enter the number of inches] inches of the surface, utility easements for high-tension electrical transmission lines (>69KV), steep slopes greater than [enter the slope percentage grade], and brownfields.

(3) A conceptual site plan, at a scale of no less than one inch = [enter the number of feet] feet, which indicates topography in [enter the number of feet] foot contours for sites with [enter the number of feet] feet or more of local relief, or [enter the number of feet] foot contours for local sites with less than [enter the number of feet] feet of local relief, consisting of a map with proposed features and existing site features and uses that will remain. These features should include building outlines, location of streets, transit stops, drives and parking areas, pedestrian and bicycle paths, service access areas for receiving material and trash removal, and other impervious surfaces. The location of proposed and existing to remain trees and shrubs should also be included, along with any other significant features.

(4) A conceptual storm water management plan identifying the proposed patterns of major storm water runoff, locations of storm water infiltration areas, and other significant storm water best management practices.

(5) Identification of the architectural style(s) of the TND and the accompanying site design style(s). The design style of the TND shall be conveyed with drawings or computer simulations of typical proposed building elevations (including dimensions of building height and width, and facade treatment).

(6) A written report that provides general information about the covenants, conservation easements, or agreements which will influence the use and maintenance of the proposed development. The report shall also describe the site conditions and the development objectives.

(7) Any other information deemed necessary by the [enter the name of the municipality] in order to evaluate plans.

(8) [Enter the number of copies] copies of the above information shall be submitted plus [one] reduced set no larger than 8-1/2 inches by 11 inches.

**3. Specific implementation plan.**

a) Specific implementation plan process. Following the [zoning map amendment, approval or approval with conditions] of the general implementation plan, a specific implementation plan shall be submitted to the PZC. The purpose of the specific implementation plan is to establish a detailed development proposal. The specific implementation plan can be proposed, reviewed, and acted upon as whole or in part or phases.

b) Specific implementation plan submittal requirements. The applicant shall submit a series of plans, maps, and written materials, which include the following information:

(1) A general location map of suitable scale which shows the boundaries and dimensions of the property and adjacent parcels, including locations of any public streets, railroads, major streams or rivers and other major features within [enter the number of feet] feet of the site, along with a legal description of the property.

(2) A site inventory and analysis to identify site assets or resources, and constraints, including but not limited to floodplains, wetlands and soils classified as “poorly drained” or “very poorly drained,” soils with bedrock at or within [enter the number of inches] inches of the surface, utility easements for high-tension electrical transmission lines (>69KV), slopes greater than [enter the percentage of slope grade], and brownfields.

(3) A site plan, including proposed topographic contours at [enter the number of feet] foot intervals, with the following information:

(i) the location of proposed structures and existing structures that will remain, with height and gross floor area noted;

(ii) the location of street and pedestrian lighting, including lamp intensity and height;

(iii) the location of proposed open space;

(iv) the circulation system indicating pedestrian, bicycle, and motor vehicle movement systems, including existing and proposed public streets or right of- ways; transit stops; easements or other reservations of land on the site; the location and dimensions of existing and proposed curb cuts, off-street parking and loading spaces, include service access for receiving and trash removal; sidewalks and other walkways;

(v) location of all trees, shrubs, and ground cover (proposed or existing) to remain on the site.

(4) A storm water management plan for the site. The grading plan shall show existing and proposed ground elevations with contours (one-foot contour interval) and spot elevations at significant high points, low points, and transition points. The grading plan shall also note the finished ground floor elevations of all buildings. The plan shall also show the locations of all storm drainage sewers and structures, and infiltration or detention/retention structures; and all wetlands on the site, and copies of documents completed in making the wetlands identification.

(5) Detailed elevations of all proposed commercial buildings and typical elevations of residential buildings. Scaled elevations should identify all signs, building materials and percentage of ground floor commercial facade in windows; the location, height and material for screening walls and fences, including outdoor trash storage areas,

electrical, mechanical and gas metering equipment, storage areas for trash and recyclable materials, and rooftop equipment.

(6) A utilities plan showing underground and above ground lines and structures for sanitary sewers, electricity, gas, telecommunications, and all other utilities.

(7) A written report, which completely describes the proposal and indicates covenants or agreements that will influence the use and maintenance of the proposed development. The report also shall describe the analysis of site conditions and the development objectives.

(8) Phasing plans, where applicable.

(9) Any other information deemed necessary by the PZC in order to evaluate plans.

**4. Amendments to the specific implementation plan.** Minor changes to the specific implementation plan adopted by the PZC may be approved by the PZC, provided that the changes do not involve:

a) Increases or decreases of less than [enter the percent] in floor area of structures or number of dwelling units.

b) Change in exterior building material.

c) Alteration of any conditions attached or modification to the specific implementation plan made by the PZC. A major change to a specific implementation plan which is less restrictive than any conditions of approval for the initial specific implementation plan, shall require approval by a majority vote of all members of the PZC.

**5. Subdivision of land.** If the TND involves the subdivision of land as defined in the [enter the name of the municipality]'s subdivision ordinance, the applicant shall submit all required land division documents in accordance with the requirements of the subdivision ordinance. If there is a conflict between the design standards of the subdivision ordinance and the design guidelines of this ordinance, the provisions of this ordinance shall apply.

**6. Ownership and maintenance of public space.** Provisions shall be made for the ownership and maintenance of streets, squares, parks, open space, and other public spaces in a TND by dedication to the [enter the name of the municipality].

**7. Recording documents.** The following documents need to be filed by the applicant in the [enter the name of the municipality clerk office and/or land records] within [enter the number of days] days after approval of the document by the PZC: a certified copy of the zoning ordinance amendment designating a tract of land as a TND; the general implementation plan; and the specific implementation plan.

#### **E. Uses.**

**1. Permitted Uses.** The uses from the underlying zone, or otherwise indicated in the Zoning Use Summary Table are permitted as a matter of right.

See Pennsylvania State Association of Township Supervisors - Act of 1968, P.L.805, No. 247 as reenacted and amended. Eighteenth Edition, February 2005 Section 706-A(b).  
<http://tinyurl.com/yzhzy4p>

[See Massachusetts Smart Growth/Smart Energy Tool Kit Bylaw – A Model Ordinance for a Traditional Neighborhood Development, Massachusetts Smart Growth/Smart Energy Tool Kit Bylaw – A Model Ordinance for a Traditional Neighborhood Development Sec. 4.0.1.] <http://tinyurl.com/yj5a6cv>

[See A Model Ordinance for Traditional Neighborhood Development, approved by the Wisconsin Legislature July 28, 2001, Sec. 4.1] <http://tinyurl.com/ygx6fa4>

[See Georgia Model Ordinance Tool Kit - Traditional Neighborhood Development Model Ordinance and Design Standards Sec. 4.1] <http://tinyurl.com/yg2cyc8>

**2. Special Permit Uses.** The uses otherwise indicated in the Zoning Use Summary Table are permitted upon approval of a Special Permit with a corresponding Site Plan by the [PZC/ZBA], and all other uses not indicated shall be prohibited.

See Georgia Model Ordinance Tool Kit - Traditional Neighborhood Development Model Ordinance and Design Standards Sec. 4.2 <http://tinyurl.com/yg2cyc8>

**3. Permitted Accessory Uses**

See Georgia Model Ordinance Tool Kit – Traditional Neighborhood Development Model Ordinance and Design Standards Sec. 4.3 <http://tinyurl.com/yg2cyc8>

**F. Area, and Bulk Requirements.**

	<i>District Name 1</i>	<i>District Name 2</i>
<b>STANDARDS</b>		
<b>Minimum TND Requirements</b>		
Area (acres)		
Frontage (feet)		
<b>Open Space/ Recreation Area:</b> (% of Total TND Area)		
<b>Development Area:</b> (% of Total TND Area)		
<b>Maximum Density: Units Per Acre</b>		
Residential Uses		
Commercial Uses		

<b>Number of Units Per Building or Structure</b>		
Residential Uses		
Commercial Uses		
<b>Maximum Building and Structure Height (feet)</b>		
Residential Uses		
Commercial Uses		
<b>Minimum Lot Frontage (feet)</b>		
Residential Uses		
Commercial Uses		
<b>Minimum Setback Requirements Per Building or Structure (feet)</b>		
Front		
Side(s)		
Rear		
<b>Maximum Floor Area Per Unit (square feet)</b>		
Residential Uses		
Commercial Uses		
<b>Minimum Off-street Parking, Loading, and Driveway Setbacks Per Building or Structure(feet)</b>		
Front		
Side(s)		
Rear		
<b>Detached Accessory Building or Structure: Setback From (feet)</b>		
Principal Building/ Structure		
Front Lot Line		
Side Lot Line(s)		
Rear Lot Line		

The standards can be diversified depending on the type of TND a municipality wishes to pursue as each as their own benefits. An urban infill or development in an existing urban pattern, greenfield development with more emphasis on open space and greenways, or new development.

If the TND is to be integrated as part of an urban infill the number of acres can be decreased for an initial application so long as there is a condition placed on the development that it expand its development to the minimum acreage within a certain period of time.

When a TND expands beyond 200 acres it can mandated that it is split and subject to more than one application approval. [See Georgia Model Ordinance Tool Kit – Traditional Neighborhood Development Model Ordinance and Design Standards Sec. 6.2]. <http://tinyurl.com/yg2cyc8>

Frontage may not be necessary requirement depending on whether or not the TND is an infill development, rather than a new development. If it is a requirement then this is frontage on an existing public road.

This will depend on the type of development, urban infill, greenfield site, new development as each will inherently require a different percentage of open space as part of their underlying theme, however an incentive can be to allow for 1% increase in number of units in the development in exchange for a 1% increase over the minimum open space designated by the municipality. [See Georgia Model Ordinance Tool Kit – Traditional Neighborhood Development Model Ordinance and Design Standards Sec. 7] <http://tinyurl.com/yg2cyc8>

In forming the lot size based on the number of units per acre the applicant is strongly recommended by the municipality to provide different dimensions for the building lots making the development more diverse.

In determining the frontage the applicant is strongly recommended by the municipality to provide different frontages making the development more diverse so the municipality should provide a range of frontage for choosing by the applicant.

In determining the setbacks the applicant is strongly recommended by the municipality to provide different setbacks for buildings or structures making the development more diverse so the municipality should provide a range of setbacks for choosing by the applicant.

**G. Design Standards.** The provisions adopted pursuant to this section and subsection **F.**, shall establish standards governing the density, or intensity of land use, in a TND. The standards may vary the density or intensity of land use, otherwise applicable to the land under the provisions of a zoning ordinance of the municipality within the TND. The applicant shall provide the following information in accordance with the dimensions set forth in subsection **F.**, and in addition to the specific implementation plan submittal requirements set forth in subsection **D.3.b)**:

**1.** The amount, location and proposed use of common open space, providing for parks to be distributed throughout the neighborhood as well as the establishment of a

centrally located public commons, square, park, plaza or prominent intersection of two or more major streets.

**2.** The location and physical characteristics of the site of the proposed TND, providing for the retaining and enhancing, where practicable, of natural features such as wetlands, ponds, lakes, waterways, trees of high quality, significant tree stands and other significant natural features. These significant natural features should be at least partially fronted by public tracts whenever possible.

**3.** The location and physical characteristics of the site of the proposed TND so that it will develop out of the location of central squares, parks and other neighborhood centers and sub-centers. Zoning changes in building type should generally occur at mid-block rather than mid-street and buildings should tend to be zoned by compatibility of building type rather than building use. The proposed TND should be designed to work with the topography of the site to minimize the amount of grading necessary to achieve a street network, and some significant high points of the site should be set aside for public tracts for the location of public buildings or other public facilities.

**4.** The location, design, type and use of structures proposed, with most structures being placed close to the street at generally the equivalent of one-quarter the width of the lot or less. The distance between the sidewalk and residential dwellings should, as a general rule, be occupied by a semi-public attachment, such as a porch or, at a minimum, a covered entryway.

**5.** The location, design, type and use of streets, alleys, sidewalks and other public rights-of-way with a hierarchy of streets laid out in a rectilinear or grid pattern of interconnecting streets and blocks that provide multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally. As such, most streets, except alleys, should have sidewalks.

**6.** The location for vehicular parking with the street plan providing for on street parking for most streets, with the exception of alleys. All parking lots, except where there is a compelling reason to the contrary, should be located either behind or to the side of buildings and, in most cases, should be located toward the center of blocks such that only their access is visible from adjacent streets. In most cases, structures located on lots smaller than [enter the number of feet] feet in width should be served by a rear alley with all garages fronting on alleys. Garages not served by an alley should be set back a minimum of [enter the number of feet] feet from the front of the house or rotated so that the garage doors do not face any adjacent streets.

**7.** The minimum and maximum areas and dimensions of the properties and common open space within the proposed TND and the approximate distance from the center to the edge of the TND. It is recommended that the distance from the center to the edge of the TND be approximately one-quarter mile or less and not more than one-half mile. TND's in excess of one-half mile distance from center to edge should be divided into two or more developments.

**8.** The specific implementation plan to provide for either a natural or manmade corridor to serve as the edge of the neighborhood. When standing alone, the TND should front on open space to serve as its edge. Such open space may include, but is not limited to, parks, a golf course, cemetery, farmland or natural settings such as woodlands or waterways. When adjacent to existing development the TND should either front on open space, a street or roadway, or any combination hereof.

**9.** The greatest density of housing and the preponderance of office and commercial uses should be located in the center of the TND. However, if the neighborhood is



adjacent to existing development or a major roadway then office, commercial and denser residential uses may be located at either the edge or the center, or both. Commercial uses located at the edge of the TND may be located adjacent to similar commercial uses in order to form a greater commercial corridor.

See Pennsylvania State Association of Township Supervisors - Act of 1968, P.L.805, No. 247 as reenacted and amended. Eighteenth Edition, February 2005 Section 705-A(d).  
<http://tinyurl.com/yzhzy4p>

**H. Grouping.** Grouping requirements shall be as set forth in these Regulations. The PZC may modify the grouping requirements if it finds that such an adjustment will provide a better arrangement of buildings or structures, and open space, or in specific cases where desirable or warranted, owing to unusual topography or other physical conditions and the use and character of adjacent properties, with due regard to the protection of such properties and their access to light and air, the zoning district or districts in which such properties and the planned residential development or portion thereof are located, and the public interest.

See Hartford, CT Zoning Regulations Sec. 1037(b)(10) <http://tinyurl.com/ygusteu>

**I. Phasing.** A TND may be constructed and occupied in stages, as approved by the PZC. Whether constructed in stages or not, the provisions for the entire TND shall be in effect and controlling. Notwithstanding this section, the provisions of TND in an eligible district as set forth above in subsection C., shall be applied only to the property acquired TND, the remaining property continuing under the regulations of the existing zoning districts until such time as the property may be acquired for the TND. Upon acquisition, the provisions of the TND shall be in effect and controlling for such acquired property.

See Hartford, CT Zoning Regulations Sec. 1037(b)(17) <http://tinyurl.com/ygusteu>

**J. Failure to Begin a TND.** If no construction has begun or no use established in the TND within [enter the time period] from the approval by the PZC, the zoning permit for the TND shall become null and void. In certified redevelopment areas the time period, within which construction must start or a use established, shall commence with the issuance of the zoning permit to the developer of the redevelopment TND portion thereof. In its discretion, and for good cause, the PZC may, upon request of the applicant, extend for an additional [enter time period] for the beginning of construction or establishment of a use. If the zoning permit becomes null and void under the provisions of this section, the zoning regulations applicable before the zoning permit was issued shall be revived and in effect.

See Hartford, CT Zoning Regulations Sec. 1037(b)(18) <http://tinyurl.com/ygusteu>

## VILLAGE CENTER ZONE

### A. Purpose

The purpose of the Village Center Zone is to protect the traditional New England Village atmosphere of the existing residential, municipal, cultural and religious uses in the village green area. It will also promote a variety of land uses and include design elements supporting pedestrian and vehicular accessibility as well as public transit accessibility.

### B. Location and Area

1. This zone shall be approximately bounded by **[set boundaries]**. The core area will be within **[define core area of district]**.
2. Gross area of the zone shall be no less than [] and no more than [] acres. Gross area may include dedicated public and private streets and alleys and irrigation ditches.
3. The Village Center Zone boundaries will be the basis of all development agreements in the zone. District boundaries may be amended by the Commission.

### C. Plan of Development

Development in the Village Center Zone can be approved through creation of a plan of development as described below. Approval of the plan of development shall only be accomplished by resolution of the Zoning Commission.

Any persons, firm or corporation desiring approval of a plan of development shall make application to the Zoning Commission. Said application shall contain all of the information required for an application for a special permit under **[Special Permit Section]** and any other information deemed necessary by the Commission, including the following:

1. A key map of the neighborhood at a scale of one (1) inch equals two hundred (200) feet, showing the relation of the proposed development to abutting properties and to existing and proposed streets.
2. A site plan of the parcel, at a scale not smaller than one (1) inch equals one hundred (100) feet, showing locations of all buildings, driveway entrances to streets, parking and loading areas, vehicular and pedestrian traffic movement, sidewalks, public spaces and landscaped buffers, fences and walls, proposed grading, proposals for water supply, sewage disposal, storm drainage and other improvements. Storm and roof drainage shall be piped to an open out fall or storm drains.
3. Drawings sufficient to pictorially identify the nature of the buildings or structures.

4. Procedure. The Commission shall hold a public hearing on the application and shall decide thereon, giving notice of its decision as required by the provisions of C.G.S. § 8-3c and in accordance with the provisions of [**Special Permit Section**]. The applicant may consent in writing to an extension of the time for public hearings and action on the application.

5. Factors to be considered in making determination upon application for approval of plan of development.

The Zoning Commission, in considering applications for approval of a plan of development, shall consider the following:

- a. The size and intensity of such use and its effect on the Town.
- b. The capacity of adjacent and feeder streets to handle peak traffic loads and hazards created by the use.
- c. The obstruction of light or air, or the emissions of noise, light, smoke, odor, gas, dust, or vibration in noxious or offensive quantities and the distance between offensive processes and adjacent properties.
- d. The overall effect on values and utilization of neighborhood properties.
- e. Unusual topography of the location, the nature, location and height of buildings, walls, stacks, fences, grades and landscaping of the site.
- f. The extent, nature and arrangement of parking facilities, entrances and exits.
- g. Problems of fire and police protection.
- h. The preservation of the character of the neighborhood.
- i. The availability of adequate sewage and water supply.
- j. Architectural features, including but not limited to:
- j. All other standards prescribed by these regulations.
- k. Any and all concerns and suggestions presented at the public hearing.

These requirements were taken from the town of New Milford, CT.  
<http://tiny.cc/zPymN>

6. After the public hearing, the Commission may approve, disapprove, or approve with modifications any plan of development.

#### **D. Permitted Uses**

The following uses are permitted as a right in the Village Center Zone (VCZ), subject to any applicable provisions of these regulations.

1. Business and professional offices, banks.
2. Retail stores and personal service establishments.
3. Art studios/galleries.
4. Governmental uses.

5. Restaurants
6. Establishments selling or serving alcoholic beverages provided that the center of the public entrance for such use is located at least 200 feet from any lot used as a church, school, playground, hospital, public library or from any residential zone.
7. Existing residential dwellings as of the date of the adoption of the Village Center Zone. All additions and alterations solely for residential use shall be in accordance with the [**Residential Zone previously classified under**].
8. Accessory uses may include the following:
  - a. Garage for commercial vehicles used by the tenants of the premises.
  - b. Off-street parking.
  - c. Signs.

<p>These uses were adopted from the town of East Granby, CT. <a href="http://tiny.cc/tr6f7">http://tiny.cc/tr6f7</a></p>
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#### **E. Special Permit Uses**

The following uses may be permitted in the VCZ, subject to special permit and site plan approvals in accordance with (special permit section).

1. Places of public gathering.
2. Child day-care centers or group day-care homes.
3. Community Centers.
4. Telephone exchanges, substations, sewer or water pumping stations, water tanks, standpipes, or similar public utility uses 100 square feet or more in size with no outside service yard or outside storage of supplies unless fully enclosed or screened from public view.
5. Bed-and breakfast.
6. Cultural and educational facilities.
7. Cemeteries.
8. Roadside stands, regional.
9. Drive through pharmacy sales and drive through bank teller services.
10. Residential dwelling units restricted to floors above the main floor of a building.

The following uses shall not be approved in the Village Center Zone:

1. Car wash.
2. Construction yard
3. Drive-through restaurants
4. Mortuary
5. Service stations or auto repair facilities
6. On-site dry cleaning.

## **F. Lot, Yard and Other Requirements**

1. Maximum Height: 40 feet
2. Minimum buildable area: 5,000 square feet.
3. Minimum lot frontage at established building line or street line: 50 feet.
4. Minimum front setback: 40 feet from the street line (both street lines on a corner lot).
5. Minimum side setback: 15 feet each.
6. Minimum rear setback: 15 feet.
7. Maximum lot coverage: 80%.

## **G. Sewer and Water Service**

Municipal sewer and water services shall be connected and maintained to all premises.

## **H. General Regulations**

1. The Village Center district will be divided into a Core Area and an Edge Area. The Core Area shall generally have more retail and other commercial uses and the Edge Area shall generally have more residential and office uses.

2. All requests for commercial development and building permits shall include residential development within the district at the minimum rate of one new dwelling per 5,000 square feet of commercial space. This requirement shall be suspended in the Village Center district when sufficient dwellings are available within the district. It is expected that there will be approximately 400 dwellings in the district upon build out. Application for building permits for housing must be submitted within twelve months of approval of building permits for commercial uses. Housing development in this zone must be completed within 24 months from the date the building permit is first issued for commercial structures. This time deadline may be extended upon approval by the Commission.

Housing requirements within the Village Center district may be fulfilled by apartments, single family dwelling units, upper story lofts, and hotels or motel uses, including bed and breakfast establishments.

4. Residential development in the VC Zone will be permissive at the density of 12 dwelling units per acre and up to 22 dwelling units per acre as a conditional use with a transfer of development rights in accordance with the transfer of development rights section.

5. All new development shall include the dedication of land and construction of a public park or plaza at the rate of a one-tenth acre per each acre of developed land. However, no developer shall be required to dedicate more than two acres of public park in the VC district, excluding public right-of-way and irrigation and drainage facilities. In the sole discretion of the Commission, payments in lieu of dedication of land shall be accepted at a commercially reasonable rate per square foot as verified by a licensed appraiser approved by the Village, based

upon square footage price of commercial land sales within a five mile radius of the area within the past 24 months. This money shall be dedicated to park land acquisition and construction in the Village Center district and shall be kept in a fund specifically for that purpose and not commingled with other funds.

No public park shall be less than one-half acre unless approved by the Board of Trustees as part of the site development plan after review by the Planning and Zoning Commission. Parkways along interior streets and along all streets in the Edge Area may be included in this dedication. Maintenance of public parks, parkways and dedicated streets, alleyways and public spaces shall be accomplished by the Village, directly or by contract.

6. The Village Center district shall be developed with a connected network of streets to ensure free movements of vehicles, pedestrians and bicycles within each Village Center district and with adjacent neighborhoods.

7. Loading docks, trash compactors, and trash containers shall typically be accessed from alleys and not directly from the right-of-way or from parking lots. Trash compactors shall be enclosed to minimize noise. Trash containers shall be fully enclosed on 3 sides with solid walls a minimum of six feet high with a solid gate, six feet high, which shall be kept closed. Trash containers for commercial uses shall be separate from trash containers for residential uses in the Edge Area.

8. Sidewalks: Driveways shall not interrupt the plane of the sidewalk. New sidewalks shall be a minimum of 6 feet wide along all streets in the Village Center Zone.

9. Landscaping: Landscaping should be used to integrate a site into the character of the area and complement the proposed development, adjacent sites and the Village Center. It is desirable to have landscaping along the street, landscaped front yards, screening of parking areas, landscape areas in parking lots, saving large existing trees, grass with mulch planting beds and stone or traditional wood fences.

10. Parking: To maintain a pedestrian-friendly environment, parking lots shall be located behind or beside buildings. On-site, ground level surface parking shall not exceed 5 spaces per 1,000 square feet of building. No parking lot shall have more than 80 spaces or be larger than three-quarters acre, excluding landscape planters and sidewalks. Shared use of parking is strongly encouraged. A shared parking agreement shall be submitted with site development plans. Parking lots and driveways shall not occupy more than 25% of the frontage of any parcel on (streets), except for lots less than 40 feet wide. For traffic safety and to maintain traffic flow, no new driveways shall be permitted on (streets) in the Core Area, within 200 feet of any intersection.

11. Lighting: All streets in the Village Center shall have lighting which shall be in accordance with the Lighting Standards defined in **(section number)**.

12. Commercial Building Entrances: For visibility and accessibility, all commercial

entrances used by the public shall be visible from the right -of-way and the sidewalk, shall have an entrance directly accessible from the sidewalk and shall be no more than 75 feet from the sidewalk.

13. All commercial facades shall have at least 70% transparent glass between 2 feet and 12 feet above the walking surface facing the right of way or parking lot. The sills of windows shall not be higher than 3 feet above the walking surface. Blank walls are prohibited along public right of ways. Up to one half of the window area may be used for temporary displays of merchandize or advertising. Temporary displays must be changed at least once every 90 days.

16. Architectural review; New buildings in the Village Center Zone are subject to architectural review by the Planning and Zoning Commission or a designated architectural review board. Freedom of architectural design is encouraged.

17. The maximum area for any single tenant space shall be 50,000 square feet.

## TRANSIT ORIENTED DEVELOPMENT DISTRICT

Transit Oriented Development is an approach to development that focuses land uses around a transit station or within a transit corridor. Typically, it is characterized by: a mix of uses; moderate to high density; pedestrian orientation/connectivity; transportation choices; reduced parking; high quality design. For a detailed explanation of transit oriented development, see this Smart Growth/Smart Energy Toolkit article.

<http://tiny.cc/c9i3c>

This code is adopted from the model Transit-Oriented Development bylaw provided by Smart Growth/Smart Energy Toolkit website. The model code can be found here, <http://tiny.cc/NsdIC>. This code was developed by consulting the bylaws of many cities in Massachusetts and other cities across the country.

For examples of how Transit Oriented Development has helped cities and towns bring new jobs, investment, businesses and residents to the district area, while also improving the cities or towns transportation network, see <http://tiny.cc/bFrdO>.

### A. Purpose

The purposes of the Transit Oriented Development District are to:

1. Encourage a mix of moderate and high density development within walking distance of transit stations to increase transit ridership.
2. Create a pedestrian-friendly environment to encourage walking, bicycling, and transit use.
3. Provide an alternative to traditional development by emphasizing mixed use, pedestrian oriented development.
4. Create a neighborhood identity that promotes pedestrian activity, human interactions, safety and livability.
5. Encourage building reuse and infill to create higher densities.
6. Reduce auto dependency and roadway congestion by locating multiple destinations and trip purposes within walking distance of one another.
7. Provide a range of housing options for people of different income levels and at different stages of life.

### B. Applicability

The TOD District consists of the areas outlined on the zoning map of [the town/city] adopted on [insert date].

Typically these areas are within ½ mile of a transit station, measured from the center point of the passenger platform or passenger loading area.



**C. Procedural Requirements**

Certain specified uses are allowed as a matter of right in the TOD District. Other uses may be allowed by Special Permit. The Zoning Board [or applicable board] shall be the Special Permit Granting Authority for any Special Permit granted in a TOD District. The Zoning Board, acting as the Special Permit Granting Authority, may grant a Special Permit in a TOD District if it finds that the use will:

1. Promote the purpose of the TOD District and
2. Include active ground floor uses, subordinate parking, and have upper floor residential units.

**D. Uses Permitted as a Matter of Right**

Table 1 below lists uses that are allowed as a matter of right in the TOD District.

Table 1.

Apartments
Townhouses
Service Oriented Office Uses
Non-Service oriented office uses on upper floors only
Mixed uses with ground floor retail, personal services and/or service-oriented offices
Banks
Retail under 10,000 square feet
State and Federal Government buildings
Hospitals
Hotels
Transit Stations
Restaurants (not including fast food establishments, which may only be authorized by Special Permit)
Civic, cultural and community facilities
Theatres
Dry cleaners stores with cleaning facilities <b>outside</b> the TOD District
Buildings and uses accessory to the above, such as parking garages, gift shops, cafeterias and day care facilities.

A TOD District should include a mix of uses to encourage activity throughout daytime and evening hours, and to encourage pedestrian travel for different trip purposes. This increases property values, safety and the vibrancy of the community.

**E. Prohibited Uses**

Table 2, below, lists uses that are prohibited in the TOD District.

Table 2. Prohibited Uses in the TOD District.

Auto sales, auto service and repair, auto storage and auto rental uses
Gasoline/Service Stations
Heavy Equipment Sales and Service
Manufactured Home Sales
Salvage Yards
Industrial Uses
Towing Services and Vehicle Storage Yards
RV Mobile Home Sales, Yards and Storage
Car Wash
Strip Commercial Development
Mini-storage and Self-storage Facilities
Commercial Laundries with Dry-Cleaning Operations on Site
Warehousing and Distribution Facilities
Low Density Housing (less than ## units / acre)
Golf Courses
Cemeteries
Boat Sales and Storage Yards
Freight Terminals
Amusement Parks
Drive-through Facilities
Commercial Parking Facilities

**F. Uses Permitted by Special Permit**

The following uses listed in Table 3 may be allowed by Special Permit. The types of uses permitted, prohibited or allowed with a Special Permit may differ based on the character or the area in which the TOD is located. TOD should encourage uses that can be easily served by transit, that have high levels of visitor activity, and have high employment to floor area ratios.

Table 3. Uses that May be Allowed by Special Permit

Single Family Homes
Commercial Surface Parking Lots
Laboratories
Fast Food Establishments
Research Facilities

**G. Parking Requirements**

1. A maximum of 1 parking space per multi-family unit, plus 1 guest space per 15 units, is permitted.

The parking requirements utilized by your town or city will vary depending on the specific area.

2. Parking for non-residential uses shall be provided at not more than 3 per 1,000 square feet and not less than 1 per 500 square feet for uses covering less than 1,000 square feet.
3. Parking for non-residential uses may be increased by Special Permit if the owner of the property constructs bike storage facilities/racks on the property greater than that required below (1 space/15 parking spaces).
4. Shared parking is encouraged.
5. Surface parking lots must be to the rear of buildings, and shall not exceed one acre in size.
6. Surface parking lots are prohibited in front of businesses.
7. Surface parking lots shall provide pedestrian walkways and connections to the sidewalk system.
8. On street parking is permitted and encouraged.
9. Bicycle lanes along the street are also encouraged. Physically separated bicycle lanes are the most encouraged, because they provide the maximum safety to bicyclists. For an example of a physically separated bicycle lane, see the image below.

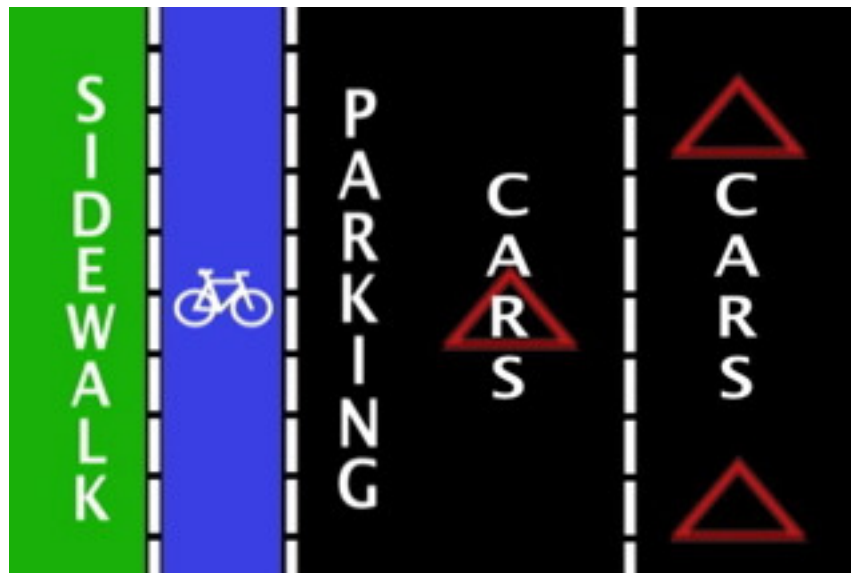


Image taken from streetfilms.org. <http://tiny.cc/21Ct6>

10. Parking structures must include ground level retail along all streets and sidewalks.
11. Parking structures must be designed to be compatible with adjacent buildings and architecture.
12. Bicycle racks shall be provided on site at a ratio of 1 space for every 15 automobile parking spaces or portion thereof.
13. Signage that shows the location and best means of access to the transit station shall be provided at all parking facilities.

## **H. Dimensional Requirements**

1. **Building Height**
  - a. The minimum building height allowable is 28 feet above grade.
  - b. The maximum building height allowable is 78 feet above grade.

These levels are adopted from the model bylaw, <http://tiny.cc/NsdIC>, and are meant to encourage density and create an aesthetic appeal through the TOD District.

2. **Building Setbacks**
  - a. A building shall have a minimum front yard setback of 0 feet and a maximum setback of 5 feet. The setback may be increased to accommodate a courtyard, plaza or seating area is incorporated into the development.
  - b. The minimum setback for a side yard shall be 0 feet and shall not exceed 25 feet.
  - c. The minimum setback for a back yard shall be 15 feet .
3. **Bulk and Lot Coverage**
  - a. Minimum lot coverage is 60 percent of the net lot area. This coverage requirement may be waived if a minimum of 25 percent of the lot is developed as improved open public space. The [planning board] shall determine if land constitutes “open public space”.
  - b. Maximum lot coverage is 85 percent.
  - c. The minimum setback for a back yard shall be 15 feet .
4. **Driveways**
  - a. The creation of new sidewalk curb cuts shall be avoided whenever an alternative point of access is available or can be created. Shared access agreements are encouraged.
  - b. The minimum width for one way traffic is 12 feet, and the maximum is 18 feet.
  - c. The minimum width for two way traffic is 18 feet, and the maximum is 22 feet.

5. Sidewalks
  - a. A minimum unobstructed sidewalk width of 5 feet is required. Sidewalk width can be up to 12 feet, and is dependent on expected level of activity.
  - b. Sidewalks shall be constructed along the frontage of all public streets.
  - c. Fully shielded lighting fixtures shall be provided along all sidewalks and walkways to provide ample lighting during nighttime hours. These lighting fixtures shall be no greater than 10 feet in height.

**I. Design Standards**

1. Streetscapes
  - a. Street trees shall be planted by the developer along all public rights-of-way. These trees shall be planted at intervals of no more than 40 feet.
  - b. Pedestrian amenities such as benches, public art, water fountains, trash receptacles, etc. are encouraged and should be located along sidewalks, in landscaped areas, open spaces and plazas.
2. Building Facades
  - a. All buildings must provide a main entrance on the façade of the building facing the transit station or streets leading to the transit station.
  - b. The main entrance of any building shall face the street.
  - c. Architectural style and materials shall be compatible with the surrounding area, and facades must provide a visually interesting environment.

**L. Exemptions and Exclusions**

This bylaw shall apply to all new construction in the TOD District. It shall apply to reconstruction or redevelopment when the redevelopment will result in an increase of property value of 25% or greater of the assessed values of existing property. The provisions of this section shall apply to reconstruction or redevelopment of existing property where the reconstruction will result in less than 25% increase in property value over the assessed value of the existing property to the maximum extent feasible.

## A. INDUSTRIAL RE-USE DISTRICT

### 1. General

a) The Planning and Zoning Commission may establish site specific Industrial Re-Use Districts (“IRD”) for those properties containing [*historic buildings aged fifty (50) years or greater from the effective date of this regulation OR buildings constructed before World War Two*], by approving a Redevelopment Master Plan. Zoning Regulations applicable to such property as established by the underlying district shall continue in full force and effect unless superseded by the IRD regulations. The IRD shall only be overlaid on parcels already zoned for commercial or industrial uses.

While residential uses are allowed in the IRD, it is only allowed in areas where the underlying zoning is non-residential. This allows for mixed uses in an otherwise non-residential area, and opens up a wider range of development possibilities. It is also quite likely that the historical mill buildings that this regulation intends to target would already be in an area zoned for non-residential uses.

b) In that the approval of an IRD requires a change of zone, it calls for the Commission to act in its legislative capacity, and to exercise legislative discretion. By filing an application for an IRD, the applicant acknowledges and accepts the nature of such application, and the level of discretion which the Commission possesses in such applications.

This district is modeled on Hartford’s Industrial Re-Use Overlay District (see Article III, Division 23 of the Hartford Zoning Regulations, available at <http://tinyurl.com/ygusteu>) and Stonington’s Industrial Heritage Re-Use District (see §7.19, of the Land Use Regulations, available at <http://tinyurl.com/ydsl3mk>).

### 2. Statement of Purpose

Industrial Re-Use Districts are intended to encourage renovation and/or adaptive re-use of [city/town’s] historic mills and other buildings, promote diversified housing opportunities in combination with commercial, retail or office use where such mixed-use is appropriate, and retaining historic architectural design elements while adapting obsolete or underutilized structures and appurtenances to 21st Century needs. Sites most appropriate for inclusion in an IRD have are located primarily in industrial corridors served by existing infrastructure.

Factors to be considered by the Commission in approving an IRD include:

a) The location of the proposed uses of the IRD is in conformance with the adopted Plan of Conservation and Development.

- b)** Preservation, to the maximum feasible extent, of buildings and building elements possessing historic or architectural significance. New buildings and building additions shall be architecturally compatible with existing historic structures, and the neighborhood (when feasible) and respect exterior attributes of such structures and neighborhood.
- c)** Adaptive re-use that addresses [city/town's] housing needs, and in the appropriate setting provides space for business or retail establishments. Since each historic building is unique in terms of its location and design challenges, there shall be no mandatory area ratio of residential use versus commercial use; rather, the type and placement of each proposed use shall be indicated in the Redevelopment Master Plan.
- d)** Harmony between mixed-uses that are proposed for the property, compatibility with neighboring land uses, enhancement of the built, natural and human environment, promotion of pedestrian safety, provision for adequate parking, and minimized impact of motor vehicles.
- e)** Furtherance of goals and objectives contained in [city/town's] Plan of Conservation and Development.

This zone is meant to encourage the adaptive reuse of brownfields and other disused older buildings. If a municipality wishes to encourage developers to clear a parcel and start over, see the Incentive Development Zone below.

### **3. Establishment of District**

The Commission shall establish an IRD by approving a Redevelopment Master Plan, which while not intended to be a substitute for detailed documentation associated with a site plan, does provide sufficient information to determine if the proposal is in conformance with the Plan of Conservation and Development. Such adoption shall constitute a zoning map amendment.

- a) Numbering of Industrial Heritage Re-Use Districts.** Each IRD shall be numbered and depicted sequentially on the official zoning map in accordance with the date of adoption as IRD-1, IRD-2 and so forth.
- b) District Size and Control.** While no minimum parcel size is required for a rezoning, the land area proposed for an IRD shall encompass the entire tract on which the industrial building(s) are located. Lots adjoining the original mill site may be combined for purposes of a rezoning application, provided that all owners of record shall indicate in writing that they are aware of the application and that the applicant is authorized to act on their behalf under these Regulations.
- c) District Expiration.** Approval of the zone change shall become null and void unless a site plan for the IRD is approved within 24 months of the date of zone change approval. The Commission may grant one or more extensions of this period upon written request of the applicant, but in no event will the extensions exceed 24 additional months.

### **4. Master Plan.**

The purpose of the Master Plan submission is to determine whether the proposed uses and layout conform to [all applicable regulations] and to the Plan of Conservation and Development. The Master Plan, once adopted, shall establish the dimensional characteristics of the IRD and its uses. All graphic elements of the Master Plan shall be professionally prepared.

## **5. Site Plan.**

After Redevelopment Master Plan approval and establishment of an IRD the Commission, an application for a site plan must be submitted for approval, following provisions contained in [municipal site plan regulations]. The Commission shall schedule a public hearing for the site plan application.

## **6. Specific Standards.**

The following design standards shall apply to all IRD Districts:

**a) Area and Bulk Requirements.** Adaptive re-use requires flexibility, and existing historic structures located within the District are deemed to be conforming in terms of any encroachments on front, side and rear yard setbacks, maximum height and floor area ratio. Existing buildings may be enlarged provided that such expansion is consistent with the structure's exterior historic architecture.

**b) Replacement Structures.** Where existing buildings are deemed inappropriate for re-use, they may be replaced by new structures provided that such structures shall be architecturally compatible with remaining historic structures located on the property, and the surrounding neighborhood, when and where feasible.

**c) New Construction** (In addition to existing and/or replaced structures). New structures to be built within the IRD District, when such construction is not replacing an existing structure, shall conform to all area, bulk and setback requirements established for the underlying zoning district as contained in [non-residential use section] of these Regulations.

**d) Residential Uses.** Residential units shall be limited to either: (i) one (1) unit of housing for every 1,000 square feet of existing structure, up to 50,000 square feet of existing structure; or (ii) ten (10) units of housing per acre. The Commission shall only allow adjacent lots to be used for density considerations where the applicant can prove a clear, historical link between the adjacent lot and the main industrial property during the period the properties were utilized as industrial sites. All spaces used for residential purposes shall be physically separated, when on the same floor, or shall be located above existing commercial or industrial uses which may be part of a mixed occupancy building or structure; in no instance shall space utilized for residential purposes be located below any such commercial or industrial uses.

**E) PARKING.** Residential off-street parking shall be provided at a ratio of no less than one (1) space per dwelling unit. The Commission shall determine the total residential parking requirement, taking into account opportunities for shared parking and



available public parking areas adjacent to the site. Parking required for all non-residential uses shall be governed by the parking regulations of the underlying zone of these Regulations.

**f) Prohibited Uses.** Uses prohibited in the IRD District shall include: Gasoline filling stations, Motor vehicle and trailer coach sales, leasing and renting, Tire sales establishments, Auto repair shops and paint shops, Car washes, and Drive-thru windows – except financial institutions and pharmacies. Any other use otherwise conditionally permitted in the underlying zone shall be permitted in the IRD subject to approval of a Redevelopment Master Plan.

**g) Buffers.** Non-infringement area of 50 feet minimum from significant natural resources such as, but not limited to, inland wetlands, estuary shoreline and bodies of water, excepting only boat and yacht facilities after necessary State, Federal, and local permits are acquired, may be reduced to zero feet by a majority vote. The Commission may require additional buffers of such size, type and material as necessary to protect adjacent properties or important natural resources.

## **B. INCENTIVE DEVELOPMENT DISTRICT**

### **1. Statement of Purpose**

The purpose of the Incentive Development Zone (IDD) section is to establish a special flexible use zone for targeted locations for substantial property improvement. This regulation is intended to provide increased flexibility of land development while requiring greater administrative standards and procedures, promote the consolidation of small lots into a commercially viable sized lot and requiring a large quantity of financial investment. Also this section encourages creative design proposals seeking the highest and best use of the land; provides development flexibility allowing the incentive zone to be responsive to market trends; assists the Town to promote optimum economic returns on commercial property; conserves the value and promotes the viability of designated commercial nodes and provides for the general welfare of the Town.

This regulation is intended to encourage redevelopment of commercial and industrial areas with an emphasis on new construction. If your municipality wishes to encourage adaptive reuse, see the Industrial Re-Use District above. This regulation is modeled on East Hartford's Comprehensive Rehabilitation Zone (see Article VI, § 602 of the Zoning Regulations, available at <http://tinyurl.com/y94rngs>) and some of the development incentives come from Manchester, CT's Downtown Manchester Development Incentive Program (see <http://www.downtownmanchester.org/graphics/pdfs/downtownip.pdf>).

### **2. Qualifying Conditions**

No project application shall be considered for an IDD unless it meets the following qualifying conditions:

- a) The project shall be located entirely within:
  - i) one of the non-residential zones specified in the [Town/City] zoning code,
  - ii) a duly designated redevelopment area of a redevelopment plan as defined by Conn. Gen. Stat. § 8-125, as amended.

Conn. Gen. Stat. § 8-125 provides the following:

"Redevelopment area" means an area within the state that is deteriorated, deteriorating, substandard or detrimental to the safety, health, morals or welfare of the community. An area may consist partly or wholly of vacant or unimproved land or of land with structures and improvements thereon, and may include structures not in themselves substandard or insanitary which are found to be essential to complete an adequate unit of development, if the redevelopment area is deteriorated, deteriorating, substandard or detrimental to the safety, health, morals or welfare of the community. An area may include properties not contiguous to each other. An area may include all or part of the territorial limits of any fire district, sewer district, fire and sewer district, lighting district, village, beach or improvement association or any other district or association, wholly within a town and having the power to make appropriations or to levy taxes, whether or not such entity is chartered by the General Assembly;

"Redevelopment plan" means a plan that includes: (A) (i) A description of the redevelopment area and the condition, type and use of the structures therein, and (ii) specification of each parcel proposed to be acquired, including parcels to be acquired by eminent domain; (B) the location and extent of the land uses proposed for and within the redevelopment area, such as housing, recreation, business, industry, schools, civic activities, open spaces or other categories of public and private uses; (C) the location and extent of streets and other public utilities, facilities and works within the redevelopment area; (D) schedules showing the number of families displaced by the proposed improvement, the method of temporary relocation of such families and the availability of sufficient suitable living accommodations at prices and rentals within the financial reach of such families and located within a reasonable distance of the area from which such families are displaced; (E) present and proposed zoning regulations in the redevelopment area; (F) a description of how the redevelopment area is deteriorated, deteriorating, substandard or detrimental to the safety, health, morals or welfare of the community; and (G) any other detail including financial aspects of redevelopment which, in the judgment of the redevelopment agency authorized herein, is necessary to give it adequate information;

b) The project may consist of a single lot or a number of contiguous lots under one ownership or control of the applicant, and shall have a total combined lot area of not less than ten thousand (10,000) square feet.

c) The project shall have a minimum of seventy-five (75) feet of frontage on a State Highway and/or [list of Town/City designated arterial or collector roadways] and shall have primary ingress and egress onto said roadway.

The municipality may designate the particular areas where redevelopment is most needed.

d) The project being proposed shall establish to the satisfaction of the Commission that new investment is substantial. As a minimum, in existing structure(s), new investment shall exceed fifty (50%) percent of the market value of the structure. In the instance of vacant land, new investment in the completed project including land shall be four times the market value of the undeveloped lot or lots as determined by the Assessor's records of the [Town/City]. Market value after improvement shall be as established by an appraiser registered in the State of Connecticut and to the satisfaction of the Commission.

### **3. Permitted Uses, Accessory Uses, Special Permit Uses, Lot Sizes and Areas, Parking and Signage**

The permitted uses, accessory uses, special permit uses, lot sizes and areas, parking and signage requirements within the Incentive Development Zone shall be as defined in the underlying non-residential zone. However, as indicated in the following section, all uses in the Incentive development Zone will be treated as special permitted uses.

### **4. Concurrent Zone Change, Special Permit and Site Plan Review Procedure**

An Incentive Development Zone may only be established through the approval and issuance of a zone change as described in [cite to specific general regulations section], a special permit as

described in [cite to specific general regulations section] and a site plan review as described in [cite to specific general regulations section] of these Regulations, which shall be heard concurrently.

## **5. Consolidation of Lots**

In the instance where a project consists of two or more lots for a unitary project and upon issuance of a zone change, special permit and site plan approval by the Commission and before a building permit can be issued, such lots shall be combined into one lot and recorded in the Land Records of the Town.

## **6. Redevelopment Incentives**

The [town/city] shall negotiate with the developer and may provide development incentives, including but not limited to the following:

a) In accordance with Conn. Gen. Stat. § 8-192, the [town/city] may issue bonds to finance infrastructure and other improvements related to the redevelopment site. Such bonds shall be secured and repaid with the increased tax revenue attributable to the redevelopment project.

See Conn. Gen. Stat. §§ 8-192, 8-192a and 8-192b for regulations regarding municipal bonds for redevelopment projects.

b) In accordance with Conn. Gen. Stat. § 12-65b, the [town/city] may negotiate real estate tax assessment agreements based on the following general formula:

- i. For a period of not more than seven years, provided the cost of such improvements to be constructed is not less than three million dollars, the assessment may be fixed at any value.
- ii. For a period of not more than two years, provided the cost of such improvements to be constructed is not less than five hundred thousand dollars, the assessment may be fixed at any value.
- iii. For a period of not more than three years, at no more than fifty per cent of the increased assessment resulting from the improvements, provided the cost of such improvements is not less than twenty-five thousand dollars.

Pursuant to Conn. Gen. Stat. § 12-65b(b) this incentive is only available “if the improvements are for at least one of the following: (1) Office use; (2) retail use; (3) permanent residential use; (4) transient residential use; (5) manufacturing use; (6) warehouse, storage or distribution use; (7) structured multilevel parking use necessary in connection with a mass transit system; (8) information technology; (9) recreation facilities; or (10) transportation facilities.”

c) Rebate of Tipping Fees

The [Town/City] may rebate tipping fees at [the applicable landfill] for demolition or other building waste associated with substantial rehabilitation or renovations to buildings in the IDD subject to the following:

i) Eligible rehabilitation or renovation work includes:

- 1) Changes to the building exterior provided those changes meet [any applicable design requirements];
- 2) Renovations necessary to convert vacant space or underutilized space to usable, tenant-ready space;
- 3) Improvements or renovations necessary to accommodate a change in building use type in accordance with the building and fire code requirements;
- 4) Improvements or repairs to the heating, ventilating, air conditioning, electrical, plumbing, or other mechanical systems necessary to create usable tenant space;
- 5) The correction or elimination of structural defects that preclude the legal occupancy of a building.

ii) The property owner or agent must obtain all necessary building, fire, and zoning permits from the [Town/City] before any work begins.

iii) The work must be completed and the building must have obtained a certificate of occupancy within 12 months of the issuance of the building permit, unless a longer time period is mutually agreed to between the owner/agent and the General Manager after consultation with the Chief Building Official.

iv) The owner/agent or their contractor shall pay 100% of the tipping fees associated with the approved project. The fees shall be held in a separate account until the certificate of occupancy for the property is issued.

v) The Town will rebate the tipping fees in the amount of 10% of the cost of the rehabilitation or renovation work, as determined by the General Manager, up to an amount not to exceed \$10,000. The rebate will be paid to the owner/agent and not the contractor who delivered the waste to the landfill. All contractors delivering waste must have a valid Commercial Permit issued by the Town Sanitation Division.

vi) If the owner/agent applies for both the tipping fee rebate and the real property tax assessment agreement, the tipping fees shall not be included in the cost of the real property improvements that will be used to calculate the terms of the tax assessment agreement.

## **7. Waiver of Fees**

All zoning and building permit fees shall be waived for new construction proposed in this overlay district.

## **C. ARTS AND ENTERTAINMENT OVERLAY DISTRICT**

### **1. Purpose**

The purpose of the Arts and Entertainment Overlay District (AEOD) is to enhance vitality in downtown by fostering a mix of uses through increasing downtown housing opportunities and fostering arts-related development and activities. This district will create a core of arts, cultural, and residential activities; encourage greater pedestrian activity as part of entertainment and residential uses, mixed with traditional retail and business activities; encourage economic revitalization; and nurture artistic contributions to the city and region.

This regulation is based on Pittsfield, MA's "Downtown Arts Overlay District" (see § 4.320, Pittsfield Zoning Ordinance, available at <http://tinyurl.com/y8ludkf>) and Lowell, MA's "Artist Overlay District" (see § 9.2 of Lowell's Zoning Ordinance, available at <http://tinyurl.com/zyy4q7j>).

### **2. District Delineation and Application**

The AEOD shall be considered as overlying other districts as shown on the Zoning Map of the [Town/City of X]. The boundaries are as shown on the AEOD Zoning Map hereby adopted and attached to the Official Zoning Map of the [Town/City of X]. All regulations of the underlying zoning districts shall apply except as modified by the regulations of the AEOD.

### **3. Permitted Uses**

- a) Artist and/or creative services live/work units.
- b) Arts and arts-related uses including, but not limited to, stage and screen theaters (excluding adult entertainment); shops selling locally created arts and crafts; art centers (community educational arts-related activities); art galleries; art schools and studios (including dance, photography, filmmaking, music, writing, painting, sculpturing, or printmaking); artist housing; artist supply stores; arts services, including set design and restoration of artworks; concert halls or other performing arts spaces; cabarets; musician rehearsal space; dinner theaters; restaurants and bars, nightclubs, or cocktail lounges; museums; performing arts ticket offices or booking agencies; picture framing shops; record or musical instruments stores; television and radio broadcast studios; and specialty artistic manufacturing establishments.
- c) Creative services.
- d) Residential development, both as stand-alone developments or in conjunction with other permitted uses.
- e) Accessory apartments.
- f) Artist and/or creative services live/work units.

**g)** All other uses permitted in the underlying zone may be allowed shall be considered specially permitted uses.

#### **4. Development and Redevelopment Standards**

**a)** All standards and regulations in the underlying zoning district are valid in the AEOD, except as modified in this article.

**b)** Residential use is prohibited in any first floor unit which fronts on [major streets of District, to be determined by City/Town].

**c)** The minimum required building height, lot area, lot coverage percent and yard requirements for multi-family development as cited in Section 7.715 of this Ordinance do not apply.

**d)** Town house development in those areas of the D-A Overlay District with B-G or R-M as the underlying zoning has no minimum lot size.

**e)** Off-Street parking, as required by Section 10.1 of this Ordinance or as otherwise provided for in this Section, may be provided through one (1) or a combination of the following means:

- i) On-site, but not located between the street and the front of the building;
- ii) Off-site, by contract in public or private off-street parking facilities, located within an eight hundred (800) foot walking distance as measured from the nearest property line of the proposed development to the closest property line of the parking facility.

**f)** Retail, Consumer Service Establishments, or Eating Establishments (excluding drive-in, drive-up or drive-through) of five thousand (5,000) square feet or less in size, to be located in existing buildings in the AEOD, are not required to provide parking, with the following limitations:

- i) Nothing in this subsection is to be interpreted to allow elimination of existing parking for buildings containing such uses.
- ii) Existing buildings of greater than 10,000 square feet of floor space undergoing redevelopment, regardless of the planned uses, are required to provide parking, as required by Section 10.1 of this Ordinance, unless granted a special permit by the Community Development Board under the terms of Section 10.110, F. of this Ordinance.

#### **5. Signage**

All signage regulations shall be controlled by the underlying zone.

#### **6. Application Requirements**

Projects involving the development or redevelopment of buildings, or portion thereof, of an area greater than five thousand (5,000) square feet, require a special permit and site plan approval from the [Planning/Zoning Board].



## **D. DOWNTOWN MIXED USE DISTRICT**

### **1. Purpose**

The purpose of the Downtown Mixed Use District (DMUD) is to make the downtown area a commercial and recreational center, to encourage day and night time activities that relate to the pedestrian and promote the arts, entertainment and housing; and to ensure that the goals of the comprehensive plan are achieved. The design of the exterior of all buildings, open spaces and all exterior physical improvements in the DMUD shall be regulated and approved in accordance with the provisions of this section.

This regulation is modeled on Providence, RI's Downcity Zone (see Providence Code of Ordinances, Chapter 27, Article V, §502, available at <http://tinyurl.com/yeus82p>). While the regulation was modeled after one from a large city, it can be applied to small cities and medium-sized towns as well. The object is to ensure density and architectural quality in the downtown area, but the downtown area may be relatively small.

Such a district can be used in situations where the area merits some historical and architectural protection, but the municipality does not want to subject the area to as strict a set of controls as it does for a Historic District. The Purpose section of the Harrisburg, PA Architectural Conservation Overlay District is instructive in this regard:

“(a) The purpose of these special regulations is to create an overlay zoning classification for instances in which:

- (1) there exists a sense of place and identity in a neighborhood that is fostered by the physical character of its streetscape;
- (2) the criteria to be designated a Municipal Historic District cannot be met, but the character of the neighborhood warrants preservation; or
- (3) the enforcement of Historic District regulations would discourage proper maintenance or property ownership.”

(See § 7-317 of the Harrisburg, PA Zoning Code, available at <http://tinyurl.com/yfoshj4>).

### **2. General regulations**

**A) A STREETS AND B STREETS.** MAJOR STREETS IN THE DISTRICT SHALL BE DESIGNATED A STREETS, AND SHALL INCLUDE [LIST OF A STREETS]. SIDE STREETS IN THE DISTRICT SHALL BE DESIGNATED B STREETS, AND SHALL INCLUDE [LIST OF B STREETS].

SMALLER CITIES MAY ADAPT THIS REGULATION TO THEIR NEEDS BY ONLY DESIGNATING THE MAIN STREET OR EQUIVALENT AN A STREET, AND OTHER STREETS B streets.

**B) USES.** The following table is a generalized listing of use categories that are permitted in the district. The intent of this section is to regulate some general uses more strictly in the DMUD than may otherwise be provided by other zones. The [Board] may grant waivers only for uses as indicated in table 1; other uses are governed by [Special Permits Section], with special use permits and variances to be granted by the [Board]. To determine if a specific use is permitted in the district, first determine if the general use category is permitted in Table 1 below and then check [underlying zone] to determine if the specific use is permitted. Permitted uses are denoted with a "Y"; uses not permitted are designated with an "N"; and uses permitted only upon approval of the [Board] are denoted with a "W" for waiver.

TABLE 1

Use Code	A Streets		B Streets	
	First Floor	Upper Floors	First Floor	Upper Floors
1.0 Residential	N <sup>1</sup>	Y	N <sup>1</sup>	Y
2.0 Institutions	Y	Y	Y	Y
3.0 Cultural	Y	Y	Y	Y
4.0 General Services	Y	Y	Y	Y
5.0 Trade	Y	Y	Y	Y
64 Parking Garage	Y <sup>2</sup>	Y <sup>3</sup>	Y	Y
64.1 Parking Lot	N <sup>2</sup>	N.A.	Y	N.A.

<sup>1</sup> Lobbies and associated residential common spaces are permitted on the first floor.

<sup>2</sup> Parking on the first floor shall be separated from the street line by a permitted use having a minimum depth of fifteen (15) feet.

<sup>3</sup> Parking on the upper floors at the street line shall be permitted when the building design is compatible with the existing streetscape

**C) BUILDING FRONTAGE.** The purpose of these regulations is to preserve and enhance the commercial character of downtown. These regulations apply to both existing and new construction. Buildings are required to have building facades designed with multiple entrances on the first floor and transparency as outlined in Section 4 regardless of the uses that occupy the first floor. It is not the purpose of these regulations to alter the historic character of buildings.

**D) SIGNS.** The signage regulations of the underlying zone apply.

**E) LANDSCAPING—LOT FRONTAGE.** Landscaping shall be provided between parking lots and any adjacent public street, walk or right of way, and shall be maintained in accordance with [parking section]. A landscaped area of at least three (3) feet in width shall be provided. The landscaped area shall contain:

- i) One (1) shade tree for every thirty (30) feet or fraction thereof in planting areas of the size approved by the city forester. The tree shall be a minimum of 15 feet in height and have at least a three and one-half-inch caliper.
- ii) A streetwall of a maximum total height of eight feet, or hedge maintained at least 30 inches in height above grade, to form a visual screen.

(1) When a streetwall is used, it shall be of masonry or similar material up to three feet in height, set in the middle of the landscape strip, and shall have openings along said streetwall which shall be not less than 30 inches wide and not more than 30 feet apart. The streetwall shall be topped with a decorative metal fence of at least three feet in height. In order to break the visual monotony of a streetwall, at least one shrub or vine shall be planted abutting the wall approximately every ten feet. The [Board] may grant a waiver to the shrub and vine requirement if the streetwall has significant design variation.

(2) Evergreen shrubs, a minimum of twenty-four (24) inches in height above grade at the time of planting, shall be used to form hedges and shall be spaced not more than thirty-six (36) inches apart and maintained so as to form a continuous screen thirty (30) inches in height above grade, under normal growing conditions, within one (1) year after planting.

- iii) The remainder of the landscape area shall be planted with ground cover, low shrubs or flowering plants.

**F) LANDSCAPING—CONTIGUOUS PROPERTIES.** Landscaping shall be provided between parking lots and contiguous properties and shall be maintained in accordance with [parking section]. A landscaped area between the common property line and the parking lot shall contain either:

- i) A masonry streetwall or opaque fence of at least 5 feet in height located in a three foot wide landscape area. Shade trees shall be planted every 35 feet or fraction thereof in planting areas. The tree shall be a minimum of 15 feet in height and have at least a three and one-half-inch caliper. In order to break the visual

monotony of a streetwall, at least one shrub or vine shall be planted abutting the wall approximately every ten feet.

ii) A durable evergreen landscape screen not less than four feet in height above grade when planted, in a landscape area not less than five feet wide. The evergreens shall grow at least to five feet within one year.

**G) PARKING.** Parking in the district shall conform to the [otherwise applicable parking regulations]. However, parking is not required for newly constructed buildings on an individual lot with a gross floor area of less than five thousand (5,000) square feet.

i) Access to parking lots and structures from A streets shall only be permitted when the lot has no frontage on a B street. A waiver to this requirement shall be granted when the B street is determined to be substandard for maintaining adequate traffic flow by the city traffic engineer.

ii) The maximum width of the driveway access shall be 24 feet.

**H) LOADING.** Off street loading docks and areas shall be provided in accordance with section 708 and the following provisions:

i) Access to loading docks and areas from A streets shall only be permitted when the lot has no frontage on a B street. A waiver to this requirement shall be granted when the B street is determined to be sub-standard for loading access by the city traffic engineer.

ii) Exterior loading docks are prohibited.

iii) Interior loading shall be screened from view by solid, non-transparent doors which shall remain closed when the loading dock is not in use. The doors used to screen the docks shall be designed to be consistent with similar building elements such as windows and doors to reduce the industrial appearance of the loading area and shall be constructed of materials found elsewhere on the building.

iv) The maximum width of the driveway access to the loading dock/area shall be 24 feet.

### **3. Design regulations for existing buildings.**

All exterior work on existing buildings in the district is subject to approval by the [Board] and shall be regulated by these standards and the guidelines of the [Board]. The purpose of these regulations is to establish design standards to preserve the urban fabric of the district and in particular the historic character of the District.

**A) A STREETS.** These standards are intended to preserve and restore the architectural integrity and historic character of buildings in the district. The existing scale and proportions of buildings and streetscapes shall be preserved. The [Board] shall review:

- i) The preservation, repair or replacement of building features using the secretary of interior standards for rehabilitation as guidelines.
- ii) Storefronts. Existing structures which have been designed for retail use on the first floor shall retain this design. Where such design no longer exists but would be compatible with the character of the building, applicants are encouraged to recreate the storefront design on the first floor.
- iii) The restoration or reconstruction of a building which has been altered through the years. The [Board] should consider pictorial, documentary or physical evidence of the original configuration when reviewing applications.
- iv) New additions, exterior alterations, or related new construction using the secretary of interior standards as guidelines.
- v) The transparency of building facades. Transparency shall be seventy (70) percent of the building facade. Renovations of the first floor of existing buildings shall not decrease the area of transparency and if the transparency area is less than seventy (70) percent of the wall area, shall increase the amount of transparency in accordance with requirements for new construction. All buildings shall meet this requirement unless the original historic character of the building facade has less than seventy (70) percent transparency.
- vi) The design of all awnings to insure that the design is in character with the building.
- vii) The lighting of building facades to insure that the fixtures are small, shielded and directed toward the building. Electrical conduit and junction boxes shall be located so as to minimize, or if possible, eliminate their visibility from the public way.
- viii) The installation of security devices to insure that they are designed so as not to impact the historic quality of the building.

**B) B STREETS.** In the rehabilitation of buildings on B streets every effort shall be made to maintain the urban fabric and the historic character of buildings. There shall be no development standards and no [Board] review for existing buildings on B streets; refer to Section 5 for demolition provisions.

#### **4. New Construction**

All new construction in the district shall be approved by the [Board] and shall be regulated by these standards and the guidelines of the [Board]. The purpose of these standards is to establish design regulations to preserve the urban fabric of downtown and to insure that new construction complements the historic character and the architectural integrity of existing structures.

**A) A STREETS—MINIMUM STANDARDS.** The following are minimum standards for all new construction:

- i) Building height.

(1) Buildings shall be at least three stories in height. The [board] may grant a waiver to allow a building of two stories (24 feet). Building height and massing shall relate to adjacent structures and the existing vertical proportions of downtown buildings. First floors shall be a minimum 12 feet floor to ceiling to enhance the pedestrian streetscape, regardless of the overall building height.

(2) Buildings over six stories shall have a recess line of at least ten feet. The [Board] may grant a waiver to allow a building in excess of six stories (within the height limit) without a recess line if it is determined that the building can exist compatibly with neighboring buildings. In such cases, a transition line may be required.

**ii) *Building facades.***

(1). Building facades shall be built on the street line.

(a) Where the lot frontage is curved, the facade shall follow. The [Board] may grant a waiver to permit the building to be built on the chord or the tangent.

(b) Buildings shall have their main entrance from a sidewalk on the A street.

(c) A waiver may be granted by the [Board] to allow twenty (20) percent of the lot frontage to be set back from the street line or left open to form a court yard.

(d) Where nonconforming setbacks exist on adjacent buildings, a waiver to building setback may be granted by the [Board].

(2) A building facade shall have a transition line. Transition lines shall be designed in proportion to the overall height and mass of the proposed building, creating a distinction between upper and lower (i.e. first, or first and second) stories. Transition lines shall relate to existing adjoining buildings.

(3) A building shall have a roof line. Roof lines shall be designed in proportion to the overall height and mass of the proposed building, creating a distinction between the top of the building and the lower floors. Roof lines shall relate to existing adjoining buildings.

iii) Transparency. All building facades shall provide areas of transparency equal to 70 percent of the wall area, between the height of two and eight feet from the ground, of each exterior wall. Blank walls shall be separated by areas of transparency of at least three feet in width.

iv) Windows shall only be of clear or lightly tinted glass. The percentage of glazed area and all other openings of a facade shall be calculated from above the transition line, but as a maximum shall be 50 percent of the facade area. Window proportions shall be square or vertical and shall be recessed at least four inches from the plane of the facade.

- v) The primary building materials on the facade shall be brick, lime stone, standstone, granite, terra cotta, cast stone or other similar material. The [Board] shall review the proposed material for compatibility with the existing streetscape.
- vi) Building facades shall be designed to have multiple entrances approximately every 35 feet along the street frontage. Fewer entrances may be approved by waiver.
- vii) If a building is located on the corner of an A street and a B street, A street regulations shall apply for a depth of 15 feet along the B street building facade.

**B) B STREETS–MINIMUM STANDARDS.** The [Board] shall only consider massing, siting and proportions of new construction and its impact on an adjacent historic structure when performing a review. The following standards shall apply:

- i) Where new construction abuts one or more shorter historic buildings, recess lines shall be provided to a depth of at least ten feet, so that the new, taller building can exist without dwarfing adjacent historic buildings. If new construction does not abut historic buildings, no recess lines are required.
- ii) All buildings shall align with adjacent buildings. In the event an adjacent building is setback from the street line, the [Board] may allow the new building to setback so as to align with the adjacent building(s).
- iii) All new construction shall provide areas of transparency equal to 70 percent of the wall area, between the height of two and eight feet from the ground, of each exterior wall. Blank walls shall be separated by areas of transparency of at least three feet in width. Loading areas are permitted.
- iv) Buildings on B streets shall have their main entrance from a sidewalk on the street.

If a town does not have a very dense center, and would like to increase density, these regulations for new construction may be a way to do so. The US EPA has listed increased density in urban centers as one of the keys to smart growth in its September 2009 draft of *Essential Smart Growth Fixes for Urban and Suburban Zoning Codes*, available at [http://www.epa.gov/smartgrowth/pdf/2009\\_essential\\_fixes.pdf](http://www.epa.gov/smartgrowth/pdf/2009_essential_fixes.pdf).

## 5. Demolition

In order to preserve the urban fabric of the District, no building shall be demolished, in whole or in part, until the [Board] has granted final approval to demolish the building and has approved plans for new construction. The following procedures apply to all proposals for demolition:

### A) APPLICATION AND DETERMINATION OF

**APPLICABILITY.** A proposal to demolish a building shall be set forth in an application to the [Board] that includes information about eligibility for demolition and a schematic plan, including elevations, of proposed new construction for the site.

**B) ELIGIBILITY FOR DEMOLITION.** A building shall be eligible for demolition if it meets the following criteria:

- i) The proposed reuse of the site is a permitted use for the D zone and is in conformance with Section 2.
- ii) The building is not suitable for use because:
  - (1) The entire building has been continuously vacant for five (5) years prior to the application being filed; or
  - (2) The building is structurally unsound as determined by a structural engineer and such condition would be prohibitively expensive to remedy.

**C) REVIEW PROCESS AND TIMELINES.** The [Board] shall review the evidence and documentation of eligibility and shall hold a public hearing in accordance with article IX within forty-five (45) days of filing of a complete application. By the next regularly scheduled meeting of the [Board] following the public hearing, the [Board] shall render a decision and notify the applicant. If the [Board] finds that the building is eligible for demolition, the [Board] shall give preliminary approval for the demolition of the structure. Preliminary approval for demolition shall expire after one (1) year unless extended by the director of the department of planning and development.

**D) SUBMISSION OF PLANS FOR NEW**

**CONSTRUCTION.** Subsequent to the [Board] granting preliminary approval for demolition, the applicant shall present plans for new construction to the [Board]. The [Board] shall review the plans pursuant to the guidelines and procedures of this section. Concurrent with the issuance of a certificate of design approval, the [Board] shall issue final approval for demolition.

**E) FILING OF PERMITS.** Subsequent to receiving a certificate of design approval and a final approval for demolition, the applicant shall apply to the director for building and demolition permits. Such applications shall be made concurrently. The director shall not issue a demolition permit until the application for the building permit is certified as complete.

**F) TRANSITIONAL USES.** The intent of this section is that new construction shall immediately follow demolition. Therefore, unless the applicant can demonstrate that through no fault of its own, construction cannot immediately follow demolition, no transitional uses shall be permitted. Should the director find that there has been a delay in starting new construction, due to no fault of the applicant, the director shall permit a transitional use for up to two years, or until a building permit is issued, whichever comes first. Notwithstanding the other provisions of this section, a transitional use may include a surface parking lot, but the parking lot must be landscaped in conformance with Sections 2.4 and 2.5 If the director finds that the applicant is not acting in good faith in pursuing a building permit, permission for the transitional use shall be revoked.



**G) EMERGENCY DEMOLITION.** If a building presents a threat to safety, including a building that is destroyed due to an act of God, the director may order its demolition without [Board] approval. However, the director shall record a lien on the land evidence records against the property limiting its use to that which is permitted by Section 2 of this chapter and has been approved by the [Board]. A transitional use is permitted on the site pursuant to Section 5.6.

This regulation is adapted from Providence, RI. In Providence, the regulation includes procedures for creating and governing a design review board to make decisions regarding the district. If the city or town already has a design review board, they can fulfill the functions in this regulation. Or, the municipality's zoning board may fulfill these functions.

## **E. SPECIAL SERVICES DISTRICT**

### **1. Establishment.**

There is hereby authorized a Special Services District (aka Business Improvement District) as a body politic and corporate, in accordance with the powers vested in the [city/town] under Chapter 105a of the Connecticut General Statutes.

Chapter 105a includes Conn. Gen. Stat. § 7-339m to § 7-339t.

Special Services Districts (SSDs) are typically adopted as municipal ordinances rather than as components in the zoning code. An example is provided because it can be an important tool in the urban revitalization toolkit. This example has been derived from Hartford (see Chapter 28, Articles XI and XIII of the Municipal Code, available at <http://tinyurl.com/y8qt4tb>), New Britain (see Chapter 20.5, Article II, of the Code of Ordinances, available at <http://tinyurl.com/yd42bwd>), and Manchester, Connecticut (see Chapter 285, Article II of the Code of Ordinances, available at <http://www.ecode360.com/?custId=MA2034>).

A municipality may authorize more than one Special Services District. For example, Hartford has two, one in the downtown area and one in the Park Street area. Each is defined in its own municipal ordinance.

### **2. Purpose.**

- a) The [town/city] Special Services District is hereby created under Chapter 105a of the Connecticut General Statutes.
- b) The purpose of the district is to provide:
  - i) Public safety (excluding police and fire department services),
  - ii) Cleaning and beautification of streetscapes, and
  - iii) Marketing services in and for the district.
- c) Activities of the district to pursue this purpose may include but not be limited to the preparation of economic or physical studies and plans, marketing and promotion, special events, business recruiting, hospitality, urban beautification, property maintenance, and deployment of public safety/hospitality ambassadors; provided, however, that the district shall not engage in any activity which would be inconsistent with its classification as an organization described in Section 501(c)3 of the Internal Revenue Code of 1986 ("Code"), as amended from time to time, or in an equivalent section of the Code in effect at any time. The district will work with existing entities in the city in the implementation of these services to accomplish a common goal.

Conn. Gen. Stat. § 7-339m provides: "Purpose of special services districts. Any municipality may establish by ordinance of its legislative body as provided in this chapter, within its confines, a special services district or special services districts to promote the economic and general

welfare of its citizens and property owners through the preservation, enhancement, protection and development of the economic health of such municipality.”

### **3. Powers and duties.**

The district shall have the following powers:

- a) To sue and be sued;
- b) to acquire, hold and convey any estate, real or personal;
- c) to contract;
- d) to borrow money, provided any obligation incurred for this purpose shall be discharged in accordance with the provisions of the ordinance establishing such district not more than seven years after it was incurred, and such district may pledge any revenues to be received pursuant to section 8 of this article against any such obligation;
- e) to recommend to the legislative body of the municipality in which such district is located the imposition of a levy upon the taxable interests in real property within such district, the revenues from which may be used in carrying out any of the powers of such district; and
- f) to construct, own, operate and maintain public or common improvements.

This list of powers is derived from Conn. Gen. Stat. § 7-339n. Pursuant to subsection (7) of that section, an SSD may not be used to “provide elementary or secondary public education services” nor may it “provide services which are then being provided within any portion of the area included in such district by any multitown body or authority.” Subsection (7) also provides, however, that the municipality may vest in the SSD the power to provide “some or all of the other services which such municipality is authorized to provide therein...”

For example, Hartford’s Park Street SSD is authorized to “receive and use gifts and donations, including but not limited to, goods and services, for the activities necessary to meet the purpose of the district or to carry out the powers of the district.” New Britain’s SSD may “buy, lease, and operate buses, mini-buses or other transportation for shuttle service in the downtown area.” Manchester CT’s SSD is authorized to “construct, acquire, or obtain leasehold interests in motor vehicle parking facilities inside or outside the district” to “operate motor vehicle parking facilities inside or outside the district” and “to lease or sublease to other parties motor vehicle parking facilities.” Specific powers regarding parking are granted by Conn. Gen. Stat. § 7-339o

The SSD may of course spend money, but Conn. Gen. Stat. § 7-339q requires that “[a]ll orders or contracts for expenditures by any such board on behalf of any such special services district which are greater than five thousand dollars shall be awarded to the lowest responsible qualified bidder only after a public invitation to bid, which shall be advertised in a newspaper having circulation in such special services district.”

#### **4. Boundary of the district.**

- a) The geographic boundaries of the district shall be those as shown on [map showing district] which boundary includes the properties listed in [an exhibit listing properties].
- b) All real property within these boundaries shall be included in the district. For the purpose of establishing the district, the owners of tax-exempt property within the district will not be eligible to vote nor will they be subject to any tax levies unless the tax-exempt status changes. If the tax-exempt status changes, the property shall be subject to the district tax levy in accordance with § 285-22 of this article, and such levies shall be prorated to cover the period from the change in the tax status to the end of the fiscal year during which the tax status changes.

#### **5. Procedures for additions to the district.**

- a) A parcel of real property shall be included in the district among the properties already within the district if:
  - i) All holders of record of the taxable interest in real property in said parcel shall submit a written request to the board of commissioners that said parcel be included in the district; and
  - ii) The board of commissioners shall approve inclusion of said parcel in the district by a super majority vote in accordance with subsection 8 of this article; and
  - iii) The city council shall amend this article to include said parcel in the district. Such proposed amendments shall be submitted to the city council during the months of March and September of any given year.
- b) The board of commissioners shall notify the [tax assessor of town/city] and the [town/city] of additions to the district and record a copy of the written notification in the land records of the [town/city]. The tax levy imposed on a property that joins the district after its inception will be pro-rated to cover the period from the first meeting of the board of commissioners after the notification is received to the end of that fiscal year.

#### **6. Procedures for the referendum; establishing the district.**

- a) This article shall not take effect unless, within sixty days of the enactment of this article by the council, a referendum thereon shall be held and approved.
- b) The referendum shall be held among all holders of record of taxable interests in real property in the district on the question of whether this article shall take effect. The [town/city] clerk shall determine the identity of such holders in the city's land records and shall give notice of the referendum to such holders.
- c) The referendum question shall appear on a ballot created by the [town/city] clerk. Each ballot shall be accompanied by a copy of the ordinance from which this article is derived and a letter explaining how the ballot is to be cast. Only property owners inside

the district are eligible to vote in the referendum. Each ballot shall be signed by the property owner or the duly authorized representative of said owner.

**d)** In addition to the referendum question the ballot shall contain an identification of the property or properties owned by the property owner which are in the special services district and the assessed value of the real property of those premises as they appear in the [town/city]'s grand list as of the October first preceding preparation of the ballot. The [town/city] administration shall prepare, prior to the mailing of said ballots, a list of the property owners within the district, and the assessed value of the properties and shall post the list in the [town/city] clerk's office.

**e)** The ballot shall be mailed to the address used by the [tax assessor of town/city] for tax collection purposes. The ballots must be returned to the [town/city] clerk by not later than 5:00 p.m. on the twenty-first day after the initial mailing.

**f)** Each property owner shall be entitled to cast one (1) ballot for each property they own, which will be so counted in determining whether the necessary majority of property owners have voted in favor of the creation of the proposed district. Where there are multiple owners of a property the property shall be entitled to one (1) vote.

**g)** The [town/city] clerk shall supervise the referendum and shall certify the results of the referendum. The referendum shall comply, to the extent applicable and practicable, with Chapter 145 (Absentee Voting) and Chapter 152 (Referenda) of the Connecticut General Statutes, except as Chapter 105a of the Connecticut General Statutes and the terms of this article may otherwise permit or direct.

**h)** The referendum shall be approved if a majority of all such holders of record of taxable interests in real property in the district, voting one (1) vote per property, respond affirmatively and if such holders of record of taxable interests in real property in the district, the assessments of which constitute more than one-half ( 1/2) of the total of assessments for all taxable interests in real property within the district, respond affirmatively.

The referendum procedures are prescribed in Conn. Gen. Stat. § 7-339p.

## **7. District organization and operations.**

**a)** Commencement of District operations. Within 20 days of the referendum creating the District, the General Manager shall call a general meeting of the members to elect the Board of Commissioners in accordance with Subsection B(3) of this section. The Board of Commissioners shall meet within 20 business days of the general meeting to establish a schedule of subsequent meetings and a schedule for adopting bylaws and rules of procedure for the Commission.

**b)** Board of Commissioners.

**i)** There shall be established a Board of Commissioners consisting of seven members. A Commissioner must be a property owner in the Downtown Special Services District, except that two members shall be business lessees. There shall be one alternate Commissioner elected to substitute for Commissioners absent from any business meeting. There shall be three ex officio members on the Board

of Commissioners as follows: the Town's Director of Planning and Economic Development or designee, the president of the Greater Manchester Chamber of Commerce or designee, and one representative from a church located in the District.

ii) The Board of Commissioners shall be the executive body governing the day-to-day operations of the District. The Board shall make administrative decisions and establish or interpret policies of the District which are consistent with the purpose, intent and powers of the District.

iii) The Board of Commissioners shall be elected by a plurality vote of the members voting in the biennial election meeting provided for in Subsection C(3) of this section.

(1) Nominations. Not less than 60 days before the biennial election meeting, the Board of Commissioners shall submit to the members, in writing, a proposed slate of nominees. Additional nominations may be submitted to the Chairman of the Board of Commissioners not less than 45 days before the biennial election meeting, by a writing signed by not less than 20 members of the district. Such additional nominations must be signed by at least 20 separate individuals, regardless of the number of ballots to which such member may be entitled by virtue of owning or operating more than one business.

(2) Balloting. Not less than 30 days before the biennial election meeting, the Board of Commissioners shall cause ballots to be sent to each member, listing the names of all nominees. Each member shall be entitled to one ballot for each taxable interest in real property that the member owns, and one ballot for each business operated by the member as a business lessee. On each ballot the member may vote for not more than five property owners and two business lessees, but may cast only one vote for any one nominee on each ballot. The ballot may be cast at the biennial election meeting, or may be cast in advance by delivering it to the District Office not less than 24 hours before the meeting.

(3) Election. The five nominated property owners who receive the highest vote count shall be elected Commissioners, the two nominated business lessees who receive the highest vote count shall be elected Commissioners, and the remaining nominee with the highest vote count, whether property owner or business lessee, shall be elected alternate, provided that, in order to insure broad representation of the District, no more than one nominee shall be elected from a property address.(iv) The Board of Commissioners shall elect officers, the positions to be determined at the first meeting of the Board after the District is created and incorporated into the bylaws when written.

v) The Board of Commissioners may hire such staff or consultants considered necessary to perform the duties and carry out the obligations of the District as approved in the annual budget.

vi) The terms of the seven Commissioners and one alternate shall be for two years.

vii) If any Commissioner shall fail for any reason to serve through the end of the term, the remaining Commissioners shall appoint a property owner to fill the remainder of the term vacated by a property owner, or a business lessee to fill the remainder of the term vacated by a business lessee.

**c) Meetings of the Board of Commissioners and general meetings of property owners.**

i) The Board of Commissioners shall establish a regular schedule of meetings and notify all members in the District of their regular meeting schedule, including dates, times, and place for said meetings.

ii) The Board of Commissioners may call special meetings from time to time as necessary to conduct the business of the District. The Board of Commissioners shall notify members of the special meeting setting forth the date, time, place and subject matter of the meeting.

iii) There shall be at least one annual budget meeting of the District members to review the activities of the District and to review and make comments on the proposed budget for the District, and a biennial election meeting to conduct district elections when appropriate.

Conn. Gen. Stat. § 7-339q requires the following: “The ordinance establishing a special services district shall provide that the business of such district shall be conducted by a board of commissioners and by such agents as the ordinance may authorize them to designate, and such ordinance shall further provide the number, qualifications and manner of election of such commissioners.” Thus, the details of the SSD commission are left up to the municipality. The procedures provided are those used in Manchester, CT. Hartford’s procedures are more complex, see § 28-229 of the Hartford Municipal Code.

**8. Annual budget and tax levy for the special services district; financial reports; audit.**

**a)** The Board of Commissioners shall prepare and adopt the first annual budget from the district by January 31, 1993, and annually thereafter. The budget shall include proposed expenditures, revenues and a recommended tax levy for the district.

**b)** The Board of Commissioners shall recommend to the General Manager of the [town/city] on or before February 15 of each year a levy upon taxable interest on real property within the district to support the district's annual budget. The [town/city] shall be obliged to impose the recommended levy as a municipal levy, to collect the revenues, and to deposit the revenues into a special fund to be used by the district.

**c)** The levy on the taxable interest in real property in the district shall be due and payable in two pans, on July 1 and January 1, following the adoption of the levy for the fiscal year. On or before July 1 and January 1 each year, the Tax Collector of the [town/city] shall, accordingly, bill holders of taxable interest in real property in the district.

- d) Delinquent charges shall be assessed on late district payments and shall be computed in the same manner used for establishing delinquent charges on regular property tax bills of the [town/city].
- e) The Tax Collector of the [town/city] shall collect the district tax and deposit the monies received in a special account within the general fund of the [town/city].
- f) The [town/city] Treasurer shall disburse funds from the account to the district upon written request of a duly authorized representative of the district, and only upon such request in accordance with the then-current approved annual budget of the Board of Commissioners of the district. The district shall set forth in its bylaws the procedures for approving disbursement of funds and requesting disbursement from the Treasurer.
- g) All orders or contracts for expenditures by the Board of Commissioners or its agents on behalf of the district which are greater than \$5,000 shall be awarded to the lowest responsible qualified bidder only after a public invitation to bid, which shall be advertised in a newspaper having circulation in the district.

Conn. Gen. Stat. § 7-339q requires that “[a]ll orders or contracts for expenditures by any such board on behalf of any such special services district which are greater than five thousand dollars shall be awarded to the lowest responsible qualified bidder only after a public invitation to bid, which shall be advertised in a newspaper having circulation in such special services district.”

## **9. Municipal service agreements.**

If authorized by a super majority vote in accordance with subsection 6 of this article, the district may enter into a contract with the city in which the city is excused from providing to the district some or all of the services which the district is authorized to provide pursuant to this article and in which the district agrees to provide all such services from which the city has been excused. Any such contract is pursuant to Conn. Gen. Stat. § 7-339t(d). If authorized by a super majority vote in accordance with subsection 6 of this article, the city and the district may also enter into contracts in which the district is given the right to elect to purchase from the city some or all of the services for which the district has become responsible. Any such contract is pursuant to Conn. Gen. Stat. § 7-339t.

## **10. Dissolution of the district.**

- a) The district may be dissolved by an ordinance repealing this article or after a referendum is conducted by the board of commissioners among all property owners within the district on the question of whether the district shall be dissolved, provided a majority of property owners shall respond affirmatively or those responding affirmatively constitute more than one-half (1/2) of the assessed value of property for all the taxable interests in property within the district. In addition, the board of commissioners shall conduct a referendum among all property owners on the question of whether the district should be dissolved upon the written request of the property owners holding at least fifty (50) percent of the assessed value of property for all the taxable interests in property



within the district. Any such referendum shall be conducted in the same manner as the referendum establishing the district as provided herein.

b) In the event the district is dissolved, the board of commissioners shall proceed to conclude the affairs of the district at the end of the then-current fiscal year. If, after dissolution of the district there are outstanding liabilities or obligations, whether fixed or contingent, the council may impose, in addition to the regular municipal levy, a levy on the property within such district pursuant to Conn. Gen. Stat. § 7-339s for as many years as such liabilities remain outstanding. This levy shall be calculated to produce enough revenues to satisfy and release such liabilities. The revenue collected shall be deposited into the general fund of the city and disbursed at the direction of the city administrator solely for the purpose of satisfying such outstanding liabilities or obligations. If, after dissolution of the district, there are assets that remain following the conclusion of the affairs of the district, the assets will be transferred to the city or, if the city shall have ceased to be a municipality, then to any successor municipality, and if none, then to the State of Connecticut, for public purpose or, if the city shall have ceased to be a municipality, then to any successor municipality, and if none, then to the State of Connecticut, for public purpose.

The dissolution procedures are prescribed in Conn. Gen. Stat. § 7-339s.

#### **11. Abatement of city property taxes.**

The district 's interest in property held in the district, and personal property owned by the district, are subject to property taxes of the city but such tax may be abated prospectively by the city council.

#### **12. Insurance and indemnity.**

The district shall obtain and maintain, at its own cost and expense, issued by an insurance company licensed to conduct business in the State of Connecticut and having a Best's Key Rating of A-VII or better, at least the following insurance coverage: Commercial general liability, including contractual liability insurance, two million dollars (\$2,000,000.00) combined single limit bodily injury and property damage. The City of Hartford, the board of commissioners and the agents of the board of commissioners shall be included as additional insureds.

The district shall provide to the finance director of the city, prior to the commencement of its operations, and thereafter upon renewal of any required insurance hereunder, certificate(s) of insurance evidencing coverage as required by this article. The insurance shall not be cancelled, or materially altered or modified without the express written consent of the city, acting by its finance director. The coverage will not be canceled, nonrenewed, or materially altered or changed by endorsement or through issuance of other policy(ies) without sixty (60) days advance written notice to the city finance director.

The district (but not the property owners within the district, individually or collectively) agrees to indemnify and hold the city and its officers, officials, employees, and agents, harmless from any liabilities, obligations, claims, actions, judgments, damages, debts, amounts paid in settlement, and expenses, including attorney's fees, which are a result of the district 's negligent operations and activities.

The commissioners, as well as the board of commissioners' officers, agents and employees shall be entitled to indemnification against judgments, fines, penalties, amounts paid in settlement and expenses including attorney's fees, to the fullest extent permitted by law. The board of commissioners may purchase insurance providing indemnification in such amounts and with such coverage as the board of commissioners may from time to time determine. The right of all indemnification provided for shall be in addition to and not exclusive of all other rights to which any commissioner, officer, agent or employee may be entitled, and such right of indemnification shall inure to the benefit of the heirs and personal representatives of such indemnified person.

SSDs are not required by statute to have insurance and this section may be regarded as optional. It is present in Hartford's ordinances but not in Manchester's.

## OPEN SPACE RESIDENTIAL DEVELOPMENT

*The term “Open Space Residential Development” (OSRD), describes a cluster-type development that enables land to be developed while simultaneously preserving community character, reducing environmental impacts, protecting the rights of property owners, and enabling a developer to benefit from a high-quality project. OSRD accomplishes these goals through a creative design process that identifies primary and secondary conservation areas. Wetlands, floodplains, and steep slopes, in addition to a large portion of the flat, dry, and otherwise buildable land are set aside within those conservation areas from clearing, grading, and construction. Instead, lot sizes are reduced and the allowed development is arranged to “fit” onto the unconstrained land.*

*OSRD differs from traditional “clustering” in three important ways. First, it sets much higher standards for the quantity, quality and configuration of the resulting open space and developable area. Second, communities can exercise greater influence on the design of new conservation subdivisions and benefit from much more than just dense pockets of housing. Rather than leaving the outcome purely to chance, this flexible design approach can be strongly encouraged or even required, particularly where a community has a comprehensive Plan of Conservation and Development. Thirdly, the protected land is also configured so that it will, wherever practicable, contribute to creating an interconnected network of open space throughout the community, linking resource areas in adjoining subdivisions and/or providing buffers between new development and preexisting parklands or forest.*

*The following bylaw is adapted from the OSRD bylaws of the Town of Madison, CT and Town of Adams, MA. This bylaw aims to remove impediments to cluster style residential development (such as requiring a large parcel of land); to provide incentives to cluster through flexible standards for lot size, frontage and setback requirements; to require the provision of open space that enhances the overall development; and to integrate the subdivision and special permit review process to reduce permitting timeframes. However, communities should carefully consider the additional commentary in this bylaw when developing community specific OSRD provisions. Most importantly, to ensure that an OSRD bylaw is successful, communities need include all stakeholders in its development. Such inclusion will ultimately produce a bylaw that maintains profitability for the developer while simultaneously accomplishing the goals of the Plan of Conservation and Development.*

### **Intent**

*Open Space Residential Development (OSRD) in accordance with this bylaw shall be required for all Major Residential Developments in the [input town specific zoning districts here]. Open Space Residential Development shall mean a residential development in which a variety of housing types are clustered together, adjacent to permanently preserved open space. Open Space Residential Development shall be encouraged within the town, and shall be the preferred method of subdivision development wherever the following purposes would be served.*

### ***Purposes***

- To allow for greater flexibility and creativity in the design of residential developments, provided that the overall density of the development is no greater than what is normally allowed in the district;***
- To encourage the permanent preservation of open space, agricultural lands, forest lands and other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources;***
- To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;***
- To maintain the traditional New England rural character and land use pattern in which small villages contrast with open space and farmlands;***
- To facilitate the construction of streets, utilities and public services in a more economical and efficient manner;***
- To ensure that residential developments are designed to minimize impacts to the natural features of the land, including wetlands, watercourses, forests, prime agricultural land, steep slopes, plants, wildlife, historic sites, scenic views, and rural character;***
- To encourage development out of view from the road, and promote alternatives to strip residential development lining roadsides in the town;***
- To provide wildlife corridors connecting open spaces, needed by wildlife to ensure their survival.***

*This list of purposes is intended as a menu. Towns may wish to choose those that are most applicable to their community.*

## **APPLICABILITY**

***Any applicant applying for a Residential Development, creating four or more lots or a residential development creating four or more dwelling units shall apply for an OSRD under this bylaw.***

***Only those tracts located in the [input town specific districts] districts shall be eligible for consideration as an OSRD.***

***To be eligible for OSRD consideration, the tract shall consist of a parcel or a set of contiguous parcels.***

*The scale of an eligible residential development can be changed depending on the typical scale of subdivision design in a given community. Some towns prefer to identify a number of lots; others the number of acres. This model bylaw mandates the use of OSRD for all Major Residential Developments. Each community should assess whether to make this type of development mandatory, encourage its use through incentives, or allow it by right on an equal footing to conventional subdivision. If a community determines that this type of development should be encouraged, incentive language should be added to encourage its use.*

### ***Uses Permitted in the Developed Area of an OSRD.***

***Single Family Detached Dwelling Units;***

***Duplex or Two-Family Dwelling Units;***

***Multi-Family Dwelling Units provided that no building shall contain greater than four (4) dwelling units, and the percentage of multi-family dwelling units shall not exceed twenty (20) percent of the total number of units in the development;***

*This model bylaw allows for a variety of housing types within the OSRD. Each community should assess its housing needs and amend this section based on those needs. It is critical that communities not add multi-family units where these uses are not otherwise permitted, since it may hinder public acceptability of the "cluster" concept.*

### ***Uses Permitted in the Open Space of an OSRD.***

***Agricultural uses including horticultural, raising of crops, livestock, poultry, nurseries, orchards, hay, and building related to the same;***

***Public park or recreation area;***

*Woodlots, arboreta, and other similar silvicultural uses;*

*Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use;*

*Accessory uses customarily incidental to any permitted use.*

### ***Application Requirements***

***Pre-application Review: The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Historical Commission, and [INSERT THE NAMES OF ANY OTHER APPROPRIATE BOARDS]. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence discussions with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed development including both conventional and OSRD models, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application.***

***Site Visit: Applicants are encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review of the proposed development. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Historical Commission, and [INSERT THE NAMES OF ANY OTHER APPROPRIATE BOARDS]***

***Site Context Map: A Site Context Map shall be submitted / presented to the Planning board during the pre-application review. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.***

***Existing Resources / Site Analysis Map: The following shall be submitted presented to the Planning Board during the pre-application review at a regularly scheduled meeting for the purpose of assessing the impact or implications of the development and shall be used in the preparation of a preliminary design plan.***

Boundaries of wetlands.

Location and limits of soils types, particularly Prime Agricultural Soils, consistent with the soils classification maps prepared by the US Department of Agriculture;

Delineation of slopes of twenty-five percent (25%) or greater;

The location of cultural and historic features including, but not limited to stone walls, archaeological and historic sites and structures, and significant and rare vegetation.

### ***Preliminary Subdivision Plan Submission***

***A Preliminary Subdivision Plan shall be submitted in conformance with the Town of [Insert Town Name] Subdivision Regulations. Applicants shall submit the preliminary design to the Planning and Zoning Commission for review prior to development of a Definitive Plan.***

*For those communities that want to encourage this form of development and give the Planning Board the discretion to choose between OSRD and conventional development, applicants should submit both a conventional plan and an OSRD plan in order for the Planning Board to make a determination on a case by case basis on the type of development to be used.*

***Review of Preliminary Plan: The Planning and Zoning Commission shall review the Preliminary Subdivision Plan in accordance with the criteria contained in this Bylaw and with other applicable regulations of the Town of [Insert Town Name]. The review shall informally advise the applicant to the extent to which the proposed subdivision or land development conforms to the relevant standards of this Bylaw and may suggest possible plan modifications that would increase its degree of conformance. The review shall include, but is not limited to:***

The location of all areas proposed for land disturbance (streets, foundations, yards, septic disposal systems, storm water management areas, etc.) with respect to notable features of natural or cultural significance as identified on the applicants Existing Resources / Site Analysis Map;

The potential for street connections with existing streets, other proposed streets, or potential developments of adjoining parcels;

The location of proposed access points along existing road networks;  
The proposed building density and areas of impervious surface.

***Definitive Subdivision Plan Submission: A final Definitive Development Plan shall be submitted in conformance with this section and the Town of [Insert Town Name] Subdivision Regulations as applicable. Such Plans shall adequately address standards delineated in this bylaw. In addition, the Definitive Development Plan shall address issues that have been previously discussed in the Existing Resources / Site Analysis Map.***

### ***Criteria for Evaluation***

No approval for an OSRD shall be given unless the application complies with the following criteria:

***The proposed development shall be compatible with respect to the objectives and policy recommendations of the Plan of Conservation and Development;***

***The proposed development shall be consistent with the intent and purposes of this bylaw;***

***The portion of a parcel placed in open space shall, to the greatest extent possible, be that which is most valuable or productive as a natural resource, wildlife habitat, farmland, or forestry land;***

***The OSRD shall result in the creation of less curb cuts or vehicular access points to a public way than would reasonably be expected to occur under standard subdivision development.***

***Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.***

***The preferred location for the required protected open space in an OSRD shall be, to the extent feasible, in view of town roads and linked to any existing protected lands on adjacent parcels.***

### ***Dimensional Standards***

***Allowed Density:***



The maximum number of dwelling units for an OSRD shall be determined by use of a yield plan, which is a conceptual plan showing how the parcel could be subdivided in a conventional manner. Determination of the possible number of conventional lots shall be determined by [Insert Town Subdivision Regulations]. For purposes of determining the number of OSRD dwelling units, each conceptual conventional lot must meet the requirements of a buildable lot for a single family dwelling unit as defined in the zoning district in which the OSRD is located and meet all other applicable requirements of the Zoning and Subdivision Regulations. In no case shall the number of OSRD dwelling units exceed the number of units that would be allowed under a conventional subdivision.

There shall be no further subdivision of an approved OSRD.

### ***Flexible Dimensional Controls***

#### **Frontage:**

In the interest of flexibility and creative site designs, there shall be no minimum frontage requirement for individual lots on new subdivision streets within an OSRD.

For each lot developed along a public street existing at the time of the application, the minimum frontage, minimum lot size and all other dimensional controls shall be those which are required in the underlying zoning district in which the OSRD is located.

#### **Lot Size:**

The minimum lot size for individual lots without town water and sewer within an OSRD shall be 25,000 square feet.

The minimum lot size for individual lots with town water and sewer within an OSRD shall be 10,000 square feet.

*Minimum lot sizes for individual lots within an OSRD without public water and sewer should be based on whether the community will allow community treatment systems to be built within the Open Space of an OSRD. Minimum lot sizes for individual lots within an OSRD with public water and sewer should be based upon existing lots sizes in the underlying zoning districts in which OSRD is mandated or allowed.*

There shall be a minimum setback of fifty (50) feet along all property boundaries of the overall tract for all structures, including

accessory structures, parking areas, driveways and internal streets. Entrance streets connecting the OSRD to the external street system may cross the setback area.

There shall be no minimum front yard, side yard, or rear yard setback requirements for individual lots within an OSRD.

There shall be a minimum of twenty (20) feet between buildings in an OSRD.

**Required Open Space:**

The minimum open space requirement for an OSRD shall be 50 percent of the total tract area of which no more than 25 percent may consist of wetlands, surface waters, or flood plains provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes of this bylaw.

*The minimum percentage of open space required by the Planning Board may vary from one town to another but should be based on a careful assessment of developable lands. The minimum requirement could be elevated beyond the suggested fifty percent (50%) if the town identifies that few if any of its developable lands are significantly restrained by existing wetland resources. Likewise, if there are many significant parcels with the majority of their land in resource areas, it would be prudent to reduce the minimum open space set-aside to allow for a more flexible and equitable approach.*

~~OSRD to the external street system may cross the buffer area.~~  
The natural vegetation shall be retained whenever possible. If the natural vegetation is not sufficient to serve as an effective visual screen, landscaping shall be required to provide such a screen. Landscaping may include berms and/or decorative fencing of an appropriate height.

This buffer area shall be part of the common area, and shall be subject to the same restrictions that apply to that area.

Frontage lands on streets existing at the time of application shall be preserved as buffers to the maximum extent possible in addition to all required setbacks

**Waiver:**

*These standards may be waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Bylaw.*

## ***Common Open Space***

### **Common Open Space Requirements:**

A minimum of 50% of the total development parcel must be permanently protected as common open space. At least 70% of the common open space shall be retained in contiguous areas, unless approved by the Planning Board.

Watercourses, lakes, ponds, wetlands, floodplains, and steep slopes over 25% may be included in common open space calculations not to exceed twenty-five (25) percent.

The Planning Board may permit up to three (3) percent of the open space area to be paved or built upon for structures accessory to the dedicated use of open space (i.e. pedestrian walks, bicycle paths, playgrounds, farm-related structures).

All recreational facilities, common areas, and common open space shall be reasonably accessible to all residents of the development.

### **Land Protection Methods for Common Open Space:**

All land not devoted to buildings, lots, roads and other development shall be permanently protected as common open space for recreation, conservation, forestry or agricultural uses which preserve the land in its natural condition.

The land shall be owned by a non-profit land trust or conservation organization, homeowners' association, or individual, and a permanent conservation easement or deed restriction must be conveyed to the Town, with Town approval, or to a non-profit trust or conservation organization whose principal purpose is to conserve farmland or open space.

Further subdivision of common open land or its use other than recreation, conservation, forest or agriculture, except for easements for underground utilities or drinking water supply wells, shall be prohibited.

## ***Homeowners' Association***

***In the event that ownership of the land will remain with the homeowners in the Open Space Residential Development, a non-profit, homeowners'***

*association shall be established, requiring membership of each lot owner in the Open Space Residential Development.*

*The association shall be responsible for the permanent maintenance of all common lands, common open space, recreational and thoroughfare facilities (not including drinking water wells), except where such responsibility is assumed by another owner of the common land (land trust or conservation organization). If any drinking water well is located on common open space, the homeowner/s shall own the well and be responsible for any maintenance or related costs associated with their well.*

*A homeowners' association agreement or covenant will guarantee continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses shall be submitted with the final subdivision application. Where no homeowners' association is proposed, an alternative plan shall be submitted with the final subdivision application.*

*Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board, and shall be recorded in the Hampden County Registry of Deeds. Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the town shall be assessed equally against each of the properties within the development.*

### ***Conflict with Other Laws***

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

### ***Severability***

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw.

## Planned Residential Development (PRD)

See [Clinton, CT Zoning Regulations Sec. 9.19] <http://tinyurl.com/yk89ho5>; [Westbrook, CT Zoning Regulations Sec. 9.10] <http://tinyurl.com/yg8dfhe>; [Greenwich Municipal Code Sec. 6-44] <http://tinyurl.com/yksulvh>; [Fairfield, CT Zoning Regulations Sec. 10.0] <http://tinyurl.com/yzps3w9>; [Hartford, CT Zoning Regulations Sec. 1037] <http://tinyurl.com/ygusteu>; [Brookfield, CT Zoning Regulations Sec. 242-4041] <http://tinyurl.com/yf43fnn>; [Woodbury, CT Zoning Regulations Secs. 6.3, 6.4] <http://tinyurl.com/yzchpml>; [Hamden, CT Zoning Regulations Sec. 736] <http://tinyurl.com/ykybm4p>.

### A. General Regulations.

The general regulations are intended to be applied to all Planned Residential Developments, regardless of the type of residential unit in the development.

**1. Purpose.** The purpose of Planned Residential Development (PRD) is to provide opportunities for the protection and conservation of, scenic areas, views and vistas; desirable natural environments; and historical and archeological sites, and to encourage planned development appropriate for parcels, while providing for flexibility in site design and housing construction which will provide a variety of housing opportunities, including but not limited to the encouragement of elderly housing and affordable housing.

See [Fairfield, CT Zoning Regulations Sec. 10.2] <http://tinyurl.com/yzps3w9>; [Woodbury, CT Zoning Regulations Sec. 6.4.1] <http://tinyurl.com/yzchpml>.

The purpose of this statement should reflect the principles and objectives of the Planned Residential Development and local community character.

**2.** Except as otherwise specified in subsections **B.**, **C.**, and **D.**, all regulations set forth in the General Regulations shall govern the zoning regulations of the PRD.

Rather than including this Section, a municipality could simply incorporate the permitted uses, special permit uses, area/bulk requirements, prohibited uses, and design standards from Small Unit Development, Town House Development, and Elderly Housing Development.

**3. Eligible Districts.** The following districts, located in the [enter the name of the municipality] are eligible for Planned Residential Development.

**a)** [Insert the title or name identifying the desired districts]

See [Clinton, CT Zoning Regulations Sec. 9.19.2.(a)] <http://tinyurl.com/yk89ho5>.

The eligible districts can be separated with regard to the uses and for which they are eligible and the municipality is encouraged to list more than one district.

4. Permitted Uses. The uses from the underlying zone, or otherwise indicated in the Zoning Use Summary Table are permitted as a matter of right.

See [Berlin, CT Zoning Regulations Sec. 5.C] <http://tinyurl.com/yhhna79>; [Westbrook, CT Zoning Regulations Sec. 9.10.02] <http://tinyurl.com/yg8dfhe>; [Greenwich Municipal Code Sec. 6-50] <http://tinyurl.com/yksulvh>.

A municipality may want to integrate golf course into a PRD as a centerpiece. [See Oxford, CT Art. 5A] <http://tinyurl.com/yjp673n>; [Sherman, CT Zoning Regulations Secs. 359 – 359A] <http://tinyurl.com/yfwo9y2>.

The accessory use cannot be used for residence purposes. [See Westbrook, CT Zoning Regulations Sec. 9.10.02(d)] <http://tinyurl.com/yg8dfhe>. Accessory uses can be used as accessory apartments for affordable housing, elderly housing, and to preserve older homes that add to the character of the municipality. [See Clinton, CT Zoning Regulations Sec. 9.21] <http://tinyurl.com/yk89ho5>.

Accessory uses can include if not attached to the principal building or structure, subject to distance limitations from the principal building or structure, maintenance shops and utility shops for the upkeep of buildings and structures on the site, recreation facilities, home occupation or home offices, radio and television reception equipment. [See Berlin, CT Zoning Regulations Sec. 5.C] <http://tinyurl.com/yhhna79>

5. Special Permit Uses. The uses otherwise indicated in the Zoning Use Summary Table are permitted upon approval of a Special Permit with a corresponding Site Plan by the [PZC/ZBA], and all other uses not indicated shall be prohibited.

This list is not comprehensive but provides an indication of the type of uses than can be permitted subject to a special permit.

The municipality may want to make some of the special permit uses subject to approval by the Zoning Board of Appeals rather than the Planning and Zoning Commission. [See Berlin, CT Zoning Regulations Sec. 5.C] <http://tinyurl.com/yhhna79>

6. Area, and Bulk Requirements.

	<i>District Name 1</i>	<i>District Name 2</i>
<b>STANDARDS</b>		
<b>Minimum PRD Requirements</b>		
Area (acres)		
Frontage (feet)		
<b>Open Space/ Recreation Area:</b> (% of Total PRD Area)		
<b>Residential Development Area:</b> (% of Total PRD Area)		
<b>Maximum Density: Units Per Acre</b>		

<b>Number of Units Per Building</b>		
<b>Maximum Building and Structure Height (feet)</b>		
<b>Minimum Yard Setback Requirements Per Building (feet)</b>		
Front		
Side(s)		
Rear		
<b>Minimum Floor Area Per Unit (square feet)</b>		
One Story		
Split Level		
Two Story		
<b>Minimum Off-street Parking, Loading, and Driveway Setbacks Per Building (feet)</b>		
Front		
Side(s)		
Rear		
<b>Detached Accessory Building: Setback From (feet)</b>		
Principal Building		
Front Lot Line		
Side Lot Line(s)		
Rear Lot Line		

See [Fairfield, CT Zoning Regulations Secs. 10.6-10.14] <http://tinyurl.com/yzps3w9>; [Woodbury, CT Zoning Regulations Secs. 6.4.4 – 6.4.7] <http://tinyurl.com/yzchpml>; [Clinton, CT Zoning Regulations Secs. 9.19.2 – 9.19.4] <http://tinyurl.com/yk89ho5>; [Hartford, CT Zoning Regulations Secs. 35-1037(b)(1)-(11)] <http://tinyurl.com/ygusteu>; [Greenwich Municipal Code Secs. 6-46 – 6-48; 6-50 – 6-57] <http://tinyurl.com/yksulvh>; [Westbrook, CT Zoning Regulations Sec. 9.10.03] <http://tinyurl.com/yg8dfhe>; [Berlin, CT Zoning Regulations Sec. 5.C.] <http://tinyurl.com/yhhna79>

The minimum PRD requires refers to the required size of the entire development as one parcel and the required frontage refers to the entire frontage on an existing public street.

7. Design Standards. Architectural and site designs shall be compatible with the neighborhood. Buildings or structures shall be designed to harmonize with each other and shall be of such a scale and mass that they relate to each other and to the streets, and roads.

These design standards are not comprehensive but provides standards for the basic necessities of design, but coupled with the area/bulk requirements then the total design character will be revealed but a municipality may want to require facial design standards for building and structures.

**a) Buildings and Structures.**

**(1)** The minimum floor area is set forth above in subsection **A.6.**

**(2)** Principal buildings or structures within the PRD, shall be separated by at least [enter the number of feet] feet. However if the facing walls contain either windows or doors, then such distance may be extended to [enter the number of feet].

**b) Streets and Parking.**

**(1)** All streets within the PRD shall be constructed in accordance with these regulations. In addition, all pavement shall be [enter the number of feet] feet in width for access roads connecting to a town road, otherwise the minimum width shall be [enter the number of feet] feet.

**(2)** All parking within the PRD shall be constructed in accordance with the parking provisions of these Regulations. [Enter the number of spaces per unit] parking spaces shall be provided for each unit. Parking which serves more than one unit may/may not] have its only egress backing out into a street. Garages shall not constitute parking spaces in determining the conformance to this parking standard. One additional parking space shall be provided for every [enter the number of square feet] square feet of open space or recreational space in the PRD. Adequate, unobstructed space shall be provided for snow removal of parking spaces.

**c) Landscaping.** There shall be suitable landscaping within the PRD. Suitable landscaping which may include lawns or existing vegetation will be required in all areas not covered by impervious surfaces. Large trees and stands of mature trees and shrubs are to remain undisturbed where practical and reliable. In addition, there shall be a buffer strip, planted or inserted if not already existing, at a width of [enter the number of feet] feet to screen the perimeter of the PRD from neighboring areas.

**d) Utilities.**

**(1)** There shall be provided within the PRD, a sanitary sewage disposal system which shall be of sufficient size and design to collect and dispose of all sewage from and present and probable structures to be constructed within that zone, and shall be otherwise built and maintained in conformity with these Regulations.

**(2)** There shall be provided within the PRD, a storm drainage system which shall be of sufficient size and design as will in the opinion of the [enter the name of the municipality] Department of Public Works collect, carry off and dispose of all predictable surface water run-off within that zone and shall be so constructed as to conform with all of these regulation.

**(3)** It shall be provided within the PRD, that all the utilities facilities be placed underground.

**(4)** There shall be provided within the PRD, a potable water system which shall be of sufficient size and design to supply potable water to all the buildings and structures to be constructed in that zone. There shall be provided a fire hydrant where required, of a type and in a manner prescribed by these regulations and to the satisfaction of the Fire Marshal.

**(5)** Proper site lighting shall be provided and such lighting shall not be directed toward or spread to adjoining properties.

**8. Grouping.** Grouping requirements shall be as set forth in these Regulations. The PZC may modify the grouping requirements if it finds that such an adjustment will provide a better arrangement of buildings or structures, and open space, or in specific cases where desirable or warranted, owing to unusual topography or other physical conditions and the use and character of adjacent properties, with due regard to the protection of such properties and their access to light and air, the zoning



district or districts in which such properties and the planned residential development or portion thereof are located, and the public interest.

See Hartford, CT Zoning Regulations Sec. 1037(b)(10) <http://tinyurl.com/ygusteu>

**9.** Phasing. A PRD may be constructed and occupied in stages, as approved by the PZC. Whether constructed in stages or not, the provisions for the entire PRD shall be in effect and controlling. Notwithstanding this section, the provisions of PRD in an eligible district as set forth above in subsection **A.2.**, shall be applied only to the property acquired PRD, the remaining property continuing under the regulations of the existing zoning districts until such time as the property may be acquired for the PRD. Upon acquisition, the provisions of the PRD shall be in effect and controlling for such acquired property.

See Hartford, CT Zoning Regulations Sec. 1037(b)(17) <http://tinyurl.com/ygusteu>

**10.** Failure to Begin a PRD.

**a)** If no construction has begun or no use established in the PRD within [enter the time period] from the approval by the PZC, the zoning permit for the PRD shall become null and void. In certified redevelopment areas the time period, within which construction must start or a use established, shall commence with the issuance of the zoning permit to the developer of the redevelopment PRD or portion thereof.

**b)** In its discretion, and for good cause, the PZC may, upon request of the applicant, extend for an additional [enter time period] for the beginning of construction or establishment of a use.

**c)** If the zoning permit becomes null and void under the provisions of this section, the zoning regulations applicable before the zoning permit was issued shall be revived and in effect.

See Hartford, CT Zoning Regulations Sec. 1037(b)(18) <http://tinyurl.com/ygusteu>

**11.** Failure to Complete a PRD.

**a)** If any PRD, or portion thereof, is not completed within [enter the desired time period] from the issuance of the zoning permit, the zoning permit for the incomplete portion shall become null and void. In certified redevelopment areas the time period within which the PRD or portion thereof shall be completed shall commence with the issuance of the zoning permit to the developer of the redevelopment PRD or portion thereof.

**b)** In its discretion, and for good cause, the PZC, upon request of the applicant, extend for [enter the desired time period], the period which the PRD or portion thereof shall be completed.

**c)** If the zoning permit becomes null and void under the provisions of this section, the zoning regulations applicable before the zoning permit was issued shall be revived and in effect. Any buildings constructed which do not meet the terms of the zoning permit issued for the PRD shall be demolished and removed.

See Hartford, CT Zoning Regulations Sec. 1037(b)(19) <http://tinyurl.com/ygusteu>

**12.** Procedure and Approval in PRD. The PZC shall pursue the procedure set out in these regulations in acting upon a PRD application, and as more specifically provided herein, or special use permit within the PRD.

See [Clinton, CT Zoning Regulations Sec. 9.19.9] <http://tinyurl.com/yk89ho5>; [Westbrook, CT Zoning Regulations Sec. 9.10.04] <http://tinyurl.com/yg8dfhe>; [Woodbury, CT Zoning Regulations Secs. 6.4.5-6.4.6] <http://tinyurl.com/yzchpml>; [Greenwich Municipal Code Secs. 6-58 – 6-60] <http://tinyurl.com/yksulvh>.

Rather than having this procedure to be considered with the overall regulations, it can be written that these procedures and regulations are more stringent and shall supersede all of the other regulations set forth herein. [See Westbrook, CT Zoning Regulations Sec. 9.10.04] <http://tinyurl.com/yg8dfhe>

**a)** An application for a request for a zone change of a specific area on the zoning map to a PRD shall be submitted in writing and in such form as the PZC may require and shall include the following information on a site plan:

**(1)** A statement describing the conservation and other public purposes to be accomplished and the proposed method of assuring the preservation of the open space and the maintenance thereof, and disposition of any public use land.

**(2)** An overall plan of development of the land. For this purpose the applicant shall submit to the PZC a plan prepared by a land planner, architect, or civil engineer, which shall:

**(i)** A location map at a scale that clearly shows the area to be reclassified and the present classification, and the proposed new classification including existing and proposed boundaries and shall include:

**(a)** North arrow, date, and scale ratio.

**(b)** A certified boundary survey.

**(c)** A topographical survey including contour intervals in areas to be developed or otherwise disturbed and the approximate location of the lot lines, number of home sites, location of proposed accessory uses and recreational uses, location of proposed open space, location of prominent natural features, and location of proposed streets.

**(d)** All currently existing buildings or structures within [enter the number of feet] feet within the boundary of the PRD.

**(e)** Soil and vegetation surveys

**(ii)** Define the areas which shall be designated as development, conservation and recreational.

**(iii)** Set forth the acreage to be devoted to each use.

**(iv)** Set forth the proposed density of the units or buildings.

**(v)** Set forth a street plan and utility plan; and

**(vi)** Set forth a plan showing both the private and public conservation and recreation areas.

**(b)** The adoption of a PRD application shall not then constitute approval of a special use. A separate special Permit application must be filed and must be approved, in accordance with these Regulations, before the use may be established. However, no special permit shall be granted unless the use conforms with the PRD

**(c)** The PZC shall hold a public hearing within [enter the number of days] days after submission for an application for a PRD or for approval of a special use permit within the PRD. Recommendations of all other municipal agencies may be made at such hearing.

Referrals in determining of the approval of the PRD can be made required instead of discretionary. [See Westbrook, CT Zoning Regulations Sec. 9.10.04(c)] <http://tinyurl.com/yg8dfhe>

(d) Within [enter the number of days] days after the conclusion of the public hearing on the proposed PRD application or special use permit, the PZC may approve the application or special permit if it finds:

- (1) The purpose of the PRD regulations have been met.
- (2) The provisions for traffic, water, septic systems, storm water, and useable open space are adequate, do not overburden existing streets, water and storm water draining facilities on-site or off-site and do not create water problems off-site.
- (3) The site plan and the layout in terms of location of the buildings and locations of the uses provide for safety of the residents.
- (4) The PRD will not require upgrading of the streets, but if in the discretion of the PZC, it permits the necessary upgrading, the applicant will pay for any necessary upgrading.
- (5) The proposed housing design will not require upgrading of the existing on-site or off-site public water or drainage systems, but if in the discretion of the PZC, it permits the necessary upgrading, the applicant will pay for any necessary upgrading.
- (6) The PRD will not have a significant adverse effect on surrounding properties or property values in the area.

If there is property adjacent to the PRD, then the PZC may require access to the property to be set aside for a right-of-way for future development. [See Westbrook, CT Zoning Regulations Sec. 9.11.00]. <http://tinyurl.com/yg8dfhe>

- (7) The PRD will not have a significant adverse effect on the environment and, in particular, wetland and watercourse areas. In making this determination, the PZC may inquire as to the recommendation of the [enter the name of the appropriate environmental municipal agencies].
- (8) The applicant has provided a plan for continuing maintenance of parking, storm water drainage, open space and other infrastructure, that are not accepted by the [enter the name of the municipality].
- (9) Performance standards, and soil and erosion control measures have been met.
- (10) The PRD is found to be consistent with the health, welfare, and public safety needs of the community.

**13.** Amendments and Changes. Any and all amendments or changes to the PRD, as approved by the PZC, shall be considered and processed as new applications in accordance with the provisions set forth in this section and shall require the issuance of an additional zoning permit by the PZC in accordance with the provisions set forth in this section.

See Hartford, CT Zoning Regulations Sec.1037(b)(17) <http://tinyurl.com/ygusteu>

**B.** Planned Residential Development – Small Unit Development.

**1.** Purpose. The purpose of PRD –Small Unit Development, is to maintain and reinforce the [enter the name of the municipality]’s predominantly residential character, and to provide attractive, decent and suitable housing at reasonable cost.

**2.** Eligible Districts. The following districts, located in the [enter the name of the municipality] are eligible for Planned Residential Development.

a) [Insert the title or name identifying the desired districts]

See Clinton, CT Zoning Regulations Sec. 9.19.2.(a). <http://tinyurl.com/yk89ho5>

3. Permitted Uses. The uses from the underlying zone, or otherwise indicated in the Zoning Use Summary Table are permitted as a matter of right.

4. Special Permit Uses. The uses otherwise indicated in the Zoning Use Summary Table are permitted upon approval of a Special Permit with a corresponding Site Plan by the [PZC/ZBA], and all other uses not indicated shall be prohibited.

The municipality may want to make some of the special permit uses subject to approval by the Zoning Board of Appeals rather than the Planning and Zoning Commission. [See Berlin, CT Zoning Regulations Sec. 5.C] <http://tinyurl.com/yhhna79>

5. Area, and Bulk Requirements.

	<i>District Name 1</i>	<i>District Name 2</i>
<b>STANDARDS</b>		
<b>Minimum PRD Requirements</b>		
Area (acres)		
Frontage (feet)		
<b>Open Space/ Recreation Area:</b> (% of Total PRD Area)		
<b>Residential Development Area:</b> (% of Total PRD Area)		
<b>Maximum Density: Units Per Acre</b>		
<b>Number of Units Per Building</b>		
<b>Maximum Building and Structure Height (feet)</b>		
<b>Minimum Yard Setback Requirements Per Building (feet)</b>		
Front		
Side(s)		
Rear		
<b>Minimum Floor Area Per Unit (square feet)</b>		
1 Room Efficiency Unit		

1 Bedroom Unit		
2 Bedroom Unit		
<b>Minimum Patio/Deck Area Per Unit</b> (square feet)		
1 Room Efficiency Unit		
1 Bedroom Unit		
2 Bedroom Unit		
<b>Minimum Off-street Parking, Loading, and Driveway Setbacks Per Building</b> (feet)		
Front		
Side(s)		
Rear		
<b>Detached Accessory Building: Setback From</b> (feet)		
Principal Building		
Front Lot Line		
Side Lot Line(s)		
Rear Lot Line		

6. Design Standards. Architectural and site designs shall be compatible with the neighborhood. Buildings or structures shall be designed to harmonize with each other and shall be of such a scale and mass that they relate to each other and to the streets, and roads.

a) Buildings and Structures.

(1) The minimum floor area is set forth above in subsection **B.5**.

(2) Principal buildings or structures within the PRD, shall be separated by at least [enter the number of feet] feet. However if the facing walls contain either windows or doors, then such distance may be extended to [enter the number of feet].

b) Streets and Parking.

(1) All streets within the PRD shall be constructed in accordance with these regulations. In addition, all pavement shall be [enter the number of feet] feet in width for access roads connecting to a town road, otherwise the minimum width shall be [enter the number of feet] feet.

(2) All parking within the PRD shall be constructed in accordance with these Regulations. [Enter the number of spaces per unit] parking spaces shall be provided for each unit. Parking which serves more than one unit, [may/may not] have its only egress backing out into a street. Garages shall not constitute parking spaces in determining the conformance to this parking standard. One additional parking space shall be provided for every [enter the number of square feet] square feet of open space or recreational space in the PRD. Adequate, unobstructed space shall be provided for snow removal of parking spaces.

c) Landscaping. There shall be suitable landscaping within the PRD. Suitable landscaping which may include lawns or existing vegetation, will be required in all areas not covered by impervious surfaces. Large trees and stands of mature trees and shrubs are to remain undisturbed where practical and reliable. In addition, there shall be a buffer strip, planted or inserted if not already existing, at a width of [enter the number of feet] feet to screen the perimeter of the PRD from neighboring areas.

d) Utilities.

(1) There shall be provided within the PRD, a sanitary sewage disposal system which shall be of sufficient size and design to collect and dispose of all sewage from and present and probable structures to be constructed within that zone, and shall be otherwise built and maintained in conformity with these Regulations.

(2) There shall be provided within the PRD, a storm drainage system which shall be of sufficient size and design as will in the opinion of the [enter the name of the municipality] Department of Public Works collect, carry off and dispose of all predictable surface water run-off within that zone and shall be so constructed as to conform with all of these regulation.

(3) It shall be provided within the PRD, that all the utilities facilities be placed underground.

(4) There shall be provided within the PRD, a potable water system which shall be of sufficient size and design to supply potable water to all the buildings and structures to be constructed in that zone. There shall be provided a fire hydrant where required, of a type and in a manner prescribed by these regulations and to the satisfaction of the Fire Marshal.

(5) Proper site lighting shall be provided and such lighting shall not be directed toward or spread to adjoining properties.

C. Planned Residential Development – Town House Development.

1. Purpose. The purpose of PRD –Town House Development, is to maintain and reinforce the [enter the name of the municipality]’s predominantly residential character, and to provide attractive, decent and suitable housing with the conveniences and advantages of multiple family dwellings, and amenities associated with single family detached dwellings.

2. Eligible Districts. The following districts, located in the [enter the name of the municipality] are eligible for Planned Residential Development.

a) [Insert the title or name identifying the desired districts].

See Clinton, CT Zoning Regulations Sec. 9.19.2.(a). <http://tinyurl.com/yk89ho5>

3. Permitted Uses. The uses from the underlying zone, or otherwise indicated in the Zoning Use Summary Table are permitted as a matter of right.

4. Special Permit Uses. The uses otherwise indicated in the Zoning Use Summary Table are permitted upon approval of a Special Permit with a corresponding Site Plan by the [PZC/ZBA], and all other uses not indicated shall be prohibited.

The municipality may want to make some of the special permit uses subject to approval by the Zoning Board of Appeals rather than the Planning and Zoning Commission. [See Berlin, CT Zoning Regulations Sec. 5.C] <http://tinyurl.com/yhhna79>

5. Area, and Bulk Requirements.

	<i>District Name 1</i>	<i>District Name 2</i>
<b>STANDARDS</b>		
<b>Minimum PRD Requirements</b>		
Area (acres)		
Frontage (feet)		

<b>Open Space/ Recreation Area:</b> (% of Total PRD Area)		
<b>Residential Development Area:</b> (% of Total PRD Area)		
<b>Maximum Density: Units Per Acre</b>		
<b>Number of Units Per Building</b>		
<b>Maximum Building and Structure Height (feet)</b>		
<b>Minimum Yard Setback Requirements Per Building (feet)</b>		
Front		
Side(s)		
Rear		
<b>Minimum Floor Area Per Unit (square feet)</b>		
1 Bedroom Unit		
2 Bedroom Unit		
3 Bedroom Unit		
<b>Minimum Patio/Deck Area Per Unit (square feet)</b>		
1 Bedroom Unit		
2 Bedroom Unit		
3 Bedroom Unit		
<b>Minimum Off-street Parking, Loading, and Driveway Setbacks Per Building (feet)</b>		
Front		
Side(s)		
Rear		
<b>Detached Accessory Building: Setback From (feet)</b>		
Principal Building		
Front Lot Line		
Side Lot Line(s)		
Rear Lot Line		

**6.** Design Standards. Architectural and site designs shall be compatible with the neighborhood. Buildings or structures shall be designed to harmonize with each other and shall be of such a scale and mass that they relate to each other and to the streets, and roads.

**a)** Buildings and Structures.

**(1)** The minimum floor area is set forth above in subsection **C.5**.

**(2)** Principal buildings or structures within the PRD, shall be separated by at least [enter the number of feet] feet. However if the facing walls contain either windows or doors, then such distance may be extended to [enter the number of feet].

**b)** Streets and Parking.

**(1)** All streets within the PRD shall be constructed in accordance with these regulations. In addition, all pavement shall be [enter the number of feet] feet in width for access roads connecting to a town road, otherwise the minimum width shall be [enter the number of feet] feet.

**(2)** All parking within the PRD shall be constructed in accordance with these Regulations. [Enter the number of spaces per unit] parking spaces shall be provided for each unit. Parking which serves more than one unit, [may/may not] have its only egress backing out into a street. Garages shall not constitute parking spaces in determining the conformance to this parking standard. One additional parking space shall be provided for every [enter the number of square feet] square feet of open space or recreational space in the PRD. Adequate, unobstructed space shall be provided for snow removal of parking spaces.

**c)** Landscaping. There shall be suitable landscaping within the PRD. Suitable landscaping which may include lawns or existing vegetation, will be required in all areas not covered by impervious surfaces. Large trees and stands of mature trees and shrubs are to remain undisturbed where practical and reliable. In addition, there shall be a buffer strip, planted or inserted if not already existing, at a width of [enter the number of feet] feet to screen the perimeter of the PRD from neighboring areas.

**d)** Utilities.

**(1)** There shall be provided within the PRD, a sanitary sewage disposal system which shall be of sufficient size and design to collect and dispose of all sewage from and present and probable structures to be constructed within that zone, and shall be otherwise built and maintained in conformity with these Regulations.

**(2)** There shall be provided within the PRD, a storm drainage system which shall be of sufficient size and design as will in the opinion of the [enter the name of the municipality] Department of Public Works collect, carry off and dispose of all predictable surface water run-off within that zone and shall be so constructed as to conform with all of these regulation.

**(3)** It shall be provided within the PRD, that all the utilities facilities be placed underground.

**(4)** There shall be provided within the PRD, a potable water system which shall be of sufficient size and design to supply potable water to all the buildings and structures to be constructed in that zone. There shall be provided a fire hydrant where required, of a type and in a manner prescribed by these regulations and to the satisfaction of the Fire Marshal.

**(5)** Proper site lighting shall be provided and such lighting shall not be directed toward or spread to adjoining properties.

**D.** Planned Residential Development – Elderly Housing.

See [Brookfield, CT Zoning Regulations Sec. 242-4041] <http://tinyurl.com/yf43fnn>; [Hamden, CT Zoning Regulations Sec. 736] <http://tinyurl.com/ykybm4p>; [Woodbury, CT Zoning Regulations Sec. 6.3] <http://tinyurl.com/yzchpml>.



1. Purpose. The purpose of PRD –Small Unit Development, is to maintain and reinforce the [enter the name of the municipality]’s predominantly residential character, and to provide attractive, decent and suitable housing opportunities that are designed to meet the special needs of elderly citizens.

2. Eligible Districts. The following districts, located in the [enter the name of the municipality] are eligible for Planned Residential Development.

a) [Insert the title or name identifying the desired districts]

See Clinton, CT Zoning Regulations Sec. 9.19.2.(a). <http://tinyurl.com/yk89ho5>

3. Permitted Uses. The uses from the underlying zone, or otherwise indicated in the Zoning Use Summary Table are permitted as a matter of right.

See [Berlin, CT Zoning Regulations Sec. 5.C] <http://tinyurl.com/yhhna79>; [Westbrook, CT Zoning Regulations Sec. 9.10.02] <http://tinyurl.com/yg8dfhe>; [Greenwich Municipal Code Sec. 6-50] <http://tinyurl.com/yksulvh>.

A municipality may want to integrate golf course into a PRD as a centerpiece. [See Oxford, CT Art. 5A] <http://tinyurl.com/yjp673n>; [Sherman, CT Zoning Regulations Secs. 359 – 359A] <http://tinyurl.com/yfwo9y2>.

The accessory use cannot be used for residence purposes. [See Westbrook, CT Zoning Regulations Sec. 9.10.02(d)]. <http://tinyurl.com/yg8dfhe>

Accessory uses can be used as accessory apartments for affordable housing, elderly housing, and to preserve older homes that add to the character of the municipality. [See Clinton, CT Zoning Regulations Sec. 9.21]. <http://tinyurl.com/yk89ho5>

Accessory uses can include if not attached to the principal building or structure, subject to distance limitations from the principal building or structure, maintenance shops and utility shops for the upkeep of buildings and structures on the site, recreation facilities, home occupation or home offices, radio and television reception equipment. [See Berlin, CT Zoning Regulations Sec. 5.C] <http://tinyurl.com/yhhna79>

4. Special Permit Uses. The uses otherwise indicated in the Zoning Use Summary Table are permitted upon approval of a Special Permit with a corresponding Site Plan by the [PZC/ZBA], and all other uses not indicated shall be prohibited.

The municipality may want to make some of the special permit uses subject to approval by the Zoning Board of Appeals rather than the Planning and Zoning Commission. [See Berlin, CT Zoning Regulations Sec. 5.C] <http://tinyurl.com/yhhna79>

5. Area, and Bulk Requirements.

	<i>District Name 1</i>	<i>District Name 2</i>
<b>STANDARDS</b>		
<b>Minimum PRD Requirements</b>		

Area (acres)		
Frontage (feet)		
<b>Open Space/ Recreation Area:</b> (% of Total PRD Area)		
<b>Residential Development Area:</b> (% of Total PRD Area)		
<b>Maximum Density: Units Per Acre</b>		
<b>Number of Units Per Building</b>		
<b>Maximum Building and Structure Height (feet)</b>		
<b>Minimum Yard Setback Requirements Per Building (feet)</b>		
Front		
Side(s)		
Rear		
<b>Minimum Floor Area Per Unit (square feet)</b>		
One Bedroom Unit		
Two Bedroom Unit		
<b>Minimum Off-street Parking, Loading, and Driveway Setbacks Per Building (feet)</b>		
Front		
Side(s)		
Rear (feet)		
<b>Detached Accessory Building: Setback From (feet)</b>		
Principal Building		
Front Lot Line		
Side Lot Line(s)		
Rear Lot Line		

See [Fairfield, CT Zoning Regulations Secs. 10.6-10.14] <http://tinyurl.com/yzps3w9>; [Woodbury, CT Zoning Regulations Secs. 6.4.4 – 6.4.7] <http://tinyurl.com/yzchpml>; [Clinton, CT Zoning Regulations Secs. 9.19.2 – 9.19.4] <http://tinyurl.com/yk89ho5>; [Hartford, CT Zoning Regulations Secs. 1037(b)(1)-(11)]; <http://tinyurl.com/ygusteu>; [Greenwich Municipal Code Secs. 6-46 – 6-48; 6-50 – 6-57]

<http://tinyurl.com/yksulvh>; [Westbrook, CT Zoning Regulations Sec. 9.10.03] <http://tinyurl.com/yg8dfhe>; [Berlin, CT Zoning Regulations Sec. 5.C.] <http://tinyurl.com/yhhna79>

**6.** Design Standards. Architectural and site designs shall be compatible with the neighborhood. Buildings or structures shall be designed to harmonize with each other and shall be of such a scale and mass that they relate to each other and to the streets, and roads.

**a)** Buildings and Structures.

**(1)** The minimum floor area is set forth above in subsection **D.5**.

**(2)** Principal buildings or structures within the PRD, shall be separated by at least [enter the number of feet] feet. However if the facing walls contain either windows or doors, then such distance may be extended to [enter the number of feet].

**b)** Streets and Parking.

**(1)** All streets within the PRD shall be constructed in accordance with these regulations. In addition, access to the PRD shall be available through at least two independent means. In addition, all pavement shall be [enter the number of feet] feet in width for access roads connecting to at town road, otherwise the minimum width shall be [enter the number of feet] feet.

**(2)** All parking within the PRD shall be constructed in accordance with these Regulations. [Enter the number of spaces per unit] parking spaces shall be provided for each unit. Parking which serves more than one unit, [may/may not] have its only egress backing out into a street. Garages shall not constitute parking spaces in determining the conformance to this parking standard. One additional parking space shall be provided for every [enter the number of square feet] square feet of open space or recreational space in the PRD. Adequate, unobstructed space shall be provided for snow removal of parking spaces.

**(3)** The PRD shall be located within [enter the number of feet] feet from public transportation.

**c)** Landscaping. There shall be suitable landscaping within the PRD.

Suitable landscaping which may include lawns or existing vegetation will be required in all areas not covered by impervious surfaces. Large trees and stands of mature trees and shrubs are to remain undisturbed where practical and reliable. In addition, there shall be a buffer strip, planted or inserted if not already existing, at a width of [enter the number of feet] feet to screen the perimeter of the PRD from neighboring areas.

**d)** Utilities.

**(1)** There shall be provided within the PRD, a sanitary sewage disposal system which shall be of sufficient size and design to collect and dispose of all sewage from and present and probable structures to be constructed within that zone, and shall be otherwise built and maintained in conformity with these Regulations.

**(2)** There shall be provided within the PRD, a storm drainage system which shall be of sufficient size and design as will in the opinion of the [enter the name of the municipality] Department of Public Works collect, carry off and dispose of all predictable surface water run-off within that zone and shall be so constructed as to conform with all of these regulation.

**(3)** It shall be provided within the PRD, that all the utilities facilities be placed underground.

**(4)** There shall be provided within the PRD, a potable water system which shall be of sufficient size and design to supply potable water to all the buildings and structures to be constructed in that zone. There shall be provided a fire hydrant where required, of a type and in a manner prescribed by these regulations and to the satisfaction of the Fire Marshal.

**(5)** Proper site lighting shall be provided and such lighting shall not be directed toward or spread to adjoining properties.

## B. TRANSFER OF DEVELOPMENT RIGHTS (TDR)

*TDR programs allow landowners to sever the building (aka, development) rights from a particular piece of property and sell them. Purchasers are usually other landowners who want to increase the density of their developments. Local governments may buy development rights in order to control price, design details or restrict growth. TDR programs strive to accomplish two main goals. First, communities can use TDR programs to preserve open space, agriculture, historic buildings or housing. Second, TDR programs make such preservation more equitable and politically palatable by compensating landowners who lose the right to develop their property.*

*This bylaw is adapted from the TDR bylaws of the Town of Madison, CT and the Massachusetts Smart-growth Toolkit. For Connecticut Communities TDR may be of limited benefit, given the presence of C.G.S. § 8-2f, which restricts the transfer of development rights to joint zoning applications of the transferor and transferee. In effect, §8-2f necessitates that a seller and buyer be found at the same time and apply to the planning and zoning commission for a TDR transfer. Further, the statutory scheme of §8-2f limits the effectiveness of TDR Banks, because the Town or Third-Party Bank cannot lawfully appear before a zoning commission as a transferor under §8-2f. Yet, despite these limitations, TDR bylaws should still be adopted, as they are extremely effective when a transferor and transferee can be found at the right moment.*

### 1. Purposes:

- a) To permanently protect open space and farmland in the Town/City of [insert name of municipality].
- b) To protect open space and farmland property values and provide a fair economic return to owners of property restricted from further development;
- c) To foster compact commercial and industrial development in central areas served by public infrastructure;

*This list of purposes is intended as a menu. Towns may wish to choose/add those that are most applicable to their community.*

### 2. Establishment of Preservation District and Receiving District

- a) Preservation District: Preservation Districts are overlay districts, shown on the zoning map on file with the Town Clerk entitled [INSERT TITLE] and dated [INSERT CITATION] and include the following resource areas:

- (1) Wellhead protection areas;
- (2) Potential public water supply areas as identified in the Town's Plan of Conservation and Development;
- (3) Locations of historic and/or cultural significance;
- (4) Land areas providing public access to an ocean, forest or other resource;
- (5) Areas of Critical Environmental Concern;
- (6) Prime Farmland;
- (7) Areas identified as Priority Habitat or Estimated Habitat for Rare or Endangered Species by the

*The areas listed above represent a list of potential preservation areas that could be included in the Sending District inventory. Not all of these areas will be applicable to each community and there may be other candidates that are not listed here. The list illustrates how communities can draw from existing resource protection programs as well as local initiatives to bring several different resource protection efforts into a single growth control mechanism.*

- b) Receiving District: This district is an overlay district that shall consist of all lots within the [*insert appropriate zoning districts*] Zones.

*As part of the planning process associated with developing a TDR program, it is critical to consider the cost of development when comparing sending and receiving districts. The delineation of these receiving districts should, to the greatest extent possible, provide a sharp contrast with regard to the cost of developing infrastructure. Developers will be more inclined to pay higher prices for open space areas if there will be a substantial savings in roadway development, provision of water supply, wastewater disposal and other utilities in the receiving district. Communities that have partial sewerage or centralized water supply should carefully integrate these service envelopes into the delineation of receiving areas. As part of the overall planning process, communities will need to identify existing limitations on density in the receiving area that need to be changed to accommodate increased development rights.*

*Limitations on building height and excessive parking requirements are two examples of existing provisions that may act as hurdles to the TDR process. Local officials will want to examine these bulk and density regulations to ensure that TDR processes will not be encumbered by variance requests.*

### **3. Transfer of Development Rights**

- a) Transfer of Development Rights provides for increased density of Residential development in the designated Receiving District when suitable open space in the Preservation District is permanently preserved from development. The transfer of development rights is accomplished by the execution of a Preservation Restriction, and the increased density is permitted by the issuance of a Special Permit, both as hereinafter provided.

#### **4. Eligibility**

- a) All parcels of open space or farmland (as defined herein), shown on a plan or described in a deed recorded with the Town Clerk, in the Preservation District, are eligible to apply for a Special Permit from the Planning and Zoning Commission to transfer all or part of the development rights, certified under Section E of this bylaw, on the lot to a lot in a Receiving District.

#### **5. Receiving District Regulations**

- a) To be eligible for Transfer of Development Rights, a Special Permit with Site Plan Approval from the Planning and Zoning Commission is required.
- b) The Planning and Zoning Commission may permit an increased number, density and height of buildings in the Receiving District as part of a Special Permit for Transfer of Development Rights, in accordance with *[insert appropriate regulation number]* of this bylaw/ordinance.

*Communities will want to consider whether to determine the number of transfer rights through a comprehensive yield plan through a simpler calculation based solely on the area of the parcel in the sending area. For example, with a simpler calculation a zone that allows density at one unit per acre, a 15-acre parcel would simply be assigned 15 transferable units. Communities will have to closely examine existing constraints in Sending Areas such as pervasive wetlands. In these instances, the bylaw should specify that yield will be based on the gross area of upland. Regardless of existing constraints, it is reasonable to assume that using site area alone will increase the number of transferable development rights since roadways and utilities are not considered. This may act as a powerful incentive, but local decision makers will need to be aware of how this will increase the density in receiving areas.*

#### **6. Process for Certifying Development Rights**

- a) Eligible landowners (individuals that own land in the Preservation District) may submit an application to the Planning and Zoning Commission for certification of available development rights on their property. The applicant shall determine the number of acres of land eligible for transfer from the parcel in the Preservation District, using the following process:
  - (1) Determining the number of acres of “developable land” in the Preservation District.

- (2) After conferring with the Conservation Commission, subtracting all acreage which is identified as wetlands. The Conservation Commission may require the applicant to complete a wetland delineation;
  - (3) Subtracting 5% of the total remaining parcel acreage, to account for land which would be used for roads if the parcel had been developed.
- b) The Planning and Zoning Commission shall review the applicant's assessment of acreage eligible for transfer, and shall make a final determination of such acreage eligible for transfer. Within 45 days of receiving an application, the Planning and Zoning Commission shall issue a TDR certificate to the applicant that states the number of certified development rights that are available for transfer. This certification shall in no way serve as determination of the number of lots in a standard development. Each acre so certified shall constitute one certified development right unit.

## **7. Special Permit Process for Transfer of Development Rights**

- a) The applicant proposing to develop specified land in the Receiving District at a density allowed by this bylaw/ordinance with a transfer of development rights shall make application to the Planning and Zoning Commission for a Special Permit with Site Plan Approval. The application shall clearly illustrate a land parcel or parcels in the Preservation District and a land parcel or parcels in the Receiving District proposed for transfer of development rights, and the number and form of development rights proposed for transfer. The application shall also show that the applicant has an option to purchase certified development rights for the proposed transfer.
- b) The applicant shall submit to the Planning and Zoning Commission a transaction fee, to be used for the administration, recording and monitoring of the transferred development rights and preserved Open Space Preservation Restriction. The Planning and Zoning Commission may employ a consultant for these administrative purposes. This fee may be in addition to an application fee.
- c) The applicant shall also file with the Planning and Zoning Commission a preliminary development plan for the parcel in the Receiving District, illustrating how the transferred development rights will be used.
- d) Prior to final approval of a Special Permit, the applicant shall tender to the Planning and Zoning Commission a valid instrument granting to the Town/City a permanent Agricultural Preservation Restriction for eligible land in the Preservation District. The developer shall furnish to the Planning and Zoning Commission a certificate of title by a duly licensed attorney and

such other evidence or assurance of title as may be satisfactory to the Town Counsel.

- e) Upon advice of the Town/City Council that the Open Space Preservation Restriction document is valid and sufficient, there must be a vote by the Board of Selectmen authorizing the Commission acceptance of the Preservation Restriction. If the Special Permit application is valid and sufficient, the Commission, acting on behalf of the Town/City, shall accept the Preservation Restriction, for recording in the Town Clerk’s Office. Upon final approval of site plans, the Planning and Zoning Commission shall issue a Special Permit permitting development of the specified land at the approved density, based on the table in Section 8.

**8. Dimensional and Density Regulations**

- a) Each acre of developable farmland within the Preservation District is equivalent to one of the development rights in the Receiving District shown in the Table of Exchange Standards for Transfer of Development Rights, found below in this section.
- b) The maximum limits on density, lot coverage, and parking reductions permitted to be developed by Special Permit in the Receiving District shall be determined by reference to the Table of Exchange Standards for Transfer of Development Rights found below in this section.

**TABLE OF EXCHANGE STANDARDS FOR TRANSFER OF DEVELOPMENT RIGHTS**

Preservation District (Sending District)	Residential Zoning Districts (Receiving District)	Notes
1 acre of “developable land” equals	1 Transfer Development Right	1) The Planning and Zoning Commission may allow an increase in lot coverage from the 30% maximum lot coverage required by the Zoning Bylaw/ordinance, up to a maximum 70% lot coverage.

*A table similar to the one above should be included in any municipality’s bylaw in-order to provide clarity to the calculation of development credits. However, any such table should be considerably more comprehensive, containing the calculations for all residential districts in the Preservation District.*

- c) When a landowner wishes to sell less than the total number of development rights available to a tax parcel, he may do so provided that:



- (1) The tax parcel is subdivided;
- (2) No new parcel less than 10 acres may be created through such subdivision;
- (3) The subdivision plan shall specify the agricultural class of all the soils on the site;
- (4) The landowner must sell the development rights from the best agricultural soils first. In no event shall areas of non-buildable floodplain, wetland, or slope be approved for transfer before all farmland on the tax parcel is first protected.

## **9. Design Standards**

- a) All uses developed under this bylaw/ordinance must meet the following standards:
  - (1) The height of buildings shall not exceed the maximum height allowed in the underlying district;
  - (2) To the extent feasible, adjacent uses shall utilize shared parking areas and shared curb cuts to minimize vehicular safety impacts on roads.
  - (3) Pedestrian and bicycle amenities, such as sidewalks, shall be provided.
- b) The Planning and Zoning Commission may consider, in making its Special Permit decision, whether the project meets the following design standards:
  - (1) The exterior facades of buildings shall be constructed of clapboards, brick, stone or other materials, and shall include exterior windows, consistent with the historic character of the Town/City.
  - (2) All roofs shall be peaked;

## **10. Special Permit Criteria**

- a) The Planning and Zoning Commission shall not grant any special permit for transfer of development rights unless it finds the following criteria are met:
  - (1) The proposed use is in harmony with the purposes in Section 1 of this bylaw/ordinance:
  - (2) The proposed use meets all of the procedural, dimensional and density requirements, and design standards in Sections H-J of this bylaw/ordinance.

## **11. Reporting of TDR Transactions**

- a) Buyers and sellers must report all TDR transactions (options, sales, gifts, donations) to the Planning and Zoning Commission within ten business days.

## **12. Release of Agricultural Preservation Restriction**

- a) No Preservation Restriction, which has been conveyed under this bylaw/ordinance, may be released unless:
  - (1) By vote of the Town/City Council, the restrictions are to be repurchased from the Town/City by the land owner at its then fair market value, and the proceeds returned to the Town/City.

## **13. Bank for Development Rights**

- a) The Town/City may purchase development rights for purposes of sale for use in the Receiving District, or for retirement, after a vote of Town/City Meeting.

*While Connecticut communities are not barred from buying and holding development rights by §8-2f, they may never be able to sell the credits as a result of the joint-application requirements of the statute.*

## **14. Severability.**

- a) If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw.

## Aquifer Protection Areas

The Connecticut Department of Environmental Protection has recommended that municipalities adopt the following aquifer protection area regulations. Further information is available at <http://tiny.cc/0UXQH>

### TITLE AND AUTHORITY

Aquifers are an essential natural resource and a major source of public drinking water for the State of Connecticut. Use of groundwater will increase as the population grows and opportunities for new surface water supplies diminish due to the rising cost of land and increasingly intense development. At the same time, numerous drinking water wells have been contaminated by certain land use activities, and others are now threatened. To address this problem, Connecticut has established the Aquifer Protection Area Program (Connecticut General Statutes §22a-354a to §22a-354bb) to identify critical water supply aquifers and to protect them from pollution by managing land use. Protection requires coordinated responsibilities shared by the state, municipality and water companies to ensure a plentiful supply of public drinking water for present and future generations. It is therefore the purpose of these regulations to protect aquifer protection areas within the City/Town of \_\_\_\_\_ by making provisions for:

implementing regulations consistent with state regulations and An Act Concerning Aquifer Protection Areas, Connecticut General Statutes §22a-354a to §22a-354bb ("the Act");

delineating aquifer protection areas on the city/town zoning or inland wetland and watercourse areas maps;

regulating land use activity within the aquifer protection area including: prohibiting certain new activities; registering existing regulated activities; and issuing permits for new regulated activities at registered facilities; and

administering and enforcing these regulations.

These regulations shall be known as the Aquifer Protection Area Regulations (the "APA Regulations") of the City/Town of \_\_\_\_\_.

These regulations were adopted and may be amended, from time to time, in accordance with the provisions of §22a-354p of An Act Concerning Aquifer Protection Areas, the Connecticut General Statutes §22a-354a to §22a-354bb and the Regulations of Connecticut State Agencies §22a-354i-1 through §22a-354i-10.

The \_\_\_\_\_ [board or commission] of the City/Town of \_\_\_\_\_ is established as the Aquifer Protection Agency (the "Agency") in accordance with the "Ordinance for the Establishment of an Aquifer Protection Agency," (the "APA Ordinance") effective \_\_\_\_\_, and shall implement the purposes and provisions of the

APA Ordinance and the Act.

The Agency shall administer all provisions of the Act and shall approve or deny registrations, issue permits, issue permits with terms, conditions, limitations or modifications, or deny permits for all regulated activities in aquifer protection areas in the City/Town of \_\_\_\_\_ pursuant to the Act.

## **DELINEATION OF AQUIFER PROTECTION AREA BOUNDARIES**

The zoning, planning, or planning and zoning commission shall delineate the aquifer protection areas on the City/Town of \_\_\_\_\_ zoning district map or, if zoning district maps do not exist, the inland wetland and watercourse areas map adopted pursuant to §22a-42a the Connecticut General Statutes. Such delineation shall consist of the combined areas of contribution and recharge areas as shown on Level A maps approved or prepared by the Commissioner.

Such boundaries shall be delineated within one hundred twenty (120) days after being notified by the Commissioner that an aquifer protection area is located partially or entirely within the City/Town of \_\_\_\_\_.

Notice of such delineation shall be published in a newspaper having substantial circulation in the affected area. Such notice shall include at least the following:

a map or detailed description of the subject aquifer protection area; and

the name, telephone number, and address of a representative of the Agency who may be reached for further information.

In order to clarify the location of an aquifer protection area boundary, the Agency may apply to the Commissioner to extend such boundary to coincide with the nearest property line, municipal boundary or topographic feature pursuant to §22a-354i-4 of the Regulations of Connecticut State Agencies. Such extension shall, at a minimum, fully encompass the aquifer protection areas bounded by the approved level A mapping but shall not exceed the distance necessary to clarify the location of the aquifer protection area or to facilitate the administration of regulations pertaining thereto. An aquifer protection area boundary may not be extended without prior written approval of the Commissioner.

Any request by the Agency to the Commissioner for extension of an aquifer protection area boundary shall include at least the following:

A map to scale delineating (i) the aquifer protection area boundary mapped under Section 3(a) of the APA regulations and (ii) the proposed extension of the aquifer protection area boundary;

A certification by the chairperson or duly authorized agent of the Agency that notice of such request has been provided to all owners of property within the proposed

extended aquifer protection area and all affected water companies in accordance with the following:

Such notice shall include at least the following:

1. A map showing the aquifer protection area boundaries and the proposed extension of such boundaries,
2. the name, address, and telephone number of a representative of the Agency who may be contacted for further information, and
3. a statement that any person may, not later than thirty (30) days after said notification, submit to the Agency written comments on such proposed boundary extension;

Such notice shall be effectuated by the following:

4. Delivery of notice by certified mail to those individuals and entities identified in Subsection (b)(1)(B) of this Section, or
5. the publication of a notice in a newspaper having substantial circulation in the affected area; and posting of notice near the proposed boundaries of the subject aquifer protection area of at least four signs each of which shall be at least four square feet in size (2' x 2'); and

a summary of comments received by such Agency regarding the proposed boundary extension and the Agency's response.

Not later than sixty (60) days after receiving the Commissioner's written approval of a request to extend an aquifer protection area boundary, the Agency shall cause such boundary to be delineated in accordance with Subsection (a) of this Section.

No person may challenge the boundaries of the aquifer protection area under the APA Regulations unless such challenge is based solely on a failure by the Agency to properly delineate the boundaries in accordance with §22a-354n of the Connecticut General Statutes.

A map of the location and boundaries of the aquifer protection areas, or regulated areas, shall be available for inspection in the Office of the City/Town Clerk or the Agency.

If the Level A mapping is amended in accordance with §22a-354b-1(i) or §22a-354b-1(j) of the Regulations of Connecticut State Agencies, the Agency shall cause the amended aquifer protection area boundary to be delineated in accordance with Subsections (a) or (b) of this Section.

## **PROHIBITED AND REGULATED ACTIVITIES**

b. All regulated activities are prohibited in aquifer protection areas, except as specified in Subsection (b) of this Section.

c. The following regulated activities are not prohibited in aquifer protection areas:

A registered regulated activity which is conducted in compliance with §22a-354i-9 of the Regulations of Connecticut State Agencies or Section 12 of the APA Regulations;  
and

i. a regulated activity which has received a permit issued pursuant to §22a-354i-8 of the Regulations of Connecticut State Agencies or Section 9 of the APA Regulations.

d. The following are not regulated activities:

I. Any activity conducted at a residence without compensation;

ii. any activity involving the use or storage of no more than two and one-half (2.5) gallons of each type of hazardous material on-site at any one time, provided the total of all hazardous materials on-site does not exceed fifty-five (55) gallons at any one time;

iii. any agricultural activity regulated pursuant to §22a-354m(d) of the Connecticut General Statutes;

iv. any activity provided all the following conditions are satisfied:

such activity takes place solely within an enclosed building in an area with an impermeable floor,

such activity involves no more than 10% of the floor area in the building where the activity takes place,

any hazardous material used in connection with such activity is stored in such building at all times,

all waste waters generated by such activity are lawfully disposed through a connection to a publicly owned treatment works, and

such activity does not involve (i) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with such vehicles, (ii) underground storage of any hazardous material, or (iii) above ground storage of more than one hundred and ten (110) gallons of hazardous materials;

v. any activity solely involving the use of lubricating oil provided all the following conditions are satisfied:

such activity does not involve cleaning of metals with chlorinated solvents at the

facility,

such activity takes place solely within an enclosed building in an area with an impermeable floor,

any hazardous material used in connection with such activity is stored in such building at all times, and

such activity does not involve: (i) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with such vehicles, (ii) underground storage of any hazardous material, or (iii) above ground storage of more than one hundred ten (110) gallons of such lubricating oil and associated hazardous waste; and

any activity involving the dispensing of oil or petroleum from an above-ground storage tank or tanks with an aggregate volume of two thousand (2000) gallons or less provided all the following conditions are satisfied:

such dispensing activity takes place solely on a paved surface which is covered by a roof,

the above-ground storage tank(s) is a double-walled tank with overfill alarms, and

all associated piping is either above ground, or has secondary containment.

#### Determination of a non-regulated activity

Any person proposing to carry out a non-regulated activity, as set forth in Section 4(c) of these regulations, in an aquifer protection area shall, prior to commencement of such activity, notify the Agency or its duly authorized agent on a form provided by the Agency. Such form shall provide sufficient information to enable the Agency or its duly authorized agent to properly determine that the proposed activity is a regulated activity or a non-regulated activity within the aquifer protection area.

If such activity is determined to be a non-regulated activity, then no further action under the APA Regulations is necessary.

## **ACTIVITIES REGULATED BY THE STATE**

The Commissioner shall exclusively regulate activities within aquifer protection areas that are specified in §22a-354p(g) of the Connecticut General Statutes. The Agency shall regulate all other regulated activities.

Any person conducting regulated activities that are within the authority of the Commissioner shall submit a registration or obtain a permit or exemption from the Commissioner prior to engaging in such activity. The Commissioner shall process applications for those regulated activities.

The Agency may submit an advisory decision to the Commissioner for consideration on any permit regulated under this Section in accordance with the Connecticut General Statutes §22a-354p(g).

## **APPLICATION FOR AN EXEMPTION FROM PROHIBITION OR REGULATION**

The owner or operator of a regulated activity may seek an exemption from the Commissioner pursuant to §22a-354i-6 of the Regulations of Connecticut State Agencies. Any person seeking an exemption from the Commissioner shall concurrently submit a copy of the application for an exemption to the Agency and any affected water company.

The Agency may submit written comments to the Commissioner on any exemption regulated under this Section in accordance with §22a-354i-6(c) of the Regulations of Connecticut State Agencies within sixty (60) days of the agency receipt of copy of the application.

## **GENERAL REGISTRATION, PERMIT APPLICATION AND TRANSFER PROCEDURES**

All applications for permits and registrations shall contain sufficient information for a fair and informed determination of the issues. The Agency may request additional information from the applicant for this purpose.

The day of receipt of a registration, permit application or transfer form shall be the day of the next regularly scheduled meeting of the Agency, immediately following the day of submission of the application to the Agency or its duly authorized agent, or thirty-five (35) days after such submission, whichever is sooner.

At any time during the review period, the Agency may require the applicant or registrant to provide additional information about the regulated activity. Requests for additional information shall not stay the time limitations for registrations and permits as set forth in Sections 8 and 9 of the APA Regulations.

All permit applications and registrations shall be open for public inspection.

Incomplete permit applications and registrations may be denied without prejudice.

No permit or registration issued under Sections 8 or 9 of the APA Regulations shall be assigned or transferred except with written approval by the Agency.

The Agency shall notify the town clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which: (1) any portion of the property affected by a decision of such agency is within five-hundred feet of the boundary of the adjoining municipality; (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter



or exit the site; (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

## **REGISTRATION REQUIREMENTS**

Any person engaged in a regulated activity which substantially commenced, or was in active operation within the past five (5) years, or with respect to which a municipal building permit was issued, either (A) before the effective date of the state aquifer protection regulations, or (B) before the date an applicable aquifer protection area is designated on a municipal zoning district map or inland wetland and watercourse areas map, whichever occurs later, shall register the activity in accordance with this Section unless such person has pending an application for an exemption pursuant to §22a-354i-6 of the Regulations of Connecticut State Agencies.

The Commissioner shall process registrations for those regulated activities specified in §22a-354p(g) of the Connecticut General Statutes. The Agency shall process registrations for all other regulated activities.

If the regulated activity is not specified in §22a-354p(g) of the Connecticut General Statutes, the person engaged in such activity shall submit a registration to the Agency not later than one hundred eighty (180) days after adoption of regulations pursuant to §22a-354p of the Connecticut General Statutes, or the designation the aquifer protection area pursuant to §22a-354i-2 of the Regulations of Connecticut State Agencies, whichever occurs later. Said person shall simultaneously file a copy of the registration with the Commissioner, Commissioner of Public Health and the affected water company.

All registrations shall be provided on a form prescribed by the Agency and shall be accompanied by the correct registration fee in accordance with Section 18 of the APA Regulations. Such registration forms may be obtained from the \_\_\_\_\_ City/Town Clerk or the Agency. Such registration forms shall include at least the following information in writing or on maps or drawings:

The name, business telephone number, street address and mailing address of the:

Registrant; if the registrant is a corporation or limited partnership, the full name of the facility and such corporation or limited partnership as registered with the Connecticut Secretary of State, and any officer or governing or managing body of any partnership, association, firm or corporation,

- owner of such facility if different than the registrant, and
- manager or operator overseeing the operations of such facility;
- the location of such facility, using street address or other appropriate method of location, and a map showing the property boundaries of the facility on a 1:24,000 scale United States Geological Survey topographic quadrangle base;
- an identification of the regulated activity or activities conducted at the facility, as described in Section 2(a)(35) of the APA Regulations, which regulated activity or activities shall consist of any regulated activity which substantially commenced, was in active operation, or with respect to which a municipal building permit was issued within the past five years; and
- a certification by the registrant that the subject regulated activity is in compliance with the best management practices set forth in Section 12(a) of the APA Regulations, as follows, signed after satisfying the statements set forth in the following certification:

"I have personally examined and am familiar with the information submitted in this registration and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in this document or certification may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

When deemed necessary to protect a public supply well subject to regulation under §22a-354c or §22a-354z of the Connecticut General Statutes, the Agency may:

require, by written notice, any registrant to submit for review and written approval a storm water management plan prepared in accordance with Section 12(b) of the APA Regulations. If so required, the storm water management plan shall be implemented by the registrant immediately upon its approval; or

require, by written notice, any registrant to submit for review and written approval the materials management plan prepared in accordance with Section 12(a) of the APA Regulations. If so required, the materials management plan shall be implemented by the registrant immediately upon its approval.

If the Agency determines that a registration is incomplete, it shall reject the registration and notify the registrant of what additional information is required and the date by which it shall be submitted.

If the registration is determined to be complete, and the regulated activity is eligible for registration, the Agency shall send written notification of such registration to the registrant. Such registration shall be determined to be complete and eligible if the registrant has not otherwise received a notice of rejection from the Agency, not later than one hundred and eighty (180) days after the date the registration is received by the Agency.

The following general provisions shall be included in the issuance of all registrations:

The Agency has relied in whole or in part on information provided by the registrant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the registration may be modified, suspended or revoked;

all registrations issued by the Agency are subject to and do not derogate any present or future rights or powers of the Commissioner, Agency, or municipality, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity;

a complete registration shall expire five (5) years from the date of receipt of such registration by the Agency;

the registrant shall apply to the Agency to renew the registration on a form prescribed by the Agency for a facility prior to expiration of such registration; and

If a registered regulated activity is out of business or inactive when registration renewal is required, a five (5) year allowance shall be in effect from the date the registration expires. If the registrant has not applied to renew the registration within five (5) years of the date the registration expires, the facility is no longer eligible for registration.

If a regulated activity which is eligible for registration in accordance with Subsection (a) of this Section fails to be registered or if the registrant of an active registered activity fails to apply for renewal prior to expiration, the Commissioner or municipal aquifer protection agency, as appropriate, may accept a late registration at their discretion, subject to the limitations in Subsection (f)(5) of this Section.

Any person wishing to assume the benefits under a registration for regulated activities shall apply to transfer such registration on a form prescribed by the Agency and submitted to the Agency.

## **PERMIT REQUIREMENTS**

Any person may apply for a permit to add a regulated activity to a facility where a registered regulated activity occurs.

The Agency shall process permit applications for those registrants that have registered pursuant to Section 8 of the APA Regulations. The Commissioner shall process permit applications for regulated activities specified in §22a-354p(g) of the Connecticut General Statutes and for those registrants that have registered pursuant to §22a-354i-7(b)(1) of the Regulations of Connecticut State Agencies.

Action shall be taken on permit applications within sixty-five (65) days after the completion of a public hearing or in the absence of a public hearing within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of

either of these timeframes, provided the total extension of all such periods is sixty-five (65) days or less.

An application for a permit shall be made on a form prescribed by the Agency and shall be accompanied by the correct application fee in accordance with Section 18 of the APA Regulations. Such permit application forms may be obtained from the \_\_\_\_\_ City/Town Clerk or the Agency. Simultaneously with filing an application, the applicant shall send a copy of the application to the Commissioner, the Commissioner of Public Health and the affected water company. An application shall include the following information:

The information as required for a registration under Section 8(b) of the APA Regulations shall be provided for the proposed regulated activity;

a confirmation and certification that the existing and proposed activity:

remains and shall remain in compliance with Section 12(a) of the APA Regulations, shall not increase the number of underground storage tanks used for storage of hazardous materials, and

remains and shall remain in compliance with all local, state, and federal environmental laws;

a materials management plan in accordance with Section 12(a) of the APA Regulations;

a storm water management plan in accordance with Section 12(b) of the APA Regulations;

the following environmental compliance information with respect to environmental violations which occurred at the facility where the regulated activities are conducted, within the five years immediately preceding the date of the application:

any criminal conviction involving a violation of any environmental protection law,

any civil penalty imposed in any state or federal judicial proceeding, or any penalty exceeding five thousand dollars imposed in any administrative proceeding, and

any judicial or administrative orders issued regarding any such violation together with the dates, case or docket numbers, or other information which identifies the proceeding. For any such proceeding initiated by the state or federal government, the Agency may require submission of a copy of any official document associated with the proceeding, the final judgment or order;

any additional information deemed necessary by the Agency regarding potential threats to the ground water and proposed safeguards; and

the following certification signed by the applicant and the individual responsible for preparing the application, after satisfying the statements set forth in the certification:

"I have personally examined and am familiar with the information submitted in this document and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

The Commissioner, any affected water company or the Commissioner of Public Health may, not later than thirty (30) days after receiving a copy of an application for a permit under this Section, submit to the Agency written comments on such application. The Agency shall give due consideration to any such comments, and shall provide a copy of the decision to the Commissioner, the affected water company and the Commissioner of Public Health.

To carry out the purposes of the Act, the Agency may grant an application as filed, grant it upon such terms, conditions, limitations or modifications necessary, or deny it. The Agency shall state upon the record the reason for its decision.

The Agency may hold a public hearing on an application for a permit in accordance with Section 10 of the APA regulations.

The Agency shall not issue a permit unless a complete application has been received and the applicant demonstrates to the Agency's satisfaction that all requirements of this Section of the APA regulations have been satisfied and all of the following standards and criteria have been met:

the proposed regulated activity shall take place at a facility where a registered regulated activity occurs;

the proposed regulated activity shall not increase the number, or storage capacity of underground storage tanks used for hazardous materials except for the replacement of an existing underground storage tank in accordance with Section 12(a)(3) of the APA Regulations;

the materials management plan and storm water management plan have been satisfactorily prepared in accordance with Sections 12(a) and 12(b) of the APA Regulations;

the applicant has submitted a confirmation and certification that all regulated activities remain and shall remain in compliance with all local, state and federal environmental laws in accordance with Subsection (d)(2) of this Section;

the applicant's compliance record does not indicate (A) that any noncompliance resulted from indifference to or disregard for the legal requirements, (B) an unwillingness or inability to devote the resources necessary to comply and remain in compliance, or (C) that instances of noncompliance have led to serious environmental harm, harm to human health or safety, or a substantial risk of such harm;

the proposed regulated activity shall be conducted in accordance with Section 12 of the

APA Regulations;

the existing regulated activity is being conducted in accordance with Section 12 of the APA Regulations; and

the certification required under Subsection (d)(7) of this Section has been signed by the applicant and the individual responsible for preparing the application.

The Agency may impose reasonable conditions or limitations on any permit issued under this Section to assure protection of the ground water, including, but not limited to the following:

best management practices in addition to those set forth in Section 12 of the APA Regulations; and

ground water monitoring.

The following general provisions shall be included in the issuance of all permits:

the Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked;

all permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Commissioner, Agency, or municipality, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity;

the permit shall expire ten (10) years from the date of issuance of such permit by the Agency; and

a person shall apply to the Agency to renew the permit on a form prescribed by the Agency prior to expiration of such permit. Such renewal shall be granted upon request by the Agency unless a substantial change in the permitted activity is proposed, or enforcement action with regard to the regulated activity has been taken, in which case, a new permit application shall be submitted and reviewed in accordance with the provisions of this Section.

The Agency shall notify the applicant or permittee within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in issuance or denial of a permit to be published in a newspaper having a general circulation in the municipality in which the aquifer protection area is located.

A permittee may request a modification of a permit from the Agency. Such request shall be on a form prescribed by the Agency, and shall include the facts and reasons supporting the request. The Agency may require the permittee to submit a new application for a permit or renewal in lieu of a modification request.

A person wishing to assume the benefits under a permit for regulated activities shall apply to transfer such permit on a form prescribed by the Agency and submitted to the Agency.

## **PUBLIC HEARINGS REGARDING PERMIT APPLICATIONS**

If the Agency decides to hold a public hearing regarding an application for a permit to conduct a regulated activity within an aquifer protection area, such hearing shall commence no later than sixty-five (65) days after the receipt of such application.

Notice of the hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each city/town where the affected aquifer, or any part thereof, is located.

The Agency shall send to any affected water company, at least ten (10) days before the hearing, a copy of the notice by certified mail, return receipt requested. Any affected water company may, through a representative, appear and be heard at any such hearing.

All applications, maps and documents relating thereto shall be open for public inspection.

At such hearing any person or persons may appear and be heard.

The hearing shall be completed within thirty-five (35) days of its commencement.

The applicant may consent to an extension of the time frames in Subsections (a) or (f) of this Section, provided the total extension of all such periods, including any extensions provided in Section 9(c), totals sixty-five (65) days or less.

In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision.

The applicant or permittee shall be notified of the Agency's decision in accordance with Section 9(k) of the APA Regulations.

## **BOND AND INSURANCE RELEVANT TO PERMIT APPLICANTS**

An applicant may be required to file a bond as a condition of the permit.

Any bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.

## **BEST MANAGEMENT PRACTICES**

Every regulated activity shall be conducted in accordance with the following:

hazardous materials may be stored above ground within an aquifer protection area only in accordance with the following conditions:

hazardous material shall be stored in a building or under a roof that minimizes storm water entry to the hazardous material storage area, except that a roof is not required for a bulk storage facility as defined in Section 2 of the APA Regulations,

floors within a building or under a roof where hazardous material may be stored shall be constructed or treated to protect the surface of the floor from deterioration due to spillage of any such material,

a structure which may be used for storage or transfer of hazardous material shall be protected from storm water run-on, and ground water intrusion,

hazardous material shall be stored within an impermeable containment area which is capable of containing at least the volume of the largest container of such hazardous material present in such area, or 10% of the total volume of all such containers in such area, whichever is larger, without overflow of released hazardous material from the containment area,

hazardous material shall not be stored with other hazardous materials that are incompatible and may create a hazard of fire, explosion or generation of toxic substances,

hazardous material shall be stored only in a container that has been certified to meet state or federal specifications for containers suitable for the transport or storage of such material,

hazardous material shall be stored only in an area that is secured against unauthorized entry by the public, and

the requirements of this subdivision are intended to supplement, and not to supersede, any other applicable requirements of federal, state, or local law, including applicable requirements of the Resource Conservation and Recovery Act of 1976;

no person shall increase the number of underground storage tanks used to store hazardous materials;

an underground storage tank used to store hazardous materials shall not be replaced with a larger tank unless (A) there is no more than a 25% increase in volume of the larger replacement tank, and (B) the larger replacement tank is a double-walled tank with



co-axial piping, both meeting new installation component standards pursuant to §22a-449(d)-1(e) and §22a-449(d)-102 of the Regulations of Connecticut State Agencies, and with interstitial monitoring;

no person shall use, maintain or install floor drains, dry wells or other infiltration devices or appurtenances which allow the release of waste waters to the ground, unless such release is permitted by the Commissioner in accordance with §22a-430 or §22a-430b of the Connecticut General Statutes; and

a materials management plan shall be developed and implemented in accordance with the following:

a materials management plan shall contain, at a minimum, the following information with respect to the subject regulated activity:

a pollution prevention assessment consisting of a detailed evaluation of alternatives to the use of hazardous materials or processes and practices that would reduce or eliminate the use of hazardous materials, and implementation of such alternatives where possible and feasible,

a description of any operations or practices which may pose a threat of pollution to the aquifer, which shall include the following:

1. a process flow diagram identifying where hazardous materials are stored, disposed and used, and where hazardous wastes are generated and subsequently stored and disposed,
2. an inventory of all hazardous materials which are likely to be or will be manufactured, produced, stored, utilized or otherwise handled, and
3. a description of waste, including waste waters generated, and a description of how such wastes are handled, stored and disposed,

the name, street address, mailing address, title and telephone number of the individual(s) responsible for implementing the materials management plan and the individual(s) who should be contacted in an emergency,

a record-keeping system to account for the types, quantities, and disposition of hazardous materials which are manufactured, produced, utilized, stored, or otherwise handled or which are discharged or emitted; such record-keeping system shall be maintained at the subject facility and shall be made available thereat for inspection during normal business hours by the Commissioner and the municipal aquifer protection agency, and

an emergency response plan for responding to a release of hazardous materials. Such plan shall describe how each such release could result in pollution to the underlying aquifer and shall set forth the methods used or to be used to

prevent and abate any such a release;

when a materials management plan is required under either Section 8(c) or 9(d) of the APA Regulations, such materials management plan shall be completed and certified by a professional engineer or a certified hazardous materials manager, or, if the facility where the regulated activity is conducted has received and maintained an ISO 14001 environmental management system certification, then the registrant may complete and certify the materials management plan; and

the materials management plan shall be maintained at the subject facility and shall be made available thereat for inspection during normal business hours by the Commissioner and the municipal aquifer protection agency.

The development and implementation of a storm water management plan required for regulated activities in accordance with Sections 8(c) and 9(d) of the APA Regulations, shall be as follows: A storm water management plan shall assure that storm water run-off generated by the subject regulated activity is (i) managed in a manner so as to prevent pollution of ground water, and (ii) shall comply with all of the requirements for the General Permit of the Discharge of Storm Water associated with a Commercial Activity issued pursuant to §22a-430b of the Connecticut General Statutes.

## **OTHER STATE, FEDERAL AND LOCAL LAWS**

Nothing in these regulations shall obviate the requirement for the applicant to obtain any other assents, permits or licenses required by law or regulation by the City/Town of \_\_\_\_\_, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers and the United States Environmental Protection Agency. Obtaining such assents, permits or licenses are the sole responsibility of the applicant.

No person shall conduct any regulated activity within an aquifer protection area which requires zoning or subdivision approval without first having obtained a valid certificate of zoning or subdivision approval, special permit, special exception or variance, or other documentation establishing that the proposal complies with the City/Town of \_\_\_\_\_ zoning or subdivision regulations.

## **ENFORCEMENT**

The Agency may appoint a duly authorized agent to act in its behalf with the authority to issue notices of violation or cease and desist orders.

If the Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which violates any provision of these regulations, the Agency or its duly authorized agent may:

Issue a notice of violation.

The notice of violation shall state the nature of the violation, the jurisdiction of the Agency, and the necessary action required to correct the violation including without limitation halting the activity in the aquifer protection area.

The Agency may request that the person appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit or registration. Failure to carry out the action(s) directed in a notice of violation may result in issuance of an order under Subsection (2) of this Section or other enforcement proceedings as provided by law.

Issue a written order.

Such order shall be issued by certified mail, return receipt requested to such person conducting such activity or maintaining such facility or condition to cease such activity immediately or to correct such facility or condition. The Agency shall send a copy of such order to any affected water company by certified mail, return receipt requested.

Within ten (10) days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. Any affected water company may testify at the hearing. The Agency shall consider the facts presented at the hearing and, within ten (10) days of the completion of the hearing, notify the person by certified mail, return receipt requested, that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn.

Suspend or revoke registration or permit.

The Agency may suspend or revoke a registration or a permit if it finds, after a hearing, that the registrant or permittee has not complied with the terms, conditions or limitations set forth in the registration or the permit. Prior to revoking or suspending any registration or permit, the Agency shall issue notice to the registrant or the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct that warrants the intended action.

The Agency shall hold a hearing to provide the registrant or permittee an opportunity to show that it is in compliance with its registration or permit. The Agency shall notify the registrant or permittee of its decision by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of a suspension or revocation in a newspaper having general circulation in the City/Town of \_\_\_\_\_.

An order issued pursuant to Subsection (b)(2) of this Section shall be effective upon issuance, shall remain in effect until the Agency affirms, revises, or withdraws the order, and shall not delay or bar an action pursuant to Subsection (b)(3) of this Section.

A court may assess criminal and or civil penalties to any person who commits, takes part in, or assists in any violation of any provision of the APA regulations in accordance with §22a-354s(b) and §22a-354s(c) of the Connecticut General Statutes.

## **AMENDMENTS**

These regulations may be amended, changed or repealed in accordance with §22a-354p(b) of the Connecticut General Statutes.

If a complete application is filed with the Agency which is in conformance with the APA regulations as of the date of its filing, the permit issued shall not be required to comply with any changes in regulations taking effect on or after the filing date. The provisions of this Section shall not apply to the establishment, amendment, or change of the boundaries of the aquifer protection area or to any changes in the APA Regulations necessary to make the regulations consistent with Chapter 446i of the Connecticut General Statutes as of the date of the Agency's decision.

## **APPEALS**

Appeal of the Agency's regulation, order, decision or action shall be made in accordance with §22a-354q of the Connecticut General Statutes.

## **CONFLICT AND SEVERANCE**

If there is a conflict between the provisions of the APA Regulations, the provision that imposes the most stringent standards shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these regulations shall not affect the validity of any other part that can be given effect without such valid part or parts.

If there is a conflict between the provisions of the APA Regulations and the Act, the provisions of the Act shall govern.

## **REGISTRATION AND PERMIT APPLICATION FEES**

All fees required by these regulations shall be submitted to the Agency by certified check or money order payable to the City/Town of \_\_\_\_\_ at the time the registration or permit application is filed with the Agency.

No registration or permit application shall be granted or approved by the Agency unless the correct registration/application fee is paid in full or unless a waiver has been granted by the Agency pursuant to Subsection (f) of this Section.

The registration or permit application fee is nonrefundable.

Registration or permit application fees shall be based on the following schedule:

<b>Fee Schedule</b>			
	<b>Facility Size</b>		
	<b>Small (&lt; 1 acre)</b>	<b>Medium (1-5 acres)</b>	<b>Large (&gt; 5 acres)</b>
<b>Registrations:</b>			
Industrial			
Commercial			
Other			
<b>Fee Schedule (continued)</b>			
	<b>Facility Size</b>		
	<b>Small (&lt; 1 acre)</b>	<b>Medium (1-5 acres)</b>	<b>Large (&gt; 5 acres)</b>
<b>Permits:</b>			
Industrial			
Commercial			
Other			
<b>Materials Management Plan Reviews</b>			
<b>Storm water Management Plan Reviews</b>			
<b>Public Hearing</b>			
<b>Facility Inspection/Monitoring</b>			
<b>Regulation Petition</b>			
<b>Transfer Fee</b>			

Boards, commissions, councils and departments of the City/Town of \_\_\_\_\_ are exempt from all fee requirements.

The registrant or applicant may petition the Agency to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this Section. The Agency may waive all or part of the application fee if the Agency determines that:

the activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the registrant or applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the registration or permit application fee; or

the amount of the registration or permit application fee is clearly excessive in relation to the cost to the City/Town for reviewing and processing the application.

#### Extra Assessments

In the event that additional expenses, including but not limited to outside consultants, experts, or legal advisors are incurred in processing the registration or permit application the applicant/registrant may be assessed an additional fee not to exceed \$\_\_\_\_\_ to cover said costs. Said fees are to be estimated by the duly authorized agent and submitted with the application fee and held until the application is completely processed after which time any residual funds pertaining to this assessment are to be returned to the applicant/registrant.

For the purpose of this assessment, an “outside consultant” means a professional who is not an employee of the City/Town of \_\_\_\_\_ including but not limited to engineering, environmental, hydrogeology and hazardous materials management professionals.

The Agency shall state upon its record the basis for all actions under this Section.

## **EFFECTIVE DATE OF REGULATIONS**

The APA Regulations, APA boundaries and amendments thereto, shall become effective upon (1) the Commissioner's determination that such regulations are reasonably related to the purpose of ground water protection and not inconsistent with the Regulations of Connecticut State Agencies §22a-354i-1 through §22a-354i-10 and (2) filing in the Office of the City/Town Clerk.

**Effective Date:** \_\_\_\_\_

**Revision Date:** \_\_\_\_\_

## Flood Hazard Zone

### I. Purpose and Application.

Flood hazard areas, as designated on the Federal Flood Insurance Rate Map for [insert town name], are subject to periodic inundation which may result in loss of life and property, or in health and safety hazards. These regulations are designed to prevent or minimize loss of life, injuries, property damage, and other losses, both private and public; to promote the health, public safety and general welfare of the people; to help control and minimize the extent of floods, and reduce the depth and violence of flooding. The following requirements are applicable in the Flood Plain District and are in addition to the requirements of these Regulations applicable in the underlying district.

The above purpose is adapted from Stonington, CT Zoning Regulations § 3.3.2.1 and Madison, CT Zoning Regulations § 2A.1. In its purpose section East Hampton, CT also lists the following:

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or, in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase erosion or flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

East Hampton, CT, Zoning Regulations § 10.1

Both East Hampton, CT and Essex, CT also list objectives of the Flood Hazard Zone, including:

- protect human life and public health;
- minimize expenditure of money for costly flood control projects;
- minimize the need for rescue and relief efforts associated with flooding;
- minimize prolonged business and employment interruptions;
- minimize damage to public facilities and utilities;
- help maintain a stable tax base
- insure that purchasers of property are notified of special flood hazards;
- insure that persons who occupy areas of special flood hazard assume responsibility for their actions; and
- To ensure continued eligibility of owners of property in the Town of Essex for participation in the National Flood Insurance Program pursuant to rules and regulations published in the Federal Register.

Essex, CT Zoning Regulations. § 103A. East Hampton, CT Zoning Regulations § 10.2.

### III. Minimum Standard.



The degree of flood protection required by these regulations is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Floods of greater magnitude can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of [insert town name] or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

Borough of Stonington, CT, Zoning Regulations § 3.3.2.

IV. Zone Designation. [Each municipality must designate the area to which these regulations apply based on the Flood Insurance Rate Map].

V. Approval Required. [Some municipalities require a zoning permit to be issued by the zoning enforcement agent while others require site plan approval by the zoning commission. Such a decision should be made by each municipality based on their administrative capacities].

#### V. General Standards

Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Encroachments, including fill, new construction, substantial improvements, and other developments shall be prohibited within the flood way unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood discharge.
- B. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- C. All new construction and substantial improvements shall be constructed with materials resistant to flood damage.
- D. All new construction and substantial improvements to structures shall be constructed to ensure that electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located so as to prevent water from entering or accumulating with the components during conditions of flooding.
- E. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- F. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- H. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

- I. All manufactured homes (including "mobile" homes placed on a site for 180 consecutive days or longer) to be placed or substantially improved shall be installed using methods and practices which minimize flood damage. Elevation construction standards include piling foundations placed no more than 10 feet apart, and the provision of reinforcement for piers more than six feet above ground level.
- J. Flood Elevation. New construction and substantial improvement of buildings and other structures shall conform to the following:
  - (A) Any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.
  - (B) Any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation or shall, together with attendant utility and sanitary facilities, conform to the following:
    - (i) be flood proofed so that at one foot (1') above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water.
    - (ii) for all new construction and substantial improvements, fully enclosed areas below the lowest floor are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
    - (iii) be certified by a registered professional engineer or architect that the above standards are satisfied, which certifications shall be provided to the Zoning Enforcement Agent.
- K. In a zone where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevations more than one (1) foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.

- L. No filling, dumping or construction or other activity shall be allowed which would increase the elevation of the base flood by more than one foot or adversely affect the hydraulic characteristics of the floodplain unless the proposed filling is fully compensated for by excavation in or contiguous to the filled area.
- M. No filling, dumping, construction or excavation will be allowed if these changes will result in a concentration of the natural flow of water such as to cause or increase drainage, erosion or sediment problems.
- N. Any fill placed in the floodplain shall not be greater than that which is necessary to achieve the intended purpose as demonstrated by a plan showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
- O. The following restrictions shall pertain to the storage of materials and equipment within the floodplain.
  - (1) The storage of materials that are buoyant, hazardous, flammable, explosive, soluble, expansive radioactive or which could be injurious to human, animal or plant life is prohibited below the elevation of the base flood for a critical activity.
  - (2) Other material or equipment may be stored below the elevation of the base flood for a critical activity provided that such material or equipment is not subject to major damage by floods, and provided that such material or equipment is firmly anchored, restrained or enclosed to prevent it from floating away.
- P. Use of land, construction or other activities permitted within this Section shall be subject to approval by all applicable federal or state agencies.

The General Standards contained within this section are adapted from Essex, CT Zoning Regulations § 103G, Haddam, CT Zoning Regulations § 11, Stonington, CT Zoning Regulations § 3.3.2.6, and the Connecticut Department of Environmental Protection Connecticut Floodplain Management Regulations for State Agencies, § 25-68h-1.

## Watershed Overlay Zone

These regulations are in large part adapted from the Riparian Overlay District Regulations set forth in Killingly, CT Zoning Regulations, § 581; Canton, CT Zoning Regulations, § 59; and New Hartford, CT Zoning Regulations, § 17. A riparian overlay district contains regulations protective of a specific river. To adequately protect water quality, additional watercourses, groundwater and headwater streams within a watershed need be protected also. Accordingly, the watershed overlay zone is an expansion of the more traditional riparian overlay zone.

### I. Purpose

In recognition of the ecological, aesthetic and recreational functions of the [Insert Watershed Name], this watershed overlay zone is established. The purpose of the watershed overlay zone is to promote the public health, safety and general welfare by protecting the public trust. The public trust is embodied in ground water resources, surface water resources, habitat and the ecosystem within the watershed. In furtherance of this purpose, these regulations seek to minimize erosion, stabilize riverbanks, protect water quality, keep excessive nutrients out of the water, maintain water temperature at natural levels and to preserve fish and wildlife habitat. When considering applications for uses within this zone, the Commission shall be guided by the following objectives:

- a. To contribute to the regional conservation of the watershed;
- b. To prevent any alterations to the natural flow of rivers in order to maintain their ecological, recreational and aesthetic qualities.
- c. To prevent and reduce water pollution caused by erosion, sedimentation, nutrient or pesticide runoff, and poorly sited waste disposal facilities, in part by encouraging the retention and enhancement of shoreline vegetative cover, including a diversity of native species and ground cover density that provides a protected buffer and pollution filter strip along river banks;
- d. To enhance and preserve existing scenic or environmentally sensitive areas along the shoreline;
- e. To conserve the natural canopy provided by fauna adjacent to watercourses;
- f. To encourage environmentally sensitive development;
- g. To preserve and maintain the groundwater table and water recharge areas;
- h. To conserve the river's floodplain to maintain its vital ecological and flood storage functions;
- i. To protect fisheries and wildlife habitat within and along the river.

### II. Zone Boundaries

- a. [Each municipality will have to determine the boundaries of its zone based on the watershed located within the town.]

### III. Regulations Limited to the Riparian Corridor

The following regulations only pertain to uses within the riparian corridor, not to the entire watershed overlay zone.

a. Riparian Corridor Boundary. The riparian corridor shall include all area the [insert river name] within the Town of [insert river name] including the [insert river name] headwater streams and a contiguous and parallel buffer strip adjacent to these rivers. The buffer strip shall extend fifty feet from the ordinary high water mark of headwater streams and one-hundred feet from the ordinary high water mark of the [insert river name].

b. Uses as of Right. The following uses are permitted as of right if not prohibited by any other ordinance or regulation, and provided they meet the standards listed below in [insert section]:

1. Selective pruning or removal of trees to maintain a filter view of the River from a principal structure, to provide pedestrian access to the River by means of a narrow foot path, to remove dead, diseased, unsafe or fallen trees and noxious plants and shrubs or to promote the health and vitality of existing vegetation.
2. Maintenance of existing residential accessory uses including lawns, gardens, play areas.

c. Special Permit Uses

1. Enlargement of existing structures and buildings on an existing lot into the ordinary high water mark or buffer zone.
2. Removal of timber including the cutting of timber for forestry management purposes. Such cutting must be performed in accordance with a forest management plan prepared by a qualified forester that is submitted and approved with an application for special permit. Commercial forestry shall comply with the commercial forestry regulations set forth within this watershed overlay zone.
3. Rehabilitation, replacement or upgrading of existing canals, mill ponds, dams, fish ladders and hydroelectric facilities.
4. State and municipal improvements for which there is no practical and feasible alternative available outside the Riparian Corridor provided that all improvements made will minimize the adverse impact of such improvement or operation.

d. Prohibited Uses Within the Riparian Corridor

1. Road salt storage and loading facilities.
2. Solid waste disposal sites.
3. New on-site septic systems, including both primary and reserve areas. Repairs to existing septic systems may be allowed within the buffer strip.
4. The use, storage or manufacture of hazardous materials.
5. Effluent disposal into surface or groundwater associated with any land use.
6. Underground fuel storage tanks.
7. Golf Courses.
8. Dredging or removals of sand, gravel or other earth materials, as well as dumping, filling or other alterations are prohibited.
9. Excavation or removal of sand, gravel, or other earth material within the Buffer strip shall be prohibited. Grading or other surface alterations necessary for the primary use of the lot may be performed within the Buffer Strip provided that it is

done in such a way as to minimize disturbance of vegetation and other natural features in accordance with the purposes of this regulation.

10. New buildings or structures proposed after the approval of these regulations [insert date].

Alternatively, the town of Canton's River Overlay Zone allows as a special exception the "[d]evelopment of a lot existing but with no principal building or use at the time of the adoption of this section (February 7, 1992), where the lot does not contain sufficient depth for the required shoreline and upland area within the zone, or where the lot contains sufficient land for the required shoreline and upland area but does not contain sufficient additional depth to permit establishing a building, structure or use of the lot permitted in the underlying zoning district." Canton, CT Zoning Regulations, §59.8.1

11. Impoundments, dams or structures which would alter the rate, volume or character of the flow of the river.
12. Motor vehicle junk yard.
13. Collection centers for recycling operations
14. Bulk storage of cement and petroleum products, concrete mixing plant or bituminous paving mixing plants.
15. Commercial storage and sale of fuel and bottled gas.

e. Encouraged Uses. The following use, while not required, is encouraged so as to protect the River's resources.

1. Planting of perennial native species in the buffer strip, especially where exposed soil and steep slopes exist.

**IV. Commercial Logging within the Watershed Overlay Zone.** The following regulations shall apply to all commercial logging within the watershed overlay zone. The logging regulations set forth in [insert the section of your code which contains logging regulations] shall not apply to commercial logging within the watershed overlay zone.

These regulations are adapted from the Connecticut Department of Environmental Protection's Forestry Department Best Management Practices for Water Quality While Harvesting Forest Products, available at [http://www.ct.gov/dep/cwp/view.asp?A=2697&Q=379248&depNav\\_GID=1631](http://www.ct.gov/dep/cwp/view.asp?A=2697&Q=379248&depNav_GID=1631).

or all  
plan

**A. Purpose.**

"Forests play a vital role in purifying and maintaining clean water to support diverse aquatic ecosystems and satisfy human demands. Special care must be taken to protect the wetlands and water resources when conducting timber harvests."

Connecticut Department of Environmental Protection, Best Management Practices for Water Quality While Harvesting Forest Products, available at [http://www.ct.gov/dep/cwp/view.asp?a=2697&q=379248&depNav\\_GID=1631](http://www.ct.gov/dep/cwp/view.asp?a=2697&q=379248&depNav_GID=1631) (2007).

Forest land preservation can have great benefits. Proper forestry management provides for continued renewal of an agricultural resource that is beneficial to all, both in terms of timber products, and the health benefits that plant life offers. Forestry management, when regulated, has a low impact on natural resources, does not require extensive municipal services and enhances the town's rural character. Accordingly, this section is designed to promote commercial logging while ensuring that the logging practices will minimize erosion and sedimentation and protect the wetlands, watercourses and forest land so that such commercial logging remains viable.

## B. Site Plan Requirements

1. An applicant shall submit a site plan pursuant to Section XXX of this Code. In addition to the requirements of Section XXX, the following information shall be provided to the Commission as a part of the site plan application. The Commission may request additional information from the applicant.
  - a. **Existing Site Features.** The site plan shall include a map illustrating the topography of the proposed site and the location of any existing roads or paths. The Commission may request detailed topographic information on areas of special concern.

The Connecticut Department of Environmental Protection's Forestry Department recommends that Commissioners do a site walk and compare the site map submitted to the actual property proposed for commercial logging. The DEP recommends that Commissioners locate existing and planned forest access systems (roads, trails and landings), equipment maintenance and fueling areas, stream crossings, buffer strips between commercial logging activities and wetlands and watercourses where activities need be modified to protect water quality and aquatic resources, poor drainage areas and environmentally sensitive areas. Connecticut Department of Environmental Protection, *Best Management Practices for Water Quality while Harvesting Forest Products*.

- b. **Staging Areas, Haul Roads, and Skid Trails.** The proposed location(s) of anticipated skid trails, proposed haul roads, buffer strips and actual staging areas shall be included in the site plan map.
2. **Considerations for Decision.** Commissioners shall consider the following when deciding whether to approve, modify and approve, or deny a site plan application for commercial logging:
  - i. **Weather and Ground Conditions.** When scheduling road building and harvesting operations, the Commission may require the ground be dry, frozen or otherwise stable so as to reduce or eliminate erosion and sedimentation. When the proposed timber harvest is located on a wet

site, in or around wetlands, the Commission may require the use of low impact equipment.

ii. Stream Crossings. Stream Crossings are subject to the following requirements:

1. The site for all stream crossings shall be selected prior to laying out the road system.
2. The number of stream crossings shall be kept to a minimum.
3. The commission may require a temporary bridge be installed for crossing a perennial stream in order to minimize disturbances of the stream channel, soil disturbances and disruption of fish passage. Such bridges shall be anchored to ensure that stability during periods of high water.
4. The Commission may allow the use of fords as a stream crossing over intermittent streams provided the streambed has a rocky or coarse gravel bottom and the approaches are low and stable enough to support the traffic. Approaches to the ford shall extend for 50 or more feet on both sides of the crossing and shall consist of stabilizing materials which may include crushed rock, riprap, rubber mats or geotextiles. As an alternative, fords may utilize a temporary corduroy crossing consisting of pole size trees, cull logs or other materials such as tire mats.
5. The commission may allow the use of culverts for intermittent stream crossings. Culvert openings shall be large enough to carry all of the runoff that may accumulate above the culvert inlet during a ten year storm event. Culverts shall be installed so there is no change in the stream bottom elevation and so as not to cause damming or pooling. The culvert shall be covered with fill to a depth of at least one foot, or half the culvert's diameter, whichever is greater, to protect the culvert from being crushed by vehicles. Culverts shall be no smaller than 15 inches in diameter, and 18 inches if there is evidence of a defined stream channel, and shall extend beyond the fill bank by at least one foot. The commission may require that a settling basin be installed at the inlet and downstream end of the culvert to trap suspended sediment.
6. The stream crossing shall be at a 90-degree angle to the direction of the stream flow.
7. The commission may require that approaches to the stream crossing are filled with stone, corduroy, slash or other suitable materials.
8. The stream crossing shall be located in a flat area where floodwaters can disperse if the culvert or bridge's capacity is exceeded. The stream crossing shall be located where the stream channel is straight and has a gentle gradient.



9. The Commission may require that water crossings, including the installation of culverts and bridges, be scheduled for summer months or periods of low or normal water flow.

The purpose for this regulation is that during summer months the water is low and fish eggs aren't incubating. Connecticut Department of Environmental Protection, *Best Management Practices for Water Quality while Harvesting Forest Products*.

10. The use of equipment within the stream shall be kept to a minimum.
11. To stabilize the exposed soil at stream crossings from erosion into the stream, the commission may require the applicant to apply seed, mulch or temporary sediment control structures such as hay bales or silt fences immediately following construction of a stream crossing.

Hay bales need regular maintenance. To be effective they need be inspected weekly and after storms. Hay bales should be installed so that the cut edge of the hay is facing up and down. Silt fencing is installed down gradient from disturbed areas, such as landings, roads and trails, to prevent sediment laden water from moving overland and entering watercourses. Geotextile fabrics are synthetic permeable fabrics used to stabilize soil and other materials. Geotextiles generally extend the length of season that a road can be used for and reduces the need for additional gravel and maintenance by providing separation, increasing the load carrying capacity and reducing the incidence of ruts.

- iii. Landings (areas where forest products are collected for processing). Existing landings shall be used if they meet the Best Management Practices (BMP's) set forth in this section. If existing landings fail to meet such BMP's the location and constructing of a landing shall be consistent with the following Best Management Practices:
  1. Landings shall be located in advance of road construction.
  2. Landings shall be located on firm, well-drained soils with a slight slope or crown to promote efficient drainage.
  3. Landings shall not be located adjacent to natural drainages and any runoff from the landing shall be diverted away from watercourses.
  4. The number and size of landings shall be the minimum required.
  5. Residual piles such as slash, sawdust or chips shall be located away from drainages where runoff may wash residue into watercourses or wetlands.
  6. Drainage structures such as water bars shall be located prior to skid roads that lead downhill into landings to prevent water from flowing and pooling into the landing. The drainage structure shall divert runoff into a stable area.

iv. Roads and Trails.

1. Truck roads for moving logs from the landing to a public road. The Commission may require the following:

- a. that road locations minimizes the amount of cut and fill,
- b. a buffer between roads and watercourses,
- c. roads not be located on slopes with unstable soils,
- d. roads not have grades in excess of 10%
- e. pipe culverts be required to drain surface water from permanent roads where adequate fill can be placed over the culvert, and that such culverts be a minimum of twelve inches in diameter.
- f. Open top culverts be required for surface water drainage.
- g. Broad based dips be required for surface water drainage provided the road slope is 10% or less and when no streams are present.

2. Excavated materials associated with road construction. Excavated material shall be placed in a location and manner that will not impede water flow or increase the sedimentation of wetlands and watercourses. Excavated material shall not be deposited in buffer strips surrounding watercourses.

3. Skid roads and trails. Where possible, skid roads and trails shall be located to avoid steep slopes and unstable soils. Roads shall be designed to minimize total road distance, ground disturbance and water crossings. Roads shall be located in a manner where water may be easily diverted but not diverted into streambeds, swales or other low points. The commission may require water diversion structures, such as water bars, within the roadbed itself to minimize water accumulation on roads.

v. Buffer Strips. Buffer strips between watercourses and heavily disturbed areas, such as roads and landings, shall be left in their natural condition so as to absorb runoff and reduce overland flow that can carry suspended sediments into water bodies. Timber harvesting is permitted within buffer strips but the operation of logging machinery shall be limited to skid trails only and the timber harvesting shall not reduce the crown cover below fifty percent so as to minimize change in stream water temperature. Truck and skid roads may be located in buffer strips where stream crossings are necessary.

1. Widths of Buffer Strips Required Between Truck Roads and Streams.

e. Land Slope  
Between Road  
and Stream (%)

f. Width of Buffer  
(feet)

g. 0	h. 25
i. 10	j. 45
k. 20	l. 65
m. 30	n. 85
o. 40	p. 105
q. 50	r. 125
s. 60	t. 145
u. 70	v. 165

2. Vernal Pools. Logging equipment shall not enter or operate in vernal pools at all times of the year. A minimum of a fifty foot vegetated buffer area shall be maintained around all vernal pools. Large buffers up to 750 feet may be required if site conditions warrant additional protection for the resource. Roads, landings and any other logging activities shall not be located within the buffer area.

ELIZABETH A. JOHNSON & MICHAEL W. KLEMENS, NATURE IN FRAGMENTS: THE LEGACY OF SPRAWL 320 (2005).

harvest is complete, but when roads and trails are no longer needed for the timber harvest, the follow conditions shall be met.

1. The applicant shall smooth ruts on all roads and trails.
2. Water bars shall be installed where necessary.
3. Brush and slash may be placed in skid trails and on slopes to slow water flow and retain sediment.
4. Culverts, bridges or other temporary structures placed in watercourses shall be removed.
5. Approaches to streams shall be graded.
6. The landing surface shall be graded so that water does not flow onto the access road.
7. Exposed soil on landings, approaches to stream crossings and steep skid trail sections shall be seeded. Seed mixtures shall be suited to the soil and site conditions and shall establish quickly, develop a solid root mass and be reasonable in cost. A light application of scattered hay over a new seeding on a slope may be required. The application of wood chips, sawdust and hay may be required for moderate slopes. Heavily compacted soils shall be loosened or roughed up prior to seeding.

8. The commission shall require that a barrier to off road vehicles be established to block access to skid roads and trails by off road vehicles. Effective barriers include a medium sized tree felled so that the top is in the skid trail and the butt is still partially connected to the stump, tops of harvested trees, or large barriers of earth and rocks at trail entrances.

**V. Erosion and Sedimentation Control Plan for within Uses the Watershed Overlay Zone.**

The following regulations shall apply to all uses requiring an erosion and sediment control plan within the watershed overlay zone. The erosion and sedimentation control plan regulations set forth in [insert the section of your code which contains logging regulations] shall not apply to uses within the watershed overlay zone.

The following regulations are based on the “Connecticut Guidelines for Soil Erosion and Sediment Control,” available from the Natural Resources Center of the Connecticut Department of Environmental Protection

An applicant shall submit a soil erosion and sediment control plan with any application for development, or before the commencement or extension of an activity for which the disturbed area of such development totals more than one-half (1/2) acre. A single family dwelling that is not a part of a subdivision of land is exempt from the submission of a soil erosion and sedimentation control plan.

East Hampton, CT Zoning Regulations § 27.1. The zoning regulations of North Stonington, CT allow the Commission to require a soil erosion and sediment control plan for the construction of a single-family dwelling “as determined by the Zoning Enforcement Agent.” North Stonington, CT Zoning Regulations, § 214.

A soil erosion and sedimentation control plan is one that presents, in mapped and narrative form, the measures to be taken to control erosion and sedimentation both during and after construction. The Soil Erosion and Sediment Control Plan shall be based on “Connecticut Guidelines for Soil Erosion and Sediment Control,” available from the Natural Resources Center of the Connecticut Department of Environmental Protection.

**A. Erosion and Sediment Control Plan Requirements**

1. A statement describing:
  - a) The development
  - b) The schedule for construction and grading activities including:
    1. start and completion dates;
    2. sequence of grading and construction activities;
    3. sequence for installation and/or application of soil erosion and sediment control measures;
    4. sequence for final stabilization of the project site.
  - c) The design criteria for proposed soil erosion and sediment control measures and storm water management facilities.
  - d) The construction details for proposed soil erosion and sediment control measures and storm water management facilities.

- e) The installation and/or application procedures for proposed soil erosion and sediment control measures and storm water management facilities.
- f) The operations and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities.
- g) Seeding, sodding, or re-vegetation plans and specifications for all unprotected or unvegetated areas;
- h) Contingency plan if unforeseen erosion or sediment problems arise.
- i) Name, address and evening telephone numbers of individuals responsible for implementation of the Erosion and Sediment Control Plan.

2. A site plan showing:

- 1) The location of the proposed development and adjacent properties.
- 2) The existing and proposed topography including soil types, wetlands, watercourses and water bodies.
- 3) The existing structures on the project site, if any.
- 4) The proposed area alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines.
- 5) The location and design details for all proposed soil erosion and sediment control measures and storm water management.
- 6) The sequence of grading and construction activities.
- 7) The sequence for installation and/or application of soil erosion and sediment control measures.
- 8) The sequence for final stabilization of the development site.
- 9) Potentially serious erosion areas and existing erosion problem areas.

3. Any other information deemed appropriate by the applicant or requested by the Zoning Commission or its authorized agent.

**B. Minimum Standards**

The minimum standards for individual measures are those in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended. The Commission may grant exceptions when requested by the applicant if technically sound reasons are presented, and the proposed alternative will accomplish the same goals as the Connecticut Guidelines.

**C. Conditions for Approval.**

- 1. To be eligible for approval, a soil erosion and sedimentation control plan shall contain provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for certification are found in the 2002 Connecticut Guidelines for Soil erosion and Sediment Control, as amended. Alternative principles, methods and practices may be used with prior approval of agents of the Commission. After review of the Erosion and Sediment Control Plan by the Commission, or its agent, the Commission shall certify that the

- plan is in compliance with these Regulations. A vote of the Commission to approve a Site Plan constitutes approval of the Erosion and Sediment Control Plan.
2. The Planning and Zoning Commission or its agent(s) may require that a soil erosion and sedimentation control plan be submitted to the Soil and Water Conservation District or other agencies for review and comment. The applicant is responsible for submitting the plans to the appropriate agencies. Comments from review agencies shall be submitted to the Planning and Zoning Commission as part of the application.
  3. The Commission may require the applicant to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained.
  4. The estimated cost of measures required to control soil erosion and sedimentation and for site stabilization shall be covered in a performance bond in accordance with the provisions specified under Section XXX of the [insert town name] Zoning Regulations.
  5. The earth moving, grading or land disturbing activity, shall consider the topography and soils and be conducted to minimize erosion. Where possible, extensive cut and fill operations should be avoided.
  6. Prospective building sites shall not be stripped of vegetation prior to the approval of the Zoning Commission. Only the smallest practical area of land shall be exposed at any one time during development. When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
  7. Wherever possible, natural terrain and vegetation shall be retained and protected and significant stands of trees shall be preserved.
  8. As necessary, temporary seeding, mulching, staked hay bale check dams, jute or tobacco netting and other control measures shall be used to protect critical areas exposed during development.
  9. Buffers of undisturbed natural vegetation of fifty (50') feet or more shall be retained along all watercourses and wetlands.
  10. Except as approved by the Commission, with the recommendation of the Town Engineer, cut and fill slopes shall not be steeper than 3:1 unless stabilized by a retaining wall or riprap. All fill material shall be placed and compacted so as to minimize sliding or erosion of the soil. As necessary, diversions, waterways, grading or other adequate protective measures shall be provided to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills.
  11. Drainage provisions shall be made to effectively regulate any increased runoff caused by changed soil and surface conditions during and after development.
  12. Permanent or temporary control measures such as diversions, waterways, hay bale check dams, detention basins, sediment basins (silt traps, debris basins) and other structures shall be installed, as necessary, in conjunction with the initial grading operations. Where possible, necessary control measures shall be put into effect prior to commencement of activity in each exposed area. At a minimum, said control measures shall be maintained until the development has been completed and all disturbed areas have been permanently stabilized to ensure the removal of sediment from runoff waters draining from land under development. As necessary, temporary seeding shall be utilized as a non-structural measure for stabilizing slopes during winter conditions and where bare slopes will be untreated for long periods of time.
  13. All disturbed areas shall be properly and neatly graded and shaped as soon as possible.

Final grading shall include removal of large rocks, stumps, debris and other deleterious materials from finished surfaces. A final permanent vegetative cover shall be established upon achievement of final grade.

14. Grading equipment shall not cross active watercourses except by means of bridges, culverts or other methods approved by the Commission or the Zoning Agent.
15. Unless approved by the Commission, top soil shall not be removed from developing areas except for sites of structures or man-made improvements. The top soil from areas intended for such improvements shall be redistributed within the boundaries of the subject site to facilitate the provision of a suitable base for seeding and plantings. As necessary, additional top soil shall be brought to the site. Soil and other material shall not be temporarily or permanently stored in locations which would cause suffocation of root systems of trees to be preserved.

#### **D. Inspection.**

The Zoning Commission or its Agent shall inspect the development as necessary to ensure compliance with the terms and provisions of the Soil Erosion and Sediment Control Plan. The Commission or its agent shall have the authority to require additional erosion and sediment control measures whenever field conditions require them, it being recognized that unforeseen weather, topography, and other site and environmental factors can render the erosion and sediment control plan inadequate.

#### **VI. Enforcement.**

Enforcement of the Soil Erosion and Sedimentation Control Regulations shall be the responsibility of the Planning and Zoning Commission or its designated agent(s). Failure to properly install and/or maintain any erosion and sedimentation control measure may result in the issuance of a stop work order until the problem is satisfactorily corrected.

## Natural Resource Removal Support Overlay Zone

See [Wallingford, CT Zoning Regulations Sec. 4.15] <http://tinyurl.com/yhvwwjg> [See Bluffdale, UT Zoning Regulations Sec. 12.6.15] <http://tinyurl.com/yap9y42>

**A.** Purpose. To establish and develop land adjacent to land zoned and used for natural resource removal, in which certain activities supportive of those uses can take place, and in which the zoning regulations of the underlying base zone, immediately prior to the designation of this overlay zone, shall continue.

While this Regulation has been formed from several different municipalities, the purpose statement should reflect the principles and objectives of Natural Resource Removal and local community character.

**B.** Uses. The uses from the underlying zone, or otherwise indicated in the Zoning Use Summary Table are permitted upon approval of a Special Permit, with a corresponding Site Plan, by the [PZC/ZBA], and all other uses not indicated shall be prohibited

Natural resource removal is not a proper use in this overlay zone as it is merely a support zone for uses that are more accessory to the actual removal and supports the intensive activity of removal occurring on the adjacent land.

- 4.** Structures and equipment necessary to:
  - a)** Create new or different grades, styles, types or mixes of earth products, including but not limited to, concrete batch plants, screening, sorting, crushing, washing and mixing facilities.
  - b)** Weigh and measure the earth material products produced or removed from the adjacent land.
  - c)** Effect and allow the transfer and shipment of such earth products within or off the site, including vehicle servicing areas and spur lines.

Language for structures and equipment necessary may be broadened to include other necessary forms of processing. [See Wallingford, CT Zoning Regulations Sec. 6.10.B.2] <http://tinyurl.com/yhvwwjg>

- C.** Special Requirements.
- 1.** The minimum size of this support overlay zone is to be [enter the number of acres desired by the municipality] acres.
  - 2.** This overlay zone shall be applied to land adjacent or contiguous to the land zoned and used for natural resource removal use or operation.
  - 3.** This overlay zone shall not be applied to residential districts, but otherwise may be applied zones adjacent or contiguous to land zoned and used natural resource removal.

A municipality may choose to limit this overlay zone to land originally zoned for industrial uses but here it has been left open for both industrial and commercially zoned lands but not for residential zones. [See Wallingford, CT Zoning Regulations Sec. 4.15] <http://tinyurl.com/yhvwwjg>

If a municipality chooses to include this overlay zone in conjunction with a right to farm or an agricultural protection zone, then there may be some consideration of applying this overlay zone in limited circumstances over residential districts or zones. [See Bluffdale, UT Sec. 12.6.15] <http://tinyurl.com/yap9y42>



## Natural Resource Removal

This regulation has been derived and influenced by the following zoning regulations, [Brookfield, CT Zoning Regulations Secs. 242-302, 242-602] <http://tinyurl.com/y8htfkq>, <http://tinyurl.com/yd3o2tc>; [Wallingford, CT Zoning Regulations Sec. 6.10] <http://tinyurl.com/yhvwwjg>; [Oxford, CT Zoning Regulations Art. 14] <http://tinyurl.com/yjp673n>; [Woodbury, CT Zoning Regulations Sec. 7.9] <http://tinyurl.com/yzchpml>; [Bristol, CT Zoning Regulations Secs. 9.B-D] <http://tinyurl.com/yadlcp2>, [Southbury, CT Zoning Regulations Sec. 8.] <http://tinyurl.com/ybc4sbh>

**A.** Purpose. To regulate the excavation, removal, filling, and grading of certain earth materials on and in the land which they are located in such a manner, that will not adversely affect the surrounding neighborhood with erosion or sedimentation; that will not result in unsafe, unsightly, or unsanitary conditions, and that will result in land which in the future can be put to a use permitted by the underlying base zone.

While this Regulation has been formed from several different municipalities, the purpose statement should reflect the principles and objectives of Natural Resource Removal and local community character.

**B.** Standards, In General. The excavation, removal, filling and grading of earth materials is permitted in [enter the zoning districts/zones permitted by the municipality] subject to a Special Permit and shall conform to the following:

1. The earth material shall be excavated, graded, or removed in conformity with the proposed contour plans, as approved under the Special Permit.
2. No earth material processing machinery shall be constructed, erected, or maintained on the land within [enter distance from the lot line] feet of the street or property line, as this is reserved as a buffer area, and any such machinery shall be removed from the lot upon termination of the Special Permit. However processing machinery may be constructed, erected, or maintained within [enter distance from the lot line] feet of the property line, but not street line, when the abutting land is designated and used as a Natural Resource Removal Support Overlay Zone. Otherwise, no earth materials stockpile and/or no processing equipment, covered under the Special Permit shall be operated or located outside the permitted area.

Machinery shall not be permitted within 200 feet of the street or lot line. [Wallingford, CT Zoning Regulations Sec. 6.10.B.2] <http://tinyurl.com/yhvwwjg>

The reason for the inclusion of these standards are to further the purpose of this Regulation, especially safety purposes. However the reason for the exception when the abutting land is for a Natural Support Overlay Zone, then it provides incentive for an applicant to seek land where a support overlay zone can be established as well so there is less intensive activity on the actual land where the removal is occurring and adds a further buffer zone to other uses sensitive to this use as the support zone is less intensive than the actual removal.

An alternative to this provision would be to have no fixed machinery be erected or maintained on the premises. [See Oxford, CT Zoning Regulations Art. 14 Sec. 3] <http://tinyurl.com/yjp673n>

3. The operations of natural resource removal is limited to the hours of [enter time constraints].

Operations are limited to the hours of 7 a.m. to 7 p.m. Monday through Friday except in industrial zones where it is also permitted on Saturdays. [See Wallingford, CT Zoning Regulations 6.10.B.3]

<http://tinyurl.com/yhvwwjg>

4. Unless otherwise provided, the maximum depth of the earth material removal shall not exceed [enter the number of feet] feet.

5. If the vegetation or topography within the buffer area will not effectively screen the earth removal operation then the Planning and Zoning Commission (PZC) may require the installation of additional screening, but if there exists vegetation or topography within a lesser buffer area that will effectively screen the earth removal operations from the adjoining properties, then with the consent of the adjoining land owner, if the owner is not the applicant, then the lesser buffer area may be warranted.

The standards can be drafted to exclude from the buffer area under subsection (b) parking, vehicular access or other natural resource removal related structures. [See Bristol, CT Zoning Regulations Sec. 9.B.5.b] <http://tinyurl.com/yzchpml>

C. Standards, Commercial Logging. Pursuant to Connecticut General Statute §8-3 (g) a site plan application shall be required for all commercial logging. The Commission may approve, modify and approve or deny any site plan submitted.

These regulations are taken from the Connecticut Department of Environmental Protection's Forestry Department Best Management Practices for Water Quality While Harvesting Forest Products, available at <http://tinyurl.com/ybknh84>.

1. Purpose. "Forests play a vital role in purifying and maintaining clean water to support diverse aquatic ecosystems and satisfy human demands. Special care must be taken to protect the wetlands and water resources when conducting timber harvests." Forest land provides one of the best cost benefit ratios of all land use. Proper forestry management provides for continued renewal of an agricultural resource that is beneficial to all, both in terms of timber products, and the health benefits that plant life offers. Forestry management, when regulated, has a low impact on natural resources, does not require extensive municipal services and enhances the town's rural character. Accordingly, this section is designed to promote commercial logging while ensuring that the logging practices used to reduce erosion and sedimentation and are protective of the wetlands, watercourses and forest land so that such commercial logging remains viable.

Connecticut Department of Environmental Protection, Best Management Practices for Water Quality While Harvesting Forest Products, available at <http://tinyurl.com/y8v2dzb>.

## 2. Site Plan Requirements.

a) An applicant must submit a site plan pursuant to Section XXX of this Regulation. In addition to the requirements of Section XXX, the following information shall be provided to the Planning and Zoning Commission (PZC) as a part of the site plan application. The PZC may request additional information from the applicant.

**(1) Existing Site Features.** The site plan shall include a map illustrating the topography of the proposed site and the location of any existing roads or paths. The Commission may request detailed topographic information on areas of special concern.

The Connecticut Department of Environmental Protection's Forestry Department recommends that Commissioners do a site walk and compare the site map submitted to the actual property proposed for commercial logging. The DEP recommends that Commissioners locate existing and planned forest access systems (roads, trails and landings), equipment maintenance and fueling areas, stream crossings, buffer strips between commercial logging activities and wetlands and watercourses where activities need be modified to protect water quality and aquatic resources, poor drainage areas and environmentally sensitive areas. Connecticut Department of Environmental Protection, Best Management Practices for Water Quality while Harvesting Forest Products.

**(2) Staging Areas, Haul Roads, and Skid Trails.** The proposed location(s) of anticipated skid trails, proposed haul roads, buffer strips and actual staging areas shall be included in the site plan map.

**b) Considerations for Decision.** Commissioners shall consider the following when deciding whether to approve, modify and approve or deny a site plan application for commercial logging:

**(1) Weather and Ground Conditions.** When scheduling road building and harvesting operations the PZC may require the ground be dry, frozen or otherwise stable so as to reduce or eliminate erosion and sedimentation. When the proposed timber harvest is located on a wet site, in or around wetlands, the PZC may require the use of low impact equipment.

**(2) Stream Crossings.** Stream Crossings are subject to the following requirements:

**(i)** The site for all stream crossings shall be selected prior to laying out the road system.

**(ii)** The number of stream crossings shall be kept to a minimum.

**(iii)** The PZC may require a temporary bridge be installed for crossing a perennial stream in order to minimize disturbances of the stream channel, soil disturbances and disruption of fish passage. Such bridges shall be anchored to ensure that stability during periods of high water.

**(iv)** The PZC may allow the use of fords as a stream crossing over intermittent streams provided the streambed has a rocky or coarse gravel bottom and the approaches are low and stable enough to support the traffic.

**(v)** Approaches to the ford shall extend for 50 or more feet on both sides of the crossing and shall consist of stabilizing materials which may include crushed rock, riprap, rubber mats or geotextiles. As an alternative, fords may utilize a temporary corduroy crossing consisting of pole size trees, cull logs or other materials such as tire mats.

**(vi)** The PZC may allow the use of culverts for intermittent stream crossings. Culvert openings shall be large enough to carry all of the runoff that may accumulate above the culvert inlet during sever rain events. Culverts shall be installed so there is no change in the stream bottom elevation and so as not to cause damming or pooling. The culvert shall be covered with fill to a depth of at least one foot, or half the culvert's diameter, whichever is greater, to protect the culvert from being crushed by vehicles. Culverts shall be no smaller than 15 inches in diameter and 18 inches if there is evidence of a defined

stream channel and shall extend beyond the fill bank by at least one foot. The PZC may require that a settling basin be installed at the inlet and downstream end of the culvert to trap suspended sediment.

(vii) The stream crossing shall be at a 90-degree angle to the direction of the stream flow.

(viii) The PZC may require that approaches to the stream crossing are filled with stone, corduroy, slash or other suitable materials.

(ix) The stream crossing shall be located in a flat area where floodwaters can disperse if the culvert or bridge's capacity is exceeded. The stream crossing shall be located where the stream channel is straight and has a gentle gradient.

(x) The PZC may require that water crossings, including the installation of culverts and bridges, be scheduled for summer months or periods of low or normal water flow.

The purpose for this regulation is that during summer months the water is low and fish eggs aren't incubating. Connecticut Department of Environmental Protection, Best Management Practices for Water Quality while Harvesting Forest Products.

(xi) The use of equipment within the stream shall be kept to a minimum.

(xii) To stabilize the exposed soil at stream crossings from erosion into the stream, the PZC may require the applicant to apply seed, mulch or temporary sediment control structures such as hay bales or silt fences immediately following construction of a stream crossing.

Hay bales need regular maintenance. To be effective they need be inspected weekly and after storms. Hay bales should be installed so that the cut edge of the hay is facing up and down. Silt fencing is installed down gradient from disturbed areas, such as landings, roads and trails, to prevent sediment laden water from moving overland and entering watercourses. Geotextile fabrics are synthetic permeable fabrics used to stabilize soil and other materials. Geotextiles generally extend the length of season that a road can be used for and reduces the need for additional gravel and maintenance by providing separation, increasing the load carrying capacity and reducing the incidence of ruts.

(3) Landings. Existing landings shall be used if they meet the Best Management Practices (BMP's) set forth in this section. If existing landings fail to meet such BMP's the location and constructing of a landing shall be consistent with the following Best Management Practices:

(i) Landings shall be located in advance of road construction.

(ii) Landings shall be located on firm, well-drained soils with a slight slope or crown to promote efficient drainage.

(iii) Landings shall not be located adjacent to natural drainages and any runoff from the landing shall be diverted away from watercourses.

(iv) The number and size of landings shall be the minimum required.

(v) Residual piles such as slash, sawdust or chips shall be located away from drainages where runoff may wash residue into watercourses or wetlands.

(vi) Drainage structures such as water bars shall be located prior to skid roads that lead downhill into landings to prevent water from flowing and pooling into the landing. The drainage structure shall divert runoff into a stable area.

(4) Roads and Trails.

(i) Truck roads for moving logs from the landing to a public road. The PZC may require the following:

(a) That roads location minimizes the amount of cut and fill,

(b) A buffer between roads and watercourses,

(c) Roads may not be located on slopes with unstable soils,

(d) Roads may not have grades in excess of 10%,

(e) Pipe culverts may be required to drain surface water from permanent roads where adequate fill can be placed over the culvert, such culverts shall be a minimum of twelve inches in diameter,

(f) Open top culverts may be required for surface water drainage,

(g) Broad based dips may be required for surface water drainage provided the road slope is 10% or less and when no streams are present.

(ii) Excavated materials associated with road construction. Excavated material shall be placed in a location and manner that will not impede water flow or increase the sedimentation of wetlands and watercourses. Excavated material shall not be deposited in buffer strips surrounding watercourses.

(iii) Skid roads and trails. Where possible, skid roads and trails shall be located to avoid steep slopes and unstable soils. Roads shall be designed to minimize total road distance, ground disturbance and water crossings. Roads shall be located in a manner where water may be easily diverted but not diverted into streambeds, swales or other low points. The commission may require water diversion structures, such as water bars, within the roadbed itself to minimize water accumulation on roads.

(5) Buffer Strips. Buffer strips between watercourses and heavily disturbed areas, such as roads and landings, shall be left in their natural conditions so as to absorb runoff and reduce overland flow that can carry suspended sediments into water bodies. Timber harvesting is permitted within buffer strips but the operation of logging machinery shall be limited to skid trails only and the timber harvesting shall not reduce the crown cover below fifty percent so as to minimize change in stream water temperature. Truck and skid roads may be located in buffer strips where stream crossings are necessary.

(i) Widths of Buffer Strips Required Between Truck Roads and Streams.

Land Slope Between Road and Stream (%)	Width of Buffer (feet)
0	25
10	45
20	65
30	85
40	105
50	125

60	145
70	165

(ii) Vernal Pools. Logging equipment is prohibited from entering or operating in vernal pools at all times of the year. A fifty foot vegetated buffer area shall be maintained around all vernal pools. Roads, landings and any other logging activities shall not be located within the buffer area.

(iii) Post Harvest Control Measures. Regardless of whether the timber harvest is complete, but when roads and trails are no longer needed for the timber harvest, the follow conditions shall be met.

(a) The applicant shall smooth ruts on all roads and trails.

(b) Water bars shall be installed where necessary.

(c) Brush and slash may be placed in skid trails and on slopes to slow water flow and retain sediment.

(d) Culverts, bridges or other temporary structures placed in watercourses shall be removed.

(e) Approaches to streams shall be graded.

(f) The landing surface shall be graded so that water does not flow onto the access road.

(g) Exposed soil on landings, approaches to stream crossings and steep skid trail sections shall be seeded. Seed mixtures shall be suited to the soil and site conditions and shall establish quickly, develop a solid root mass and be reasonable in cost. A light application of scattered hay over a new seeding on a slope may be required. The application of wood chips, sawdust and hay may be required for moderate slopes. Heavily compacted soils shall be loosened or roughed up prior to seeding.

(h) The PZC shall require that a barrier to off road vehicles be established to block access to skid roads and trails by off road vehicles. Effective barriers include a medium sized tree felled so that the top is in the skid trail and the butt is still partially connected to the stump, tops of harvested trees, or large barriers of earth and rocks at trail entrances.

**D. Standards, Restoration Plan.** Except as otherwise provided, when a use under this regulation terminates or the Special Permit expires, the applicant is required to restore the land in accordance with the standards set forth below.

The purpose of having a restoration plan is to allow the use of earth material removal and then the permit the land to be developable in the future for different uses, most likely a use from the base underlying zone.

1. Such area shall be evenly graded to slopes not exceeding [enter the number of feet] feet vertical rise to [enter the number of feet] feet horizontal distance.

2. The required slope may be adjusted by the PZC when a ledge or cliff makes nonconforming slopes unavoidable. The filling and grading shall also assure for adequate draining so stagnant pools of water will be avoided and the adjacent land shall not be damaged.

3. All fill brought on to the site shall be earth materials classified as clean fill by the

Department of Environmental Protection of the State of Connecticut, and shall not include garbage debris, waste, or any other foreign material that would require a permit to fill. **4.**

A top layer of arable soil, shall be spread to a depth of not less than [enter the number of inches or feet] over the entire area and then shall be seeded with a perennial grass and maintained until soil shall be completely stabilized and a danger from erosion or sedimentation no longer exists.

6 inches of topsoil is required in Wallingford. [See Wallingford, CT Zoning Regulations Sec. 6.10C]

<http://tinyurl.com/yhvwwjg>

4 inches of topsoil is required in Bristol. [See Bristol, CT Zoning Regulations Sec. 9.B.5.h/i]

<http://tinyurl.com/yzchpml>

**E. Standards, Blasting.** Blasting to remove earth products is permitted as a special use in conjunction with a valid earth material removal permit under the following conditions so long as it avoids any detrimental effects upon the surrounding environment and properties:

**1.** Prior to the initiation of any blasting efforts, the applicant shall submit to the PZC for approval, a site blasting plan. Such plan shall include the following:

- a) A hole pattern design.
- b) Hole dimensions and loading techniques.
- c) Time delays.
- d) Blasting duration.
- e) Vibration levels.
- f) A tentative schedule for each blast.
- g) The amount of earth material to be dislocated from each blast.
- h) The location of the proposed dislocated earth material.
- i) The use of mats and overfly protection devices to be employed.
- j) Dust containment procedures and safety precautions to be employed.
- k) Pre-blast surveys which shall provide all abutting property owners [enter

the time period] hours of notice prior to any blasting activities and such surveys shall include structures and wells immediately adjacent to the property used as the blasting site.

**2.** No blasting shall occur which yields in excess of [enter the number of cubic yards] yards of material per blast.

**3.** No blasting shall be allowed within [enter the number of feet] of a residential dwelling or well without written consent of the property owner.

**4.** Ground vibrations shall not be outside the following range: [enter the inches] per second peak particle velocity and not less than [enter the numerical hertz frequency] HZ frequency and [enter the inches] inches per second peak particle velocity at more than [enter the numerical hertz frequency] per blast measured at the closest property line. Upon completion of each blast, the applicant shall then provide a seismographic report to the Zoning Enforcement Officer (ZEO) indicating the limits have not been exceeded.

To see a graph illustrating the particle velocity against the frequency, Hz. [Brookfield, CT Zoning Regulations Sec. 242-602K.] <http://tinyurl.com/yd3o2tc>;

**5.** Blasting may occur [enter the days and time which are appropriate for blasting], except if such day and time falls on a federally recognized holiday.

**6.** If blasting is proposed for a new area on a site, the applicant must first apply for a Special Permit, submitting a plan as set forth in subsection (a) of this section to include area of proposed blasting.

**F. Exceptions.**

Natural Resource Removal may be permitted in every zone. [See Wallingford, CT Zoning Regulations Sec. 6.10] <http://tinyurl.com/yhvwwjg>

**1.** Excavation, filling, or removal of earth products in connection with and clearly essential to the construction or alteration of a building or structure on the same premises, provided a (driveway, sewer, health, wetland, zoning or building) permit has been issued for such construction or alteration, and such work is specified in said permit.

This regulation can be made not to apply to natural resource removal within a single parcel if the natural resource removal is not to be removed from such parcel to another parcel. [See Bristol, CT Zoning Regulations Sec. 9.B.1] <http://tinyurl.com/yzchpml>

**2.** Construction, grading or changing of contours in accordance with plans for the same that have been approved by the PZC, covering the roads, lots and other improvements in an approved subdivision. Any excavation, filling, or removal beyond the limits shown in the approved plan of the PZC's action shall require a Special Permit as outlined in this regulation.

**3.** The construction of a swimming pool or underground shelter for which a Zoning Permit has been issued, or a wall, driveway, fence or other special appurtenances to the use of land in question or the placement of utility lines or services.

**4.** Incidental filling, grading, excavating, or removal in connection with maintenance, repairs, or minor improvements to property or customary landscaping shall be exempt from permit requirements.

**5.** Any filling, excavation, grading or removal involving the movement on any lot of no more than 100 cubic yards of earth material.



## **I. Erosion and Sedimentation Control Plan**

The following regulations are based on the “Connecticut Guidelines for Soil Erosion and Sediment Control,” available from the Natural Resources Center of the Connecticut Department of Environmental Protection

An applicant shall submit a soil erosion and sediment control plan with any application for development, or before the commencement or extension of an activity for which the disturbed area of such development totals more than one-half (1/2) acre. A single family dwelling that is not a part of a subdivision of land is exempt from the submission of a soil erosion and sedimentation control plan.

East Hampton, CT Zoning Regulations § 27.1. The zoning regulations of North Stonington, CT allow the Commission to require a soil erosion and sediment control plan for the construction of a single-family dwelling “as determined by the Zoning Enforcement Agent.” North Stonington, CT Zoning Regulations, § 214.

A soil erosion and sedimentation control plan is one that presents, in mapped and narrative form, the measures to be taken to control erosion and sedimentation both during and after construction. The Soil Erosion and Sediment Control Plan shall be based on “Connecticut Guidelines for Soil Erosion and Sediment Control,” available from the Natural Resources Center of the Connecticut Department of Environmental Protection.

## **II. Erosion and Sediment Control Plan Requirements**

### **A. A statement describing:**

- 1) The development**
- 2) The schedule for construction and grading activities including:**
  - a. start and completion dates;**
  - b. sequence of grading and construction activities;**
  - c. sequence for installation and/or application of soil erosion and sediment control measures;**
  - d. sequence for final stabilization of the project site.**
- 3) The design criteria for proposed soil erosion and sediment control measures and storm water management facilities.**
- 4) The construction details for proposed soil erosion and sediment control measures and storm water management facilities.**
- 5) The installation and/or application procedures for proposed soil erosion and sediment control measures and storm water management facilities.**
- 6) The operations and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities.**
- 7) Seeding, sodding, or re-vegetation plans and specifications for all unprotected or unvegetated areas;**
- 8) Contingency plan if unforeseen erosion or sediment problems arise.**
- 9) Name, address and evening telephone numbers of individuals responsible for implementation of the Erosion and Sediment Control Plan.**

**B. A site plan showing:**

- 1) The location of the proposed development and adjacent properties.
- 2) The existing and proposed topography including soil types, wetlands, watercourses and water bodies.
- 3) The existing structures on the project site, if any.
- 4) The proposed area alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines.
- 5) The location and design details for all proposed soil erosion and sediment control measures and storm water management.
- 6) The sequence of grading and construction activities.
- 7) The sequence for installation and/or application of soil erosion and sediment control measures.
- 8) The sequence for final stabilization of the development site.
- 9) Potentially serious erosion areas and existing erosion problem areas.

C. Any other information deemed appropriate by the applicant or requested by the Zoning Commission or its authorized agent.

**III. Minimum Standards**

The minimum standards for individual measures are those in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended. The Commission may grant exceptions when requested by the applicant if technically sound reasons are presented, and the proposed alternative will accomplish the same goals as the Connecticut Guidelines.

**IV. Conditions for Approval.**

16. To be eligible for approval, a soil erosion and sedimentation control plan shall contain provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for certification are found in the 2002 Connecticut Guidelines for Soil erosion and Sediment Control, as amended. Alternative principles, methods and practices may be used with prior approval of agents of the Commission. After review of the Erosion and Sediment Control Plan by the Commission, or its agent, the Commission shall certify that the plan is in compliance with these Regulations. A vote of the Commission to approve a Site Plan constitutes approval of the Erosion and Sediment Control Plan.
17. The Planning and Zoning Commission or its agent(s) may require that a soil erosion and sedimentation control plan be submitted to the Soil and Water Conservation District or other agencies for review and comment. The applicant is responsible for submitting the plans to the appropriate agencies. Comments from review agencies shall be submitted to the Planning and Zoning Commission as part of the application.
18. The Commission may require the applicant to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained.
19. The estimated cost of measures required to control soil erosion and sedimentation and

- for site stabilization shall be covered in a performance bond in accordance with the provisions specified under Section XXX of the [insert town name] Zoning Regulations.
20. The earth moving, grading or land disturbing activity, shall consider the topography and soils and be conducted to minimize erosion. Where possible, extensive cut and fill operations should be avoided.
  21. Prospective building sites shall not be stripped of vegetation prior to the approval of the Zoning Commission. Only the smallest practical area of land shall be exposed at any one time during development. When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
  22. Wherever possible, natural terrain and vegetation shall be retained and protected and significant stands of trees shall be preserved.
  23. As necessary, temporary seeding, mulching, staked hay bale check dams, jute or tobacco netting and other control measures shall be used to protect critical areas exposed during development.
  24. Buffers of undisturbed natural vegetation of fifty (50') feet or more shall be retained along all watercourses and wetlands.
  25. Except as approved by the Commission, with the recommendation of the Town Engineer, cut and fill slopes shall not be steeper than 3:1 unless stabilized by a retaining wall or riprap. All fill material shall be placed and compacted so as to minimize sliding or erosion of the soil. As necessary, diversions, waterways, grading or other adequate protective measures shall be provided to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills.
  26. Drainage provisions shall be made to effectively regulate any increased runoff caused by changed soil and surface conditions during and after development.
  27. Permanent or temporary control measures such as diversions, waterways, hay bale check dams, detention basins, sediment basins (silt traps, debris basins) and other structures shall be installed, as necessary, in conjunction with the initial grading operations. Where possible, necessary control measures shall be put into effect prior to commencement of activity in each exposed area. At a minimum, said control measures shall be maintained until the development has been completed and all disturbed areas have been permanently stabilized to ensure the removal of sediment from runoff waters draining from land under development. As necessary, temporary seeding shall be utilized as a non-structural measure for stabilizing slopes during winter conditions and where bare slopes will be untreated for long periods of time.
  28. All disturbed areas shall be properly and neatly graded and shaped as soon as possible. Final grading shall include removal of large rocks, stumps, debris and other deleterious materials from finished surfaces. A final permanent vegetative cover shall be established upon achievement of final grade.
  29. Grading equipment shall not cross active watercourses except by means of bridges, culverts or other methods approved by the Commission or the Zoning Agent.
  30. Unless approved by the Commission, top soil shall not be removed from developing areas except for sites of structures or man-made improvements. The top soil from areas intended for such improvements shall be redistributed within the boundaries of the subject site to facilitate the provision of a suitable base for seeding and plantings. As necessary, additional top soil shall be brought to the site. Soil and other material shall not be temporarily or permanently stored in locations which would cause suffocation of

root systems of trees to be preserved.

#### **V. Inspection.**

The Zoning Commission or its Agent shall inspect the development as necessary to ensure compliance with the terms and provisions of the Soil Erosion and Sediment Control Plan. The Commission or its agent shall have the authority to require additional erosion and sediment control measures whenever field conditions require them, it being recognized that unforeseen weather, topography, and other site and environmental factors can render the erosion and sediment control plan inadequate.

#### **VI. Enforcement.**

Enforcement of the Soil Erosion and Sedimentation Control Regulations shall be the responsibility of the Planning and Zoning Commission or its designated agent(s). Failure to properly install and/or maintain any erosion and sedimentation control measure may result in the issuance of a stop work order until the problem is satisfactorily corrected.

## **Airport Protection Overlay Zone - Uses**

### Final Approach and Primary Departure District

- a) Theatres, and amphitheatres
- b) Campgrounds
- c) Churches or any other places of worship
- d) Fuel storage tank farms
- e) Above-ground fuel tanks
- f) Gasoline stations
- g) Hospitals
- h) Nursing homes
- i) Hotels, motels, inns, tourist lodging
- j) Condominiums, Apartments, Trailer Parks
- k) New construction of residential uses
- l) Educational institutions
- m) Stadiums
- n) The use or installation of flashing or illuminated advertising or business signs, billboards, lights, or other types of illuminated structures, which would be hazardous for aircraft in distinguishing between airport lights and others which result in glare, thereby impairing visibility of the airport or endangering the landing, taking off, or aircraft operations.
- o) Ponds or other water based uses that might attract waterfowl or other birds such as waste disposal operations, waste water treatment facilities, other settling ponds, and dredge spoil containment areas.
- p) Landfills, garbage dumps, offal dump sites and other similarly licensed or titled facilities used for operations to process, bury, store, or otherwise dispose of waste, trash and refuse that would otherwise attack waterfowl or other birds.
- q) All uses set forth in Section 6.
- r) Any other place of public assembly.

### Extended Approach and Departure District

- a) Fuel storage tank farms
- b) Above-ground fuel tanks
- c) Gasoline stations
- d) Hospitals
- e) Nursing homes
- f) Condominiums, Apartments, Trailer Parks
- g) Educational institutions
- h) Stadiums
- i) The use or installation of flashing or illuminated advertising or business signs, billboards, lights, or other types of illuminated structures, which would be hazardous for aircraft in distinguishing between airport lights and others which result in glare, thereby impairing visibility of the airport or endangering the landing, taking off, or aircraft operations.
- j) Ponds or other water based uses that might attract waterfowl or other birds such as waste disposal operations, waste water treatment facilities, other settling ponds, and dredge spoil containment areas.
- k) Landfills, garbage dumps, offal dump sites and other similarly licensed or titled facilities used for operations to process, bury, store, or otherwise dispose of waste, trash and refuse that would otherwise attack waterfowl or other birds.
- l) All uses set forth in Section F.

## **Coastal Overlay Zone Uses**

### Coastal Conservation Zone

#### PERMITTED USES

**a)** Open space, both public and private, public parks, public and private beaches, greenways such as walking or bike trails with pervious surfaces, and other similarly situated recreational uses, and their accessory uses suitable to the particular zone, but which may not include any use or activity which produces noise, glare, odor, air pollution, fire hazards, smoke, fumes, or other safety hazards detrimental to existing or potential environmental conditions.

**b)** Farms in accordance with Connecticut General Statutes § 19a-341.

#### SPECIAL PERMIT USES

**a)** Railroad right-of-way.

**b)** Athletic fields and parks.

#### Coastal Development Zone

#### MARINE USES

**(1)** Marinas, water-based recreational uses, docks, wharves, slips, piers, basins, port facilities, or similar landing facilities for both pleasure boats and boats engaged in commercial fishery or shellfishery.

**(2)** Recreational and commercial fishing and boating facilities.

**(3)** Finfish and shellfish processing plants.

**(4)** Shipyards, boat building and marine repair facilities, including the dispensing of fuel and lubricants at retail, but expressly excluding bulk storage of fuel.

**(5)** Industrial, processing and storage facilities dependent on waterborne transportation for the supply of product.

**(6)** Waterfront clubs, yacht clubs, and other membership based clubs, including uses accessory to them such as swimming pools, tennis courts, racquet ball facilities or other accessory uses of this character.

**(7)** Marine police, harbor master and other marine enforcement agencies.

**(8)** Terminals for freight or passengers arriving or departing by boats, including ferry boats, and excursion boats.

**(9)** The sale of marine equipment or products, sail lofts, boat shows and related exhibitions or events; including marine related sales broker, marine insurance broker, sales and display; marine related office, retail and service.

**(10)** General boat storage, such as boat storage racks as a principal or accessory use, including vertical marine storage, in conjunction with a travel lift facility, and general boat storage.

**(11)** Restroom and laundry facilities to serve overnight docked boat patrons.

**(12)** A fish market primarily handling local catches.

**(13)** A sail loft or boat chandlery, including the retail sale of marine equipment, engines, and provisions for boats

**(14)** Marine research laboratories for the study of aquatic and marine environment, ecology or resources

**(15)** Base operation for fishery or shellfishery business, including as an *accessory use* of the business a store or market for the sale of fish, shellfish or other related food products, or the commercial *bulk* processing of fish and shellfish

**(16)** Boat rental, excursion boats and related facilities

**(17)** Museums with nautical themes.

**(18)** Other water-dependent uses which require direct access to or location in marine or tidal waters and which cannot reasonably be located inland.

**(19)** Accessory uses and structures which are incidental to and customarily associated with the principal water-dependent use of the premises.

(20) For purposes of this Regulation, the provision of public access to the waterfront shall not, by itself, convert an otherwise non-water-dependent use into a water-dependent use.

#### NON-MARINE USES

- (1) Single detached dwelling(s)
- (2) Multifamily dwelling(s), including planned residential development.
- (3) Rooftop decks
- (4) Parks, playgrounds, open space, and public recreational facilities.
- (5) Amusement centers, theme parks
- (6) Restaurants, taverns, cafes, or other food service establishments, excluding drive-in facilities.
- (7) Offices, including medical offices, professional buildings and financial institutions.
- (8) Hotels, motels, inns, bed and breakfasts.
- (9) Retail establishments and personal and business service establishments.
- (10) Public utility supply or storage facilities.
- (11) Manufacturing, fabrication, processing, and assembly of goods and products which were in existence on the effective date of this regulation.
- (12) The expansion of an existing manufacturing use.
- (13) Signs
- (14) Public utility substation and telephone equipment building, provided that there is no outside service yard or outside storage of supplies
- (15) Water supply reservoir, well, water tower, treatment facility or pump station
- (16) Building, use or facilities of the State of Connecticut or Federal Government
- (17) Railroad right-of-way or passenger station, including customary accessory services, excluding switching, storage siding, freight yard or freight terminal
- (18) Wholesale establishments, storage warehousing excluding materials related to prohibited uses.
- (19) The packaging of beverages, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals and food.
- (20) The assembling of articles from the following previously prepared materials: bone, cellophane, canvas, cork, feather, felt, fiber, fur, glass, hair, horn, leather, metal, plastic, shell, tobacco and yarns. The assembling of electronic parts and appliances, products and devices. Excluding the assembling of articles that require the storage of materials related to prohibited uses.
- (21) Indoor Recreation.
- (22) Laboratory and testing facilities for the diagnosis of oncological, chronic and genetic diseases and pathology laboratories.
- (23) Lab research and development not for chemical or biological purposes.
- (24) Convention centers, assembly halls, dance halls, billiard parlors, bowling alleys, theaters, churches and fraternal halls, radio and t.v. stations.
- (25) Radio and television antennas, flagpoles, chimneys, water tanks.
- (26) Educational facilities, hospitals, library, child day care centers and museums.
- (27) Undertaker establishments.
- (28) Veterinarian and commercial kennels.
- (29) Ice plant, bottling works or milk distributor.
- (30) Parking and loading spaces, of both impervious and pervious surfaces.

### **Natural Resource Removal Support Overlay Zone Uses**

1. Uses permitted in the underlying base zone.
2. Re-handling of earth material products produced on the adjacent land zoned and used for natural resource removal, or to create new or different grades, styles, types or mixes of those products. Such final products may include materials brought in from off-site to be mixed with the products produced or removed from the adjacent land.
3. Open and closed storage for the pending shipment or re-handling of earth material products, produced or removed from the adjacent land. Such storage may also include materials brought in from off-site provided the off-site materials are used in the final product.

### **Planned Residential District Uses**

#### General Regulations Permitted Uses

- a) Single family detached dwelling(s)
- b) Open space, both public and private, public parks, and recreation areas, which include a golf course, swimming pool, tennis court, ski slope, toboggan run, ice skating rink, and other similarly situated recreational uses suitable to the particular zone, but which may not include any use or activity which produces noise, glare, odor, air pollution, fire hazards, or other safety hazards, smoke, fumes, or other things detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood.
- c) Farms in accordance with Connecticut General Statutes § 19a-341.
- d) Accessory uses that are customary and incidental uses to the foregoing principal uses.

#### General Regulations Special Permit Uses

- a) Public, private and bursary schools, and child day care centers
- b) Hospital, nursing homes, retirement homes
- c) Religious, charitable, eleemosynary institutions
- d) Non profit organizations
- e) Municipal or government offices
- f) Places of worship
- g) Public utility substations, water filtration plans or pumping stations
- h) Telephone exchanges
- i) Bus passenger shelters

#### Small Unit Development Permitted Uses

- a) Two family dwelling(s)
- b) Multiple family dwelling(s)
- c) Open space, both public and private, public parks, and recreation areas, which include a golf course, swimming pool, tennis court, ski slope, toboggan run, ice skating rink, and other similarly situated recreational uses suitable to the particular zone, but which may not include any use or activity which produces noise, glare, odor, air pollution, fire hazards, or other safety hazards, smoke, fumes, or other things detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood.
- d) Farms in accordance with Connecticut General Statutes § 19a-341.
- e) Accessory uses that are customary and incidental uses to the foregoing principal uses.

#### Small Unit Development Special Permit Uses

- a) Public, private and nursery schools, and child day care centers
- b) Hospital, nursing homes, retirement homes
- c) Religious, charitable, eleemosynary institutions
- d) Non profit organizations
- e) Municipal or government offices
- f) Places of worship
- g) Public utility substations, water filtration plans or pumping stations
- h) Telephone exchanges



- i) Bus passenger shelters

Town House Development Permitted Uses

- a) Single family attached dwelling(s)
- b) Town houses
- c) Open space, both public and private, public parks, and recreation areas, which include a golf course, swimming pool, tennis court, ski slope, toboggan run, ice skating rink, and other similarly situated recreational uses suitable to the particular zone, but which may not include any use or activity which produces noise, glare, odor, air pollution, fire hazards, or other safety hazards, smoke, fumes, or other things detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood.
- d) Farms in accordance with Connecticut General Statutes § 19a-341.
- e) Accessory uses that are customary and incidental uses to the foregoing principal uses.

Town House Development Special Permit Uses

- a) Public, private and nursery schools, and child day care centers
- b) Hospital, nursing homes, retirement homes
- c) Religious, charitable, eleemosynary institutions
- d) Non profit organizations
- e) Municipal or government offices
- f) Places of worship
- g) Public utility substations, water filtration plans or pumping stations
- h) Telephone exchanges
- i) Bus passenger shelters

Elderly Housing Permitted Uses

- a) Single family detached and attached dwelling(s)
- b) Open space, both public and private, public parks, and recreation areas, which include a golf course, swimming pool, tennis court, ski slope, toboggan run, ice skating rink, and other similarly situated recreational uses suitable to the particular zone, but which may not include any use or activity which produces noise, glare, odor, air pollution, fire hazards, or other safety hazards, smoke, fumes, or other things detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood.
- c) Farms in accordance with Connecticut General Statutes § 19a-341.
- d) Accessory uses that are customary and incidental uses to the foregoing principal uses.

Elderly Housing Special Permit Uses

- a) Hospital, nursing homes, retirement homes
- b) Religious, charitable, eleemosynary institutions
- c) Non profit organizations
- d) Municipal or government offices
- e) Places of worship
- f) Public utility substations, water filtration plans or pumping stations
- g) Telephone exchanges
- h) Bus passenger shelters

**Traditional Neighborhood Development Uses**

Uses permitted by right.

- a) Dwelling units of any dwelling type or configuration, or any combination thereof.
- b) Non residential uses deemed to be appropriate for incorporation in the design of the traditional neighborhood development.

- c) Single family detached dwellings, including manufactured homes.
- d) Single family attached dwellings, including multifamily homes, senior housing, and town homes.
- e) Accessory dwelling units within a single family unit.
- f) Special needs housing, such as community living arrangements and assisted living facilities
- g) Residential units located on upper floors above commercial uses or to the rear of storefronts.
- h) Live/work units that combine a residence and the resident's workplace.
- i) Municipal offices, fire stations, libraries, museums, community meeting facilities, and post offices.
- j) Transit shelters
- k) Places of worship
- l) Educational facilities
- m) Central square
- n) Neighborhood park
- o) Playground
- p) Food services such as, grocery stores; butcher shops; bakeries; restaurants; not including drive – through(s); cafes; coffee shops, neighborhood bars and pubs
- q) Retail uses such as, florists or nurseries; hardware stores; stationary stores; book stores; studios and shops of artists and artisans.
- r) Services such as, day care centers; music or dance or exercise studios; offices including professional and medical offices; barbershop; hair salons; dry cleaning parlors.
- s) Bed and breakfast inns
- t) Boarding or rooming houses for up to six roomers
- u) Civic, fraternal, cultural, community, or club facilities
- v) Commercial uses
- w) Congregate housing
- x) Government buildings

Special Permit Uses.

- a) Cemeteries
- b) Day care centers
- c) Churches
- d) Neighborhood gasoline stations, excluding major service and repair of motor vehicles
- e) Stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with the planning authority) but outdoor storage expressly prohibited.

Permitted Accessory Uses

- a) Accessory dwelling
- b) Small day care home
- c) Drive through windows, excluding those associated with restaurants
- d) Home occupations
- e) Marinas accessory to residential uses
- f) Accessory uses permitted in underlying district.

## VII. PERFORMANCE STANDARDS

### A. General

1. The use of land, buildings and other structures shall conform to these performance standards. Failure to conform to these performance standards creates a public nuisance which will be detrimental to the public health, safety and welfare and will be contrary to the comprehensive plan of zoning. The Commission and/or the Zoning Enforcement Officer shall ensure that the proposed use of land, buildings and structures will be established and conducted in accordance with the performance standards and with the standards stated in other relevant Town, State and Federal codes, ordinances or regulations, whichever is the more restrictive.
2. All terminology shall conform with the American National Standards Institute (ANSI), the Connecticut Department of Environmental Protection Regulations, and the Federal Environmental Protection Agency Regulations. When a conflict arises, the definitions included in these regulations shall take precedence at all times.

### B. Air Pollution

1. There shall be no discharge or no emitting of dust, dirt, fly ash or smoke and no offensive odors or noxious, toxic or corrosive fumes or gases from any lot so as to endanger the public health or safety, to impair safety on or the value and reasonable use of any other property.
2. All emissions must be consistent with the Connecticut's State Implementation Plan, as required by the Clean Air Act and established to maintain or earn attainment under the National Ambient Air Quality Standards.

SIP revisions and other state air quality plans can be found on the Connecticut Department of Environmental Protection website located at [www.ct.gov/dep](http://www.ct.gov/dep).

3. No use generating airborne emissions, activity, operation or device shall be established, modified, constructed or used without having first obtained valid permits and certificates from the Department of Environmental Protection Bureau of Air Management in accordance with Connecticut General Statutes and the Abatement of Air Pollution Regulations.

The Department of Environmental Protection Bureau of Air Management develops and implements regulations, policies, procedures and standards for carrying out the state's air and radiation control laws and regulations. The Bureau also issues air pollution control permits and enforces laws or regulations when they are violated.

### C. Noise Pollution

1. With the exception of time signals and emergency alarms and noise necessarily involved in the construction or demolition of buildings and other structures, no noise shall be transmitted outside the lot where it originates when noise has a decibel level, octave band, intermittence and/or beat frequency which would endanger the public health or safety or impair safety on or the value and reasonable of any other lot.

The Connecticut General Statutes place the authority to regulate noise pollution with the commissioner of the Department of Environmental Protection. *See* C.G.S. § 22a-69. In addition,

municipalities are encouraged to enact their own regulations in accordance with the DEP's regulations. However, any local regulation must be approved by the commissioner. C.G.S. § 22a-73 holds that:

(a) To carry out and effectuate the purposes and policies of this chapter it is the public policy of the state to encourage municipal participation by means of regulation of activities causing noise pollution within the territorial limits of the various municipalities. To that end, any municipality may develop and establish a comprehensive program of noise regulation. Such program may include a study of the noise problems resulting from uses and activities within its jurisdiction and its development and adoption of a noise control ordinance.

(b) Any municipality may adopt, amend and enforce a noise control ordinance which may include the following: (1) Noise levels which will not be exceeded in specified zones or other designated areas; (2) designation of a noise control officer and the designation of an existing board or commission, or the establishment of a new board or commission to direct such program; (3) implementation procedures of such program and the relation of such program to other plans within the jurisdiction of the municipality; (4) procedures for assuring compliance with state and federal noise regulations; (5) noise level restrictions applicable to construction activities, including limitation on on-site hours of operation.

(c) No ordinance shall be effective until such ordinance has been approved by the commissioner. No ordinance shall be approved unless it is in conformity with any state noise control plan, including ambient noise standards, adopted pursuant to section 22a-69 or any standards or regulations adopted by the administrator of the United States Environmental Protection Agency pursuant to the Noise Control Act of 1972 (P.L. 92-574) or any amendment thereto. Notwithstanding the provisions of this subsection, any municipality may adopt more stringent noise standards than those adopted by the commissioner, provided such standards are approved by the commissioner.

Specific Examples of Noise Ordinances:

1. In one suburban municipality, the noise limits was set as such:

<b>Use Category</b>	<b>Time</b>	<b>dB</b>
<b>Residential</b>	7am-10pm	60
	10pm-7am	55
<b>Commercial</b>	7am-10pm	65
	10pm-7am	60
<b>Manufacturing, Industrial, Or Agricultural</b>	All Times	75

a. Except where a person is acting in good faith to comply with an abatement order, violation of any provision of this code shall be cause for a notice of violation to be issued by [town].\

b. Pre-Existing Uses not in Conformance. Where an industry or commercial business has established its use away from other incompatible uses and subsequently, through the encroachment of development, now finds itself adjoining a receiving land category that would require a reduction in noise generation, said industry or commercial business shall not emit a noise that exceeds the maximum noise limitation for the receiving land-use category by more than ten decibels.

2. In another suburban municipality the noise standards were established as such:

a. Noise shall be measured with a sound level meter complying with the standards of The American National Standards Institute, American Standards Specifications for General Purpose Sound Level Meters (ANSI S.1.4-1961 or its latest revisions). The instrument shall be set to the A-weighted response scale and the meter to the slow response. Measurements shall be conducted in accordance with American Standard Method for the Physical Measurements of Sound (ANSI S.1.2-1961)

b. Noises shall not exceed the maximum sound levels specified in the table, except as designated below:

<b>Performance Category</b>	<b>Max Level Permitted (dB)</b>	<b>Where Measured</b>
<b>Residence Dist.</b>	55	On or beyond the neighboring us or lot line
<b>All Other Dist.</b>	65	On or beyond the lot line or district boundaries

c. Exceptions

1. The levels specified in the table may be exceeded once by 10 dB in a single period of 15 minutes during any one day.
2. Peak values of short duration, also known as "impact noises," may exceed the value specified in the table by 20 dB or have a maximum noise level of 80 dB, whichever is more restrictive.
3. Noises such as alarms, sirens, emergency warning devices, motor vehicles and other sources not under the direct control of a use or agricultural equipment are excluded from the above limitations.

D. Vibrations

1. With the exception of vibration necessarily involved in the construction or demolition of buildings, no vibration shall be transmitted outside the lot where it originates.

2. Ground-transmitted vibrations shall be measured with a seismograph or complement of instruments capable of recording vibration displacement and frequency in the three mutually perpendicular directions, simultaneously.

In one suburban town, limitations were set as such:

Vibration levels shall not exceed a particle velocity of 0.05 inches per second in any district. During the hours of 9:00 p.m. to 7:00 a.m. in residence districts, vibration levels shall not exceed a particle velocity of 0.02 inches per second. Measurements shall be made at the points of maximum vibration intensity and on or beyond adjacent lot lines or neighboring uses, whichever is more restrictive.

E. Heat and Glare

1. Heat

- i. Sources of heat, including but not limited to, steam, gases, vapors, products of combustion or chemical reaction shall not discharge onto or directly contact structures, plant life or animal life on neighboring uses or impair the function or operation of a neighboring use. No use, occupation, activity, operation or device shall cause an increase in ambient temperature, as measured on the boundary between neighboring uses.

2. Glare

- i. No use, operation or activity shall produce an illumination in excess of one footcandle in a residence district. In all other districts, light intensities of all illumination sources shall be kept as low as possible and shall not interfere, annoy, cause deformity or cause loss in visual performance to persons and animals of neighboring uses.

F. Odors

1. No offensive odors shall be emitted into the air from any lot so as to impair the value and reasonable use of any other lot, excluding agriculture fertilizers.

G. Land and Water Pollution

1. No refuse or other waste materials shall be dumped on any lot except with approval of the town and the Zoning Commission. No refuse or other waste materials and no liquids shall be dumped on any lot or dumped or discharged into any river, stream, water courses, storm drain, pond, lake, or swamp so as to constitute a source of water pollution. No construction, development or activity shall occur within the regulated area/setback of a wetland or watercourse unless approved by the town.

H. Danger

1. No material which is dangerous due to explosion, extreme fire hazard or radioactivity shall be used, stored, manufactured, processed or assembled except in accordance with applicable codes, ordinances, and regulations of the town, State of Connecticut and Federal Government.
2. In all districts in which the storage, use, or manufacture of flammable or explosive materials is permitted the following standards shall apply
  - i. Storage and utilization of solid materials or products which are incombustible, or which in themselves support combustion and are consumed slowly as they burn, is permitted.
  - ii. Storage, utilization, or manufacture of solid materials or products

including free burning and intense burning is permitted provided that said materials or products shall be stored, utilized, or manufactured within completely enclosed building which have noncombustible walls and protected throughout by an automatic fire-extinguishing system. The requirements for an automatic fire-extinguishing system may be waived in those cases where the introduction of water to a burning substance would cause additional hazard.

- iii. Outdoor storage of coal and other solid fuels is permitted provided storage in conformance with the Fire Protection Handbook, most recent Edition, printed by the National Fire Protection Association.

Information on the National Fire Protection Association can be found at <http://www.nfpa.org>.

- iv. Storage, utilization, or manufacture of flammable and combustible liquids, or materials that produce flammable or explosive vapors shall be permitted in accordance with National Fire Code #30, exclusive of storage of finished products in original sealed container, which shall be unrestricted.

The National Fire Code #30 reads: 1.1 Scope. 1.1.1\* This code shall apply to the storage, handling, and use of flammable and combustible liquids, including waste liquids, as herein defined and classified. 1.1.2 This code shall not apply to the following: (1)\* Any liquid that has a melting point of 100°F (37.8°C) or greater (2)\* Any liquid that does not meet the criteria for fluidity given in the definition of liquid in Chapter 3 and in the provisions of Chapter 4 (3) Any cryogenic fluid or liquefied gas, as defined in Chapter 3 (4)\* Any liquid that does not have a flash point, but which is capable of burning under certain conditions (5)\* Any aerosol product (6) Any mist, spray, or foam (7)\* Transportation of flammable and combustible liquids as governed by the U.S. Department of Transportation (8)\* Storage, handling, and use of fuel oil tanks and containers connected with oil-burning equipment A.1.1.1 This code is recommended for use as the basis for legal regulations. Its provisions are intended to reduce the hazard to a degree consistent with reasonable public safety, without undue interference with public convenience and necessity, of operations that require the use of flammable and combustible liquids. Compliance with this code does not eliminate all hazards in the use of flammable and combustible liquids. (See the Flammable and Combustible Liquids Code Handbook for additional explanatory information.) A.1.1.2(1) Liquids that are solid at 100°F (37.8°C) or above, but are handled, used, or stored at temperatures above their flash points, should be reviewed against pertinent sections of this code. A.1.1.2(2) The information in A.1.1.2(1) also applies here. A.1.1.2(4) Certain mixtures of flammable or combustible liquids and halogenated hydrocarbons either do not exhibit a flash point using the standard closed-cup test methods or will exhibit elevated flash points. However, if the halogenated hydrocarbon is the more volatile component, preferential evaporation of this component can result in a liquid that does have a flash point or has a flash point that is lower than the original mixture. In order to evaluate the fire hazard of such mixtures, flash point tests should be conducted after fractional evaporation of 10, 20, 40, 60, or even 90 percent of the original sample or other fractions representative of the conditions of use. For systems such as open process tanks or spills in open air, an open-cup test method might be more appropriate for estimating the fire hazard. A.1.1.2(5) See NFPA 30B, Code for the Manufacture and Storage of Aerosol Products. A.1.1.2(7) Requirements for

transportation of flammable and combustible liquids can be found in NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, and in the U.S. Department of Transportation's Hazardous Materials Regulations, Title 49, Code of Federal Regulations, Parts 100–199. A.1.1.2(8) See NFPA 31, Standard for the Installation of Oil-Burning Equipment.

I. Radio Interference

1. No use of any lot shall cause interference with radio and television reception on any other lot and use shall conform to the regulations of the Federal Communications Commission with regard to electromagnetic radiation and interference.

J. Radioactivity

1. No use, activity, operation or device concerned with the utilization or storage of radioactive materials shall be established, modified, constructed or used without having first obtained valid permits and certificates from the Department of Environmental Protection.



## VIII. ECIAL PERMIT PROCEDURES

### 1. Special Permit Uses subject to Site Plan Review

a. No land use shall be established or changed and no building or structure shall be used, erected, constructed, moved, enlarged, or altered, in whole or in part, until the Commission issues a.

b. A zoning permit or Special Permit shall be valid only [ ] year from the date of the decision of the Commission. Upon starting construction, permit does not expire unless the Commission sees a failure to complete construction in a diligent manner.

c. The Commission may grant an extension of time to start. A permit extended under such conditions may be revoked by the Commission when it sees a failure to complete construction in a diligent manner.

d. Nothing in these Regulations shall require any change in a permitted use or in the plans or construction of any building on which construction was begun under a permit issued prior to the effective date of these Regulations

2. **Intent.** A site plan is intended to provide the Town Zoning Commission with information necessary to determine that the proposed activity is in compliance with all applicable requirements of these Regulations. It is also intended to provide the Commission with information that will enable it to determine that the proposed buildings and uses shall be arranged in a manner that enhances the health, safety and welfare of the citizens of this town or city, and shall be of such character as to harmonize with the neighborhood, to accomplish a transition in character between the areas of unlike character, to protect property values in the neighborhood, to preserve and protect natural resources and the appearance and beauty of the community and to avoid undue traffic congestion.

3. **Applicability.** A site plan shall be submitted with any application for a zoning permit.

4. **Procedures for Submission, Receipt, Decisions.** The procedures specified in the Connecticut General Statutes shall govern the handling of such application except as otherwise provided in these Regulations.

B. Specific Site Plan Requirements.

1. **Professional Preparation.** A site plan shall be prepared by a Connecticut registered professional surveyor, engineer or other appropriate professional. Any site plan involving grading, paving, road construction and drainage work and/or any municipal improvement shall require the seal of a Connecticut registered professional engineer. At the minimum, a scale plan shall be provided and is not subject to waiver.

2. **Standard Elements of the Site Plan.** Unless waived by the Commission upon written request of the applicant pursuant to **Section ?** of these regulations, the following information shall be provided:<sup>4</sup>

- a. Information on a 24 x 36 inch plan, with scale of 1" = 40'.
- b. Name and address of owner of record, address of property, name of applicant.
- c. North arrow, scale, name(s) of person(s) preparing plan, date of drawing, and any revision dates with description of revisions.
- d. Five (5) copies in ink.
- e. Property boundaries, dimensions, and area.
- f. Dimensions of all yards and buildable area, as required by these Regulations.
- g. Existing and proposed contour lines. For all areas of the parcel within 100 feet of any proposed work (including construction, excavation, filling, grading, and clearing of vegetation), the contour interval shall be no greater than two feet (T-2 or T-3 accuracy). The Commission may require the applicant to submit design drawing(s), including cross sections and elevation, of all proposed activity. Additional spot elevations maybe required where necessary to indicate drainage patterns.
- h. Locations and specifications of all existing and proposed structures and uses including, but not limited to, buildings, stone walls, fences, sidewalks, driveways, parking and loading areas, exterior storage areas, signs, abutting streets, utility structures, and hydrants. A rendering of any proposed building shall be supplied, with siding materials specified (front, side, and rear elevations shall also be shown).
- i. Locations and descriptions of water supply wells or other water sources and of all sewage disposal facilities, together with percolation and test pit data.

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<sup>4</sup> The purpose of the site plan is to allow the commission to review conformity with regulations prior to the issuance of a building permit. *SSM Associates Limited Partnership v. Planning and Zoning Commission*, 211 Conn. 331 (1989). The town may choose to be more or less inclusive with this list of requirements depending on the town's assessment of need to restrict and control building.

j. A storm drainage plan showing the location of existing and proposed drainage facilities on the site and those off-site that may be affected by the proposed activity, as well as any points of 60 collected drainage discharges (i.e., discharges other than natural sheet flow) onto or off of the site. The plan must also include pre-development and post-development flow calculations.

k. Location of wetlands and watercourses and wetlands buffer, with the signature of the soil scientist who identified such features. All wetlands shall be field located. A signature block for the soil scientist certifying that all wetlands and watercourses have been delineated or that there are none on the property.<sup>5</sup>

l. A landscape plan showing the planting, location and species to be used, the ground cover and surface treatments proposed, and identification of the types and location of existing vegetation to remain in place on the site. The number, location and size of the landscaping material shall be as required by **Section ?** The Commission may require such plans to be prepared by a professional landscape architect (i.e., American Association of Landscape Architects, ASLA).

m. Zone of site and of all property within 500 feet.

n. Names and addresses of current owners of property within five hundred feet of the parcel as shown in Tax Assessor's records, including properties across from any street/road, river, and/or municipal boundary.

o. Identification of any easements and deed restrictions affecting the property.

p. Areas within 100 year flood hazard areas as delineated by the Federal Emergency Management Agency (FEMA) and as shown on the most recently amended maps prepared by FEMA must be shown with a note saying "Limits of Flood Hazard Zone are approximate and are scaled from the Federal Flood Hazard maps". When a lot does not include land within the 100-year flood hazard area, the map shall include the following notation: "This lot does not include land areas within the Federal Emergency Management Agency's 100-year flood hazard area.

q. Sight line information at proposed driveway cut(s), and statement that plans have been submitted to DOT for review or that review is not required.

r. Lighting plan per **Section ?**

s. Any other information deemed necessary by the Commission to determine compliance with these Regulations. The Commission may require evaluation reports

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<sup>5</sup> If a site plan involves a regulated activity in a regulated area pursuant to Conn. Gen. Stat. sections 22a-36 to 22a-45, Conn. Gen. Stat. § 8-3(g) requires the applicant to submit an inland wetlands permit application at the same time.

by Commission-approved independent professionals and other experts, including and not limited to: traffic engineers, hydrologists, soil scientists, geologists.

t. Boundaries of any sub-regional watersheds that lie within the site, as shown on maps available from the Natural Resources Center of the Department of Environmental Protection.

u. Wooded areas, specimen trees exceeding 30 inches dbh (diameter at breast height, 5 feet above the ground), rock outcroppings and any unique and fragile natural features.

v. Stonewalls and monuments, and other structures having historical significance.

w. Historic buildings and sites listed on the National Register of Historic Places.

x. Location of existing and proposed buildings and structures and the number of bedrooms in each.

y. Location of proposed subsurface sewage disposal systems and reserve fields, showing distances to adjacent land, distances from all wells within 200' (on or off the tract), and distance from any manure handling systems.

z. Existing and proposed street and lot lines.

aa. Areas proposed for preservation as open space.

bb. Identification of surface and groundwater resources on and around the site, including any public or private domestic users of such waters; the depth to groundwater and description of adjacent soils, and an evaluation of the impact of the proposal on existing and potential surface and ground drinking water supplies. The Commission may require additional information necessary to ensure protection of water resources, and may require that the report be prepared by a hydrogeologist or other qualified professional.

cc. Identification of any chemicals or potential contaminants to be used, stored or produced on site or discharged on or off the site, and a detailed description of methods and procedures by which any 61 chemicals or potential contaminants on site will be stored, used, applied, discharged, and disposed .

dd. Any known and/or discovered; natural, scenic, historic, and unique resource areas and amenities, historic sites, cemetery(s), buildings or structures of known and/or anticipated historic or archeological significance.

3. **Waiver of Requirements.** Upon written request of the applicant, the Commission may waive, by three-quarters vote of members present and voting, one or more of the above requirements if the applicant can demonstrate that the information is not needed to reach a decision on the application.



## **I SPECIAL PERMIT USES**

“Special permits” and “special exceptions” are synonymous terms and are used interchangeably in this model code. *Mobil Oil Corp. v. Zoning Commission*, 30 Conn. App. 816, 819 (1993); *See also A.P. & W. Holding Corp. v. Planning and Zoning Board of Milford*, 167 Conn. 182, 185 (1974); and *Summ v. Zoning Commission of Ridgefield*, 150 Conn. 79, 87 (1962).

### **A STATEMENT OF DEFINITION AND PURPOSE**

- 1 This Section outlines uses that are those permitted by the regulations, subject to special use permits, as appropriate, harmonious, and desirable within a district so long as certain criteria are met. However, these uses have certain characteristics which require their location within the district to be considered on an *individual basis* so as to weigh the impact of the use upon the surrounding area against the desirability of that use.

Even if a special permit application satisfies the standards set forth in the regulations, the proposed use is still subject to agency imposed conditions that are necessary to protect the public health, safety, convenience and property values. *Summ v. Zoning Commission of Ridgefield*, 150 Conn. 91(1962).

- 2 A special permit or special exception does not require any showing of hardship because it allows uses that are expressly permitted under conditions pursuant to regulations.

*See Grasso v. Zoning Board of Appeals of the Groton Long Point Association, Inc.*, 69 Conn. App. 230, 242 (2002).

The following list of Special Permit uses is not exhaustive, but merely representative of one way that municipalities deal with these individual uses. In the alternative, a town may choose to maintain a general list of uses that require special permit and allow the Commission to assess individual applications. Therefore, this list identifies certain uses for special permit by name, and includes more detailed standards for other uses.

### **B. ASSISTED LIVING FACILITES**

Anderson's American Law of Zoning notes "As the baby boomer generation becomes increasingly older, the task of caring for the aged has become a commercial operation of substantial dimensions. Housing for the elderly ranges in size and quality from accessory apartments, elder cottages and group home arrangements, to retirement communities, assisted living facilities and nursing homes." Municipality should cross check definitions and apply model code as applicable to each type of living facility.

1. The application must be compliant, where relevant with :
  - i. Public Health Code 19-13-D105, "Assisted Living Services Agency" regulations; and
  - ii. Conn. Gen. Stat. §17a-227 "Licensing and regulation of residential facilities for mentally retarded and autistic persons."

The National Center for Assisted Living (NCAL) recently compiled a summary of the assisted living regulations in all 50 states. The Assisted Living State Regulatory Review can be found at this web page: [http://www.ncal.org/about/2009\\_reg\\_review.pdf](http://www.ncal.org/about/2009_reg_review.pdf). This publication shows that many states directly regulate assisted living. For Connecticut specific information on assisted living, see <http://www.ctassistedliving.com>.

### **C. CEMETERIES**

The International Cemetery, Cremation, and Funeral Association (ICCF) suggests that mausoleum and columbarium construction should be encouraged in order to maximize the use of interment acreage. Zoning ordinances should unambiguously state that mausoleum and columbarium usage is consistent with cemetery usage. Zoning ordinances should not require special use or nonconforming use permits for mausoleum construction and other cemetery-related structures on acreage dedicated for cemetery operation.

1. Each lot shall have a minimum area of [ ] square feet.
2. Each lot shall have front, side and rear yards of at least [ ] feet each.
3. No structures, monuments, markers, burial sites or parking shall be located in any required yard.

4. A municipality may completely restrict the use of land for a cemetery where other cemeteries exist that are capable of supplying the community's need for burial space.

[Fairlawns Cemetery Ass'n v. Zoning Commission of Town of Bethel, 138 Conn. 434, 86 A.2d 74 \(1952\)](#) (upholding an ordinance prohibiting cemeteries and noting that the town already had three cemeteries; the town's population growth was slow; the property was surrounded by residential uses and the opening of a cemetery would cause traffic; and the cemetery was not a nonconforming use).

A sampling of national on the regulations of cemeteries can be found here: [Validity of Public Prohibition or Regulation of Location of Cemetery.](#)

## **B CLUBS, LODGES and OTHER PLACES OF PUBLIC GATHERING**

The regulations should avoid, if possible, identifying places of worship independent of other places of public gathering, as such institutions are not to be treated differently than other, similar uses. This type of general regulation of all public uses has been used by Long Grove, IL, where the town choose to require all public assembly uses (including religious assembly) require a special permit. This approach was upheld in the 7<sup>th</sup> Circuit Court (*Vision Church, United Methodist v. Village of Long Grove*, 468 F.3d 975 (7th Cir. 2006)). However, code must adhere to Religious Land Use and Institutionalized Persons Act (RLUIPA). See a discussion on the application of RLUIPA to zoning regulations in Weinstein, Alan C. 2008. "How to Avoid a 'Holy War' — Dealing With Potential RLUIPA Claims." *Planning & Environmental Law* 60(3). Taylor & Francis Ltd, <http://www.informaworld.com>.

- 1 The subject site shall be located on or within [ ] feet of an arterial or collector street as defined in these Regulations.
- 2 The subject site shall be a minimum of [ ] square feet.
- 3 No off-street parking shall be allowed within [ ] feet of any property line and all parking areas shall be permanently screened and buffered from the neighboring properties by walls, fences, plantings or other devices that may be specified by the Commission. This [ ]-foot setback requirement may be reduced by the Commission if



- an alternate design utilizes the site's topography and vegetative character to reduce visual and auditory impacts in neighboring properties.
- 4 Outdoor recreation facilities such as, but not limited to, swimming pools, tennis courts, putting greens, and basketball courts are permitted as accessory uses, provided the minimum lot area is [ ] square feet.
  - 5 Alternate designs planned to allow place of worship to appropriately adhere to district generations will be taken into account when assessing permit application.
  - 6 With the exception of storage sheds that comply with the provisions of these Regulations, all buildings and structures shall be located 100 feet from all property lines. This [ ] -foot setback requirement may be reduced by the Commission if an alternative design utilizes the site's topography and vegetative character to reduce visual and auditory impacts on neighboring properties.
  - 7 Accessory buildings and uses not specifically authorized by a special permit approval shall not be constructed or initiated until Planning and Zoning Commission approval is granted. Depending on the nature of the proposed accessory building or use, special permit approval may be required by the Commission.
  - 8 Place of public gathering may not serve alcoholic drink, except as an adjunct to the primary function of serving food and operating under a restaurant liquor permit as provided in Conn. Gen. Stat. 30-22a of the Connecticut General Statutes, as amended. Such service will comply with all Liquor Control Commission Regulations. All establishments serving food and nonalcoholic drink must be an enclosed structure and must provide seats for their customers either at a counter or at separate tables.
  - 9 Serving of alcoholic beverages
    - i After a public hearing, the Commission may grant a special permit to a property for the sale of alcoholic beverages, subject to State Liquor Commission control and restrictions under this section.
    - ii No building shall be used for the purpose of sale or exchange of alcoholic liquors if the main entrance to that building is within [feet] of a church or school.

## **C DAY CARE FACILITIES**

### **1 GENERAL**

- i The day care shall have an approved license from the State of Connecticut prior to issuance of a Certificate of Zoning Compliance, as required by Public Health Code Regulations for Child Day Care Centers and Group Day Care Homes, Sections 19a-79-1a to 19a-79-12 and required by Conn. Gen. Stat. §§19a-77 *et seq.*

A publication on the general issues surrounding child day care in any community is available at [http://www.aecf.org/upload/publicationfiles/child\\_care.pdf](http://www.aecf.org/upload/publicationfiles/child_care.pdf), and suggests an important connection between education, community safety and child care which may help persuade communities that day care facilities are (or are not) suitable for a certain district.

## **2 Child Day Care**

- i Child day care may be permitted in a family day care, subject to the following conditions:
  - a The application shall take careful notice of parking requirements of the zoning district in which it is located;
  - b Each family day care home shall be limited to one flush-wall sign having a maximum area of two square feet;
  - c No structural or decorative alteration which will alter the single-family character of an existing or proposed residential structure or be incompatible with surrounding residences will be allowed.

For guidance on the state requirements, see the application to become a child day care provider from the Connecticut Department of Public Health, available at <http://tinyurl.com/yk7yxmy>.

Additionally, take note that in 2007, Milford, CT opened the first "green" child-care center in Connecticut. That facility partially credits the town officials for helping the building to reach certification requirements. This precedent may aid other facilities in achieving environmentally sound buildings and similar incentives. That building was awarded a \$3 million loan from the state Health and Education Facilities Authority, 89 percent of which would be paid back by the state Department of Social Services.

For more information see <http://www.goodshepherdchilddevelopment.org/building.htm>

## **3 Adult Group Day Care**

- i If residents are not permitted to own or operate a motor vehicle, the Commission may reduce or waive the parking requirements.

## **D HOME OCCUPATIONS**

- 1 Customary home occupations, including commercial or professional offices, shall not employ more than [ ] persons not resident on the premises.

The town or city may choose instead to include a list of permitted uses rather than allowing “customary uses”. For example, (1) **Permitted, Special and Prohibited Home Occupations:** (a) The following are Permitted Home Occupations: Home sewing or tailoring; Studios for painting, sculpturing, ceramics or other similar arts; Writing or editing; Telephone answering, scheduling of appointments, and other office activities where there are limited visits to the home; Production of crafts such as handiwork, model-making, weaving, lapidary, and cabinet-making for the purpose of selling the product; Tutoring and giving lessons, limited to 4 students at any one time; (vii) Catering, home-cooking and preserving for the purpose of selling the product; Computer programming, services provided over the Internet and other similar activities; Mail order businesses where products are shipped directly from the supplier to the customer; Offices for architects and engineers, Family day care home for the care of six or fewer preschool children and for the care, Physicians and other licensed medical practitioners; Barbershops and beauty parlors; Small repair shops (including small appliances, mower repair, blade sharpening and similar uses); Real estate and related services; Insurance agents; Bed-and-breakfast operations; Home professional offices, lawyers and members of similar professions, and All other activities not included on either the permitted or prohibited list.

- 2 No more than one home business is permitted per lot.
- 3 Such occupation or use shall not occupy more than [ ] percent of the ground floor of the building or buildings exclusive of basement space and the remaining area must classify as residential. No such use shall be carried on in an accessory building located nearer than [ ] feet to any lot line.
- 4 The activity is must be clearly secondary to the use of the premises for residential purposes.
- 5 The activity may not change the residential/agricultural character of the property or neighborhood.

#### **E KENNELS AND STABLES**

- 1 Each lot shall have a minimum of [ ] square feet.
- 2 Except in cases of extreme emergency, no animals over 50 pounds, except dogs, shall be accepted for treatment in a Kennel unless permit explicitly considers livestock.
- 3 No objectionable or injurious wastes or other materials shall be discharged or emitted into any river, stream, public or private disposal system, or body of water, or into the ground so as to endanger public health or safety or constitute an objectionable source of pollution.

- 4 Proposed sewage disposal systems shall meet all State and local requirements, shall be specifically approved by the local health officer, and shall have no adverse effect on adjacent sewage disposal systems. Said sewage disposal shall be so located as to allow an amount of space on the lot equal in size to the system to be installed, which space shall be held in reserve and used for the installation of a completely new system should such a system be required.

#### **F. LIGHTING**

The [granting authority], may issue a special permit that allows up to a [50%] increase in output intensity in the following cases:

1. Where an applicant can demonstrate, by means of a history of vandalism or other objective means, that an extraordinary need for security exists;
2. Where an applicant can show that conditions hazardous to the public, such as a steep embankments or stairs, may exist in traveled ways or areas;
3. Where a minor change is proposed to an existing nonconforming lighting installation, such that it would be unreasonable to require replacement of the entire installation;
4. Where it can be demonstrated that for reasons of the geometry of a lot, building, or structure complete shielding of direct light is technically infeasible.

#### **G OUTDOOR CAFÉ**

- 1 Outdoor cafes and eating areas, when accessory to a restaurant, are permitted subject to a Zoning Permit and the following conditions:
  - i The outdoor eating area shall be accessible from the restaurant building only;
  - ii The outdoor eating area shall not exceed [ ] % of the indoor eating area;
  - iii All food and beverages shall be served at the table;
  - iv Outdoor eating areas shall be operated on a seasonal basis not to exceed six months in a calendar year and shall be exempt from providing parking spaces other than those required for the restaurant;

- v There shall be no live or recorded music played or projected outside the restaurant building without the prior issuance of a Zoning Permit.

## H ADAPTIVE REUSE

Inspired by Ames, Iowa regulations.

- 1 **Purpose.** The purpose of these adaptive reuse provisions is to foster the renovation and reuse of structures that have historic, architectural, or economic value to the City and are vacant or at risk of becoming under utilized, vacant or demolished.
- 2 **Qualifying Adaptive Reuses.** Any proposal for the adaptive reuse of a structure or group of contiguous structures, whether or not the proposal involves one or more Nonconforming Uses, Nonconforming Structures, and/or Nonconforming Lots, shall qualify for Commission review if the proposal meets all of the following conditions:
  - i The proposed adaptive reuse must be residential, commercial, or a combination of such uses except if it is located in an industrial zone. If the proposed adaptive reuse is located in an industrial zone, it may be devoted to any use or uses that the Commission finds compatible with the uses permitted in the industrial zone. All adaptive reuses proposed in industrial zones, except industrial uses, require a Special Use Permit.
  - ii The structure or group of structures proposed for adaptive reuse must have historic, architectural, or economic value to the City justifying renovation and preservation, as determined by the Commission.
  - iii The Commission must determine that the long-term benefits of the proposed adaptive reuse outweigh any negative impact on the neighborhood of the proposed project and on the City, as compared with the alternative of having the structures demolished or remaining vacant or under utilized.
  - iv In all matters relative to the administration of the Adaptive Reuse requirements, the Commission shall obtain a recommendation from the Historic Preservation Commission on all structures that are determined to have architectural or historic value.
- 3 **Adaptive Reuse Performance Standards.** If the Commission determines that a proposed project qualifies for consideration as an adaptive reuse, then the Commission may waive some or all of the applicable Zone Development Standards

and General Development Standards, so long as the project conforms to the following:

- i The renovation and remodeling of structures for adaptive reuse may not destroy or obscure essential architectural features. In addition, such architectural features must be enhanced to the extent that it is feasible and prudent to do so.

#### **I ROOMERS AND BOARDERS**

- 1 The keeping of no more than two roomers and boarders is permitted as an accessory use in a one, two or three-family dwelling in any Residential District subject to issuance of a zoning permit and the following conditions:
  - i The roomers or boarders shall reside within the principal dwelling unit.
  - ii The sleeping space shall be no less than 80 square feet for the first person and 70 square feet for the second person.
  - iii No cooking or cooking appliances shall be permitted in rented rooms.
  - iv One off-street parking space shall be provided for each roomer or boarder.

#### **J ROOMING AND BOARDING HOUSES**

- 1 Rooming and boarding houses are permitted in [DISTRICT NAME] subject to Site Plan approvals and the following conditions:
  - i The minimum lot area shall be [1 acre].
  - ii No off street parking space shall be within 15 feet of any building.
  - iii No parking shall be permitted in any required front yard.
  - iv Each structure shall have a front yard of at least 25 feet, a rear yard of at least 30 feet, and two side yards of at least 10 feet each.
  - v The lot shall be served by sanitary sewers and a public water supply.

#### **K SOLID WASTE FACILITY**

Each year American's generate millions of tons of solid waste in our homes and our communities. What to do with this waste is becoming an increasing problem, as more landfills are needed to handle the increasing amount of waste. To see the EPA laws governing solid and hazardous waste, go to this website. <http://tiny.cc/EsTVG> To see the State of Connecticut DEP's Solid Waste Management Plan, please click here. <http://tiny.cc/4S8tR>

1.

These regulations were adopted in part from the zoning regulations of the town of Hamden, Connecticut. <http://tiny.cc/tdLpv>

This website provides a useful checklist for DEP approval of a Solid Waste Facility in the State of Connecticut. <http://tiny.cc/RI8sy>

1. Solid waste facilities are subject to Special Permit and Site Plan approvals. The term "solid waste" and the like as used herein shall have the same meaning as in Chapter 446d of the General Statutes and the Solid Waste Regulations of the Department of Environmental Protection, provided the term "solid waste" shall not be deemed to include septage and sludges, agricultural and mining wastes, or hazardous wastes. Nothing in these regulations should be construed to conflict with the regulations adopted by the Commissioner of the Department of Environmental Protection concerning solid waste disposal of the people of the State and to conserve, improve and protect the natural resources and environment of the State. Where these regulations are inconsistent with or are in conflict with the regulations of the Department of Environmental Protection, the latter regulations will prevail. Each section, paragraph and provision herein shall be considered severable, and, if, for any reason, any portion of these regulations is held to be invalid, contrary to, in conflict with, or inconsistent with any applicable law or regulation by a court of competent jurisdiction, that ruling shall not impair the operation of, or have any other effect upon such other portions of these regulations as may remain otherwise in force, and the latter shall continue to be given full force and effect.
2. General Standards.
- i. Unless the applicant has an existing permit from the Department of Environmental Protection to conduct a solid waste disposal or bulky waste

disposal area, an applicant wishing to conduct such a use shall first apply to the Commission for a Special Permit and Site Plan approval. Any proposed expansion of an existing disposal area shall be submitted to the Planning and Zoning Commission prior to submission to D.E.P.

- ii.** Said application shall include a filling plan, operational plan, including cover, slopes and working face, a landscaping plan with a planting schedule, and a closure plan. Further, said application shall contain an explanation of the means by which water resources shall be protected.
- iii.** No materials shall be received at the site that are not permitted for the site by the DEP.
- iv.** The Commission shall hold a public hearing on the application.
- v.** The Commission may, after the public hearing, grant a permit for a period of time not to exceed five years. The Commission may renew a permit at the time of expiration if the owner of the property or his authorized agent files with the Commission a report of an engineer or surveyor licensed to practice in the State of Connecticut certifying that the excavation, regarding or filling already completed conforms with the approved plans.
- vi.** The owner of the property shall at all times assume full responsibility for the use of his/her property.
- vii.** In evaluating a Special Permit application under this section, the Commission shall take into consideration the health, safety and welfare of the public, in general, and the neighborhood, in particular. The Commission may deny a Special Permit where the proposed use is of such location, size and character that it will not be in harmony with the appropriate and orderly development of the zone or district in which it is proposed to be situated and will be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties. If the Commission concludes that the proposed use meets the threshold requirement of compatibility, the Commission may grant a Special Permit with conditions attached thereto, the purpose of said conditions being to assure compatibility with the



neighborhood and protection of the health, safety and welfare of the public in general.

### 3. Specific Standards

#### i. Lot Area

a) Each Solid Waste Disposal Facility shall have a minimum lot size of fifty (50) acres. This minimum lot size may be increased by the Commissioner if it is determined that such increase is necessary to protect the health, safety, and welfare of the public.

#### ii. Setback

a) The setback shall average at least 140 feet and shall be no less than 40 feet at any point. This shall be maintained between the toe of the slope of any area filled under the Special Permit and any adjacent lot line, street or railroad right of way.

#### iii. Area

a) The working face of each solid waste disposal area shall be at least 300 feet from any existing principal building or proposed principal building, officially approved by the Town/City on an abutting line and 200 feet from any abutting lot line.

#### iv. Elevation

a) Solid waste and cover material deposited on the site shall not exceed an elevation of 30 feet above the average existing grade on the site at the proposed toe of the slope. The final surface of the area shall be graded to a slope of at least four percent and the side slopes shall not exceed a grade of one on three, one vertical on three horizontal.

#### v. Landscape

a) The area created by the setback from abutting lot lines shall be seeded and fertilized to establish suitable grass cover.

### 4. Closure

i. The applicant shall submit a proposed Restoration Plan showing final grading and landscaping and whatever other information is necessary to indicate proper closure of the solid waste or bulky waste disposal area. Proper closure shall include:

- a) A final cover at least 24 inches of compacted cover material, free from cracks and extrusions of refuse including 6 inches of topsoil to top-dress fill areas.
- b) Seeding, mulching and fertilizing the site to re-establish vegetation.
- c) Landscaping with trees and shrubs.
- d) Satisfactory systems to ensure the continuing control of decomposition gases following closure.
- e) A complete cost breakdown of the closure plans.
- f) A performance bond of sufficient magnitude to cover the entire costs itemized in f.5 above, to assure compliance with the closure plans for a period of 5 years from the completion of the closure. Said bond amount shall be reviewed and upgraded every two years.
- g) Upon, closure of the solid waste or bulky waste disposal area, the applicant shall undertake permeability and other tests as may be required by the Commission to determine stabilization of the site. No site, after closure, shall be used for a solid waste or bulky waste disposal area.

5. Conditions

- i. The Commission may attach such conditions to the operation as it shall deem necessary to protect the public health and welfare of the residents of the Town/City, and the surrounding neighborhood in particular.

**L TRANSFER STATION**

A transfer station is defined as a solid waste processing site where solid waste is transferred from one vehicle to another vehicle or storage device for temporary storage until transferred to a permanent disposal site approved the solid waste management authority or permitted by any other solid waste management authority having jurisdiction over the location of the permanent disposal site.

Conn. Gen. Stat. § 22a-208c. Permit required to receive, dispose of, process or transport solid waste.

- 1 Transfer stations are permitted in (insert districts allowed in) subject to Special Permit and Site Plan approvals
- 2 It is the intent of this Section to provide that transfer stations be sited so as not to be detrimental to the use and development of the land in the vicinity, and operated so as

not to constitute a nuisance to such land in the vicinity of the disposal area, having regard to the statutes and regulations that are enforced by the Commissioner of Environmental Protection where appropriate.

CT DEP permitting of transfer stations. <http://tiny.cc/KfGnc>

### 3 General Standards

- i Prior to submission of an application to the State DEP, the applicant shall have received approval of a Transfer Station from the Planning and Zoning Commission.
- ii Said application shall be accompanied by an Site Plan, an operational plan and a landscaping plan.
- iii No material shall be received at the site that is not permitted for the site by the DEP, nor any material prohibited in these regulations.
- iv The Commission shall hold a public hearing on the granting of this special permit, and after the public hearing, may grant the permit.
- v The owner of the property shall at all times assume full responsibility for the use of his/her property.
- vi In evaluating a Special Permit application under this section, the Commission shall take into consideration the health, safety and welfare of the public, in general, and the neighborhood, in particular. The Commission may deny a Special Permit where the proposed use is of such location, size and character that it will not be in harmony with the appropriate and orderly development of the zone or district in which it is proposed to be situated and will be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties. If the Commission concludes that the proposed use meets the threshold requirement of compatibility, the Commission may grant a Special Permit with conditions attached thereto, the purpose of said conditions being to assure compatibility with the neighborhood and protection of the health, safety and welfare of the public in general.

### 4 Specific Standards

- i Lot Area

- a Each Transfer Station shall have a minimum lot size of 80,000 square feet and a width of 200 feet measured at the required front yard setback.
- ii Setback
  - a Each lot shall have a front yard setback of 50 feet.
  - b Each lot shall have two side yards of at least 30 feet each.
  - c Each lot shall have a rear yard of not less than 50 feet.
- iii Lot Coverage
  - a All buildings shall occupy not more than 40% of the area of the lot.
- iv Maximum Height
  - a No building or structure shall exceed 40 feet in height.
- v Landscaping and Buffer Area
  - a A 15 foot wide buffer area shall be provided along all abutting lot lines to minimize the visual intrusion of a transfer station on adjoining uses. The buffer area shall be installed in accordance with a time schedule approved by the Commission, shall be seeded and fertilized so as to establish suitable grass cover, shall be planted with trees as approved by the Commission, and shall be properly maintained and kept free of debris, litter, machinery and vehicles.
- vi Operating Conditions and Procedures

Operating Conditions were adopted from the zoning regulations of the town of Hamden, Connecticut. <http://tiny.cc/tdLpv>

- a An operator certified by the Commissioner of D.E.P. must be present at the resource recovery and/or volume reduction facility or transfer station at all times during operating hours.
- b A sign shall be posted at the entrance to the site which states, at a minimum, the name of the permittee and hours of use of the facility, the authorized users and required safety precautions.
- c No solid waste shall be stored within the property boundary for a period greater than forty eight (48) hours unless authorized by the Commission of D.E.P. and the Planning & Zoning Commission. All solid waste shall be stored indoors, except that bulky waste or recyclable materials may be otherwise stored on-site in appropriate areas or containers. A building roofed and enclosed on all sides, or otherwise

enclosed to satisfactorily control dust and litter, shall be provided for all solid waste other than bulky waste or recyclable materials.

- d Unloading of solid waste, except for bulky waste and recycled materials, shall take place only within an enclosed structure and/or only in designated areas approved in writing by the Commissioner of D.E.P. Scavenging shall be prohibited at the unloading area.
- e Solid waste shall be confined to the unloading, loading and handling area. The facility and adjacent areas shall be kept clean and reasonably free of litter.
- f Hazardous wastes and special waste shall be excluded.
- g Dust and odors resulting from the unloading of solid waste and the operation of the resource recovery facility and/or volume reduction plant, or transfer station shall be controlled at all times to assure compliance with the applicable regulations of the Department of Environmental Protection.
- h Equipment shall be provided to control fires and arrangements made with the local fire protection agency to immediately acquire services when needed.
- i The resource recovery facility and/or volume reduction plant or transfer station design and/or equipment shall provide for explosion protection.
- j If for any reason the resource recovery facility and/or volume reduction plant or transfer station is rendered inoperable, an alternative method approved by the Commissioner of D.E.P. shall be available for processing or transfer and disposal of solid waste.

## 5 Closure

- i If an owner or permittee intends to close a transfer station, the owner or permittee shall submit a site plan showing the proper closing in order to preserve and protect the natural resources and environment of the Town/City. Said plan shall show the intended use of the site following closure.

## 6 Conditions

- i The Commission may attach such conditions to the operation as it shall deem necessary to protect the public health and welfare of the residents of the Town/City, and the surrounding neighborhood in particular.

## **M VEHICLE STORAGE**

- 1 The storage of travel trailers, campers, boats, recreational vehicles and trucks shall be permitted as an accessory use in any Residential District subject to the following conditions:
  - i Not more than two such vehicles shall be stored or parked on a lot used for residential purposes for a period exceeding 24 hours.
  - ii No truck, pick-up or van having a weight of more than 8,000 pounds [is there a definition for vehicle weight?] shall be allowed to park for a period exceeding 24 hours on any residential lot unless it is in an enclosed structure.
  - iii There shall be no outside storage of construction equipment and/or vehicles except when essential to on-site construction activities.
  - iv If not in a completely enclosed structure, travel trailers, campers, boats and recreation vehicles may not exceed 18 feet in length. Such vehicles shall be parked or stored in the rear yard, but not closer than five feet to any lot line and shall be screened from view.
  - v Travel trailers, campers, boats and recreation vehicles may be parked anywhere on the residential premises for a period not exceeding 24 hours during unloading or loading.
  - vi Any travel trailer, camper, boat, recreation vehicle, truck or bus parked or stored in any zoning district, whether it be residential or non-residential, shall not be used for living, sleeping or housekeeping purposes.

## **N VETERINARY HOSPITALS**

When drafting your town/city zoning regulations, be careful when allowing uses as a matter of right in certain districts, such as “health oriented businesses”. In Heim v. Zoning Board of Appeals of Town of New Canaan, 289 Conn. 709 (2008) the Connecticut Supreme Court held that a veterinary clinic is a “health oriented office” under the meaning of the town’s zoning regulations, and thus a permitted use, not subject to additional conditions.

- 1 Veterinary Hospitals are permitted in any Residential, Business, Manufacturing and Controlled Development District subjected to Special Permit and Site Plan approvals and the following conditions:
  - i In any Residential District, the minimum lot size shall be 80,000 square feet.
  - ii The lot shall be served by sanitary sewers. Depending on the size of the facility, the Commission may require adequate public water service.
  - iii. In any District, a veterinary hospital shall not include a crematorium or any outside enclosure for animals.

**O ADULT ORIENTED ESTABLISHMENT**

The regulation of adult oriented establishments can lead to legal disputes and lawsuits. It is recommended that the regulations adopted by your city/town are not too stringent as to prevent them from being built in almost all areas. For an example of a recent Connecticut case involving an adult oriented establishment, see VIP of Berlin, LLC v. Town of Berlin, 287 Conn. 142, 946 A.2d 1246 (Conn. 2008).

- 1 No adult oriented establishment shall be approved in the town/city unless it is in strict compliance with the following conditions.
- 2 No adult oriented establishment shall be established on a lot if any portion of such lot is situated within 1,000 ft. radius of any lot; used or approved to be used, for a public or private school, house of worship or library.
- 3 No adult oriented establishment shall be established on a lot if any portion of such lot is situated within 1,000 feet radius of any lot, used or approved, to be used for an adult oriented establishment.
- 4 No adult oriented establishment shall be established within 1,000 feet radius of any residential zoning district.
- 5 No alcoholic beverages shall be sold or consumed within adult oriented establishments.
- 6 Adult oriented establishments shall be designed so as to prohibit the view of any sexual aids or paraphernalia; films, books, tapes, periodicals, CDs, drawings, or

advertisements depicting specified anatomical areas or specified sexual activity from a sidewalk, street driveway or parking area.

- 7 Any signs located inside or outside an adult oriented establishment visible from a sidewalk, street, driveway or parking area shall not visually depict, describe or name any specified anatomical area or specified sexual activity.



## **IX. PARKING**

### **A. PURPOSE.**

The purpose of these regulations is to:

1. Allow flexibility in addressing vehicle parking, loading, and access issues;
2. Present a menu of strategies to solve parking issues rather than parking space requirements;
3. Maintain and enhance a safe and efficient transportation system that is consistent with environmental goals and clean air; and
4. Ensure that off-street parking, loading, and access demands associated with new development will be met without adversely affecting other nearby land uses and surrounding neighborhoods.
5. Support and promote safe and convenient pedestrian and bicycle movement in parking lots.

See chapter 914.01.A of the zoning code for the city of Pittsburgh (<http://tiny.cc/WP4mC>).

### **B. SCOPE OF REGULATIONS**

The parking and loading provisions set forth in this chapter shall apply to all land uses, except as otherwise provided in this zoning ordinance.

See chapter 541.20 of the zoning code for the city of Minneapolis (<http://tiny.cc/GznUu>).

### **C. SITE PLAN REVIEW**

To ensure the overall efficiency of parking development in zoning district applicants proposing more than [ten] spaces associated with non-residential, residential or mixed-use developments shall include with their applications for site plan approval an analysis of the opportunities to reduce parking space requirements using any of the reduction strategies provided in section E (Parking Minimization Options), and/or section G (Landscaping and Parking Lot Design).

1. The [planning board] shall require the maximum reduction available under section E.1 unless it determines that:

- a) A surplus of spaces on a particular site will benefit the district as a whole by providing off-site sharing opportunities for other sites in the district; or
- b) The techniques for reduction of the number of off-street or on-site parking spaces available to the applicant are infeasible or would impose an undue hardship on the applicant.

2. The [planning board] shall require that all applicable design criteria are followed for Low Impact Development (LID) parking area design as defined in section G.2 of this bylaw unless it determines, upon petition from the applicant, that the successful implementation of a LID parking area design is infeasible or would impose an

undue hardship on the applicant. Where the [planning board] determines that LID parking area design is infeasible, applicant shall comply with those specifications for Conventional Parking Area Design listed in section G.1. Evidence that may be used by an applicant to demonstrate the infeasibility of implementing LID techniques on a site may include, without limitation:

- a) The presence of subsurface geologic conditions such as ledge or large quantities of poor fill;
- b) Applicant does not own existing lot to be used for off-site parking allowances;
- c) The presence of soil contamination; and/or
- d) Existing topography or site geometry.

See the Massachusetts Smart Growth-Smart Energy Toolkit model smart parking bylaw (<http://tiny.cc/zWcbI>)

**D. NUMBER OF SPACES**

Off-street parking for customers and employees shall be provided and maintained in connection with the intensity of use of buildings or structures. Such spaces shall be provided using the following guidelines in amounts per 1,000 square foot (sf) of Gross Floor Area (GFA) unless otherwise indicated:

**Parking Schedule**

<b>Land Use</b>	<b>Maximum</b>	<b>Minimum</b>
Bank	5	2
Small Commercial Centers (up to 10,000 sq. ft.)	7	3
Free Standing Retail	5	2
General Office Building	5	2
Industrial Plant	8	2
Medical Office Building	10	2
Assisted Living	1 space 5 residents	1 space per 10 residents
Restaurants	14	6
Bed and Breakfast	1.2 spaces per room	1 space per room
Personal Services	3	2
Commercial Day Care Centers	1 space per 3 children at max capacity	1 space per 8 children at max capacity
Churches and Places of Worship	1 space per 3 seats in portion of the building used for services	1 space per 5 seats in portion of building used

		for services
Museums and Libraries	2	1
Social, Fraternal Clubs and Organizations	4	3
Schools	1 space per 3 pupils	1 space per 5 pupils
Hotels and Motels	1.2 spaces per room	1 space per room
Warehouse		1 per employee
Home Occupation	4 per dwelling unit plus 1.5 per non-resident employee	2 per dwelling unit plus 1 per non-resident employee
Multi-Family Residences	2.5 per dwelling unit	1 per dwelling unit
Commercial Kennel	3	1
Automotive Sales and/or Rental	As determined by the Commission	As determined by the Commission
Automotive Repair and/or Service	As determined by the Commission	As determined by the Commission
Gymnasiums, Physical Fitness Centers, Health Spas, Martial Arts Centers and Dance Studios	10	2
Indoor Recreation Facilities	5	5

Adapted from section 170-102 of the zoning code for the town of Tolland, CT (<http://tiny.cc/rKxG0>). Note that the standards recommended for schools would only apply in those towns in which schools are subject to zoning.

#### **E. PARKING MINIMIZATION OPTIONS**

The minimum parking requirements in section D can be reduced if the applicant can demonstrate a reduction in parking space demand.

1. Shared Parking
  - a) Shared On-Site Parking

To implement shared on site parking, the applicant shall provide analyses as part of Site Plan Review to demonstrate that proposed uses are either competing or non-competing.

- i) Non-competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for non-competing uses. Up to [75%] of the requirements for the predominant use may be waived by the [planning board] if the applicant can demonstrate that the peak demands for two uses do not overlap. An applicant may use the latest peak demand analyses published by the Institute of Traffic Engineers (ITE) or other source acceptable to the [planning board].

ii) Competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements where peak demands do overlap. In these cases, the Planning Board may reduce the parking requirements of the predominant use by up to [30%].

b) Off-Site Parking

Separate from, or in conjunction with Shared Parking provisions, an applicant may use off-site parking to satisfy their parking requirements. As part of Site Plan Review, the applicant shall provide the necessary information to comply with the following standards:

i) Off-site parking shall be within [five hundred (500)] feet of the property for which it is being requested.

ii) Off-site parking may only be provided if the off-site lot has an excess number of spaces or if the applicant can demonstrate that the on-site and off-site uses have non-competing peak demands.

iii) The amount of required parking spaces being reduced on-site shall be equal to the amount being provided off-site and can account for up to 100% of the minimum required on-site parking.

iv) Off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement that will be presented to the Planning Board during the Site Plan Review process or as condition of approval. If the conditions for shared parking become null and void and the shared parking arrangement is discontinued, this will constitute a zoning violation for any use approved expressly with shared parking. The applicant or property owner must then provide written notification of the change to the Zoning Enforcement Official and, within 60 days of that notice, provide a remedy satisfactory to the Commission to provide adequate parking.

v) Off-site parking provided by means of a public parking facility shall be limited to [50%] of the overall parking requirement [for daytime peak uses].

vi) On-street parking spaces that [intersect or] are completely contained within the frontage of the property may be counted toward the minimum parking requirements.

vii) Uses sharing a parking facility shall provide for safe, convenient walking between uses and parking, including safe, well marked pedestrian crossings, signage, and adequate lighting.

2. Fees-In-Lieu of Parking

If the [City/Town/District] has established a reserve account or revolving fund to be used for expenses (land acquisition, design/engineering services and construction costs, but not maintenance costs) related to adding parking spaces, improving the utilization of

existing parking spaces, or reducing the need for new parking to serve the [City/Town/District], an applicant may pay a fee-in-lieu of parking space development for a portion or all off-street on-site parking. The fee to be paid shall be [\$2,000] per parking space, and shall be paid into such fund.

3. Compact Cars

Applicant may design up to [30%] of their parking spaces for compact cars. Compact car spaces shall be grouped together to the greatest possible extent in areas clearly designated for compact cars. Parking lots shall have a system of signs beginning at the entrance that clearly indicates the location of compact car spaces.

4. Shuttle

Applicant may reduce the minimum parking requirement by demonstrating in its site plan application the effect that shuttle services will have on parking demand.

5. Bumper-to-Bumper

Applicant can design up to [30%] of parking spaces as bumper-to-bumper employee parking.

6. Reinforced Turf

Applicant can meet the minimum parking requirement by designating up to [30%] of parking spaces on reinforced turf.

**F. PARKING SPACES AND TRUCK LOADING SPACES**

1. Parking Spaces.

Parking spaces shall adhere to the following standards.

Parking Angle	Parking Stall Width		Travel Lane (one way)		Travel Lane (two way)	
	Standard Space	Compact Car	Standard Space	Compact Car	Standard Space	Compact Car
Parallel	9'	8'	12'	12'	24'	22'
45°	18'	16'	14'	12'	24'	22'
60°	21'	17.5'	16'	14'	24'	22'
75°	22'	19'	19'	16'	24'	22'
90°	20'	17'	22'	19'	24'	22'

See the Massachusetts Smart Growth-Smart Energy Toolkit model smart parking bylaw (<http://tiny.cc/zWcbI>)

2. Truck Loading Spaces

a) All commercial, business, institutional and industrial spaces shall have off-street loading facilities in order to guarantee full utilization of existing rights of way to accommodate present and future traffic demands. Off-street loading facilities are intended to provide adequate space to accommodate outside deliveries from large vehicles which cannot be functionally served by normal parking stalls. Off-street loading facilities must be located in such a manner that service vehicles do not block or intrude into public rights of way or block driveways or parking area circulation.

b) Location and Design

i. All off-street loading spaces shall be designed to minimize impacts on adjacent properties.

ii. In all cases, loading facilities shall be located on the same lot as the structure they are designed to serve. Required yards cannot be used for loading. Off-street loading space shall not be included in an area used to satisfy off-street parking requirements.

iii. Loading spaces shall be designed and located so vehicles using these spaces do not project into any public right-of-way or otherwise extend beyond property lines.

iv. Loading spaces shall be designed and built so no vehicles are required to back to or from an adjacent street, except for minor access for heavy trucking in industrial zones on local access streets.

v. When a proposed structure is intended to be use concurrently for different purposes, final determination of required loading spaces shall be made by the [Director], provided the loading requirement for the combined uses shall not be less than the total requirement for each separate use.

See Chapter 3, Article 10-3d of the zoning code of the city of Liberty Lake, WA (<http://tiny.cc/WZivx>)

**G. LANDSCAPING AND PARKING LOT DESIGN**

Landscaping is required for all parking lots and may be designed in one of two ways as related to stormwater management pursuant to either (1) Low Impact Development or (2) Conventional Parking Area Design.

1. Conventional Parking Area Design Standards

The landscaping requirements in this section are intended to provide a baseline of standards toward reducing the visual impacts of large areas of pavement, improving the overall environment or parking areas by areas for shade and heat reduction, and enhancing the overall aesthetic appeal of parking areas. The following standards shall apply to all Conventional Parking Lot Design as defined in this bylaw.

a) Amount. Developments with proposed parking spaces of [ten] spaces or more shall provide a minimum of 10% of the total parking area as landscaped open space.

b) Buffers. Landscaping shall be required between non-residential uses or mixed use developments and existing or future residential development areas. Buffer zones shall be a minimum of [12 feet] in width and shall substantively screen the site from view through the use of evergreen vegetation at least six feet in height. Fences may be used as part of screening but shall not include chain link fences. These requirements shall not apply to non-residential or mixed use development that are designed to integrate existing or future neighboring residences into the site through the use of walkways, bicycle paths or other pedestrian amenities.

c) Parking Lot Entrances. Parking lot entrances shall be landscaped minimally with a combination of trees and shrubs. These areas may also be used for signage in compliance with Section XI. No trees or shrubs shall be planted in a way to obstruct sight lines of motorists.

d) Parking Aisles. The ends of parking aisles that are more than [15] in length shall incorporate landscape islands at either end of the row. Where the length of parking aisles exceeds [25], an intermediary landscaped island shall be installed at regular intervals. This interval shall not be more than every [13] spaces. Landscape islands used at the end of parking aisles shall enclose. The width of landscaped islands at their ends shall not be less than [4] feet and not less than [8] feet at their midpoint.

## 2. Low Impact Development (LID) Parking Area Design Standards

The purposes of these standards is to provide the [zoning commission] the opportunity to review plans for a lower impact approach to managing stormwater in parking areas. The following information is therefore required of an applicant choosing to treat any portion of a parking lot with LID stormwater management techniques. This information shall be prepared by a registered professional engineer and shall comply with the design and implementation guidelines provided in [Cite to some CT Authority]. Where portions of the parking lot are not using acceptable LID techniques, the standards for Conventional Parking Lot Design in Section VII.A shall apply.

a) Delineation of all drainage areas inclusive of areas outside of the parking envelope that will contribute stormwater runoff to the parking area;

b) Proposed topography at two-foot contour intervals;

c) Site plan showing drainage pathways and locations of proposed Best Management Practices (BMPs)<sup>6</sup>

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<sup>6</sup> BMPs (Best Management Practices): structural, vegetative, or managerial practices designed to treat, prevent, or reduce degradation of water quality due to stormwater runoff and snow-melt.

Best Management Practices are structural, vegetative, or managerial practices designed to treat, prevent or reduce degradation of water quality due to stormwater, runoff and snowmelt.

- d) Typical profiles of BMPs;
- e) Sizing calculations for BMPs that demonstrate adequate conveyance and/or water quality treatment of the [first half inch of stormwater runoff from impervious surfaces];
- f) Sizing calculations for BMPs that illustrating proposed management of runoff resulting from 2-year, 10-year, and 100- year event;
- g) List of plantings associated with vegetated BMPs;
- h) Location of areas reserved for snow storage;
- i) Location of any screening between residential and non-residential properties. Buffer zones shall be a minimum of [six (6) feet] in width and shall substantively screen the site from view through the use of evergreen vegetation at least six feet in height. Fences may be used as part of screening but shall not include chain link fences. These requirements shall not apply to non-residential or mixed use development that are designed to integrate existing or future neighboring residences into the site through the use of walkways, bicycle paths or other pedestrian amenities.
- j) Location of test pits, depth to seasonal high ground water and soil percolation rates for those areas designated for recharge;
- k) Schematic diagrams of any gray water or cistern systems proposed for the parking area;

See the Massachusetts Smart Growth-Smart Energy Toolkit model smart parking bylaw (<http://tiny.cc/zWcbI>)

## **H. BICYCLE AND PEDESTRIAN ACCOMMODATIONS**

It is the intent of these regulations to promote and support access by bicycle and walking throughout the community. To this end, all parking lots must be designed to provide safe and convenient pedestrian and bicycle access as a part of any parking lot design including safe and convenient pedestrian and bicycle movement to and from public walkways and/or bikeways, or streets.

These bicycle and pedestrian accommodation regulations were adapted from the Tolland, Connecticut zoning regulations (<http://tinyurl.com/ygktnvs>), the Cambridge, Massachusetts zoning regulations (<http://tiny.cc/ntSlr>), and *Your Guide to Forming a Bike Advisory Committee*, by the Massachusetts Bicycle Coalition, 2004, available at: <http://tiny.cc/RhosJ>. For additional



information regarding engineering bicycle facilities visit: Bicycleinfo.org available at: <http://tiny.cc/K2nd8>.

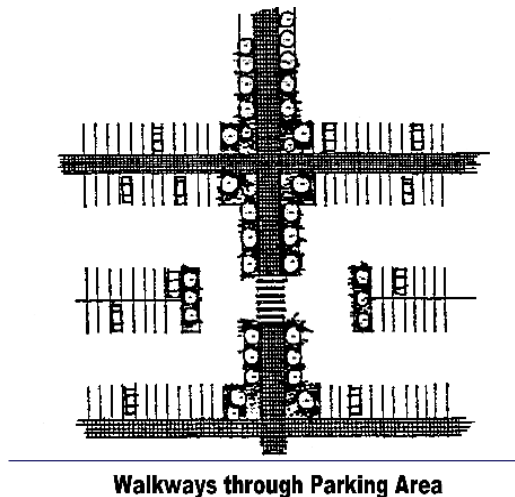
1. Pedestrian Design Standards.

Once people step out of their cars, they become pedestrians. Clearly defined routes that are well lit and buffered from vehicle areas help address these needs. Safe, comfortable, and convenient pedestrian facilities encourage walkers to visit more than one place on foot, rather than encouraging them to drive from place to place. In addition, people will walk through parking lots when they represent a shorter route to desired destinations.

Provision for safe and convenient pedestrian access shall be incorporated into landscaping plans for any parking area. This shall be clearly shown on all site plans. All walkways shall be constructed to provide for:

- a) Safe separation or delineation of all walkways from motor vehicle traffic through the use of raised sidewalks and/or landscaping between sidewalks and parking spaces and/or driving aisles.
- b) Safe, well-articulated pedestrian crossings demarcated with pavement markings, pedestrian warning signs, and lighting.
- c) A minimum of four (4) feet in width.
- d) Inclusion of plantings, benches and lighting along walkways and at all pedestrian crossings.
- e) Design, construction and maintenance to accommodate disabled individuals per Americans with Disabilities Act (ADA) requirements where feasible.

**Clearly Defined Walkways Within Parking Lots** – Marked walkways, separated from traffic lanes and vehicle overhangs, and shall be provided from parking areas to the entrances of establishments.



A town or city should be sensitive to smart growth development by creating desirable and pedestrian friendly parking areas by considering:

- Wide sidewalks throughout the parking lot (4 feet minimum width in residential parking areas and 8 feet minimum width in non-residential or mixed-use parking areas)
- Parking lot furniture (e.g., benches, street lamps)
- Trees and other landscaping

2. Bicycle Parking. Off street parking of bicycles shall be provided as follows:

- a) For multifamily residences, there shall be one bicycle space or locker for each two dwelling units or portion thereof unless it can be shown that there is no demand for bicycle parking.
- b) For all other uses, there shall be one bicycle parking space for every ten automobile parking spaces unless a lesser demand for bicycle parking can be shown.

A town or city adopting this ordinance should consider adopting land banked bicycle parking spaces if it can be shown that there is not a current demand for bicycle parking.

3. Bicycle Access Design Standards.

Convenient, secure bicycle parking is important in encouraging bicycle use for transportation. Bicycle parking facilities shall be designed and installed to include:

- a) Accessory off-street parking for bicycles shall include provision for secure storage of bicycles. Such facilities shall provide lockable enclosed lockers or racks or equivalent structures in or upon which a bicycle may be locked by the user.
- b) Structures that require a user supplied locking device shall be designed to accommodate both chain and U-shaped locking devices and shall support the bicycle frame at two locations (not just the wheel).
- c) All lockers and racks must be securely anchored to the ground or the building structure to prevent the racks and lockers from being removed from the location.
- d) The surfacing of such facilities shall be designed and maintained to be mud and dust free. The use of rock or gravel areas for bicycle parking is permitting provided that edging materials, such as landscape timbers are used so that the bicycle parking area is clearly demarcated and the rock material is contained.
- e) Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles. The separation may be accomplished through grade separation, distance or physical barrier, such as curbs, wheel stops, poles or other similar features.
- f) Required bicycle parking spaces shall be at least two feet by six feet per bicycle.
- g) An aisle a minimum of five feet wide shall be provided behind bicycle parking facilities to allow for maneuvering.
- h) A minimum of 24 inches shall be provided beside each parked bicycle to allow easy access. This access may be shared by adjacent bicycles. Racks shall be installed a minimum of 24 inches from any wall or other obstruction.

i) Bicycle parking facilities shall be located in a clearly designated safe and convenient location. Whenever possible, bicycle parking shall be placed within 50 feet of building entrances and in well-lit areas.

j) It is recommended that half of the bicycle parking spaces be provided as long term parking, safe and secure from vandalism and theft, and protected from the elements. The other half shall be provided as short term (customer or visitor) parking, and it is recommended that these parking spaces be visible and convenient to the building entrance.

k) Water fountains and benches should be available within close proximity to bicycle parking facilities to offer bicyclists convenient water and resting access.

## I. DRIVEWAYS

This driveway regulation was adapted from the Plainville, Connecticut zoning regulation. This regulation is available at: <http://tiny.cc/XVm54>. This driveway regulation was selected because it provides a town or city with a great level of oversight and flexibility by leaving much up to the zoning and planning commission.

1. No person, firm or corporation shall construct, build, establish or maintain any driveway, sidewalk or other entrance to any property adjoining a public highway or right-of-way without first having obtained a written permit to do so from the [Town Engineer]. No permit shall be issued for construction or establishment of any driveway, sidewalk or other entrance except in accordance with the following provisions.

Application for permit must be made in writing upon forms furnished by the Town. The application shall contain the name and address of the person, firm or corporation making the application, the name of the contractor or person who is to construct the driveway, sidewalk or other entrance, and the proposed location and dimensions of such driveway, sidewalk or other entrance, to adequately warn and protect the public while the job is in process.

Application for permit shall be made by the [contractor] who shall be a paving contractor approved by the [Director of Public Works] or his agent. Complete plans and specifications shall be submitted to the [Town Engineer] at least three days before the permit shall be issued.

2. Before the granting of any permit a fee of [ ] dollars (\$) shall be paid by the applicant.

3. All work shall be done under the jurisdiction of the [Director of Public Works] or his agent and in accordance with the ordinances of the Town; and shall be inspected upon completion by the constituted member of such department.

4. All plans and specifications must conform to the following minimum requirements before permit for construction or reconstruction shall be permitted:

a) Any driveway, sidewalk or other entrance shall be installed at an elevation or grade at the street line on any fifty foot right-of-way, seven inches above the gutter elevation or grade, or two inches above the grade or elevation of the center line of the street.

b) In any case where these base elevations or grades are undetermined or indeterminate a street line elevation or grade shall be furnished by the [Town Engineer].

c) The width of the driveway, sidewalk or other entrance shall be as determined from time to time by the [Director of Public Works].

Sufficient access for emergency vehicles should be accounted for when determining the width of driveways and sidewalks.

d) Combined curb and gutter and separate curbing shall be entirely removed for the full width of the driveway opening at curb line. If an existing curb joint is within five 5 feet of the end of the driveway opening, remove the existing curbing, etc. to the joint, otherwise cut the combined curb and gutter or separate curbing, making a neat edge truly at right angles to the edge of the pavement and truly vertical. Integral curbing, which is that type placed with the pavement and molded as an integral part of it, must be removed for the full depth from the top of curb to the bottom of the pavement. The edge must be cut as above described. No combined curb and gutter, straight curb or integral curb shall be removed within five 5 feet of a public crosswalk.

e) Where driveways cross open ditches in the parkways, culverts shall be installed. The size and construction materials for these culverts shall be determined by the [department of public works], depending on the conditions existing. In no instance shall the size of opening be less than that obtained by a twelve inch diameter pipe. The length of culvert shall be determined by the following method: For ditch of two feet or less the culvert shall extend not less than five feet beyond both edges of the driveway where it crosses the ditch. For each additional foot depth of ditch add two feet to the above figure, except that no culvert shall be less than twenty feet long and except that where headwalls are constructed at the ends of the culvert the length shall be as determined by the [Department of Public Works].

f) Where a change in existing drainage installations must be made or trees removed in order to comply with this ordinance, the cost for such change shall be borne solely by the applicant and the determination of the change necessary and the work done shall be under the direction and supervision of the [public works department].

g) All driveways constructed or reconstructed over, across or upon any public street or public parkway in the town shall be kept and maintained at all times in accordance with these provisions by the persons constructing, reconstructing or using the same as an adjunct or appurtenance to lands or properties immediately adjacent thereto.

5. A permit is required in order to construct a driveway, sidewalk, or other entrance abutting an unaccepted or private road. The Town of \_\_\_\_ does not accept responsibilities for a driveway constructed without a permit. If an unaccepted road or private way shall be accepted by the Town, anyone abutting it shall be subject to compliance with these regulations and may be compelled by the Town and the Town shall be released of any responsibility whatsoever to said property owner or its assigns.

6. Any installation made illegally or incorrectly shall be subject to correction as per the instruction of the [Director of Public Works]. Defects which are not corrected within a reasonable time as determined by the [Director of Public Works], shall be corrected by the [Department of Public Works] or its agents, and the cost for these corrections shall be borne solely by the property owner and shall be a lien on the property in the same manner as real property taxes, and shall be placed by the [Director of Public Works] on the land records within sixty days from the date of completion by the [Department of Public Works] or its agents.

7. The [Director of Public Works] may vary any of the requirements of this ordinance for proper cause, but such variance shall be noted on the permit and signed by the [Director of Public Works] or his authorized agent.

8. Accompanying the application the contractor shall file with the [Department of Public Works] the following bonds:

- a) A performance bond in the sum of \_\_\_(\$ ) or more.
- b) A surety bond issued by a regular indemnity or surety company authorized to do business in the State of Connecticut conditioned substantially that the applicant shall indemnify and save harmless the Town of \_\_\_ or any of its officers from all suits and action of every name and description brought against the Town, or any officer of the Town for any injury or damage, received or sustained by any person in consequence of or resulting from any work performed, or negligence by the applicant, his servants or agents; or from any negligence in guarding such work.

9. Whoever shall violate any of the provisions of this ordinance shall, upon conviction, be fined not more than \_\_\_(\$ ) for each offense.

## **J. DRIVE-THROUGH AND WALK-UP OR BICYCLE-UP WINDOWS**

### **1. Drive-Through**

This drive-through regulation was adapted from the City of Sacramento, California zoning regulation. This zoning regulation is available at: <http://tiny.cc/Y9ZpF>.

a) Special Permit approval from the [City Planning Commission] is required for a drive-through service facility in the allowed zones.

b) Three findings must be made by the [Planning Commission] in order to grant a Special Permit for a drive-through service facility:

i. The design and location of the facility will not contribute to increased congestion on public or private streets or alleys adjacent to the subject property;

ii. The design and location of the facility will not impede access to or exit from the parking lot serving the business, impair normal circulation within the parking lot or impede pedestrian movement; and

iii. The design and location of the facility will not create a nuisance for adjacent properties.

c) The Zoning Regulation also establishes the following standards:

i. A minimum stacking distance of 180 feet shall be provided to each pick-up window or automated machine.

ii. A facility with a separate ordering point and pick-up window shall provide stacking space for at least 4 vehicles in advance of each ordering point and stacking space for at least 4 vehicles between each ordering point and pick-up window.

iii. Entrances to drive-up lanes shall be at least 25 feet from driveways entering a public or private street or alley.

iv. Drive-up service facilities shall not be considered as justification for reducing the number of required parking spaces.

v. The minimum width of each drive-through lane shall be 11 feet. The entrance to the lane and the direction of traffic flow shall be clearly designated by signs and pavement marking or raised curbs.

vi. A solid six-foot high masonry sound wall shall be constructed on the property boundary when the site is contiguous to residentially zoned or used property(s).

vii. Operation of the drive-up service facility shall be restricted to between the hours of 7:00 a.m. and 10:00 p.m. when the site is contiguous to residentially zoned or used property(s).

A city or town adopting this regulation should consider having a “bailout provision” to account for when a driver decides to leave (bailout) the drive-through before placing an order.

## 2. Walk-Up or Bicycle-Up Windows

This walk-up or bicycle-up window regulation was adapted in part from the Avon, Connecticut zoning regulations. These regulations are available at: <http://tiny.cc/3EwA6>.

a) Outdoor walk-up or bicycle-up windows shall be permitted only in the Non-Residential Zone and only upon the submission of evidence satisfactory to the [Commission] that the proposed walk-up or bicycle-up window will not cause or contribute hazards to vehicles or pedestrians.

b) The following standards apply to walk-up or bicycle-up windows:

- i. Where walk-up or bicycle-up windows are permitted, there shall be an adequate and clearly marked pedestrian or bicycle lane.
- ii. A sufficient automobile and pedestrian/bicycle buffer/barrier.
- iii. Operation of the walk-up or bicycle-up service facility shall be restricted to between the hours of 7:00 a.m. and 10:00 p.m. when the site is contiguous to residentially zoned or used property(s).

## **K. LAND BANKED FUTURE PARKING**

This land banked future parking regulation was adapted from the City of St. Cloud, Minnesota zoning regulations. These regulations are available at: <http://tiny.cc/Ahd17>.

1. The [Zoning Administrator] may permit land banking of up to twenty-five percent of the required parking spaces.

a) Sufficient evidence must be provided by the applicant that supports the reduced parking needs.

b) The area proposed for land banking of parking spaces must be an area suitable for parking at a future time.

c) Landscaping of the land banked area must be in full compliance of the zoning regulations and at a minimum landscaped with turf. The [Zoning Administrator] may require additional landscaping of the land-banked area.

d) The land banked area cannot be used for any other use. The landscaped area reserved for parking is not counted as part of the total site area required to be landscaped, if such a provision is applicable.

e) The applicant must show the area to be banked on the site plan and marked as “Land Banked Future Parking.”

f) The [Zoning Administrator], on the basis of increased parking demand for the use, can require the conversion of all or part of the land-banked area to off-street parking spaces. Land banked area must be converted within ninety days of receipt of the [Zoning Administrator’s] written order.

## **X. LIGHTING**

### **A. Scope**

The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement and installation of outdoor lighting.

Adapted from chapter 1, § 101.2 of the zoning code of Pima County, Tuscon, AZ (<http://tiny.cc/zWZjG>)

### **B. Purpose**

The regulation of outdoor lighting is intended to:

1. Provide lighting solutions both functional and aesthetically sensible
2. Enhance public safety and welfare by providing for adequate and appropriate outdoor lighting;
3. Provide for lighting that will complement the character of the town;
4. Reduce glare;
5. Minimize light trespass;

Adapted from § 135-79 of the zoning code of Lexington, MA (<http://tiny.cc/Xycgr>)

6. Avoid unnecessary upward illumination

Adapted from § 170-137 of the zoning code of Tolland, CT (<http://tiny.cc/Xycgr>)

7. Reduce the cost and waste of unnecessary energy consumption

Adapted from § 135-79 of the zoning code of Lexington, MA (<http://tiny.cc/Xycgr>)

### **C. Applicability**

1. Application of Code. The requirements of this code apply to any and all new and major additions to land uses, developments, buildings, or structures.

(a) Major additions. If a major addition occurs on a property, the entire property shall comply with the requirements of this code. For purposes of this section, the following are considered to be major additions:

(i). Additions of [25] percent or more in terms of additional dwelling units, gross floor area, seating capacity, or parking spaces, either with a single addition or with cumulative additions subsequent to the effective date of this provision.

(ii). Single or cumulative modification or replacement of outdoor lighting fixtures legally installed constituting [25] percent of more of the actual lumens for the property, no matter the actual amount of lighting already on a non-conforming site, constitutes a major addition for purposes of this section. Where existing outdoor lighting is modified or replaced and the resulting lighting fixture has a less lumen capacity than previously existing fixture, the lumen capacity of



the modified or replaced fixture shall not be included in the lumen calculations for determining a major addition, but the total of non-conforming lighting shall not be increased.

(b) Minor additions. Additions or modifications greater than [10] percent but less than [25] percent to existing uses shall require a submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting on the site shall meet the requirements of this code with regard to shielding and lamp type; the total amount of lighting after the modifications are complete shall not exceed that on the site before the modifications, or that permitted by this code, whichever is larger.

2. Change of Use. Whenever the use of any existing building, structure, or premises is changed to a new use, all outdoor lighting shall be reviewed and brought into compliance with this code before the new use commences.

Adapted from chapter 1, § 102 of the zoning code of Pima County, Tuscon, AZ (<http://tiny.cc/zWZjG>)

#### **D. Permits and Lighting Plan Requirements**

1. Permits required. Any owner or authorized agent who intends to install, construct, enlarge, alter, repair, move, or change any outdoor lighting within [this] jurisdiction, the installation of which is regulated by this code, shall first make application to the [governing authority] and obtain the required permit.

Adapted from chapter 1, § 104.1 of the zoning code of Pima County, Tuscon, AZ (<http://tiny.cc/zWZjG>)

2. Submission Requirements. The applicant for any permit required by any provision of the laws of this jurisdiction in connection with proposed work involving outdoor lighting fixtures shall submit:

- (a) The location and type of any outdoor lighting luminaires, including the height of the luminaire;
- (b) The luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles;
- (c) The type of lamp such as: metal halide, compact fluorescent, high-pressure sodium (HPS);
- (d) A photometric plan showing the intensity of illumination at ground level, expressed in footcandles or lumens; and
- (e) That light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross-section drawings, or other means.

Adapted from § 135-81 of the zoning code of Lexington, MA (<http://tiny.cc/Xycgr>)

### 3. General Requirements

- (a) All exterior lights and illuminated signs shall be designed, located, installed and directed in such a manner as to prevent objectionable light at (and glare across), the property lines and disability glare at any location on or off the property. The shielding and illumination standards as set by the Illumination Engineering Society of North America (IESNA) shall be observed (see tables 1 and 2)
- (b) All lighting for parking and pedestrian areas will be full cut-off type fixtures.
- (c) Lighting for display, building and aesthetics shall be from the top and shine downward, not uplighted, except as otherwise approved by the Commission. The lighting must be shielded to prevent direct glare and/or light trespass and must also be, as much as physically possible, contained to the target area.
- (d) All building lighting for security or aesthetics will be full cut-off or a fully shielded/recessed type, not allowing any upward distribution of light.
- (e) Adjacent to residential property and in all residential zones, no direct light source will be visible at the property line at ground level or above.
- (f) All street lighting shall be “cut off” fixtures.
- (g) Outdoor playing areas. Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be specified, mounted and aimed so that their beams fall within the primary playing area and immediate surrounds, so that no direct illumination is directed off the site.
- (h) Employ soft, transitional light levels, which are consistent from area to area. Minimize contrast between light sources, lit areas and dark surroundings.
- (i) All non-essential lighting will be required to be turned off after business hours, leaving only the necessary lighting for site security—motion or infrared sensor lighting is encouraged. (“Non-essential can apply to display, aesthetic, parking and sign lighting). The [commission may] specify hours of lighting.
- (j) Lighting designated to highlight flagpoles shall be low level, should be targeted directly at the flag.
- (k) The height of luminaries, except streetlights in public right-of-ways, shall be the minimum height necessary to provide adequate illumination, but shall not exceed a height of [30] feet.
- (l) Exemptions: Traditional seasonal lighting and temporary lighting used by Police, Fire Department or Emergency services are exempt from these regulations.

Adapted from § 170-137.B of the zoning code of Tolland, CT (<http://tiny.cc/Xycgr>)

**E. Prohibitions**

The following light sources are prohibited:

- (1) [floodlighting]
- (2)[mercury vapor lamps]
- (3)[laser source light]
- (4) [search lights]
- (5) [colored lighting, with the exception of holiday lighting]

Adapted from chapter 1, § 105 of the zoning code of Pima County, Tuscon, AZ  
(<http://tiny.cc/zWZjG>)

**F. Inspections**

1. The owner of a property, or the authorized agent of the owner, shall request all required inspections as noted on the permit issued under this code. All inspection requests shall be made at appropriate intervals as noted on the permit and it is the responsibility of the property owner or authorized agent of the owner to assure that all required inspections receive approval from the [governing authority] and that final inspection approval is obtained prior to placing the permitted outdoor lighting into service.<sup>7</sup>

Adapted from chapter 1, § 106 of the zoning code of Pima County, Tuscon, AZ  
(<http://tiny.cc/zWZjG>)

**G. Lighting Areas**

1. The lighting zones are based on the Environmental Zones defined by the IESNA, which are described as follows:

(a). Zone E1

Areas with intrinsically dark landscapes. Examples are national parks, areas of outstanding natural beauty, areas surround major astronomical observatories, or residential areas where inhabitants have expressed a strong desire that all light trespass be strictly limited.

(b) Zone E1A:

Dark-Sky Preserves. These are areas close to major active astronomical research facilities, and within and near dark-sky preserves or parks that have identified the preservation of the darkest nighttime environment as a priority. Here the preservation of a naturally dark landscape and the darkest sky is of utmost importance. Further, the spectral characteristics of the lighting used may be important, with a strong preference for low-pressure sodium (LPS) lighting near the astronomical facilities.

(b). Zone E2

Areas of low ambient brightness. These are suburban and rural residential areas.

(c). Zone E3

Areas of medium ambient brightness. These will generally be urban residential areas.

(d). Zone E4

Areas of high ambient brightness. Normally these are urban areas that have both residential and commercial use and experience high levels of nighttime activity.

2. Properties in more than one lighting area. A property located in more than one of the lighting areas shall be considered to be in the more restrictive lighting area.

Adapted from § 16.19 of the USA Pattern Lighting Code (<http://tiny.cc/HYbfl>)

## H. Illumination Levels

For an explanation of why your city, town or county should consider adopting a variation of these standards and illumination levels, see <http://tiny.cc/G33S0>, a National Geographic article which describes how excessive outdoor lighting has been linked with increases in depression and even cancer. Light pollution is largely the result of bad lighting design, which allows artificial light to shine outward and upward into the sky, where it's not wanted, instead of focusing it downward, where it is. Ill-designed lighting washes out the darkness of night and radically alters the light levels—and light rhythms—to which many forms of life, including ourselves, have adapted. Wherever human light spills into the natural world, some aspect of life—migration, reproduction, feeding—is affected.

1. Table 1 gives requirements of the total light output permitted per acre for the different lighting areas and the fixture shielding requirements for class of lighting, lamp type, and lighting area. These requirements shall be met for all lighting installations subject to this code.
2. Total outdoor light output shall not exceed the lumen limits given in Table 1. In the table, “total” means the sum of shielded and unshielded light.

The approach of limiting lumens per acre is used in large part because of its simplicity of calculation and application, and to avoid the wide use of technical specifications and the imposition of technical training and design complications on planning departments. The limits described in this code do not specify lighting levels for various uses. See “Should a Lighting Code Specify Lighting Levels *in* IDA Lighting Code Handbook. <http://tiny.cc/yWM6s>

3. Multi class lighting shall conform to the shielding and timing restrictions, if any, that apply to the most restrictive included class.
4. Outdoor lighting fixtures shall not be counted in determining the total light output when they are full cut-off light fixtures installed under canopies, building overhangs, or roof eaves.
5. Seasonal decorations and holiday lights are not counted toward these limits; lighting used for external illumination of signs is counted, while lighting used for internal illumination of signs is not counted.
6. Flood or spot lamps shall be aimed no higher than 45 degrees to the horizontal (half-way between straight down and straight to the side) when the source is visible from any adjacent residential property. This shall not apply to search lights being used during emergency situations.
7. All commercial and industrial lighting shall be extinguished between 11:00pm (or when the business closes, whichever is later) and sunrise the following day. This does not apply to security lighting.
8. This refers to all land-use zoning classifications for multiple family, commercial and industrial uses.
9. This refers to all residential land-use zoning classifications, including all densities and types of housing such as single-family detached and duplexes.
10. In Lighting Zones E4-E1, each residential single-family detached home or duplex is allowed up to 5,500 total lumens (2,300 lumens in Zone E1A), or the amount indicated in this Table based on the parcel's acreage, whichever is larger. Each is also allowed a maximum of 5,500 lumens (zero lumens in Lighting Zone E1A) of unshielded ("A") lighting, provided Table 2 allows the lamp's type with "A" shielding. All residential spot or flood lamps permitted are to be aimed no higher than 45 degrees above straight down (half-way between straight down and straight to the side).
11. Outdoor lighting fixtures shall not be counted in determining the total light output when they are full cut off light fixtures installed under canopies, building overhangs, or roof eaves.
12. The values in this table are **upper limits** and not design goals. Design goals should be the lowest levels that meet the requirements of the task.
13. There are three options for commercial and industrial zoning: mostly (~80% LPS (Low-Pressure Sodium) lighting; full cut-off for all lighting; and full cut-off for most lighting. Use one of the three options for the entire property.

Table 1. Maximum Total Outdoor Light Illumination Standards					
Lumen Caps – Initial Lamp Lumens Per Net Acre	LIGHTING ZONE				
	E4	E3	E2	E1	E1A

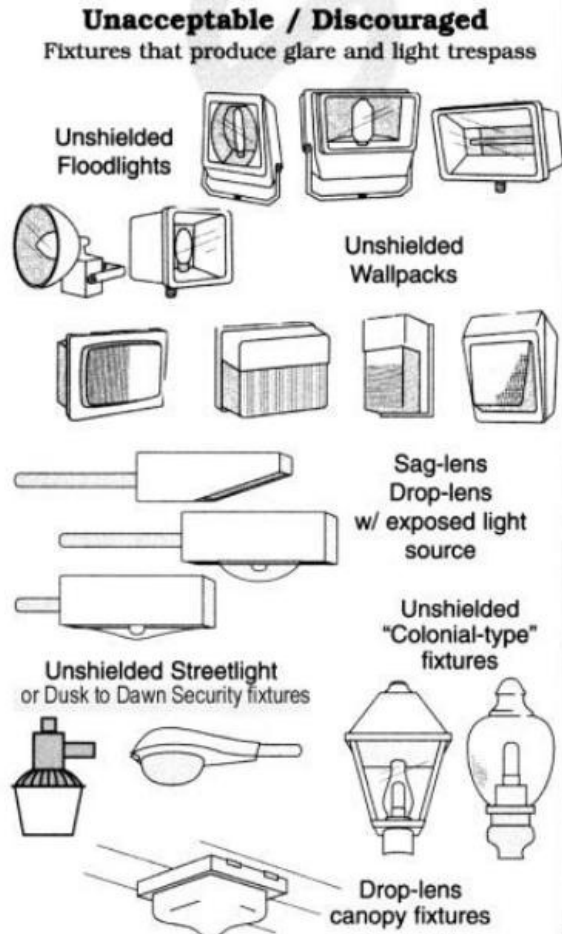
<b>Commercial and Industrial Zoning “Option 1” Mostly LPS lighting</b>					
Total (shielded +unshielded, LPS + non-LPS)	500,000	350,000	200,000	50,000	20,000
Unshielded Only	15,000	10000	5,000	3,000	1000
Non-LPS	50,000	35,000	6,000	3,000	1250
<b>Commercial and Industrial Zoning “Option 2” Full cut off for all lighting</b>					
All lighting must be full cut off	300,000	150,000	65,000	25,000	12,500
Limit on unshielded component	0	0	0	0	0
<b>Commercial and Industrial Zoning “Option 3” Full cut off for most lighting</b>					
Total (full cut-off plus unshielded)	200,000	100,000	50,000	25,000	12,500
Limit on unshielded component	12,000	9,000	6,000	3,000	0
<b>Residential Zoning</b>					
Total (shielded +unshielded, LPS + non-LPS)	50,000	25,000	15,000	12,000	5000
Unshielded Only	12,000	10,000	5,000	3,000	1,000

The levels used in this table were adopted after utilizing the IDA Lighting Code Handbook, <http://tiny.cc/yWM6s>, and the Pima County, AZ outdoor lighting code, <http://tiny.cc/U6v5d>. The illumination levels given are higher than those recommended by IDA, but do not differ greatly from the levels Pima County uses. The idea to break up commercial and industrial zones into 3 sections from which developers can choose which section they wish to fall under was adopted from the Pima County Code.

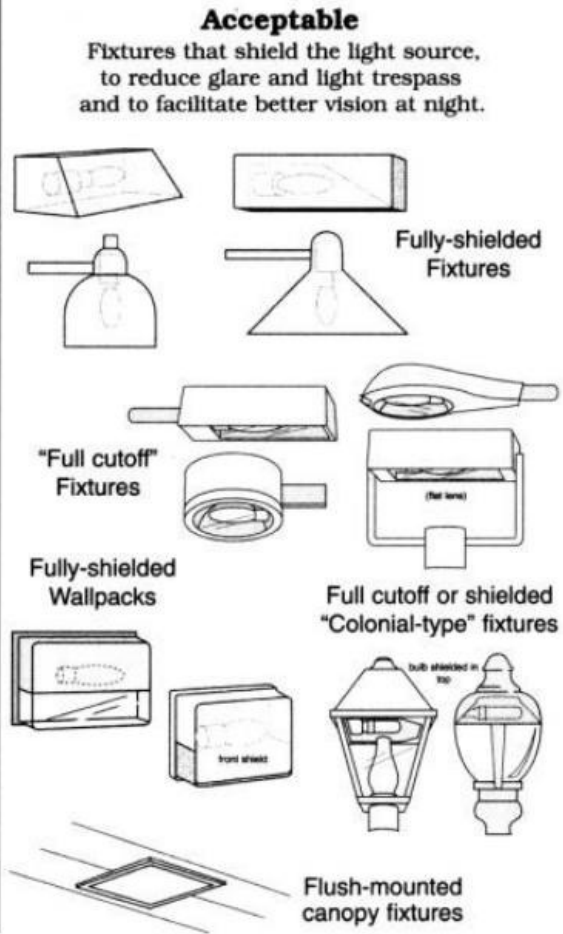
## I. Shielding

- A. The total outdoor light output per acre shall, at a minimum, consist of 50% shielded fixtures.
- B. Refer to the figure below for examples of acceptable shielded fixtures and unacceptable fixtures.

## UNSHIELDED FIXTURES



## Full Cutoff and Fully Shielded Fixtures



Diagrams courtesy of Bob Crelin

This diagram above was taken from the "Guidelines for Good Exterior Lighting Plans", which provides advice to both developers and towns on drafting lighting plans and the type of lighting that developers should use. <http://tiny.cc/969Oa>

- C. All light fixtures that are required to be shielded shall be installed in such a manner that the shielding shall prevent any light from escaping above an angle of 90 degrees above the nadir (Explanation of Nadir - <http://tiny.cc/KoVPP>)
- D. Light Trespass: All light fixtures on the residential side of commercial property adjacent to residential property shall be full cutoff and shall be a maximum of 10 feet above grade at the property line and no higher than a line rising 20 degrees

above the 10 feet until 100 feet from the property line, measured perpendicular to the lot line.

- E. Fixtures within 25 feet of residential lot lines: All residential and commercial luminaries shall be full cutoff within 25 feet of adjacent residential property lines, measured perpendicular to the lot line.
- F. Outdoor lighting fixtures shall not be counted in determining the total light output when they are full cut off light fixtures installed under canopies, building overhangs, or roof eaves.

**Use Codes for Table 2:**

A = all types of fixtures allowed; shielding not required but highly recommended, except that any spot or flood-light must be aimed no higher than 45 degrees above straight down  
 F = only fully shielded fixtures allowed  
 X = not allowed

Table 2. LAMP TYPE AND SHIELDING STANDARDS					
USE CLASS AND LAMP TYPE	LIGHTING ZONE				
	E4	E3	E2	E1	E1A
<b>Class 1 lighting (Color Rendition):</b>					
Initial output greater than or equal to 2000 lumens	F	F	F	F	F
Initial output below 2000 lumens (2)	A(1)	A(1)	A(1)	F	F
<b>Class 2 lighting (General Illumination):</b>					
Initial output greater than or equal to 2000 lumens	F	F	F	F	F
Initial output below 2000 lumens (2)	A(1)	A(1)	A(1)	F	F
<b>Class 3 lighting (Decorative)(3):</b>					
Initial output greater than or equal to 2000 lumens	F	F	X	X	X
Initial output below 2000 lumens (2)	A(1)	A(1)	F	F	F
<b>Residential lighting (all Classes)(4):</b>					
Initial output greater than or equal to 2000 lumens	F	F	F	F	F
Initial output below 2000 lumens (2)	A(1)	A(1)	A(5)	A(5)	F

**Notes to Table 2**



1. Flood or spot lamps must be aimed no higher than 45 degrees above straight down (half-way between straight down and straight to the side) when the source is visible from any off-site residential property or public roadway.
2. Exception: seasonal decorations using typical unshielded low-wattage incandescent lamps shall be permitted in all lighting zones from Thanksgiving thru 15 January.
3. All Class 3 lighting shall be extinguished between 11:00pm (or when the business closes, whichever is later) and sunrise.
4. Residential refers to all residential land-use zoning, including all densities and types of housing such as single-family detached and duplexes. Multiple-family residential uses must use standards above for Class 1, 2 and 3 lighting.
5. Any lamp installed on a residential property must be shielded such that the lamp itself is not directly visible from any other residential property.

**J. Sign Lighting – Outdoor Advertising Signs**

1. **External Illumination of Outdoor Advertising Signs**
  - a. External Illumination for on-site signs shall conform to all provisions of this code. In particular, such lighting shall be treated as Class 1 and shall conform to the lamp source, shielding restrictions and lumen caps of Section H, Table 1.
2. **Internal Illumination of Signs**
  - a. Outdoor internally illuminated advertising signs shall not be counted toward the lumen cap described in Section H. Outdoor internally illuminated advertising signs constructed with an opaque or colored background and translucent text and symbols are strongly preferred so as to reduce any potential detrimental effects due to those type of signs.
3. **Sign Illumination Curfew**
  - a. Illumination for all advertising signs, both externally illuminated and internally illuminated, shall be turned off at the curfew times listed in Table 3, or when the business activities cease, whichever is later. The means of controlling the specific “off” curfew shall be by a 24 hour timing device that includes stand by power to maintain the time and program for a minimum of 6 hours.

**Table 3**

<b>Lighting Area</b>	<b>E4</b>	<b>E3</b>	<b>E2</b>	<b>E1</b>	<b>E1A</b>
Commercial and Industrial Zoning	Midnight	Midnight	11:00 P.M.	11:00 P.M.	X

Residential Zoning	11:00 P.M.	11:00 P.M.	10:00 P.M.	10:00 P.M.	X
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**K. Illumination of Outdoor Display Lots**

1. **Lighting not Associated with display lot.** All site lighting not directly associated with the display areas shall conform to the lighting standards described in this ordinance, including but not limited to the lamp type and the lumens per acre of Section H.
2. **Lighting for display lots.** Lighting for display lots shall be considered Class 1 (see Section I, Table 2), and is exempt from the lumens per acre limits of Section H. All such lighting shall utilize full cut off luminaires that are installed in such a fashion that maintains the full cut-off characteristics. Every such lighting system shall be certified by a registered lighting or electrical engineer as conforming to all applicable restrictions of this code. (maybe add something about reserving the right to re-examine every ten years)
3. **Curfew requirements.** Class 1 (see Section I, Table 2) display lot lighting exceeding the lumens per acre cap of Section H shall be turned off at 10:00 p.m. or within thirty minutes after closing of the business, whichever is later, and shall be turned back on no earlier than after sunrise.
4. **Security Lighting for display lots.** Class 2 (see Section I, Table 2) display lot lighting is permitted for security and safety lighting and is exempted from the turn-off requirements listed above.

**L. Illumination of Recreational Facilities**

1. All site lighting not directly associated with the athletic playing areas shall conform to the lighting standards described in this ordinance, including but not limited to the lamp type and lumens per acre limits.
2. Lighting for athletic fields, courts or tracks shall be considered Class 1 and shall be exempt from the lumens per acre limits of Section H. All such lighting shall utilize full cut off luminaries that are installed in a fashion that maintains the full cut off characteristics unless certified by a registered engineer that such shielding is impractical. Every such lighting system design shall be certified by a registered engineer as conforming to all applicable restrictions of this ordinance. Where full cut off fixtures are not utilized, acceptable luminaries shall include those which:

a. Are provided with internal and/or external glare control louvers and installed so as to limit direct up-light to less than 5 percent of the total lumens exiting from the installed fixtures and minimize off site light trespass; and

b. Are installed and maintained with minimum aiming angles of 25 degrees downward from the horizontal. Said aiming angle shall be measured from the axis of the luminaire maximum beam candlepower as certified by independent testing agency.

3. All events at the recreational facility shall be scheduled so as to complete all activity before the curfew times listed in the table below. Illumination of the recreational facility after the curfew shall be allowed only to conclude a scheduled event that was unable to conclude before the curfew due to unusual circumstances. No recreational lighting is permitted in Area E1A. The means of controlling the specific “off” curfew shall be a 24 hour timing device that includes stand by power to maintain the time and program for a minimum of 6 hours. Timing devices for recreational facilities may include a manual override setting which returns to the established program within 2 hours.

Recreational Facility Lighting Curfews

**Table 4**

<b>E4</b>	<b>E3</b>	<b>E2</b>	<b>E1</b>	<b>E1A</b>
Midnight	11:00 P.M.	11:00 P.M.	10:00 P.M.	X

“X” means not allowed.

The lighting standards for recreational facilities were adopted from the Pima County, AZ Lighting Code, <http://tiny.cc/U6v5d>.

**M. Illumination of Gas/Service Stations**

A. IN GENERAL, Maintained illumination recommendations set by the Illuminating Engineering Society of North America (see Table 5 below) will be observed and not exceeded. All area lighting will be full cutoff. Lighting under canopy will be recessed so that the lens is recessed or flush with the bottom surface, to reduce off-site glare for roadways.

(ii) INCENTIVE. Gas stations that install photo sensory lighting designed only to illuminate when a vehicle approaches the pumping station will be granted [one] additional sign. **See Sections signs.**

B. Shielding: All luminaries mounted on or recessed into the lower surface of service station canopies shall be fully shielded and utilize flat lenses.

C. Total Under-Canopy Output: The total light output used for illuminating service station canopies, defined as the sum of all under-canopy initial bare-lamp outputs in lumens, shall not exceed 430 lumens per square meter (40 lumens per square foot) of canopy in Lighting Zones E3 and E4, and shall not exceed 215 lumens per square meter (20 lumens per square foot) in Lighting Zones E1A, E1 and E2. All lighting mounted under the canopy, including but not limited to luminaires mounted on the lower surface or recessed into the lower surface of the canopy and any lighting within signage or illuminated panels over the pumps is to be included toward the total initial lumen output.

The lighting standards service stations were adopted from the IDA Lighting Code Handbook, <http://tiny.cc/yWM6s>.

D. All service stations shall extinguish all lighting, not including security lighting, once the station closes for the day. If the station does not close by 10:00 P.M., it shall extinguish 75% of it’s lighting by 10:00 P.M. and until sunrise. Under each gas pump shall be a motion sensor, and when a vehicle pulls up under a pump, the lighting used to illuminate that pump may be turned on, reaching 100% of regular illumination levels. This increase in lighting shall be turned back off once motion has not been detected for one minute.

**Table 5**

Service Station or Gas Pump Area Average Illuminance Levels

Area Description	Average Illuminance on Described Area (lux/footcandles)
Approach with Dark Surroundings	15/1.5
Driveway with Dark Surroundings	15.1.5
Pump Island Area with Dark Surroundings	50/5
Building Facades with Dark Surroundings	20/2
Service Areas with Dark Surroundings	20/2
Landscape Highlights with Dark Surroundings	10/1
Approach with Light Surroundings	20/2
Driveway with Light Surroundings	20/2
Pump Island Area with Light Surroundings	100/10
Building Facades with Light Surroundings	30/3
Service Areas with Light Surroundings	30/3
Landscape Highlights with Light Surroundings	20/2

Source – IESNA RP-33-99

## XI. SIGNAGE REGULATIONS (INTEGRATED WITH LIGHTING)

### C. STATEMENT OF PURPOSE

**Reference:** This zoning section, including commentary was adapted in large part from *Street Graphics and the Law*, by Daniel Mandelker with Andrew Bertucci and William Ewald.

The purpose of this ordinance is to create the legal framework for a comprehensive and balanced system of street graphics that will preserve the right of free speech and expression, provide an easy and pleasant communication between people and their environment, and avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of this ordinance to authorize the use of street graphics that are:

1. compatible with their surroundings;
  2. appropriate to the activity that displays them;
  3. expressive of the identity of individual activities and the community as a whole;
- and
4. legible in the circumstances in which they are seen.

*Commentary: The statement of purpose elaborates the aesthetic and traffic safety purposes that support the constitutionality of the model ordinance. It also states that one of its purposes is the protection of property values. This purpose provides additional constitutional support in the minority of states that approve aesthetic regulation only if it is supported by other objectives. The protection of property values is one of the other objectives the courts recognize in these states. The Statement of Purpose also contains an explicit statement that the intent of the ordinance is to preserve the rights of free speech and expression. This declaration should help protect the ordinance against free speech objections. The regulatory objectives specified in the Statement of Purpose should also assist courts when they interpret the model ordinance. The following more detailed excerpts, offered as an example, are from the Flagstaff, Arizona, sign ordinance.*

5. To promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to cluttered, distracting, or illegible signage....

6. To promote the use of signs which are aesthetically pleasing, of appropriate scale, and integrated with surrounding buildings and landscape, in order to meet the community's expressed desire for quality development. . . .

### D. Statement of Intent:

1. Provide functional flexibility, encourage variety, and create an incentive tolerate signing to basic principles of good design.

2. Assure that public benefits derived from expenditures of public funds for the improvement and beautification of streets, and other public structures and spaces, are protected by exercising reasonable controls over the character and design of sign structures.

3. Provide an improved visual environment . . . and to protect prominent view sheds within the community.

#### E. NONCOMMERCIAL SIGNS AND MESSAGES

Any street graphic that can be displayed under the provisions of this ordinance may contain a noncommercial message.

*Commentary: This section contains a substitution clause that allows any street graphic “that can be displayed under the terms of this ordinance” to contain a noncommercial message. The phrase, “that can be displayed under the terms of this ordinance,” is intended to include a street graphic specifically permitted by the ordinance in an Area of Special Character or by a Program for Graphics or any other discretionary approval. The substitution clause remedies any objection that the ordinance violates the free speech clause.*

#### F. DEFINITIONS [see **Definitions** section for further detail]

*Commentary: Definitions are important to a street graphics ordinance, especially because a court can hold an ordinance unconstitutional if its definitions are overbroad or vague. The definitions included in the model ordinance are only those needed to implement the regulations for commercial signage. Some of these definitions are needed, however, only if the ordinance regulates a street graphic identified by the regulation. For example, an ordinance may or may not regulate animated graphics, which are defined. Words, text, and numbers enclosed in brackets are optional.*

*Many ordinances now also include drawings that illustrate what the definitions mean. The Scottsdale, Arizona, sign ordinance contains several drawings of this type. Communities whose sign ordinances contain definitions similar or identical to those included in the model ordinance are identified.*

#### G. GROUND SIGNS

1. **Where permitted.** A premises may display one ground graphic on each street or highway on which it has frontage in the following zoning districts: [list the zoning districts in which a ground graphic may be displayed]

*Commentary: The display of ground graphics should be integrated with the zoning ordinance by designating the commercial zoning districts in which they can be displayed. Zoning districts should be reviewed so that, if possible, commercial uses with similar street graphics requirements are included in the same zoning district. Keep in mind that ground graphics include pole signs and monument signs. This subsection is drafted to allow the owner of a premises to decide which of these signs he would like to display, but the ordinance can also limit the type of ground graphic allowed. The model ordinance also contains special provisions that apply to monument*

*signs and supplement the regulations for ground graphics generally. An ordinance may need to include requirements for transitional areas where commercial areas are located adjacent to residential areas. To deal with this problem the ordinance can contain the following provision, which is based on a provision in the Gainesville, Florida, sign code: No ground sign may be located along a street frontage that is adjacent to property designated as single family residential in the comprehensive zoning ordinance or comprehensive plan.*

**2. Size, setback, and height regulations.** Ground graphics must comply with the following size, setback, and height regulations: [Specify these regulations in text or tabular form by zoning district]

***Commentary:** The ordinance should specify the size, setback, and height regulations for ground graphics. Monument signs may require minimum height requirements so they can be visible. The legibility studies in Chapter 2 provide the basis for calculating these regulations, and that chapter includes examples of tables that can be adapted for inclusion in the zoning ordinance. Keep in mind that these formulas are only guidelines, and how to apply them is a matter of judgment on what a community wants in its visual environment. For example, the ordinance may allow a greater size for monument graphics: A premises that displays a monument graphic as its only ground graphic may increase its size by up to 20 percent. (Columbus, Ind.) Exceptions may also have to be made for premises with excessively long frontages, such as 300 feet or more, which may be allowed an additional ground graphic for each increment of 300 feet. Calculations should be made for each zone in which ground graphics will be displayed. If a zone contains streets or highways with differing traffic speeds, street and highway widths, or other differences, it may be necessary to realign commercial zoning districts to take these differences into account, or provide different regulations for different areas within a zoning district. Another alternative, if a community is not too large, is to adopt regulations for designated streets and highways and then designate the zones in which the regulations apply. For example, the ordinance could provide regulations for certain specified streets when located in a neighborhood commercial zoning district. The model ordinance regulates the size of a ground graphic and defines size as “The total area of the face that is used to display a street graphic, not including its supporting poles or structures.” It does not provide a “signable area” or other limitation on the area of the face that can be used for a graphic display. A graphic display can thus occupy the entire face, but note that the legibility studies in Chapter 2 assume a limited copy area to improve legibility. The model ordinance can include a provision limiting the copy area if this is considered necessary.*

**3. Shopping Centers.** A shopping center may display one ground graphic at each exit and entrance. [A ground graphic displayed by a shopping center may exceed the area limitations for ground graphics by [50] percent.] Occupants within a shopping center may not display ground graphics.

***Commentary:** Shopping centers require separate regulation because they usually display no more than one ground graphic at each entrance and exit. The bracketed provision authorizes oversized ground graphics, which may be appropriate in some situations. The regulations for the area, setback, and height of ground graphics in Subsection 2 apply to ground graphics for shopping centers. This section allows a shopping center to decide which kind of ground graphic to display, though a community may want to encourage the display of monument graphics. The sections on wall and projecting graphics apply to occupants of shopping centers, which are not allowed to display ground graphics.*

4. **Multi-Use Buildings.** A multi-use building may have one ground graphic facing each street or highway on which the building has frontage if no ground graphics are displayed by the occupants of the multi-use building. The maximum size restriction for such ground graphic may be increased by up to [50] percent if [three] or more occupants share the same ground graphic.

*Commentary: Buildings with multiple uses are common in commercial areas. Communities may want to provide separate regulations for street graphics for these buildings, especially for ground graphics. The sections on wall and projecting graphics apply to occupants of multi-use buildings.*

## A NOTE ON SPACING REQUIREMENTS

An important problem in the display of ground graphics is to ensure that businesses will have minimum street frontages so that ground graphics are not placed too close together. At average vehicle speeds less than 40 miles per hour, a distance between signs of approximately 150 feet is recommended. At vehicle speeds greater than 40 miles per hour, a 300-foot distance between signs may be more appropriate, though these distances may not be practicable in many communities, especially those in which prior zoning has permitted relatively narrow street frontages for individual uses. Basing spacing on vehicle speeds is consistent with the recommendations in Chapter 2, which base size and height requirements on vehicle speeds. The two-tier system for spacing of 150 or 300 feet allows for at least three to four seconds of detection time between signs. A requirement of this type could provide that ground graphics must be spaced at least 150 feet apart on streets and highways with posted travel speeds less than 40 miles per hour, and at least 300 feet apart on streets and highways with posted travel speeds greater than 40 miles per hour. An alternative is to designate spacing requirements for each commercial zoning district based on traffic speeds within the district. This alternative does not require a determination of traffic speeds for each premises that has frontage on a street or highway.

There are several other alternatives for preventing ground signs from being too close together in areas where frontages are too narrow for the display of ground graphics on each individual premises. Minimum frontage requirements can be employed using wording like “A premises with a minimum frontage of [300] feet may display one ground graphic on each street or highway frontage in the following zoning districts”; the community could then fit the regulations to its goal of avoiding a series of signs that compete and conflict with each other and potentially create a hazardous traffic situation or an aesthetic mess. Prohibition can be effective in areas that have few or no signs. The ordinance can prohibit the display of any ground graphics in zoning districts where frontages are too narrow. This will make all existing ground graphics nonconforming. In this situation, it is difficult to identify any one of these graphics as nonconforming because a number of street graphics are too close together on different premises. A prohibition on ground graphics will prevent the display of any additional nonconforming ground graphics. ARTICLE 11.16 makes it clear a graphic is not nonconforming because it is too close to a street graphic on another premises. A community can also encourage the submission of a Program of Graphics for an area of this type or can designate it as an Area of Special Character where it can adopt specially tailored regulations. The ordinance can require adjacent off-street parking on any premises that wants to display a ground graphic. This requirement, which was included in the last revision of the model



ordinance, minimizes clutter by requiring an open parking space adjacent to a building that displays ground graphics. Here is some suggested wording for such a requirement: “A premises may display one ground graphic adjacent to each street or highway on which it has frontage if it has an area on its premises used solely for parking that is 40 feet or more in width.” The ordinance can also include a spacing requirement for oversized ground graphics. This may simplify the nonconforming graphics problem because only graphics that exceed the maximum size may violate the spacing requirement. Here is some suggested wording; we provide two alternatives: (1) A ground graphic that is six feet or more in area may be displayed only on a frontage of 100 feet or more; (2) A ground graphic that is six feet or more in area may not be closer than 100 feet to any other ground graphic that is six feet or more in area.

5. **Landscaping.** A landscaped area located around the base of the ground graphic equal to [2.5 square feet] for each [square foot] of ground graphic area, is required for all ground graphics. The landscaped area shall contain living landscape material consisting of shrubs, perennial ground cover plants, or a combination of both, placed throughout the required landscape area having a spacing of not greater than [three] feet on center. Where appropriate, the planting of required deciduous or evergreen trees, installed in a manner that frames or accents the ground graphics structure is encouraged.

*Commentary: The language for this provision came from the Flagstaff, Arizona, ordinance. There are three approaches to landscaping if a community wants to make it mandatory: (1) require a diameter of landscaping based on pole width, (2) require an area of landscaping based on sign square footage, or (3) require a standard landscaping area based on type of sign. Landscaping is most important around monument signs and in areas with large setbacks. Municipalities may incorporate planting regulations requiring specific plants to be used and may also require submission and approval of a landscape plan. Maintenance should also be required. A community may want modify the landscaping requirements for monument graphics.*



**Figure 11.04.01: APPLYING THE STREET GRAPHIC SYSTEM AND REMOVAL OF UTILITY LINES.**

## ARTICLE 11.05. WALL AND ROOF GRAPHICS

a. **Where permitted.** In the following zoning districts, a premises, and each occupant of a shopping center or multiuse building, may display wall or roof graphics, or a combination of both, on walls or roofs adjacent to each street or highway on which it has frontage: [List the commercial zoning districts in which these street graphics can be displayed]

*Commentary:* This subsection authorizes the display of wall and roof graphics. It can be modified to allow their display on facades adjacent to parking lots and can also include expressway frontages if a community believes these modifications are desirable. The model ordinance prohibits above-roof graphics.

6. **Signable area designation.** The person displaying the street graphic shall select one signable area on each facade of the building that has frontage on a street or highway. As used in this subsection, a “signable area” is an area (1) enclosed by a box or outline, or (2) within a single continuous perimeter composed of a single rectangle, circle, triangle, or parallelogram enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures

*Commentary:* This subsection allows the owner of a building to select one signable area on the facade of the building. This designation does not determine where wall and roof graphics may be displayed. It only determines the size of the signable area. The subsection also includes a rule for determining the signable area used for graphics. It is similar to the definition of “signable area” for projecting graphics and awnings. Some buildings may have few windows or other architectural details, or may have no windows at all. In these situations the signable area definition may produce a signable area for wall graphics that is too large for the building. One solution to this problem is to base the signable area of wall graphics on the relationship between the signable area and the total area of the building facade, such as providing that a graphic display may use only 30 percent of the signable area for wall graphics or a sign structure if the signable area exceeds 50 percent of the building facade. More of the signable area may be used for wall graphics as the percentage of the building facade occupied by the signable area decreases. Another option is to limit the signable area to a specified percentage of the building facade.

7. **Sign structure or graphic display area allowed.** The aggregate area of the wall and roof graphics a premises displays shall not exceed the following percentages of the signable area: [These percentages can be stated in text or tabular form for each commercial zoning district]

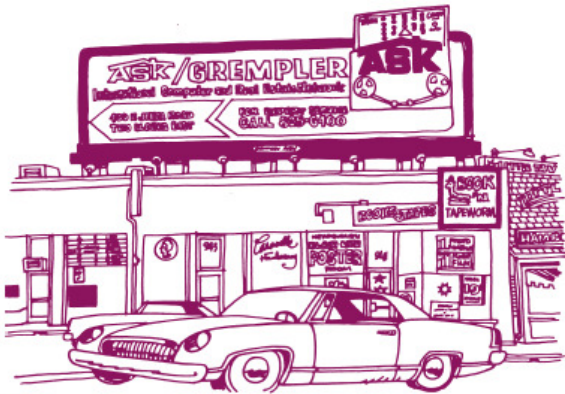
*Commentary:* A sign structure or graphic display area of 60 percent of the signable area is recommended for street frontages, and a sign structure or graphic display area of 40 percent of the signable area is recommended for business that are pedestrian-oriented. The ordinance may also want to specify different percentages for blank facades.

a. **How displayed.** The sign structure or graphic display area may be displayed as one or divided among two or more wall or roof graphics.

*Commentary: The signable area limits only the aggregate area of street graphics displayed on a premises. The owner of the premises may divide and distribute the allowable signable area to the street graphics it displays in any way she chooses.*

b. **Additional limitations.** Wall graphics may be painted on or attached to or pinned away from the wall, but must not project from the wall by more than 12 inches and must not interrupt architectural details. Roof graphics must not be more than [20] feet from the ground.

*Commentary: A graphic that projects more than 12 inches from a wall is regulated as a projecting graphic. Roof graphics should be relatively close to the ground so that they serve the same function as wall graphics. A community can allow a greater height on streets and highways with speeds of 45 miles per hour or greater.*



Before



After

8. FIGURE 11.05.01: SIGNS INTEGRATED WITH NATURAL ENVIRONMENT

## ARTICLE 11.06 PROJECTING GRAPHICS

a. **Where permitted.** A premises, and each occupant of a shopping center or multi-use building, [that does not display a ground graphic] may display one projecting graphic on each street or highway frontage in the following zoning districts: [list the commercial zoning districts in which a projecting graphic may be displayed]

*Commentary: Projecting graphics can be an attractive addition to the graphics environment, especially in pedestrian-oriented areas. However, a community may want to limit projecting graphics to certain special areas, such as town centers, or may allow them only as part of a Program for Graphics. It is also important to coordinate the display of projecting graphics with the display of wall, ground, and roof graphics. One option is to restrict their size if several types of graphics are displayed.*

*This subsection authorizes each premises, and each occupant of a shopping center or multi-use building, to display a projecting graphic in designated commercial zones. The bracketed language, if included, authorizes the display of a projecting graphic only if the premises does not have a ground graphic. An alternate provision would limit the size of one of these graphics if only one is displayed: A premises may display both ground and projecting graphics if only one of these graphics is more than [six] feet in area. Some communities allow projecting graphics only if a wall graphic is not displayed. A community can also limit projecting graphics to Programs for Graphics, Areas of Special Character, and shopping centers. It may also want to add marquees to the graphics permitted by this section. This term is defined.*

b. **Size of projecting graphics.** Projecting graphics must comply with the following size regulations: [Specify size regulations in text or tabular form for each commercial zoning district.]

*Commentary: The ordinance can provide a size limitation for all projecting graphics or can vary the size limitation in different zoning districts. A community may also want to adopt a height limitation: Projecting [and marquee] signs shall not project above the roofline or [18] feet, whichever is lower. (Gainesville, Fla.)*

c. **Signable area.** Any signable area selected for display as a projecting graphic shall not exceed and shall be subtracted from the signable area allocated to wall and roof graphics permitted for each premises and each occupancy under ARTICLE 11.05.

*Commentary: The purpose of this subsection is to prevent an excessive use of graphics on any premises by debiting the signable area used on a projecting graphic against the signable area permitted for wall and roof graphics.*

d. **Additional limitations.** The following additional limitations apply to projecting graphics:

(i) Projecting graphics must clear sidewalks by at least [eight] feet and may project no more than [four] feet from a building or [one-third] the width of the sidewalk, whichever is less.

(ii) Projecting graphics must be pinned away from the wall at least [six] inches and must project from the wall at an angle of [90] degrees.

(iii) [Angular projection from the corner of a building is prohibited.]

*Commentary:* This subsection contains building and street clearance requirements. A community may also want to limit the amount of projection over a public rightof- way, except for marquees. The following supplementary provision applies to multistory buildings: Projecting graphics may not extend vertically above the window sill of a second story. Projecting graphics displayed by activities that have a room or auditorium seating of [200] or more persons may extend vertically from eight feet above the sidewalk to the roofline. Activities featuring live entertainment on the premises are exempt from all height limitations on projecting graphics. A community may also want to control illumination: Projecting signs may be non-illuminated or externally illuminated only by down-directed and shielded fixtures and incandescent bulbs. (Flagstaff, Ariz.)

## ARTICLE 11.07 AWNINGS

a. **Where permitted.** A premises, and each occupant of a shopping center or multi-use building, may display an awning on each street or highway frontage in the following zoning districts: [list the commercial zoning districts in which an awning may be displayed]

*Commentary:* Awnings have become a popular form of street graphics. This section contains typical requirements for awning graphics, but a community may want to limit their display to designated areas and may want to consider illumination requirements. It may also want to apply this section to canopies and marquees, which are defined.

b. **Signable area.** A street graphic may be displayed on one signable area selected for display on an awning. It shall not exceed [40] percent of the area of the principal face of the awning and shall not exceed and shall be subtracted from the signable area selected for wall and roof graphics permitted for each premises and each occupancy under ARTICLE 11.05.

*Commentary:* This subsection provides directions for determining the signable area that is allowed on the face of an awning. It also prevents an excessive use of graphics on any premises by debiting the signable area used on a projecting graphic against the signable area permitted for wall and roof graphics. This optional, more detailed language comes from the Flagstaff, Arizona, ordinance: [A signable area: a. Shall not project above, below, or beyond the edges of the face of the building wall or architectural element on which it is located, or beyond the edges of the awning on which it is displayed. b. Shall not extend horizontally a distance greater than [sixty percent] of the width of the awning on which it is displayed. (Flagstaff, Ariz.)]

c. **Height and width.** Awnings must clear sidewalks by at least [eight] feet [and may extend to within one foot of the vertical plane formed by the curb or the right-of-way line.]

*Commentary: This subsection contains height and width limitations if a community believes they are needed. A community may also want to regulate illumination and specify whether internal or external illumination, or both, are permitted, and under what circumstances. For instance: Awnings may be non-illuminated or externally illuminated only by down-directed and shielded fixtures and incandescent bulbs. (Flagstaff, Ariz.)*

## ARTICLE 11.08 SPECIAL STREET GRAPHICS

*Commentary:* Communities may want to authorize a variety of auxiliary special graphics. This section contains regulations for grand opening, window, and directional graphics, which are frequently permitted. A community may also wish to include other special street graphics, such as flags. The term “special street graphic” is defined.

a. **Grand opening graphics.** A premises, or an occupant of a shopping center or multi-use building, may display one grand opening graphic, not exceeding [20] square feet in area or [eight] feet in height, for no more than [14] days during any 12 consecutive calendar months.

*Commentary:* This subsection allows for temporary grand opening graphics, which are defined as a banner in the definitions section. A community may want to allow other types of grand opening graphics.

b. **Window graphics.** A premises, or an occupant of a shopping center or multiuse building, may display permanent window graphics not to exceed [15] per cent of the window area of the facade of the building; and temporary window graphics, not to exceed an additional [15] percent of the facade of the building, for no more than [14] days during any 12 consecutive calendar months.

*Commentary:* This subsection provides the requirements for window graphics if a community decides to regulate them. Some street graphics ordinances permit the display of other temporary graphics, such as fabric announcements of community events. Enforcing the removal of temporary graphics can be difficult. One option that can help with enforcement is to require a permit for the display of a temporary window graphic. The permit process provided in this ordinance would then apply to temporary window graphics.

c. **Directional graphics.** A premises, or an occupant of a multi-use building, may display one directional graphic at each entrance to or exit not more than [two] square feet on two-lane streets or highways and on any highway with a posted travel speed less than 35 miles per hour, and not more than [four] square feet on multi-lane roads and on any highway with a posted travel speed greater than 35 miles per hour.

*Commentary:* A directional graphic is usually a sign giving directions at an exit or entrance. However, the definition of this graphic is content-neutral and does not specify the message that can be placed on a directional graphic. The size of a directional graphic is based on the width and travel speed of the adjacent street or highway. It is also possible to determine widths and travel speeds for each commercial zoning district, and then specify the size of directional graphics allowed in these districts based on widths and speeds within the district. This alternative will not require a determination of traffic speeds for each premises that has frontage on a street or highway.



d. **Temporary graphics.** Displays of sale signs or otherwise indications of advertisements for sale of personal property (cars, furniture, etc.) can be placed on the property to be sold or indicated by the owner for no more than 2 weeks in any month and no more than 1 month per 12 calendar month year.

*Commentary: Displays of cars for sale or other personal property for sale can have a blighting effect on a neighborhood and is regulated through Temporary Graphics. Additionally, a conscious decision has been made to NOT address yard-sales and other types of sales. These types of signs CAN be regulated in an ordinance, but it is typical to have a separate statute to address this within a town's municipal code (outside zoning).*

ARTICLE 11.09. ILLUMINATION AND MOVEMENT

*Commentary: Illumination and movement are important signage regulation problems. Sign ordinances often contain provisions for signs with movement, such as changeable copy signs, and may prohibit their display or limit them to designated areas or uses. These signs may be illuminated and flashing, and a community may prohibit illuminated and flashing signs or limit their display. A number of communities have also adopted illumination ordinances that contain illumination requirements for all kinds of lighting throughout the community. These ordinances usually apply to all illuminated signs in the community and contain many of the illumination regulations found in sign ordinances. It is recommended that lighting issues be handled in a separate illumination ordinance, which can cover glare and brightness problems as well as regulate the type of lighting used on signs and how it should be displayed. The following examples illustrate different types of provisions often included in sign ordinances that can deal with illumination and movement problems. A community may want to regulate illumination and movement in its sign ordinance if it does not have an illumination ordinance, or may want to supplement its illumination ordinance if it has one. Coordination with the requirements in the illumination ordinance is then necessary.*

e. **Illumination and movement prohibited.** A street graphic may not be animated or have changeable copy, and may not have exposed neon tube, barebulb or flashing illumination.

*Commentary: Illumination is prohibited only if it is exposed. This does not prohibit ordinary channel letters with plastic translucent faces that are customarily illuminated from within by neon tubes. Each type of illumination is defined in the ordinance.*

f. **Illumination and movement permitted.** A street graphic may be animated and may have changeable copy, and may be illuminated [with bare-bulb, neon tube, or flashing illumination] in the following zoning districts: [Specify the zoning districts in which illumination and movement are permitted.]

*Commentary: An alternate approach is to allow illumination and movement in certain zoning districts, such as entertainment districts. The ordinance can limit illumination and movement to specified uses within these districts. It can also specify what types of illumination are allowed,*

which are included in brackets. Each term is defined in the ordinance. For example, a community may want to permit bare-bulb illumination but restrict it to eating or drinking establishments, hotels or motels, theaters, and live entertainment establishments as Columbus, Indiana, does. This provision does not permit particular types of illuminated and moving signs, such as time and temperature signs. This type of ordinance would be content-based and would violate the free speech clause of the federal constitution. See Chapter 9.

**g. Illumination requirements.** A permanent street graphic may be non-illuminated, illuminated by internal, internal indirect or external indirect illumination. Consistency with the [name of illumination ordinance] is required. Street graphics that are externally lit shall be illuminated only with steady, stationary, down-directed, and shielded light sources directed solely onto the sign.

*Commentary:* These are illumination requirements that apply to all street graphics. They are intended to reduce glare by specifying how internal illumination may be done and by requiring down-directed and shielded lighting for external illumination. The sections in the model ordinance on projecting signs and awnings suggest a similar provision that allows external indirect illumination. They can be revised to include a provision for internal illumination, or illumination requirements can be included only in this section of the ordinance. This section is based in part on the Flagstaff, Arizona, sign ordinance.

## **NOTE: LIGHTING STANDARDS FOR SIGNS**

*By Lisbeth Tallent, Douglas County, Colorado, Site Development Administrator*

Sign lighting, undeniably a very important aspect of a comprehensive street graphic system, has received increasing attention in recent years. As light pollution becomes a widely acknowledged concern in many urban and suburban areas, signs have come under much scrutiny relative to their contribution to this problem. In response to this issue, many jurisdictions are implementing new lighting ordinances or expanding existing ordinances. It is within these lighting ordinances that sign illumination can most logically be addressed. After all, the same potential lighting problems found in pedestrian, parking, or architectural applications often occur in sign lighting. These include uneven lighting, glare, and light trespass. Lighting ordinances that are written to eliminate or minimize these problems in commercial lighting can also be applied very effectively to sign lighting. In addition to shared lighting problems, there are several other valid reasons that commercial lighting ordinances should include standards for sign illumination. These include similarities in technology, measurement criteria, timing of inspections, and, lastly, the enforcement process. Commercial lighting standards have been enforced in Douglas County, Colorado, since 1994. The standards are designed to reduce glare, light pollution, and light trespass in all applications, including sign lighting. One way in which these standards address glare and light trespass is to specifically prohibit certain types of lighting for all uses. Prohibited light sources in the Douglas County standards include blinking, flashing, and changing intensity lights, strobe lights, searchlights, beacons and laser lights, and all exposed lighting including neon and light-emitting diodes (LED). In addition to the general prohibitions that affect sign illumination, the Douglas County standards include a section devoted specifically to signs. This section allows signs to be internally illuminated, backlit, down lit, or lit by ground mounted fixtures that light the sign and base only.



The standards do not limit business owners' ability to design or illuminate their signs. They do limit the placement and source of illumination. Additionally, the county's standards limit

the illuminance of all sign faces by ground-mounted fixtures to a maximum of 50 foot-candles as measured on the sign face. Internally illuminated signs are limited to a maximum of 1,000 nits. (A nit is a unit of measurement that demonstrates the intensity of glare associated with a given light source.) Most importantly, to minimize light pollution, the standards require that no sign be illuminated with fixtures that allow for the unshielded upward transmission of light. These limitations, in conjunction with the general prohibition on exposed lighting sources, work together to minimize uneven lighting, glare, light trespass, and light pollution. Lighting standards prohibiting exposed light sources and unshielded upward light and imposing limitations on light levels can effectively minimize many of the problems associated with lighted signs. While minimizing these problems, lighting standards must still allow for flexible and creative sources of illumination. Well-written lighting standards applied to signs will allow business owners and sign contractors to design creative signage that best serves their site and their needs without contributing unwanted glare or light pollution. Another valid reason to address sign illumination in commercial lighting standards is the similarities in enforcement techniques and timing. Many municipalities inspect and enforce commercial lighting standards during the final stages of construction. This is often an appropriate time to enforce sign lighting standards. When site lighting is reviewed and measured at the close of commercial construction projects, measurements can be taken on sign illuminance. Furthermore, when sign lighting standards require that signage lighting be extinguished at a specific time relative to close of business, timers can also be inspected during the final stages of construction.

In summary, signage lighting has been determined to be a significant contributor to light pollution in recent years. As this issue escalates, it becomes increasingly important that a comprehensive street graphic system address sign illumination. This can best be done by lighting standards that are comprehensive, yet flexible. Additional information on light pollution and trespass is available through the International Dark-Sky Association. Model lighting ordinances can also be found on their web site at [www.darksky.org](http://www.darksky.org). Also see the Douglas County Lighting Standards on the county's web site, [www.douglas.co.us](http://www.douglas.co.us).

9. **Glare.** Any lighting fixture on a street graphic that is located within 10 feet of a property line of a residential zoning district or an existing residential use, or within 10 feet of a public right-of-way, [except as permitted by this ordinance,] shall be (a) aimed away from the property line, residential use, or zoning district, or public right-of-way; (b) classified as IESNA Type III or Type IV lighting fixture; and (c) shielded on the side closest to the property line, residential use, zoning district, or public right-of-way. (*Boulder, Colorado*).

*Commentary: This is a section from an illumination ordinance adopted by Boulder, Colorado, intended to reduce glare from illumination on residential areas, streets, and highways. It is revised to apply only to street graphics, but the Boulder ordinance applies to all lighting fixtures. IESNA is the Illuminating Engineering Society of North America, accessible at [www.iesna.org](http://www.iesna.org). The bracketed language allows the ordinance to provide exemptions. The illumination ordinance in Douglas County, Colorado, is more specific. It requires all fixtures (with some limited exceptions for architectural or pedestrian lighting) be full cutoff as defined by the IESNA. This requirement applies whether they are adjacent to residential areas or not. It removes the whole discussion of "aiming," which seems too subjective to measure in the field. There are also additional requirements that fixtures cannot be tilted and that all fixtures next to residential property be fitted with house-side shields. The ordinance also has measurement criteria: light levels cannot exceed 0.1 foot-candles 20 feet from the abutting property line, and no lamp can*

*create disability glare on adjacent properties. Disability glare is defined as any source producing greater than 2,500 nits. This requirement provides very objective methods of determining what the glare and light levels are offsite. The ordinance states:* The source of illuminance (lamp) from any fixture, including interior fixtures visible through windows, shall not create disability glare on adjacent properties.

*(Douglas County, Colo.)* The commentary on page 63 discusses the Douglas County ordinance.

10. **Power.** To the extent feasible all power for signs shall consist of green initiatives including, but not limited to natural gas, wind, and solar energy sources.

11. **Efficiency.** To the extent feasible and possible all signs shall utilize energy efficiently. To this end low energy lights shall be utilized whenever possible.

## ARTICLE 11.09 ELECTRONIC MESSAGE BOARD

*Commentary: This Section was largely adapted from ADAPTED FROM ORDINANCE NO. 2006- City of Bloomington, Minnesota Chapter 14.*

*The Minnesota ordinance purpose and intent states: "The City finds it necessary for the promotion and preservation of the public health, safety, welfare and aesthetics of the community that the construction, location, size, conspicuity, brightness, legibility, operational characteristics and maintenance of signs be controlled. Signs have a direct and substantial impact on traffic safety, pedestrian safety, community aesthetics and property values. The City Council recognizes that a great percentage of signs that are blighted, unattractive, or provide an unsafe distraction to motorists can be corrected by sensible quality control through adequate maintenance, inspection and operational guidelines. The City Council also recognizes that signs provide a guide to the physical environment and, as such, serve an important function to the community and economy. With respect to electronic signs, including video display signs, the City Council finds that they are highly visible from long distances and at very wide viewing angles both day and night and are designed to catch the eye of persons in their vicinity and hold it for extended periods of time. If left uncontrolled, electronic signs, including video display signs, constitute a serious traffic safety threat. Studies conducted by the Federal Highway Administration (FHWA), Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction, Sept. 11, 2001 and The Role of Driver Inattention in Crashes: New Statistics from 1995; the University of North Carolina Highway Safety Research Center, Distractions in Everyday Driving, May 2003 and The Role of Driver Distraction in Traffic Crashes, May 2001; the Wisconsin Department of Transportation, Synthesis Report of Electronic Billboards and Highway Safety, June 10, 2003; the Municipal Research and Services Center of Washington, Sign Control Provisions, Jan. 2006; and the Veridan Group, Video Signs in Seattle, Gerald Wachtel, May 2001, reveal that electronic signs are highly distracting to drivers and that driver distraction continues to be a significant underlying cause of traffic accidents."*

1. **Application of this Section :** This Article shall apply to the location, erection, and maintenance of signs in all zoning districts within the [insert city or town name], Connecticut. The owner of any sign which is otherwise allowed by this Article may substitute non-commercial copy or message in lieu of any other commercial or non-commercial sign copy or message without any additional approval or permitting subject to the operational standards set forth herein. The purpose of this provision is to prevent any inadvertent favoring of commercial speech or message over noncommercial speech or message. This provision prevails over any more specific provision to the contrary.

*[OPTION/ALTERNATIVE] The Minnesota ordinance from Bloomington provides the following section to restrict any electronic sign that is NOT specified.*

**Signs Prohibited:** *The following signs are prohibited.*

**Flashing Signs are Prohibited.** *Flashing signs not falling under the definition of video display signs are prohibited.*

**Vehicle signs are prohibited.**

**Video Display Signs Prohibited.** Video display signs are allowed only as provided in Section 19.108 (h) (5) of this City Code.

**Electronic Changeable Copy Signs Prohibited.** Electronic changeable copy signs are allowed only as provided in Section 19.108 (h) (4) of this City Code.

**Electronic Graphic Display Signs Prohibited.** Electronic graphic display signs are allowed only as provided in Section 19.108 (h) (6) of this City Code.

**Signs with Fluctuating Illumination Prohibited.** Any type of sign that fluctuates in light intensity or uses intermittent, strobe or moving light or lights that does not fall under the definition of video display signs, electronic changeable copy signs or electronic graphic display signs is prohibited.

**Multi-vision Signs Prohibited.** Multi-vision signs are allowed only as provided in Section 19.108 (h) (7) of this City Code.

- b. **Consent of Property Owner.** No person shall construct, erect, place, use or permit the use of any permanent sign or sign structure on private or public property without the express written consent of the property owner or his/ her representative.
3. **Electronic Changeable Copy Sign.** Electronic changeable copy signs must meet the following standards. When attached to walls, electronic changeable copy signs are classified as cabinet signs.
4. **Location.** The sign must be located on the site of the use identified or advertised by the sign;
5. **District Limitations.** The sign must not be located in an overlay district as defined in other sections of this code;
6. **Setback from residential.** The leading edge of the electronic sign must be a minimum distance of 100 feet from an abutting residential district boundary;
7. **Setback from other electronic changeable copy,** electronic graphic display or video display signs. Electronic changeable copy signs must be separated from other electronic changeable copy signs, electronic graphic display signs or video display signs by at least 35 feet;
8. **Orientation.** When located within 150 feet of a residentially-used lot in a residential zone, all parts of the electronic changeable copy sign must be oriented so that no portion of the sign face is visible from an existing or permitted principal structure on that lot;
9. **Duration.** In non-residential any portion of the message must have a minimum duration of eight seconds and must be a static display. In residential districts any portion of the message must have a minimum duration of one hour and must be a static display. In all districts, no portion of the message may flash, scroll, twirl, change color, fade in or out or in any manner imitate movement;
10. **Color.** In residential districts any portion of the message must use an amber color;
11. **Limited Text.** The text of the sign must be limited to ten words to allow passing motorists to read the entire copy with minimal distraction; and
12. **Audio or pyrotechnics.** Audio speakers or any form of pyrotechnics are prohibited in association with an electronic changeable copy sign.

13. **Video Display Sign.** Video display signs must meet the following standards. When attached to walls, video display signs are classified as cabinet signs.

- a. Location. The sign must be located on the site of the use identified or advertised by the sign;
- b. District Limitations. The sign must not be located in a Residential, Overlay, or Mixed Use district unless a special permit is requested;
- c. Setback from residential. The leading edge of the sign must be a minimum distance of 100 feet from an abutting residential district boundary;
- d. Setback from other electronic graphic display, electronic changeable copy or video display signs. Video display signs must be separated from other electronic graphic display, electronic changeable copy signs or video display signs by at least 35 feet;
- e. Orientation. In all districts the video display sign must be oriented so that no portion of the sign face is visible from an existing or permitted principal structure on any residential lot; from any traveled highway, street, driveway or internal access way; from any park; or from a conservation or bluff district;
- f. Brightness. The sign must not exceed a maximum illumination of 5000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness;
- g. Dimmer control. Video display signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one half-hour before sunset and one half-hour after sunrise; and
- h. Audio or pyrotechnics. Audio speakers or any form of pyrotechnics are prohibited in association with a video display sign.

14. **Electronic Graphic Display Sign.** Electronic graphic display signs must meet the following standards. When attached to walls, electronic graphic display signs are classified as cabinet signs.

- a. Location. The sign must be located on the site of the use identified or advertised by the sign;
- b. District Limitations. The sign must not be located in a [Insert district limitations]

*Note: Minnesota provides for a limitation on: Conservation, Bluff Overlay (BP-1, BP-2) district or Residential district (R-1, R-1A, RS-1, R-4, RM-12, RM-24, RM-50, RO-24, RO-50);*

c. Setback from residential. The leading edge of the sign must be a minimum distance of 100 feet from an abutting residential district boundary;

d. Setback from other electronic graphic display, electronic changeable copy or video display signs. Electronic graphic display signs must be separated from other electronic graphic display, electronic changeable copy signs or video display signs by at least 35 feet;

e. Orientation. When located within 150 feet of a residentially-used lot in a residential zone, any part of the electronic graphic display sign must be oriented so that no portion of the sign face is visible from an existing or permitted principal structure on that lot;

f. Duration. In all districts any portion of the image must have a minimum duration of 20 minutes and must be a static display. No portion of the image may flash, scroll, twirl, change color, or in any manner imitate movement;

g. Audio or pyrotechnics. Audio speakers or any form of pyrotechnics are prohibited in association with an electronic graphic display sign.

h. Brightness. The sign must not exceed a maximum illumination of 5000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness; and

i. Dimmer control. Electronic graphic display signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one half-hour before sunset and one half-hour after sunrise.

j. Audio or pyrotechnics. Audio speakers or any form of pyrotechnics are prohibited in association with an electronic graphic display sign.

15. **Multi-vision Signs.** Multi-vision signs must meet the following standards. When attached to walls, multi-vision signs are classified as cabinet signs.

a. Location. The sign must be located on the site of the use identified or advertised by the sign;

b. District Limitations. The sign must not be located in a [Insert Limitation of Districts]

*Note: Minnesota provides for a limit in Conservation, Bluff Overlay (BP-1, BP-2) district or Residential district (R-1, R-1A, RS-1, R-4, RM-12, RM-24, RM-50, RO-24, RO-50);*

c. Setback from residential. The leading edge of the sign must be a minimum distance of 100 feet from an abutting residential district boundary;



d. Setback from other multi-vision signs. Multi-vision signs must be separated from other multivision signs by at least 35 feet;

e. Orientation. When located within 150 feet of a residentially-used lot in a residential zone, any part of the multi-vision sign must be oriented so that no portion of the sign face is visible from an existing or permitted principal structure on that lot;

f. Duration. In all districts any image or message or portion thereof must have a minimum duration of eight seconds and must be a static display. Transition time must be no longer than 2 seconds; and

g. Default mechanism. All multi-vision signs must be equipped with a properly functioning default mechanism that will stop the sign in one position should a malfunction occur

h. Audio or pyrotechnics. Audio speakers or any form of pyrotechnics are prohibited in association with a multi-vision sign.

16. **Time and Temperature Sign.** Time and temperature signs must meet the following standards. When attached to walls, time and temperature signs are classified as cabinet signs.

a. Location. The sign must be located on the site of the use advertised or identified by the sign;

b. District Limitations. The sign must not be located in [Insert Limited District Use here]

*Note: Minnesota uses the following: a Residential (R-1, R-1A, RS-1, R-4, RM- 12, RM-24, RM-50, RO-24, RO-50), Conservation or Bluff Overlay (BP-1, BP-2) district;*

c. Duration. Time and temperature signs must have a minimum display duration of two seconds that is static during each individual message. No portion of the message may flash, scroll, twirl, change color, fade in or out or in any manner imitate movement; and

d. Audio or pyrotechnics. Audio speakers or any form of pyrotechnics are prohibited in association with a time and temperature sign.

17. Rotating Signs.

a. No sign shall have rotating or moving parts that revolve at a speed in excess of seven revolutions per minute.

18. **Non-Conforming Use/Illegal Expansion:** There shall be no expansion of any pre-existing billboard dimension requirements to allow change to an electronic billboard without a re-application to the Zoning Board for permission.

A. ITEMS OF INFORMATION ALLOWANCE

1. Items of information allowed.

*[Alternative 1]:*

a. Each street graphic displayed on a premises or by an occupant of shopping center or multi-use building may contain up to [10] items of information.

*[Alternative 2]:*

b. Each premises, and each occupant of a shopping center or multi-use building may display street graphics containing up to [10] items of information.

**Commentary:** *This section provides the regulations for allocating items of information to street graphics if a community wants to include this requirement. How generous or how restrictive the items of information allowance is will depend, not only on the number of items allowed and how they are assigned, but on how the term “items of information” is defined. As the commentary to this definition notes, defining an item of information as a word and not as a syllable will increase the number of items a graphic may display. A community may also want to consider renaming this term a “unit” rather than an “item” of information.*

*Two alternatives are provided. The first alternative is least restrictive because each street graphic is given an item of information allowance. The second alternative provides an allowance for the sum of all street graphics on a premises. Communities will have to try different definitions and allowances to decide which fits best. Providing an items of information allowance for an entire premises may work best, for example, when it displays only a few street graphics.*

2. **Exclusions.** The following do not count as items of information:

- a. Letters three inches or less in height.
- b. Letters carved into or securely attached in such a way that they are:
  - (i) not illuminated apart from the building, are not made of a reflecting material, and do not contrast sharply in color with the building;
  - and
  - (ii) do not exceed two inches in thickness.
- c. Changeable copy

**Commentary:** *This subsection provides that certain types of lettering are not counted as items of information. It encourages the use of letters that are part of an architectural detail of a building.*

*Letters three inches or less in height are exempt because they are not readily visible to passing motorists. This exemption is especially applies to window graphics.*

3. Supplementary Provision Allowing Additional Items of Information.

There may be situations where the allowance for items of information in the ordinance is not adequate. A community may then want to authorize the display of additional items in a discretionary review process. One option is to authorize the allowance of additional items of information in the approval of a Program for Graphics or in regulations for Areas of Special Character. The procedures for these approvals should be carefully drafted to avoid free speech problems.

B. AREAS OF SPECIAL CHARACTER

1. **Designation.** This ordinance cannot adequately regulate all street graphics in an area as diverse as [name of community].

The [name of local governing body], by ordinance and following notice and hearing, may therefore designate any of the following areas as Areas of Special Character:

*Commentary: Diversity in the visual environment of a community may require some flexibility in the regulation of street graphics in special areas. This section provides this flexibility by authorizing the designation of Areas of Special Character and the adoption of special regulations for these areas that can vary from the regulations contained in the ordinance. The community should decide which areas deserve this designation. The local governing body can decide what type of area to designate in its designation ordinance and can define the area in the ordinance either geographically or by zoning district. It may want to designate its downtown area, for example, a strip commercial development, or areas with special architectural, historic, or scenic character. The section authorizing Programs for Graphics provides additional flexibility.*



Before

Figure 11.12.01: Items of Information Allowance



After: simple, inexpensive



After: with a flourish!

2. **Zoning map.** The [name of official or agency] shall maintain and continually revise a zoning map of [name of community] on which the [name of official or agency] shall indicate the boundaries of all designated Areas of Special Character.

3. **Special regulations.** The [name of governing body or agency] shall adopt special regulations for street graphics in Areas of Special Character that shall be consistent with the character of the Area of Special Character.

*Commentary: This subsection requires either the governing body or a designated agency to adopt special regulations for street graphics in Areas of Special Character. The special regulations must be consistent with the character of the Area of Special Character. The adoption of these regulations is either a legislative or quasi-legislative decision that does not raise prior restraint problems under the free speech clause.*

4. **Effect of special regulations.** Special regulations for Areas of Special Character shall supersede and may be either more or less restrictive than the regulations for street graphics contained in this ordinance.

*Commentary: This subsection makes it clear that the regulations adopted for an Area of Special Character supersede the regulations contained in the street graphics ordinance. As an alternative to the adoption of special regulations, a community may wish to authorize the planning commission or governing body to approve a graphics plan providing for a coordinated visual program for street graphics in an Area of Special Character. A graphics plan is a visual representation of the street graphics that can be displayed in an Area of Special Character. It is similar to a neighborhood urban design plan but is limited to street graphics. The plan can also include special street graphics regulations for the area that supersede the regulations contained in the street graphics ordinance. A graphics plan differs from the Program for Graphics authorized by ARTICLE 11.11 because it applies to an entire area rather than to street graphics displayed by one or more businesses. The Graphics Control Ordinance proposed by Hunterdon County, New Jersey.*

#### C. Graphics Plans for Areas of Special Character

The planning commission may approve a street graphics plan for an Area of Special Character. The street graphics plan shall contain visual representations of the lettering, illumination, color, area and height of street graphics and may also indicate the areas and buildings where they may be placed and located. The street graphics plan may also contain special regulations authorizing the display of street graphics in the Area of Special Character. The special regulations may incorporate by reference the visual representation of street graphics in the street graphics plan. The planning commission may approve a street graphics plan if the street graphics illustrated in the plan and authorized by any special regulations included in the plan are consistent with the purposes of this ordinance and the character of the Area of Special Character. An approved street graphics plan shall supersede and may be either more or less restrictive than the regulations contained in this ordinance.

**Programs for Street Graphics.** The [name approval body] may approve a Program for Graphics in an Area of Special Character as authorized by ARTICLE 11.11.

*Commentary: The ordinance can also authorize the approval of Programs for Graphics in Areas of Special Character.*

#### D. PROGRAMS FOR GRAPHICS

1. **Purpose.** A Program for Graphics is a creative incentive for a unified visual statement that integrates the design of street graphics with the design of the building on which they will be displayed and with the surrounding area. (*West Hollywood, Calif.*)

#### **A NOTE ON DESIGN REVIEW FOR STREET GRAPHICS**

The design review of individual street graphics is an important option because it can provide an opportunity for individually tailored designs for street graphics that can improve visual quality. It is a discretionary procedure, however, that courts view as a prior restraint applied to the exercise of free speech, which occurs when design review is applied to street graphics. For this reason, a design review program in a street graphics ordinance must include procedures and criteria that avoid prior restraint problems. Chapter 9 discusses these requirements. They include procedures providing for timely review of applications and the inclusion of specifically detailed criteria for the design review process. For additional guidance on design review, see Hinshaw (1995). The inclusion of detailed criteria is especially critical. A court will hold an ordinance unconstitutional if it does not include criteria that provide adequate guidance for decision makers. The section on Programs for Graphics in the ordinance includes criteria that are likely to get judicial approval, but guidance here is difficult because there are not yet many court decisions ruling on such programs. The ordinance must also select the appropriate local body to make decisions on design review. This authority can be delegated to the planning commission or to a design review board. Whether these delegations are authorized by state legislation or as an exercise of home rule powers depends on state law. In some states, the planning commission cannot be given decision-making powers. (See Mandelker 2003.)

Appropriate procedures are required for decisions in design review programs because these decisions are quasi-judicial. The model ordinance does not include procedural requirements for design review, which will usually be included in the ordinance for the body that conducts design reviews, such as a design review board. These procedures should be examined carefully to determine whether they comply with free speech requirements. The permit approval procedures included in the model ordinance are an example of procedural requirements that should avoid prior restraint problems. Model legislation proposed in APA's *Growing Smart Legislative Guidebook* contains recommendations for administrative review procedures. These recommendations can be useful at the local level. They include recommendations for determining the completeness of an application and the conduct of quasi-judicial hearings. (See Meck 2002, Ch. 10.)

*Commentary: A statement of purpose is important in a design review process because it explains why it is desirable and also helps support its constitutionality if it is challenged in court.*

2. **When allowed.** The owners of one or more adjacent premises, or one or more occupants of a shopping center or multi-use building, [not located in an Area of Special Character,] may submit a Program for Graphics to the [name board or commission] that need not comply with some or all of the requirements of this ordinance. The Program for Graphics shall contain a visual representation of the [lettering, illumination, color,] size, height, placement, and location of the street graphics proposed for display.

*Commentary: The Program for Graphics introduces additional flexibility in the street graphics control system by authorizing the design review of street graphics. This section is based in part on the Bridgeton, Missouri, street graphics ordinance. Other street graphics ordinances contain similar provisions. Areas of Special Character should be omitted if the community wants to limit Programs for Graphics to street graphics not located in these areas. The bracketed text is optional. Its inclusion depends on whether a community believes these design elements should be considered and whether their inclusion is acceptable under the law of aesthetic regulation.*

*A Program for Graphics provides for the display of a “street graphic,” which means it may include any street graphic as that term is defined in the ordinance. This option is intended for special situations where a coordinated graphics program can produce a more visually attractive graphics display than the regulations in the ordinance would allow. The graphics included in a program need not comply with the regulations included in the ordinance. This includes the limitation on items of information. ARTICLE 11.15 of the model ordinance contains a provision governing variances. Some communities may wish to omit the variance provision and rely on the approval of Programs for Graphics to provide flexibility in the street graphics control system.*

3. **Standards for approval.** The [name board or commission] may approve a Program for Graphics if the street graphics visually represented in the Program are:

- a. consistent with the purposes of this ordinance; and
- b. compatible with the theme, visual quality, and overall character of the surrounding area or an Area of Special Character, if the street graphics included in the Program for Graphics are located in such an area; and
- c. appropriately related in size, shape, materials, [lettering, color, illumination], and character to the function and architectural character of the building or premises on which they will be displayed, and are compatible with existing adjacent activities.

#### 4. ALTERNATE CRITERIA FOR PROGRAMS FOR GRAPHICS

Some courts have held a compatibility requirement void for vagueness or unconstitutional as a prior restraint when it is not further defined. The Belleville, Illinois, street graphics ordinance contains design review criteria for individual street graphics in Areas of Special Character that elaborate on the compatibility requirement in Paragraph 2, Subsection 2. They provide:

The [name board or commission] shall base its compatibility determination on the following criteria:

- a. The relationship of the scale and placement of the street graphic to the building or premises on which it is to be displayed.
- b. The relationship of the colors of the street graphic to the colors of adjacent buildings and nearby street graphics.
- c. The similarity or dissimilarity of the street graphic’s size and shape to the size and shape of other street graphics in the area.

d. The similarity or dissimilarity of the style of lettering on the street graphic to the style of lettering of nearby street graphics.

e. The compatibility of the type of illumination, if any, with the type of illumination in the area.

f. The compatibility of the materials used in the construction of the street graphic with the materials used in the construction of other street graphics in the area.

The design criteria for the review of Creative Signs in the West Hollywood, California, sign ordinance reproduced in Chapter 7 are another alternative. **Graphics plans.** As an alternative to Programs for Graphics, the ordinance can contain a provision for Graphics Plans. These are described in the commentary to ARTICLE 11.11.

**Design guidelines.** Some communities have adopted design guidelines for street graphics that are not part of the street graphics ordinance but supplement the ordinance and provide guidance in the administration of design programs like Programs for Graphics. The West Hollywood, California, design guidelines, which are included on the CD-ROM accompanying this PAS Report, are a good example. The adoption of guidelines, though not part of the ordinance, should help support the design review process against objections that it is a prior restraint on free speech.

**Commentary:** *This subsection contains the criteria for the approval of Programs for Graphics. The process for the design review of individual street graphics is similar to the process used in architectural design review. A design review or another board, such as the planning commission, is responsible for the design review of street graphics under criteria specified in the ordinance. These criteria usually specify design factors for the board to consider rather than substantive design criteria the board is to apply. The design review criteria included here are illustrative.*

5. **Display of street graphics.** A premises or occupancy for which a Program for Graphics has been approved by the [name board or commission] may only display street graphics that comply with the approved program, which shall supersede and replace the regulations for street graphics in this ordinance.

**Commentary:** *This subsection requires compliance with an approved Program for Graphics.*

## 6. STREET GRAPHICS PROHIBITED

The following street graphics are prohibited:

a. Graphics which by color, location, or design resemble or conflict with traffic control signs or signals.

b. Street graphics attached to light poles or standards.

c. Portable street graphics.

d. Above-roof graphics.



*Commentary: Street graphics ordinances usually contain a section that prohibits the display of designated street graphics. The list of street graphics prohibited by this section is an example. Some street graphics ordinances contain much longer lists. Prohibiting the display of a designated list of street graphics may create constitutional problems because the extent to which a street graphics ordinance may selectively prohibit certain graphics without violating the free speech clause is not clear. This section prohibits the street graphics designated in the first two subsections because of the manner in which they are displayed. These prohibitions should not violate the free speech clause because they are content-neutral. The model ordinance prohibits portable graphics because their display would seriously undermine the street graphics control system. As Chapter 9 indicates, a court today is likely to uphold this prohibition. Many communities also prohibit billboards. This is a difficult term to define in a way that will avoid free speech objections. The model ordinance avoids this problem by regulating the way in which street graphics are displayed without making a distinction between off-premises and on-premises graphics. Billboards are easier to prohibit if an ordinance provides that “all street graphics containing only noncommercial messages are deemed to be on-premises street graphics.” This provision codifies a holding in Southlake Property Assocs., Ltd. v. City of Morrow, 112 F.3d 1114 (11th Cir. 1997) and makes all off-site signs commercial signs that can be prohibited under the free speech clause.*

## 7. ALTERNATE PROVISIONS FOR THE DISPLAY OF PORTABLE STREET GRAPHICS

A community that does decide to permit portable graphics should consider a number of additional restrictions. For example, the ordinance can limit the display of portable graphics to a specified period of time in any one year. It can also provide that portable graphics must:

- a. be constructed of safe materials,
- b. be securely anchored,
- c. use only approved electrical systems,
- d. not obstruct pedestrian movement, and
- e. not obstruct or be dangerous to motor vehicle traffic.

These regulations should not present problems under the free speech clause.

## 8. STREET GRAPHICS EXEMPT

a. The following street graphics are exempt from the regulations contained in this ordinance:

- (i) Street graphics required by law.

(ii) Any graphic integrated into or on a coin-operated machine, vending machine, gasoline pump, or telephone booth. 3. A street graphic that cannot be viewed from a public right-of-way.

(iii) A street graphic carried by a person.

*Commentary: Street graphics ordinances usually contain a list of exempt graphics. The exemptions contained in this section are typical, though a community may want to add others. These exemptions are content-neutral. A plurality of the Supreme Court invalidated exemptions in a sign ordinance that were not content-neutral, but not all courts follow this holding (Mandelker 2003). Communities should use caution in exempting content-based graphics, such as “for sale” graphics.*

## 9. VARIANCES (OPTIONAL)

a. **Variance authorized.** The [name board or commission] may grant variances from the regulations contained in this ordinance:

(i) To permit a setback for a street graphic that is up to [25] percent less than the required setback, and

(ii) To permit the area or height of a street graphic to be increased by up to [25] percent more than the maximum height or area allowed.

*Commentary: Some street graphics ordinances include a provision for variances, but a variance provision is not necessary. This section authorizes only a limited variance from dimensional restrictions, based on the variance provision in APA’s Growing Smart Legislative Guidebook: Model Statutes for Planning and Management of Change (Meck 2002, Ch. 10). The provisions for Areas of Special Character and Programs for Graphics provide adequate flexibility in the administration of the model ordinance. Variances are limited to setback, area, and height requirements. Physical conditions peculiar to a business premises can create problems with these requirements. The variance process should not be used to modify other requirements in the model ordinance, such as limitations on the type of street graphic an activity can display, because they are essential requirements in the street graphics control system.*

b. **Approval standards.** The [name board or commission] may grant a variance authorized by this Section if it finds the variance requested is required by special or unique hardship because of:

(i) exceptional narrowness, shallowness, or shape of the premises on which a street graphic is located; or

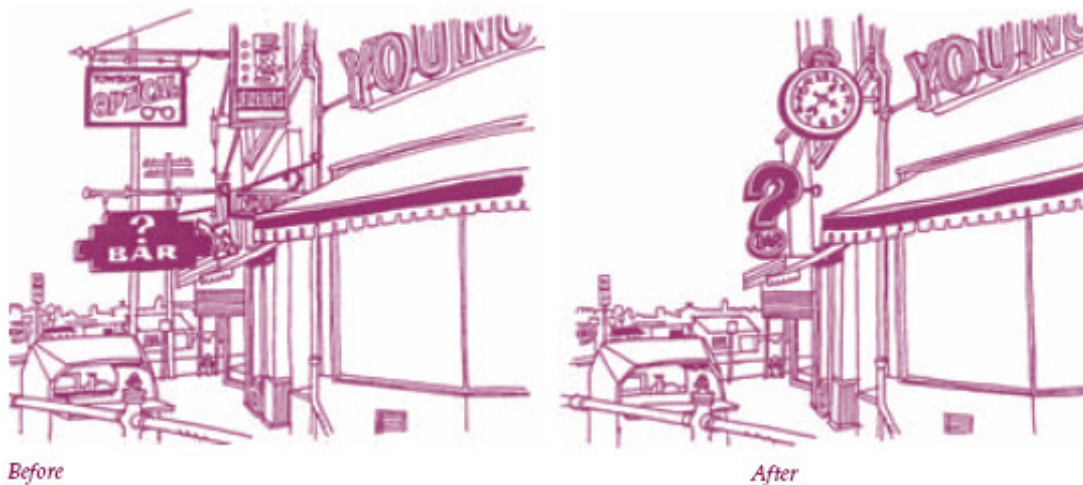
(ii) exceptional topographic conditions or physical features uniquely affecting the premises on which a street graphic is located.

A showing that the display of a street graphic would be more profitable or the street graphic would be more valuable is not a special or unique hardship as required by this section.

*Commentary:* This subsection authorizes a variance only if there are physical conditions unique to the property and only if the applicant can show special and unique hardship. The courts in zoning variance cases have extensively interpreted these standards.

c. **Additional requirements.** The [name board or commission] shall grant a variance only if it also finds that the variance is consistent with the comprehensive plan and there are no other reasonable alternatives for displaying a street graphic permitted by this ordinance if the variance is not granted. The [name board or commission] shall not grant a variance solely because the display of a street graphic would be more profitable if the variance were granted.

*Commentary:* This subsection contains additional protective requirements included in the APA model legislation.



## 10. NONCONFORMING STREET SIGNS

*Commentary:* The Growing Smart Legislative Guidebook: Model Statutes for Planning and Management of Change (Meck 2002, Ch. 8) contains extensive recommendations for regulating nonconforming uses. This legislation contains provisions for an inventory of nonconforming uses, their registration, and the issuance of certificates of nonconformity that are not included in this section. The Legislative Guidebook should be consulted for guidance in drafting these and other additional requirements for nonconforming uses for inclusion in the zoning ordinance that are not included here. This section contains provisions regulating nonconforming street graphics that

*are based on the APA model legislation and on the nonconforming use provisions of the Flagstaff, Arizona, sign ordinance. Chapter 8 of this PAS Report discusses the legal rules that apply to regulations for nonconforming street graphics. These rules vary among the states and should be consulted to decide whether the regulations contained in this section are constitutional. In most states, however, the regulations contained in this section should provide the basis for an effective program for removing nonconforming street graphics.*

a. **Change and modification.** A nonconforming street graphic or street graphic structure shall be brought into conformity with this ordinance if it is altered, reconstructed, replaced, or relocated. A change in copy is not an alteration or replacement for purposes of this subsection.

*Commentary: This is a standard provision that prohibits any change or modification of a nonconforming street graphic.*

b. **Maintenance.** Nonconforming street graphics must be maintained in good condition in accordance. Maintenance required by this Subsection shall include replacing or repairing of worn or damaged parts of a street graphic or street graphic structure in order to return it to its original state, and is not a change or modification prohibited by SubARTICLE 11.

*Commentary: This is a standard provision requiring the maintenance of a nonconforming street graphic.*

c. **Removal.** Removal of a nonconforming street graphic, or replacement of a nonconforming street graphic with a conforming street graphic is required when:

(i) a nonconforming street graphic, or a substantial part of a nonconforming street graphic, is blown down, destroyed, or for any reason or by any means taken down, altered, or removed. As used in this subsection, “substantial” means 50 percent or more of the entire street graphic structure; or

[Alternate provision:]

(ii) A nonconforming street graphic, nonconforming street graphic structure, or the building to which a nonconforming street graphic is attached, is destroyed or damaged by a fire, flood, windstorm, or similar abnormal event, and the cost of reconstruction of the street graphic, street graphic structure, or building to its condition immediately prior to event exceeds 50 percent of the value of the street graphic, street graphic structure, or building prior to its destruction or damage; or]

(iii) The condition of the nonconforming street graphic or nonconforming street graphic structure has deteriorated and the cost of restoration of the street graphic to its condition immediately prior to such deterioration exceeds 50 percent of the value of the street graphic or street graphic structure prior to its deterioration; or

(iv) The use of the nonconforming street graphic, or the property on which it is located, has ceased, become vacant, or been unoccupied for a period of [180] consecutive days or more. An intent to abandon is not required as the basis for removal under this subsection; or

(v) There is a change in tenant or change in ownership of the premises on which the nonconforming street graphic is located; or

(vi) The person displaying the nonconforming street graphic has failed to apply for the Certificate of Nonconforming required by this ordinance.

*Commentary: This provision specifies a number of circumstances in which a nonconforming street graphic must be removed. It includes standard provisions requiring removal for deterioration or destruction and also includes an abandonment provision in subsection c. The subsection specifically states that an intent to abandon is not required, but this provision cannot be adopted in states that require an intent to abandon. See also Chapter 8 in this PAS Report. The cases are divided on the validity of the removal requirements in subsections d and e. The removal requirement in subsection e. applies only if the ordinance has a certificate of nonconformity requirement.*

d. **Street graphic permit.** Any permit issued for a street graphic under this ordinance shall require that any nonconforming street graphic displayed on the premises for which the permit is issued shall be modified or removed to conform with the provisions of this ordinance.

e. **Development permit.** Any [specify permit] that authorizes the development of a premises, any building addition, an increase in gross floor area of 25 percent or more, or any exterior structural remodeling of a building facade on which a nonconforming street graphic is located, shall require all nonconforming street graphics on the premises for which the [specify permit] is issued to be brought into conformity with the provisions of this ordinance.

*Commentary: The limitations on permits are based on ordinances upheld in Outdoor Systems, Inc. v. City of Mesa, 997 F.2d 604 (1993). See Chapter 8 of this PAS Report.*

f. **Separation.** No street graphic that is nonconforming solely because it violates a requirement for the spacing of ground graphics shall be required to eliminate that nonconformity if compliance with the spacing regulation on the premises is not possible.

*Commentary: This subsection is based on a provision in the Flagstaff, Arizona, sign ordinance. It addresses the situation in which a ground graphic is made nonconforming because it is too close to a ground graphic on another premises. Compliance with the spacing requirement in the ordinance is not required in this situation.*

g. **Amortization.**

(i) *[Alternative# 1]* **Amortization period.** A nonconforming graphic must be removed, modified, or altered to comply with this ordinance no later than [three] years from the date on which it becomes nonconforming.

(ii) *[Alternative 2]* **Amortization period.** The [governing body] may adopt an amortization period for a nonconforming street graphic. The amortization period shall begin upon publication of an ordinance establishing the length of the amortization period. In establishing an amortization period the [governing body] shall consider each of the following factors:

(a) The length of the amortization period in relation to the investment in the nonconforming street graphic;

(b) Whether the public gain from amortization outweighs the loss suffered by the person displaying the nonconforming street graphic;

(c) Whether the loss the person displaying the nonconforming street graphic will suffer will be substantial. In determining whether a loss is substantial, the [governing body] shall consider the owner's initial capital investment, the extent to which that investment had been realized, the life expectancy of the investment, the existence or nonexistence of lease obligations, and whether there was a contingency clause permitting the termination of a lease;

(d) The extent to which the nonconforming street graphic has been depreciated for purposes of reporting income under the federal income tax law;

(e) The length of time the nonconforming street graphic has been displayed; and

(f) The cost of removal and relocation.

*Commentary:* This section includes two alternatives for the amortization of nonconforming street graphics. Alternative 1 enacts a fixed amortization period. A community may decide how much time it wants to allow, but most courts should uphold a three-year amortization requirement. Alternative 2 authorizes the governing body to determine an amortization period for each nonconforming street graphic on a case-by-case basis. The factors listed in this section are based on cases upholding the use of factors to determine amortization periods, especially *Modjeska Sign Studios, Inc. v. Berle*, 373 N.E.2d 255 (N.Y. 1977). Though courts have approved these factors, some courts approve other factors as the basis for determining the length of an amortization period. Chapter 8 discusses this problem. If the ordinance contains a fixed amortization period that applies to all nonconforming street graphics, a court will determine on a case-by-case basis whether this period is constitutional as applied to the nonconforming street graphic that is affected. If the ordinance contains a set of factors that are applied to determine amortization periods for nonconforming street graphics on a case-by-case basis, the owner of a nonconforming street graphic can challenge both the factors the ordinance has adopted and the length of time provided for the amortization period. The ordinance delegates the decision on amortization periods to the governing body, but this decision can also be delegated to an

*administrative board, such as the planning commission, if the board can be delegated this authority.*

The APA Growing Smart Legislative Guidebook (*Meck 2002, Section 8- 502(6)*) requires a record hearing on the amortization period decision if this decision is delegated to a non-legislative body. The court held an amortization ordinance adopted by a legislative body was not a quasi-judicial act in *AVR, Inc. v. City of St. Louis Park, 585 N.W.2d 411 (Minn. App. 1998)*.

## 11. PERMITS

a. **Permit required.** No person shall erect or display a street graphic unless the [title of official] has issued a permit for the street graphic or this section exempts the street graphic from the permit requirement.

*Commentary: This section authorizes a typical permit procedure and is based in part on the Fort Walton, Florida, sign ordinance. It assumes the ordinance authorizes Areas of Special Character, Programs for Graphics, and variances. If the ordinance authorizes a design review process in Areas of Special Character, the section should also authorize the issuance of permits for street graphics approved in this process.*

b. **Application.** A person proposing to erect or display a street graphic shall file an application for a permit with the [title of official]. The application shall contain the following.

(i) The name, address, and telephone number of sign contractor and the owner and occupant of the premises where the street graphic is to be erected or displayed; the date on which it is to be erected or displayed; the zoning district and the Area of Special Character, if any, in which it is located; and any variance that has been approved.

(ii) A drawing to scale that shows: (1) all existing street graphics displayed on the premises; (2) the location, height, and size of any proposed street graphics; (3) the items of information proposed to be displayed; and (4) the percentage of the signable area covered by the proposed graphics. This information is not required if a Program for Graphics has been approved for the premises or occupancy on which the street graphic will be erected or displayed if the approved Program for Graphics is attached to the application.

(iii) Specifications for the construction or display of the street graphic and for its illumination and mechanical movement, if any, is to be provided.

*Commentary: This subsection requires detailed visual and other information that can provide a basis for the permit decision.*

c. **Review and time limits.** The [title of official] shall promptly review the application upon the receipt of a completed permit application and upon payment of the permit fee by the applicant. The [title of official] shall grant or deny the permit application

within twenty days from the date the completed application and permit fee was filed with the [title of official].

d. **Approval or denial.** The [title of official] shall approve a permit for the street graphic if it complies with the building, electrical or other adopted codes of the [name municipality] and with:

- (i) The regulations for street graphics contained in this ordinance and any variance that has been granted from these regulations, and
- (ii) Any special regulations that have been adopted for an Area of Special Character, and
- (iii) Any Program for Graphics that has been approved under this ordinance.

If the [title of official] does not approve a permit for the street graphic, the [title of official] shall state the reasons for the denial in writing, and shall mail a certified copy of the reasons for denial to the address of the applicant stated on the application.

*Commentary: These subsections require a timely review and decision on the permit application to avoid objections that the permit requirement is an unconstitutional prior restraint on free speech. Additional codes that apply, such as the electrical code, should be included.*

e. **Appeals.** Any applicant who is denied a permit for the display of a street graphic may file a written appeal to the [title of official or board] within [10] days after receipt of the written copy of the denial by certified mail.

*Commentary: This subsection authorizes an appeal to a designated local board. Ordinance provisions that apply to appeal to the board will apply to any appeals under the street graphics ordinance, but they must include a requirement that decisions on appeals must be timely. The ordinance does not include a provision on judicial review, which should not be necessary.*

f. **Fees.** The fees for permit applications are as follows: [Insert fee schedule here]

*Commentary: This section requires the payment of fees for permit applications. The courts hold fee requirements for street graphics constitutional if they are not discriminatory or excessive.*

g. **Exemptions.** The following street graphics are exempt from the permit requirement:

- (i) A street graphic specifically exempted from the provisions of this ordinance.
- (ii) A temporary window graphic.



(iii) A street graphic that is a permanent architectural detail of a building.

**Commentary:** *This subsection exempts several types of street graphics from the permit requirement. Exemption from the permit requirement does not mean the graphic is exempt from the regulations contained in the ordinance. Note that temporary window graphics are exempt from the permit requirement, and a community may want to exempt other temporary graphics. As explained below, however, exemption from the permit requirement may create an enforcement problem.*

## 12. ENFORCEMENT [Optional]

**Commentary:** *The 1988 revision of the Street Graphics Model Ordinance contained a provision on enforcement, but since then APA has published its Growing Smart Legislative Guidebook (Meck 2002) with an extensive enforcement chapter (Chapter 11). Though the Legislative Guidebook chapter contains recommendations for state legislation, its recommendations can be adapted to a local ordinance where state enabling legislation permits.*

*The responses to the questionnaire distributed at the time of the 1988 revision of the model ordinance indicated that the enforcement of street graphics ordinances is a serious problem. An ordinance cannot remedy all of these enforcement problems, though the Legislative Guidebook contains extensive legislative recommendations for an effective enforcement program. It recommends, for example, that criminal proceedings are a “last resort,” though they may be necessary in “the most egregious cases.” Criminal enforcement is difficult because the local government must prove intentional or knowing noncompliance beyond a reasonable doubt. It does not seem well suited to the enforcement of street graphics regulations, which can be enforced without criminal sanctions. Nonconforming street graphics often present an enforcement problem. As the commentary on the nonconforming street graphics section recommended, an inventory of nonconforming graphics existing when the ordinance is adopted and a registration program can improve enforcement. A comprehensive program for the removal of nonconforming uses will also reduce enforcement problems over time. The questionnaire responses indicated that temporary graphics present the most serious enforcement problem, and this still seems to be true. This problem is difficult to remedy because a permit program that can help in enforcement is difficult to implement. The model ordinance exempts temporary window graphics from the permit requirement for this reason. A permit requirement and the posting of a bond to ensure removal can be useful for other temporary graphics, such as grand opening graphics, that are displayed less frequently.*

## 13. SEVERABILITY CLAUSE

The invalidation of any section, subsection, clause, or phrase of this ordinance by any court of competent jurisdiction shall not affect the validity of the remaining portions of the ordinance.

**Commentary:** *This is a typical severability clause. Invalidation is intended to include a holding that part of the ordinance is unconstitutional. The inclusion of a severability clause does not guarantee that the remaining portions of the ordinance will be held constitutional, but it helps ensure that result.*

## **XII. ADMINISTRATION AND ENFORCEMENT**

### **I. Planning and Zoning Commission (PZC)**

Any municipality may by vote of its legislative body adopt the provisions of Chapter 124 of the General Statutes and exercise the powers granted in it through a zoning commission. The zoning commission may also be established by special act or it can operate under the General Statutes supplemented by a special act.

Where the municipality also has a planning commission, Connecticut General Statutes § 8-4a allows the legislative body to combine the two commissions or designate either one as the planning and zoning commission for the municipality. In this situation, the commission has all the powers and duties of both a zoning commission under Chapter 124 and a planning commission under Chapter 126 of the General Statutes. Most municipalities act entirely under the Connecticut General Statutes § 8-4b which allows any municipality with a combined planning and zoning commission to reverse the designation and create separate commissions. The zoning commission has jurisdiction to exercise zoning powers throughout the town unless a city, borough or district contained within it has been given special zoning powers within the city, borough or district by a special act. A city or borough contained within the town can designate the town's zoning commission to exercise zoning powers or create its own zoning commission. In addition, a district within a town may establish a zoning commission under Connecticut General Statutes § 7-326. [9 Conn. Prac., Land Use Law & Prac. § 3:1 (3d ed.) Land Use Law & Prac., Robert A. Fuller, Part I. Land Use Agencies and Their Powers and Duties Chapter 3. The Zoning Commission and Types of Zoning Controls.] <http://tinyurl.com/yjn87o2>

**A.** Composition. As provided by [enter the reference point in the municipal charter], or as may be amended, the Planning and Zoning Commission (PZC) is composed of [enter the number of members] members. The terms of office of the members and the filling of vacancies shall be determined by [enter the reference point in the municipal charter], or as may be amended.

**B.** Powers and Duties. The zoning authority of [enter the name of the municipality] is vested with the PZC and the PZC is vested with all rights, powers, and duties provided to such commissions under the Connecticut General Statutes, or as may be amended. Such powers include but are not limited to, the power to adopt and amend these Regulations, including the boundaries established by the [enter name of municipal zoning map], the manner in which these Regulations are to be enforced, and the power to review and approve petitions for Special Permits, petitions for special exceptions and applications for site plans for special exceptions, consistent with these regulations.

A municipality may choose to separate the PZC into two separate entities, planning commission and zoning commission, providing each of them with different duties, obligations and responsibilities. [See Danbury, CT Zoning Regulations Sec. 10.A.1.a; 10.A.1.b] <http://tinyurl.com/yjrny76>

A municipality may choose to separate the PZC into two separate entities, planning commission and zoning commission, providing them each with different duties, obligations and responsibilities. The municipality may include a provision in which the Zoning Enforcement Officer (ZEO) acts on behalf of the PZC, rather than functioning as a separate enforcement entity of the municipality. [North Stonington, CT Zoning Regulations Sec. 201] <http://tinyurl.com/yzxmzpx>

See Connecticut General Statutes Title 8, Ch. 124 <http://tinyurl.com/yh5x4m3>

A municipality may also choose to add an additional requirement for applications of Liquor Permits to be approved by the PZC prior to operation. [Bridgeport, CT Zoning Regulations Sec. 13-3-2-b] <http://tinyurl.com/yhwfy2g>

Special exception petitions and special permit applications may be reviewed and approved in the ZBA rather than the PZC. [See Woodbury, CT Sec. 9.6.1.3] <http://tinyurl.com/yzchpml>; [See Wallingford, CT Zoning Regulations Sec. 9.1.J] <http://tinyurl.com/yhvwvjg>

## **II. Zoning Board of Appeals (ZBA)**

**A.** Purpose and Authority. The Zoning Board of Appeals (ZBA) is an agency, separate from the Planning and Zoning Commission (PZC), established through the Connecticut General Statutes and [enter the name of the municipality] Charter, and exercises quasi-judicial functions to provide relief in cases in which the literal application of these regulations produces undue hardship on a particular piece of land or property, and provides local review of questions arising from actions taken by the PZC, Zoning Enforcement Officer (ZEO), or the actions of any officer of any other agency pertaining to these regulations.

See Connecticut General Statutes Title 8, Chapter 124. <http://tinyurl.com/yh5x4m3>

**B.** Composition. As provided by [enter the reference point in the municipal charter], or as may be amended, the ZBA is composed of [enter the number of members] members. The terms of office of the members and the filling of vacancies shall be determined by [enter the reference point in the municipal charter], or as may be amended.

**C.** Powers and Duties. The ZBA shall have all powers and duties as set forth in the Connecticut General Statutes, and by these Regulations, which powers and duties are summarized and more particularly specified herein, provided that none of these regulations shall be deemed to limit any of the power conferred to the ZBA by general law.

**D.** Procedure. The procedure for the ZBA shall be that set forth in the Connecticut General Statutes and by these Regulations, which procedure is summarized and more particularly specified herein, provided that none of these regulations shall be deemed to limit any of the procedural power conferred to the ZBA by general law.

**1.** Any party aggrieved by a decision rendered by the PZC, ZEO, or any officer of any other agency pertaining to these regulations, may bring an appeal to the ZBA within [enter the amount of days] days after such a decision has been made. The agency then making such a decision must transmit to the ZBA, all papers comprising of the record on which the decision was made.

The appeal shall be taken within 30 days of the publication of the commission action or 35 days from the date on which notification of the commission action was mailed to the appellant. [See Sherman, CT Zoning Regulations Sec. 453] <http://tinyurl.com/yfwo9y2>

**2.** ZBA meetings shall be open to the public for all appeals and applications for variances, the agenda for a ZBA meeting shall be released by the ZBA Office no later than [enter the amount of days] before the holding of the meeting, and the records of the ZBA shall be available for review in the ZBA Office at any reasonable time.

**3.** The ZBA shall keep minutes of its proceedings, a recording of the decisions, and all findings and reasons resulting in a given decision, made by the ZBA, a recording of a claim of hardship corresponding to a ZBA decision, a recording of the individual vote of each ZBA member participating in a given decision or in the absence of a vote a recording of such absence.

**4.** The concurring vote of [enter the number of members] members shall be sufficient to decide in favor of the applicant party.

**E.** Variances. The ZBA shall have the authority to vary the application of these Regulations, in harmony with their general purpose and intent with due consideration for conserving the public, health, safety, convenience, welfare, and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of such regulation would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured. The ZBA shall consider the principle that hardship based on financial considerations alone or hardships created by the willful act of the property owner are not considered grounds for exceptional difficulty or unusual hardship.

Variances shall not granted by the ZBA for land located within the watershed area. [See Danbury, CT Zoning Regulations Sec. 11.B.3] <http://tinyurl.com/ygfe7la>

**F.** Special Exceptions. Each specific Special Exception for which a permit is sought shall be considered on an individual case and shall, in addition to other standards prescribed in these regulations, conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such use:

**1.** The nature, location, size, intensity and site layout of the use shall be such that it will be in harmony with the appropriate and orderly development of the area in which it is situated.

**2.** The nature and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, its site layout, and its relation to streets giving access to it shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection with it, shall not be hazardous or inconvenient to the predominant character of the neighborhood, or conflict with the normal traffic of the neighborhood, taking into consideration, among other things, convenient routes of pedestrian traffic, particularly street intersections, vehicular turning movements in relation to routes and volumes of traffic flow, sight distances, and adequacy of parking facilities.

**3.** The location and height of buildings and structures, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use shall not hinder or discourage the appropriate development and use of adjacent lands and buildings or impair the value thereof.

4. The ZBA may require that permits for Special Exceptions be periodically renewed with a time period prescribed by the ZBA. Any approval shall commence within one year, unless the Board grants an extension of time.

**G. Decisions**

1. A decision of the ZBA shall be rendered within [enter the number of days desired by the municipality] days after the hearing. Such a decision may affirm or reverse, wholly or in part, or modify a decision made by the PZC, ZEO, or any officer of any other agency pertaining to these regulations.

A municipality may choose to have different voting standards depending on whether the ZBA is the initial forum for a hearing or if an applicant is appealing from a decision of the PZC, ZEO, or the actions of any officer of any other agency pertaining to these regulations.[See Hartford, CT Zoning Regulations Sec. 121] <http://tinyurl.com/ygusteu>

A municipality may choose to have the commission corresponding with the municipality plan to submit an opinion in advance of a decision to be made by the ZBA. [See Hartford, CT Zoning Regulations Sec. 123] <http://tinyurl.com/ygusteu>

The ZBA may consult or have assistance from other municipal officials. [See Hartford, CT Zoning Regulations Sec. 122] <http://tinyurl.com/ygusteu>

2. The effective date of a ZBA decision shall be [enter number of days after the decision or further procedure to be taken before it is effective].

If a municipality wishes to choose a procedure before a decision becomes effective, Groton, CT requires the decision to be filed with the Office of the Town Clerk and to be recorded in the land records. [See Groton, CT Zoning Regulations Sec. 8.5-11] <http://tinyurl.com/yfvnp7e>

3. Any party who appeals to the ZBA shall be notified of the decision by certified mail, return receipt requested within [enter number of days] days after such a decision has been rendered, and notice of the decision shall be posted in the local newspaper(s), and on the official [enter municipality name] website if one exists.

**H. Fees.** There shall be a fee of [enter a dollar amount] dollars payable to the [enter the name of the municipality] for any appeal or application brought to the ZBA, which shall not be remitted for any reason including the withdrawal of the appeal or application. Such fee shall be paid by cash, check, credit card, or money order.

**III. Application Process and Expiration of Permits**

A. No land use shall be established or changed and no building or structure shall be used, erected, constructed, moved, enlarged, or altered, in whole or in part, until the Commission issues a.

B. A zoning permit or Special Permit shall be valid only [ ] year from the date of the decision of the Commission. Upon starting construction, permit does not expire unless the Commission sees a failure to complete construction in a diligent

manner.

- C. The Commission may grant an extension of time to start. A permit extended under such conditions may be revoked by the Commission when it sees a failure to complete construction in a diligent manner.
- D. Nothing in these Regulations shall require any change in a permitted use or in the plans or construction of any building on which construction was begun under a permit issued prior to the effective date of these Regulations

#### IV. **General Requirements for the Site Plan**

- A. **Intent.** A site plan is intended to provide the Town Zoning Commission with information necessary to determine that the proposed activity is in compliance with all applicable requirements of these Regulations. It is also intended to provide the Commission with information that will enable it to determine that the proposed buildings and uses shall be arranged in a manner that enhances the health, safety and welfare of the citizens of this town or city, and shall be of such character as to harmonize with the neighborhood, to accomplish a transition in character between the areas of unlike character, to protect property values in the neighborhood, to preserve and protect natural resources and the appearance and beauty of the community and to avoid undue traffic congestion.
- B. **Applicability.** A site plan shall be submitted with any application for a zoning permit.
- C. **Procedures for Submission, Receipt, Decisions.** The procedures specified in the Connecticut General Statutes shall govern the handling of such application except as otherwise provided in these Regulations.

#### V. **Specific Site Plan Requirements.**

- A. **Professional Preparation.** A site plan shall be prepared by a Connecticut registered professional surveyor, engineer or other appropriate professional. Any site plan involving grading, paving, road construction and drainage work and/or any municipal improvement shall require the seal of a Connecticut registered professional engineer. At the minimum, a scale plan shall be provided and is not subject to waiver.
- B. **Standard Elements of the Site Plan.** Unless waived by the Commission upon written request of the applicant pursuant to **Section** \_\_ of these regulations, the following information shall be provided:

The purpose of the site plan is to allow the commission to review conformity with regulations prior to the issuance of a building permit. *SSM Associates Limited Partnership v. Planning and Zoning Commission*, 211 Conn. 331 (1989). The town may choose to be more or less inclusive with this list of requirements depending on the town's assessment of need to restrict and control building. For examples of certain town applications and requirements, *see* <http://www.cityofjohnston.com/city-code/documents/Chapter171.pdf>; <http://www.twp.pennsauken.nj.us/pdfs/Planning/Zoning-siteplan-application.pdf>; <http://tinyurl.com/ygumem3>.

1. Information on a 24 x 36 inch plan, with scale of 1" = 40'.
2. Name and address of owner of record, address of property, name of applicant.
3. North arrow, scale, name(s) of person(s) preparing plan, date of

- drawing, and any revision dates with description of revisions.
4. [ ] copies in ink.
  5. Property boundaries, dimensions, and area.
  6. Dimensions of all yards and buildable area, as required by these Regulations.
  7. Existing and proposed contour lines. For all areas of the parcel within 100 feet of any proposed work (including construction, excavation, filling, grading, and clearing of vegetation), the contour interval shall be no greater than [ ] feet (T-2 or T-3 accuracy). The Commission may require the applicant to submit design drawing(s), including cross sections and elevation, of all proposed activity. Additional spot elevations maybe required where necessary to indicate drainage patterns.
  8. Locations and specifications of all existing and proposed structures and uses including, but not limited to, buildings, stone walls, fences, sidewalks, driveways, parking and loading areas, exterior storage areas, signs, abutting streets, utility structures, and hydrants. A rendering of any proposed building shall be supplied, with siding materials specified (front, side, and rear elevations shall also be shown).
  9. Locations and descriptions of water supply wells or other water sources and of all sewage disposal facilities, together with percolation and test pit data.
  10. A storm drainage plan showing the location of existing and proposed drainage facilities on the site and those off-site that may be affected by the proposed activity, as well as any points of 60 collected drainage discharges (i.e., discharges other than natural sheet flow) onto or off of the site. The plan must also include pre-development and post-development flow calculations.
  11. Location of wetlands and watercourses and wetlands buffer, with the signature of the soil scientist who identified such features. All wetlands shall be field located. A signature block for the soil scientist certifying that all wetlands and watercourses have been delineated or that there are none on the property.

If a site plan involves a regulated activity in a regulated area pursuant to Conn. Gen. Stat. §§ 22a-36 - §22a-45, Conn. Gen. Stat. § 8-3(g) requires the applicant to submit an inland wetlands permit application at the same time.

12. A landscape plan showing the planting, location and species to be used, the ground cover and surface treatments proposed, and identification of the types and location of existing vegetation to remain in place on the site. The number, location and size of the landscaping material shall be as required by **Section \_\_**. The Commission may require such plans to be prepared by a professional landscape architect (i.e., American Association of Landscape Architects, ASLA).
13. Zone of site and of all property within 500 feet.

14. Names and addresses of current owners of property within five hundred feet of the parcel as shown in Tax Assessor's records, including properties across from any street/road, river, and/or municipal boundary.
15. Identification of any easements and deed restrictions affecting the property.
16. Areas within 100 year flood hazard areas as delineated by the Federal Emergency Management Agency (FEMA) and as shown on the most recently amended maps prepared by FEMA must be shown with a note saying "Limits of Flood Hazard Zone are approximate and are scaled from the Federal Flood Hazard maps". When a lot does not include land within the 100-year flood hazard area, the map shall include the following notation: "This lot does not include land areas within the Federal Emergency Management Agency's 100-year flood hazard area.
17. Sight line information at proposed driveway cut(s), and statement that plans have been submitted to DOT for review or that review is not required.
18. Lighting plan per **Section** \_\_\_\_.
19. Any other information deemed necessary by the Commission to determine compliance with these Regulations. The Commission may require evaluation reports by Commission-approved independent professionals and other experts, including and not limited to: traffic engineers, hydrologists, soil scientists, geologists.
20. Boundaries of any sub-regional watersheds that lie within the site, as shown on maps available from the Natural Resources Center of the Department of Environmental Protection.
21. Wooded areas, specimen trees exceeding 30 inches dbh (diameter at breast height, 5 feet above the ground), rock outcroppings and any unique and fragile natural features.
22. Stonewalls and monuments, and other structures having historical significance.
23. Historic buildings and sites listed on the National Register of Historic Places.
24. Location of existing and proposed buildings and structures and the number of bedrooms in each.
25. Location of proposed subsurface sewage disposal systems and reserve fields, showing distances to adjacent land, distances from all wells within 200' (on or off the tract), and distance from any manure handling systems.
26. Existing and proposed street and lot lines.
27. Areas proposed for preservation as open space.
28. Identification of surface and groundwater resources on and around the site, including any public or private domestic users of such waters; the depth to groundwater and description of adjacent soils, and an evaluation of the impact of the proposal on existing and



potential surface and ground drinking water supplies. The Commission may require additional information necessary to ensure protection of water resources, and may require that the report be prepared by a hydro geologist or other qualified professional.

29. Identification of any chemicals or potential contaminants to be used, stored or produced on site or discharged on or off the site, and a detailed description of methods and procedures by which any 61 chemicals or potential contaminants on site will be stored, used, applied, discharged, and disposed .
30. Any known and/or discovered; natural, scenic, historic, and unique resource areas and amenities, historic sites, cemetery(s), buildings or structures of known and/or anticipated historic or archeological significance.

**C. Waiver of Requirements.** Upon written request of the applicant, the Commission may waive, by three-quarters vote of members present and voting, one or more of the above requirements if the applicant can demonstrate that the information is not needed to reach a decision on the application.

## **VI. Temporary Use Permits**

### **A. Purpose**

1. There are certain temporary uses that by their nature require additional regulation, beyond the general requirements applicable to a particular zoning district, in order to protect the welfare, safety and convenience of the public. The impacts of temporary uses are of a nature that is generally quantifiable and subject to mitigation by imposition of specifically articulated standards. Such uses may be allowed to locate within designated zoning districts under the controls, limitations and regulations of the temporary use permit established by this division.
2. The zoning administrator may approve a temporary use permit under the provisions of this division, after concluding that the proposed temporary use complies with the standards prescribed within this code.

### **B. Application**

1. An application for a temporary use permit may be made by any person who is a property owner, or by any lessee or contract purchaser of a property.
2. The application shall be filed with the Commission and in conformance with the regulations for permanent applications.
3. Not more than five temporary use permits shall be issued for the same lot or parcel of land in any calendar year.
4. Only one temporary use permit shall be active on any lot or parcel at any time.

## **VII. Non-Conforming Buildings and Uses**

*The following bylaw is designed to comply with the requirements provided in C.G.S. § 8-13a. This bylaw was adapted from the Town of New Milford's and the Town of Madison's nonconforming use requirements. This bylaw provides for the continuance of nonconforming uses, as Connecticut does not permit for their amortization. However, this bylaw does place limits on the enlargement, maintenance, and reconstruction of nonconforming uses. Municipalities may want to consider placing further limitations on nonconforming uses, such as not allowing for the reconstruction of a building when it is completely or more than 50% destroyed.*

Any non-conforming building or land use as defined by C.G.S. § 8-13a, or existing at the time of the adoption of these regulations or of any pertinent amendment thereto, may be continued subject to the following regulations:

- A. No non-conforming use may be changed except to a conforming use or, with the approval of the Zoning Board of Appeals, to another non-conforming use no more objectionable in character.
- B. No non-conforming use shall, if changed into a conforming use, be changed back again into a non-conforming use.
- C. No non-conforming use shall be enlarged or altered in such a manner as to increase the non-conformity of such building or structure.
- D. No non-conforming use which has been abandoned for a period of one year shall thereafter be resumed.
- E. Nothing in these regulations shall be deemed to prohibit the repair and maintenance of a nonconforming building or structure, provided such repairs or maintenance do not increase the non-conformity of such building or structure.
- F. Nothing in these regulations shall prevent the reconstruction within two years of a building damaged by fire, explosion, accident, and act of God, or of the public enemy, to its condition prior to such damage. The *[insert appropriate municipal body]*, for good cause shown, may grant one or more extensions of the preceding time limits.

### **VIII. Public Hearing Notice Requirements**

The following bylaw is designed to comply with the notice requirements provided in C.G.S. § 8-7d. This bylaw was adapted from the Town of New Milford's and the Town of Farmington's public hearing notice requirements. Though 8-7d only requires that notice of an application involving a public hearing be published in a newspaper of general circulation, 8-7d gives a municipality the power to provide for other forms of notice. Such additional notice may include notice by mailing and notice by posted sign. Towns should consider the degree of notice that they wish to provide to the owners of properties abutting the application property, and to the

general public. For instance, the town of Farmington provides for all three forms of notice while the town of Darien only provides for notice by publishing and notice by mailing.

For any application involving a public hearing, the applicant shall give notice at their own expense, as required by the laws of the state of Connecticut. The applicant shall also comply with the following notice provisions:

- A. **Notice by Publishing:** For any application involving a public hearing, the applicant shall published notice of the hearing in a newspaper of general circulation within the Town/City of [*insert name of municipality*], at least twice, at intervals of no less than two days. Published notice shall first appear not more than 15 days, but no less than 10 days before the date set for the public hearing. Published notice shall appear a second or final time not less than two days before the date set for the public hearing.

The requirements of this provision are taken directly from C.G.S. § 8-7d. Each municipality is free to adjust the timeframes provided, so long as they remain within the statutorily required range.

- B. **Notice by Mailing:** For any application involving a public hearing, the applicant shall send written notice of the hearing, via U.S. Mail, certificate of mailing requested, to all owners of property within 100 feet of the property boundary lines. Written notice shall advise property owners of the nature of the application, including proposed zone change language, and the intent to apply to the Zoning Commission. Further, written notice shall be sent at least 15 days prior to the date set for the public hearing. The names and addresses used shall be those recorded in the office of the [*insert name of appropriate municipal office*] on the date the application is filed. In the event the adjoining property is a condominium complex, the applicant need only send written notice to the homeowners' association.

Evidence of such mailing in the form of copies of the letters sent and U. S. Post Office Certificates of Mailing shall be submitted to the Zoning Enforcement Officer not less than five days prior to date of the public hearing. If the petitioner(s) fail to provide the required evidence of mailing, the Commission shall deny the application.

Notice by mailing is meant to ensure that the owners of property abutting the applicant's property are alerted of an application pending before the Planning and Zoning Commission. Abutting property has been judicially defined as being within 100 feet of the perimeter of the applicant owner's property. While municipalities should feel free to increase the 100 foot perimeter, distances that are excessively large may be vulnerable to judicial challenge. Accordingly, it is the recommendation of the authors that the 100 foot distance be retained.

- C. Notice by Posted Sign:** For any application involving a public hearing, the applicant shall provide notice of the hearing by placing a 30 square-foot sign on the property, set back no more than 15 feet from the front lot-line or on the front face of any building or structure that is closer to the front lot- line. The sign shall be visible to the public and composed of letters with a minimum height of five inches. The message shall state as follows: "*A public hearing dealing with these premises is to be held in the town/city hall of the town of (insert name of municipality) at (time) on (moth), (day), (year). Additional information concerning this property may be obtained by calling the zoning department at (xxx) xxx-xxx.*" The posted sign shall be placed on the property at least 15 days prior to the public hearing and removed immediately after the public hearing is closed.

Notice by posted sign is meant to ensure that the general public is alerted of an application pending before the planning and zoning commission. This added notice requirement is recommended given the declining readership of newspapers, which provide the only other method for public notification. The suggested dimensions for the posted sign are intended to make sure that the information may be easily read from the public highway abutting the property. Additionally, the suggested language is intended to present only the essential information in a concise format. Signs that include too many words are often illegible by passersby. However, municipalities should feel free to adjust the dimensions of and suggested language for the posted sign.

## **IX. Amendment of Zoning Regulations**

The following bylaw is designed to comply with the requirements provided in Chapter 124 of the Connecticut General Statutes. The following bylaw was adapted from the Town of Madison's and Town of Darien's amendment regulations. All applications for the amendment of zoning regulations or boundaries are subject to public hearing, and must therefore comply with the notice requirements of this code. This bylaw also makes reference to the "procedures" adopted by the Commission in order to provide municipalities with the flexibility to control the amendment process as it deems appropriate. Accordingly, it is essential that municipalities adopt additional procedures for the submittal and consideration of amendment applications. Further, municipalities need to consider whether additional/different materials should be required in an

application for amendment. For instance, a municipality may require an applicant to submit additional studies or materials on the potential impact of the proposed amendment.

The Planning and Zoning Commission may amend the zoning regulations or boundaries on its own motion or on the petition of one or more property owners in accordance with the provisions of Chapter 124 of the Connecticut General Statutes, as amended:

- A. General:** Any person, firm or corporation desiring an amendment to the Zoning Regulations and/or Official Zone Map may submit an application proposing such amendment to the Commission. Applications shall be submitted in writing to, and in a form prescribed by, the Commission. Applications shall be signed by the applicant and shall be considered in accordance with the procedures adopted. Applications that do not contain all of the required documentation in the initial submission shall be considered incomplete.
- B. Changes in Text of Regulations:** In addition to the general requirements, applications for changes to the text of any regulation shall be accompanied by the exact wording of the change applied for, including references to appropriate section numbers within the code, and by the exact wording of proposed deletions.
- C. Changes in District Boundary Lines:** In addition to the general requirements, applications for a change to zoning district boundary lines shall be accompanied by (x) copies of the town zone map, indicating, in color, the area for which the change is applied, the existing boundary line, the proposed boundary line and the proposed zoning district regulation.
- D. Completeness, Date of Submission:** An application shall be deemed to be complete if it is in proper form and is accompanied by all the application materials required by this bylaw. The date upon which an application is deemed to be complete shall also be deemed to be the date of submission.
- E. Additional Information:** The Commission may require the submission of additional information deemed necessary to determine compliance with the intent and purpose of these regulations.
- F. Commission Action:** Within sixty-five (65) days after completion of the public hearing, the Commission shall adopt or deny the change of zone or amendment to the regulations. Whenever the Commission adopts any change of zone or amendment to the regulations, it shall state upon its records the reason why such change was made.

**G. Extension of Time:** The applicant may consent in writing to an extension of the time periods in accordance with Title 8 of the Connecticut General Statutes.

**H. Effective Date:** Zoning regulations, zoning district boundaries and any amendments or changes thereto, shall become effective at such time as may be fixed by the Commission, pursuant to Title 8 of the Connecticut General Statutes, provided that both a copy of such regulation, boundary or change shall be filed with the [*insert name of appropriate municipal office*] and notice of the decision of the Commission shall have been published in a newspaper having a general circulation in the Town of [*insert name of municipality*] before such effective date.

## **X. Enforcement**

The zoning commission of each municipality decides how the zoning regulations are enforced. The zoning commission may reserve the enforcement power to itself, or it may delegate it in whole or in part to a zoning enforcement officer. The commission or the zoning enforcement officer enforces the zoning regulations. A provision in a municipal charter cannot supersede the authority of the zoning commission to appoint the zoning enforcement officer and specify his duties. If the zoning regulations contain standards under which a zoning permit may be issued so that the zoning enforcement officer is performing a ministerial function, the zoning commission may lawfully delegate its authority to issue permits to that extent. If the commission reserves the enforcement function to itself, it is subject to appeals from its decisions to the zoning board of appeals under Connecticut General Statutes §§ 8-6(a)(1); 8-7.

The zoning enforcement officer has numerous functions. Most municipalities require zoning permits before construction can be started, and even if there is no formal zoning permit procedure in the municipal regulations, the building inspector cannot issue a building permit unless the zoning enforcement officer certifies in writing that the building use or structure is in conformity with the zoning regulations or is a valid non-conforming use. A certificate of occupancy also requires certification that the building, use or structure remains in conformity with the zoning regulations. The zoning enforcement officer may also be called upon to review applications for special permits, site plans, subdivisions and variances submitted to the zoning commission, planning commission or zoning board of appeals and give an advisory report to those agencies.

In some municipalities the same person is designated as both the zoning enforcement officer and the building inspector. In others where there are two persons, the building inspector is often designated as the assistant zoning enforcement officer. The zoning enforcement officer cannot be a member of the zoning board of appeals. The other main function of the zoning enforcement officer is to make inspections, generally as a result of a complaint of possible violations of the zoning ordinance. Where violations are found, in most cases the matter is handled informally, but if the violation is not corrected the zoning enforcement officer has two options. A cease and desist order can be issued under Connecticut General Statutes § 8-12, and the decision is then appealable to the zoning board of appeals under Connecticut General Statutes § 8-12. The other option is to have the municipal attorney initiate a zoning enforcement action in the name of the

municipality and zoning enforcement officer in the Superior Court under Connecticut General Statutes § 8-12. The zoning enforcement officer has initial authority to interpret the zoning regulations, but the interpretation made is subject to review of the zoning board of appeals and on appeal by the Superior Court. [9 Conn. Prac., Land Use Law & Prac. § 12:5 (3d ed.) Land Use Law & Prac., Robert A. Fuller, Part I. Land Use Agencies and Their Powers and Duties Chapter 12. Other Municipal Agencies, Officials or Ordinances Regulating Land Use.] <http://tinyurl.com/ykhryb7>

**A. Authority to Enforce, Powers and Duties.**

**1.** The [Zoning Enforcement Officer (ZEO)/ Planning and Zoning Commission (PZC)] is duly authorized to enforce these regulations and is empowered to cause any building, structure, place, premises, land, or property, to be inspected and examined and to order, in writing, the remedying or discontinuance of any conditions found to exist there in violation of any provision of these regulations, or any permit or approval issued under these regulations.

If the municipality chooses to use an individual ZEO, it may choose to designate the powers also to an Assistant ZEO. [Bridgeport, CT Zoning Regulations Sec. 13-4-1] <http://tinyurl.com/yhwfy2g>; The municipality may instead choose to appoint Deputy Enforcement Officers. [Portland, CT Zoning Regulations Art. 11.3.1] <http://tinyurl.com/y15acjg>; However, the municipality may designate or appoint the enforcement powers to the ZEO but have this party act as a duly authorized representative of the PZC rather than a separate entity. [See Oxford, CT Zoning Regulations Art. 19 Sec. 1] <http://tinyurl.com/yjp673n>; [See Portland, CT Zoning Regulations Sec. 11.3.1] <http://tinyurl.com/y15acjg>

No person may serve as the ZEO, as long as they are a member of the ZBA. [See Connecticut General Statutes § 8-11a] <http://tinyurl.com/yh5x4m3>

The ZEO may also be a contracted Planner duly authorized by the PZC. [See Oxford, CT Zoning Regulations Art. 19 Sec. 1] <http://tinyurl.com/yjp673n>

The ZEO or PZC may have limited power and not be granted absolute power to examine and inspect but rather only when they are in receipt of information indicating suspicion of a violation. [See Oxford, CT Zoning Regulations Art. 19 Sec. 1] <http://tinyurl.com/yjp673n>

While the ZEO may have the power to enforce the regulations a municipality may choose to include a clause which makes the PZC responsible and authorized to enforce the regulations. [See Portland, CT Zoning Regulations Sec. 11.3.1] <http://tinyurl.com/y15acjg>

Additional powers and duties of the ZEO are (1) examine all applications for zoning permits and determine if the application and the plans submitted conform to all the applicable provisions (2) make recommendations to the PZC to help achieve the general plan (3) maintain current and permanent records relative the enforcement and administration of the regulations and maps (4) maintain a center for the purpose of providing information to the public on all matters relating to the administration and enforcement of regulations. [See Hartford, CT Zoning Regulations Sec. 67] <http://tinyurl.com/ygusteu>

**2.** No board, agency, officer or employee of the [enter the name of the municipality] shall issue, grant, or approve any permit, license, certificate, or any other authorization, for any construction, reconstruction, alteration, enlargement, or moving of any

building, structure, place, premises, land, or property, or for any use of any building, structure, place, premises, land, or property, that would not be in full compliance with the provisions of these regulations.

**3.** Any such permit, license, certificate, or any other authorization, issued, granted, or approved in violation of any provision of these regulations shall be null and void and of no effect and any work undertaken or use established shall be unlawful, and no action shall be taken by any board, agency, officer, or employee of the [enter the name of the municipality] to validate any such violation.

When the violation involves grading of land or removal of earth, the enforcement entity may want to issue in writing, a cease and desist order to be effective immediately. [Tolland, CT Zoning Regulations Sec. 170-122]. <http://tinyurl.com/ygktnvs>

The municipality may make an exception to the enforcement when it concerns water drainage in that it will be enforced by the municipality engineer. [See Wallingford, CT Zoning Regulations Sec.8.2] <http://tinyurl.com/yhvwwjg>

**4.** The [ZEO/PZC], in addition to above remedies may institute a legal action or proceeding to prevent the unlawful erection, construction, alteration, conversion, maintenance, or use of any building, structure, place, premises, land, or property, or to restrain, correct or abate such violation, or to prevent the unlawful occupation of any building, structure, place, premises, land, or property, or to prevent any illegal act, conduct, business, or use in or about such premises, as to remedy, correct, abate, or prohibit any violations of these regulations.

**B. Violations and Penalties.**

**1.** The owner, or agent of any building, structure, place, premises, land, or property, where such a violation shall have been committed or shall exist, or the lessee or tenant of an entire building, structure, place, premises, land, or property, where such violation shall have been committed or shall exist, or the agent, architect, builder, contractor or any other person who shall commit, take part, or assist in such violation, or who shall maintain any building or premises in which such violations exist, who have been served with an order to discontinue or remedy such violation, and fails to comply with such order within [enter the number of days] days after such service, or continues to violate the provisions of these regulations, shall be subject to penalties as provided in these Regulations, and the Connecticut General Statutes.

Each day may be considered a separate offense. [See Darien, CT Zoning Regulations Sec. 1104.b] <http://tinyurl.com/ylezcms>

**2.** If during the review and processing of an application, the [ZEO/PZC] finds there is an existing violation of these Regulations on the subject building, structure, place, premises, land, or property, then it may require, as part of an approval that the violations be corrected prior to the issuance of a Special Permit, issuance of a Zoning Permit, approval of a site plan, or other steps necessary to finalize the application process.

**3.** Any person or party may allege a violation of these regulations to the [ZEO/PZC]. Such allegation must be made in writing and in the form required by the [ZEP/PZC].



4. The [ZEO/PZC] shall examine any alleged violation of these regulations and may employ qualified experts for such an examination. The services of any qualified experts employed by the [enter the name of the municipality] to advise in establishing a violation shall be paid by the violator if a violation is proved.

C. Procedure for Violations and Penalties.

1. Notice of violation. The [PZC/ZEO] shall send the party found to be in violation, by certified mail return receipt requested, and regular United States mail, a written notice of such violation. Such notice shall identify the unlawful activity or condition and cite the specific regulation(s) that such activity or condition violates. The written notice shall contain a request that the person found to be in violation correct the unlawful condition or cease the unlawful activity. Such notice shall allow the person found to be in violation [enter the number of days] days from the date the notice is received to correct the violation. A notice sent by regular U.S. mail shall be deemed and considered received on the [enter day number] business day following mailing.

Regular first class mail is deemed to be received on the third day after being sent. [See Sherman, CT Zoning Regulations Sec. 432] <http://tinyurl.com/yfwo9y2>

Additional procedures of notice may include intent to file a Notice of Violation on the agenda for the PZC, the notice may be filed in the municipal land records at the direction of the PZC, and when the violation is resolved a notice of release is to be filed on the municipal land records. [Woodbury, CT Zoning Regulations Sec. 9.3.4] <http://tinyurl.com/yzchpml>

2. Issuance of citation(s). If the zoning violation is not corrected as provided above, the [PZC/ZEO] of the [enter the name of the municipality] is authorized to issue citations for violations of these Regulations to the extent and in the manner provided by Connecticut General Statutes. Any such citation shall be served as follows: by certified mail return receipt requested, and by regular United States mail addressed to the person(s) in violation, or any such citation may be served by a Connecticut State Marshal who shall serve the party found to be in violation in hand, or by leaving a true copy of the citation at the person found to be in violation's usual place of abode. A citation sent by regular United States mail shall be deemed and considered received on the third business day following mailing. Marshal's service shall be affected at the time personal or abode service is made by the serving marshal. The [PZC/ZEO] shall file and retain a copy of the citation so served, and shall certify thereon that said copy is a true copy of the original served on the party found to be in violation, and the date same was deposited in the United States mail. If service was effected by a State Marshal, the Marshal's return of service shall be filed with the certified copy of the citation.

3. Fines. The fine for each such citation shall be [enter dollar amount] dollars for each day the violation remains uncorrected after the citation is served. All fines, shall be payable to the [enter the name and address of the municipal treasurer].

A municipality may add another subsection, pursuant to Connecticut General Statutes § 8-12a, to provide for additional or supplemental penalties for unique violations, in schedule form. <http://tinyurl.com/yh5x4m3>

The municipality may impose triple fines for construction begun or completed without the appropriate permits. [Oxford, CT Zoning Regulations Art. 20 Sec. 1] <http://tinyurl.com/yjp673n>

4. Time period for uncontested payment of fines. Parties found to be in violation have [enter the number of days] days from receipt of the citation to make uncontested payment of the fine assessed and specified in the citation.

The municipality may include a clause in which a failure to make an uncontested payment results in a stipulation of liability to be brought before the hearing officers of the PZC. [Sherman, CT Zoning Regulations Sec. 437] <http://tinyurl.com/yfwo9y2>

**5.** Notice in the event of nonpayment of fines. If the party issued the citation fails to make uncontested payment of the fine as provided above, the [PZC/ZEO] shall, in the same manner as specified above in subsection **C.1.**, send a notice to the party cited informing said party:

**a)** of the allegations against him or her or it and the amount of the fines, penalties, costs or fees due;

**b)** that said party may contest his or her or its liability before a hearing officer by delivering in person, or by mail, within [enter the number of days] days of the date of the notice, a written demand for a hearing;

**c)** that if the cited party does not demand such a hearing, an assessment and judgment shall be entered against him or her or it; and

**d)** that such judgment may be issued without further notice.

**6.** Hearings. Any party who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than [enter the number of days] days nor more than [enter the number of days] days from the date of the mailing of the hearing notice, provided the hearing officer may grant upon good cause shown any reasonable request by any interested party for postponement or continuance. The presence of the ZEO shall be required at the hearing if such person so requests. A person wishing to contest his or her or its liability shall appear at the hearing and may present evidence in his or her or its behalf. The ZEO may present evidence on behalf of the [enter the name of the municipality]. If such party fails to appear, the hearing officer may enter an assessment by default against the party upon a finding of proper notice and liability under the applicable statutes or ordinances. The hearing officer may accept from such person copies of investigatory and citation reports, and other official documents by mail and may, in the hearing officer's sole discretion, determine that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his decision at the end of the hearing. If he determines that the party is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the party is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable regulations of the municipality.

**7.** Assessment. If such assessment, as determined by the hearing officer, is not paid on the date of such determination, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than [enter the number of days] days nor more than [enter the number of days or month, or years] after such mailing, a certified copy of the Notice of Assessment with the clerk of the appropriate superior court facility together with the designated entry fee. The certified copy of the Notice of Assessment shall constitute a record of assessment.

E. Amendment of Zoning Regulations

The Planning and Zoning Commission may amend the zoning regulations or boundaries on its own motion or on the petition of one or more property owners in accordance with the provisions of Chapter 124 of the Connecticut General Statutes, as amended.

1. **General:** Any person, firm or corporation desiring an amendment to the Zoning Regulations and/or Official Zone Map may submit an application proposing such amendment to the Commission. Applications shall be submitted in writing to, and in a form prescribed by, the Commission. Applications shall be signed by the applicant and shall be considered in accordance with the procedures adopted. Applications that do not contain all of the required documentation in the initial submission shall be considered incomplete.

2. **Changes in Text of Regulations:** In addition to the general requirements, applications for changes to the text of any regulation shall be accompanied by the exact wording of the change applied for, including references to appropriate section numbers within the code, and by the exact wording of proposed deletions.

3. **Changes in District Boundary Lines:** In addition to the general requirements, applications for a change to zoning district boundary lines shall be accompanied by (x) copies of the town zone map, indicating, in color, the area for which the change is applied, the existing boundary line, the proposed boundary line and the proposed zoning district regulation.

4. **Completeness, Date of Submission and Date of Receipt:** An application shall be deemed to be complete if it is in proper form and is accompanied by all the application materials required by this bylaw.

5. **Additional Information:** The Commission may require the submission of additional information deemed necessary to determine compliance with the intent and purpose of these regulations.

6. **Commission Action:** Within sixty-five (65) days after completion of the public hearing, the Commission shall adopt or deny the change of zone or amendment to the regulations. Whenever the Commission adopts any change of zone or amendment to the regulations, it shall state upon its records the reason why such change was made.

7. **Extension of Time:** The applicant may consent in writing to an extension of the time periods in accordance with Title 8 of the Connecticut General Statutes.

8. **Effective Date:** Zoning regulations, zoning district boundaries and any amendments or changes thereto, shall become effective at such time as may be fixed by the Commission, pursuant to Title 8 of the Connecticut General Statutes, provided that both a copy of such regulation, boundary or change shall be filed with the *[insert name of appropriate municipal office]* and notice of the decision of the Commission shall have been published in a newspaper having a general circulation in the Town of *[insert name of municipality]* before such effective date

### **XIII. BYLAWS**

#### **APPENDIX A – Model Planning and Zoning Commission Bylaws**

##### **I. PURPOSE**

The objectives and purposes of the [INSERT TOWN NAME] Town Planning and Zoning Commission are those set forth in Chapters 124 and 126 of the Connecticut General Statutes, 1958 Revision, as amended, and those powers and duties delegated to the [INSERT TOWN NAME] Town Planning and Zoning Commission by the aforementioned statutes by Ordinance No. [INSERT ORDINANCE NUMBER], entitled "INSERT TITLE OF ORDINANCE," adopted [DATE], in accordance with the above enabling legislation.

The majority of these bylaws were adapted from the Windsor, CT Town Planning and Zoning ordinance, see <http://www.townofwindsorct.com/planning/>.

##### **II. NAME**

The Commission shall be known as the [INSERT TOWN NAME] Town Planning and Zoning Commission (Commission).

##### **III. OFFICE OF THE AGENCY**

The office of the [INSERT TOWN NAME] Town Plan and Zoning Commission shall be at the Planning and Zoning Department – [INSERT ADDRESS], Connecticut where all Commission records will be kept. In addition, copies of all official documents, records, and maps will be filed or recorded in the office of the Town Clerk as required by law.

##### **IV. MEMBERSHIP**

###### **1. Membership Generally**

The membership and terms of office shall be as specified by Town Ordinance establishing the Commission and Connecticut General Statutes. The Commission is currently composed of six regular members and three alternate members.

###### **2. Alternates:**

Alternate members shall be designated to act by the Chair of the Commission in the absence of a regular member or where a regular member is disqualified. Alternate members so chosen shall be selected by the Chair in rotation. The Chair shall endeavor to equally distribute the appointments. Alternate members are encouraged to attend all regularly scheduled and special

meetings of the Commission. They shall receive the same materials as the regular members of the Commission. Alternate members are free to participate in all aspects of a public hearing.

## **V: OFFICERS AND THEIR DUTIES**

### **1. Officers**

The officers of the Commission shall consist of a Chair and a Secretary. Each shall be a regular member of the Commission and shall have the privilege of discussing all matters before the Commission and voting thereon.

### **2. Required Officers at Meetings**

The Chair shall preside at all meetings and hearings of the Commission. The Chair shall appoint alternate members to vote in accordance with Article V of these bylaws. The Chair shall have the authority to appoint committees, call special meetings, and generally perform other duties as may be prescribed by statute, ordinance, regulation or bylaw. The Chair shall act as public relations or publicity director for the Commission. The Chair's duties include the preparation of all news releases to the media as well as the presentation of information to the public. All information conveyed shall reflect the thinking of the majority of the Commissioners. The Chair shall represent the interests of the Commission along with the Town Attorney in matters, which may come before a court of law. However, the Chair shall make no binding decisions or commitments on behalf of the Commission without prior consultation and approval of the Commissioners.

### **3. Secretary Duties**

The Secretary shall assist the Chair with the conduct of the meeting and recite the legal notice or agenda item in conjunction with all public hearings. The Secretary shall act for the Chair in his or her absence, and as such have the authority to perform the duties prescribed for that office. The Secretary shall sign the Commission's decision letters.

### **4. Absence of Secretary**

In the absence of the Secretary, the Chair shall appoint a Secretary pro tem.

### **5. Absence of Chair and Secretary**

In the absence of both the Chair and Secretary, the attending Commissioners shall by majority vote elect a Chair pro tem. The Chair pro tem shall appoint a Secretary pro tem. The Chair pro tem shall be a regular member, while the Secretary pro tem may be either a regular member or an alternate member sitting at that meeting in place of a regular member.

## **VI: ELECTION OF OFFICERS**

### **1. Biannual Organizational Meeting**

The Commission shall organize at the their first regularly scheduled meeting in January of the year following public elections to the Town Council at which time officers will be elected and bylaws may be reviewed. A minimum of seven members of the Commission, including alternate members, must be present before an election of officers can take place. Each member elected to the Comission shall serve for not more than a two [2] year term, but can be re-elected. Re-election is required by a body of peers.

### **2. Election Procedure**

The Town Planner shall call the meeting to order and immediately call for the election of officers. A new Chair shall take office upon election and shall serve to the end of the calendar year preceding the biannual meeting. The Secretary shall serve for the same term. If for some reason a Chair and/or Secretary should not be elected at the regularly scheduled biannual meeting or subsequent meeting, the Commissioners shall continue to elect a Chair pro tem and/or Secretary pro tem.

### **3. Vacancy**

Whenever there is a vacancy in the office of Chair or Secretary, the Commissioners at their next meeting shall elect a new officer to fill the vacancy for the unexpired term of office. This vote shall be postponed in the event that a minimum of seven remaining Commissioners are not in attendance. In that case, the Commissioners present may vote to appoint a Chair pro tem and or Secretary pro tem. Where there is a vacancy in the Chair of the Commission (midterm), the Secretary shall preside until the new Chair is elected.

### **4. Election Nomination**

Election of officers shall be by nomination by voice. The election shall be by voice or by ballot and shall require a majority vote of the voting members.

### **5. Resignation**

Resignation from the Commission shall be in written form and transmitted to the Chair and the Town Clerk.

## **VII: MEETINGS**

### **1. Meetings Generally**

Regular meetings generally are to be held on the second and fourth Mondays and third Tuesday of each month, with the exception of August, at 7:30 p.m. in the Town Hall. In the event of conflict with holidays or other events, another weekday shall be chosen. The Commission shall

adopt a schedule of meetings for the forth-coming year no later than the last regular meeting scheduled in November. Public hearings shall generally be conducted at the first and third meetings of the month. The second meeting of the month shall generally be limited to the discussion of particular topics and new and old business.

These meetings are flexible and can be assigned at any time which is convenient for the zoning commission to meet.

## **2. Quorum**

The attendance of four members of the Commission (regular or alternate members) shall constitute a quorum. The notice of such meeting shall specify the purpose of such meeting and no other business may be considered except by a two-thirds vote of those members eligible to vote for that particular meeting.

## **3. Agenda**

Each member of the Commission shall be provided with a copy of the meeting agenda in advance of each meeting.

## **4. Modification to Agenda**

The agenda shall be prepared by the Town Planner. Members of the Commission wishing to have a particular item placed on the agenda shall communicate such request to the Chair. The Chair may add or delete items on the agenda as prepared by the Town Planner prior to its distribution.

## **5. Public Notice of Agenda**

To the extent practicable shall be posted to the local town website and published in the local newspaper to allow the municipality citizens fair notice of planned proceedings.

## **6. Public Participation**

The Zoning Commission has discretion to book a public forum to discuss proposed zoning regulations. All members of the municipality are invited to participate at these meetings and care should be taken to incorporate spaces large enough to fit each interested member.

## **7. Space too Small**

In the event that the space allocated is too small for the current crowd even with attempts to accommodate, the meeting shall close and a larger space shall be utilized as soon as available and as close to the original meeting date is available. In such event notice shall be posted at the prior event location to inform any subsequent persons of the change of location.



## **8. Change of Location**

In the event of a change of location (including the above “space too small”), sufficient notice shall be placed to indicate the new location at the original space to any interested member of public that arrives without such knowledge that the meeting has changed location.

## **9. Time/Duration of meetings**

General rules – Each meeting shall end no later than 12 pm on any particular night without vote of the Zoning Commission quorum. Additionally, to provide full public participation each meeting, during week days shall commence no earlier than 4 pm, unless there is a holiday or other recognized non-work day for the municipality.

## **10. Procedure for Adoption or Amendment to Plan of Development**

The Commission may adopt or amend the Plan of Development in the manner provided by the Connecticut General Statutes.

## **11. Official Minutes**

All actions taken by the Commission shall be recorded in the official minutes of the Commission, which minutes shall include the full wording of any resolution or motion, the names of the members offering or making and seconding any resolution or motion, pertinent discussion thereon and the vote thereon in sufficient detail to identify the members voting for and against. The same information shall be recorded on any amendment to a motion.

Other specifics can be incorporated within this section which includes the following language: The official minutes shall also include a running summary of the discussion at each public hearing, including references to all documents, petitions and other exhibits received by the Commission at such hearings as well as the proceedings of the Commission's business meeting.

Correction of minutes shall be recorded in the minutes of the meeting at which the correction is made, a notation of such correction shall be made in the margin of the corrected page by the agent of the Commission in charge of the records, and the correction itself shall be specified on the last page of the corrected minutes.

The Secretary of the Commission or, in his absence, the Chairman or member acting as Chairman in accordance with these by laws, shall certify to the acceptance of the minutes at the time of acceptance.

Books containing the official minutes of the Commission and an exact copy of the published legal notice of public hearings or other matters required by law to be so advertised shall be kept in the Office of the Clerk of the Town of Windsor where they shall be available for public inspection.

## **VIII. ORDER OF BUSINESS**

### **1. Order of Business Generally**

Unless otherwise determined by the Chair, the order of business at regular meetings shall be:

- a. Call to order

- b. Executive Session (if required)
- c. Public Hearing(s)
- d. New Business (including reading of communications and written appeals)
- e. Old Business
- f. Report of the Town Planner
- g. Approval of Prior Minutes
- h. Adjournment

## **2. Changes to Order**

Only a regular member or alternate member sitting as a regular member of the Commission may move to change the order of business for a particular meeting.

## **IX: APPLICATIONS TO THE COMMISSION**

### **1. Consultation prior to submission to Commission**

Prior to submitting an application to the Commission, the applicant should consult with the Town Planner's office to ensure that the requirements of the appropriate regulations are fulfilled.

### **2. Pre-Submission Appearance**

In addition to consulting with the Planning staff, persons considering the submission of an application to the Commission are encouraged to appear before the Commission informally to discuss various aspects of their proposal. During this informal process, the party may review maps and renderings with the Commission but not the submission of technical reports. Comments from the Commission or its individual members shall not be binding with regard to the subsequent submission of a formal application. An appointment to meet with the Commission informally shall be scheduled through the Town Planner's office.

### **3. Submission Requirements**

Generally; In order to be placed on the agenda of a regular scheduled meeting of the Commission an application must be submitted to the office of the Town Planner at least seven days prior to such meeting unless otherwise permitted by these bylaws. Acceptance of an application by the Town Planner shall constitute acceptance by the Commission and the legal date of receipt of an application shall be in accord with state law. In matters where a public hearing is required, the Town Planner shall review such application for completeness and endeavor to make available to the Commissioners all required and supplemental reports in conjunction with the application at least two weeks prior to the hearing date.

### **4. Presentation of Applications**

Applications before the Commission should generally be initially presented by the applicant. However, the Town Planner may present applications for sign approval or minor site plan revisions. These types of applications may be brought before the Commission under the Report

of the Town Planner and may be submitted to his or her office no less than three days prior to the meeting.

### **5. Effective Date of Zone Changes and Text Amendments**

Unless otherwise specified by the Commission, the effective date of any change of zone or amendment to the Zoning Regulations shall be the day after the publication of said decision in a newspaper having substantial circulation throughout the town or the day after said decision has been filed in the office of the Town Clerk, whichever is later.<sup>8</sup>

## **X: PUBLIC HEARINGS**

### **1. Matters Requiring a Public Hearing**

The Commission shall hold a public hearing on matters as required by the [INSERT TOWN NAME] Zoning Regulations or state law and also when it decides that such hearings will be in the public interest.

### **2. Date of Public Hearing**

The date of the public hearing shall be determined by the Town Planner in accordance with state law.

### **3. Presiding Officer**

The Chair of the Commission shall preside at the public hearing. In the event of his or her absence, the Secretary or duly appointed Commission member shall act as presiding officer.

### **4. Legal Advertisement**

The Secretary shall read the legal advertisement.

### **5. Statements**

Following the reading of the legal advertisement, the Chair shall describe the method of conduct of the hearing. The Chair shall then call for statements by the applicant. The Commissioners shall have the privilege of first being heard.

### **6. Maintaining Order**

The Chair shall assure an orderly hearing and shall take necessary steps to maintain the order and decorum of the hearing at all times. The Chair shall reserve the right to terminate the hearing in the event the discussion becomes unruly or unmanageable.

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<sup>8</sup> This section was taken from the Windsor Town Planning and Zoning Bylaw Ordinance

## **7. Evidence**

The Chair retains the right to refuse to accept any evidence offered by a party in an untimely fashion. Such evidence might include reports of experts or other evidence submitted at a time when there is insufficient opportunity owing to legal time constraints for the Commissioners, the applicant or opponents of the application to review such material and respond to the same.

## **8. Personal Knowledge of Commissioners**

In the event that one or more Commissioners are well acquainted with the subject property, knowledge thereby acquired of any particular fact or facts may be used in making a decision if such member or members establishes such facts as the record at the time of the hearing. The applicant, or objector, or any interested party, shall have an opportunity to refute such facts. However, in the event that Commissioners have personal knowledge of said property and no reference is made to the same on the record, it will be presumed that such facts were not necessary to reach an informed decision and merely helped such members to understand the evidence presented them at the hearing. The absence of references to personal knowledge and impressions shall not vitiate any decision otherwise reached on adequate grounds.

This section was adapted from the Hopewell Twp, NJ, Planning Board Rules and Regulations (see Rule 2-2.5, available at

<http://www.hopewelltpw.org/HopewellTwpPBRulesandRegulations.pdf>)

## **9. Viewing by Commissioners**

Commissioner shall be permitted to view the property that is the subject of the application upon reasonable notice and consent of the parties. In that event, knowledge thereby acquired of any particular fact or facts may be used in making a decision if such member or members establishes such facts as the record at the time of the hearing. The applicant, or objector, or any interested party, shall have an opportunity to refute such facts. However, in the event that Commissioners visit the subject property and no reference is made to the same on the record, it will be presumed that such facts were not necessary to reach an informed decision and merely helped such members to understand the evidence presented them at the hearing. The absence of references to site visits and impressions shall not vitiate any decision otherwise reached on adequate grounds.

This section was adapted from the Hopewell Twp, NJ, Planning Board Rules and Regulations (see Rule 2-2.5, available at

<http://www.hopewelltpw.org/HopewellTwpPBRulesandRegulations.pdf>)

# **XI. ETHICAL OBLIGATIONS**

## **1. Interaction with Interested Parties**

Commissioners will not communicate with applicants and interested members of the public regarding any pending applications. In the event that ex parte communications are unavoidable or do occur, Commissioners shall relay any information which they may have obtained to the

entire Commission at a regular meeting of the Commission. If the hearing on the matter in question has closed, but a vote has not yet been taken, the hearing may be reopened so that the other interested parties may have an opportunity to comment upon the information communicated.

This section was adapted from the Hopewell Twp, NJ, Planning Board Rules and Regulations (see Rule 2-2.6, available at <http://www.hopewelltpw.org/HopewellTwpPBRulesandRegulations.pdf>)

## **2. Preparation**

Commissioners shall carefully consider all information presented at the hearing in forming their decisions.

Commissioners may not vote on a matter if they are not sufficiently acquainted with it to make a fair decision. If a Commissioner was absent from the hearing at which evidence was presented, she must review the materials before voting on the applications. The Supreme Court of Connecticut has held that “a member of a zoning commission, although not present at the public hearing, may lawfully vote on a proposed change in regulations or zone boundaries if that member acquaints himself sufficiently with the issues raised and the evidence and arguments presented at the public hearing in order to exercise an informed judgment.” *Loh v. Town Plan & Zoning Com.*, 161 Conn. 32, 42 (1971).

If a Commissioner misses a public hearing, she may generally become acquainted with the material by listening to a tape of the hearing or reading a transcript, and reviewing the exhibits presented. *Brunswick v. Inland Wetlands Com.*, 29 Conn. App. 634, 642 (1992) (“Although reviewing the verbatim transcript is perhaps the best way for an absent commissioner to apprise himself of the proceedings during his absence, it is not the only way. For example, the commissioner might review a prepared summary of the evidence if one is available.”) A plaintiff challenging the decision of the Commission has the burden of showing that a Commissioner was not adequately informed.

## **3. Predetermination**

Commissioners shall vote based upon information presented at the hearing, and not based on predetermined opinions. If a Commissioner expresses a firm opinion on the application in question in advance of the public hearing, she shall recuse herself.

Public officials, acting in their official capacities, are presumed to be acting legally and properly, so the plaintiff has the burden of showing that the Commissioners completely made up their minds in advance of the hearing. *Huck v. Inland Wetlands & Watercourses Agency*, 203 Conn. 525, 537 (1987). Improper predetermination may be said to have occurred if the Commissioners had “made up their minds that they were going to disapprove the plaintiffs' plan regardless of any evidence or argument presented at the public hearing. Only such a finding could support the conclusion that the commissioners had crossed the line between permissible formulation of a tentative opinion and illegal prejudgment of the issue.” *Daviau v. Planning Com. of Putnam*, 174 Conn. 354, 358 (1978)

## **4. Conflicts of Interest**

Commissioners shall disclose all potential conflicts of interest regarding a particular application at the hearing concerning that application. If the conflict of interest is strong enough to prevent

the Commissioner from making an impartial decision, or would undermine public confidence in the Commissioner's ability to make an impartial decision, the Commissioner shall recuse herself.

"No member of any zoning commission or board and no member of any zoning board of appeals . . . shall participate in the hearing or decision of the board or commission of which he is a member upon any matter in which he is directly or indirectly interested in a personal or financial sense." Conn. Gen. Stat. § 8-11. "The test is not whether personal interest does, in fact, conflict, but whether it reasonably might conflict." *Thorne v. Zoning Com. of Old Saybrook*, 178 Conn. 198, 205 (Conn. 1979)

## **XII: PROCEDURE –VOTING**

### **1. General Principles of Procedure**

The Commissioners when forming a motion or voting on a motion shall generally follow Roberts Rules of Order.

All Commissioners have equal rights, privileges and obligations. The Chair shall endeavor to administer the rules impartially. Full and free discussion of all motions, reports, and other items of business is a right of all Commissioners. Customarily, all remarks are addressed to the Chair. In voting, Commissioners have the right to know at all times what motion is before the body and what affirmative and negative votes mean. Only one motion can be considered at a time. All Commissioners present and eligible to vote shall vote on each question, except when a member has, or believes he or she has, a conflict of interest.

The following motions may be made at anytime and are not debatable:

- a. Motion to Adjourn
- b. Motion to Recess
- c. Motion to Appeal the Chair's Ruling on a Matter

### **2. Executive Session**

*Commissioners shall not divulge to anyone any aspect of matters considered and discussed in executive session.*

### **3. Deliberations**

*Non-voting Alternates shall not take part in the discussions of the Commission that take place after the hearing has been closed.*

### **4. Alternate Participation**

*Once an Alternate has been seated in place of a regular member, he shall continue to serve in place of the regular member for the remainder of the proceedings on the application in question.*

## **5. Voting**

The Commission shall take a vote on no item unless a quorum is present. The number of votes required to pass any application, request, appeal etc. is established by State Law and the [City/Town] Zoning Regulations or Subdivision Regulations.

All votes shall be “aye” or “nay ”or“ “abstain” and the vote of each member shall be recorded.

## **6. Executive Session**

*Commissioners shall not divulge to anyone any aspect of matters considered and discussed in executive session.*

## **XIII: EMPLOYEES**

### **1. Town Planner and Clerk**

The Commission shall be served by a Town Planner and clerk. The Town Planner shall advise the Commission on matters coming before it and undertake the responsibilities set forth in these bylaws as well as oversee the work of the clerk and other members of the Planning staff.

### **2. Clerk Duties**

The clerk shall be responsible for the taking and composing of minutes at Commission meetings.

### **3. Authority to approve/Sign Contract**

Under Town Ordinance, the Chair shall have the authority to approve or sign a contract on behalf of the Commission for the services of a consultant in consultation with the Town Planner and or Town Attorney.

### **4. Additional Employees**

Within the limits of funds available, the Commission may employ such personnel and or consultants in addition to those specified in sections one to three in this article. Appointments shall be made by a majority vote of all the voting Commissioners. The Chair may be authorized to sign contracts for employing personnel and consultants for planning purposes as might be approved by the Commissioners.

## **XIV: AMENDMENTS**

These by laws may be amended by a two-thirds vote of the entire membership of the Commission, only after the proposed change has been distributed to all of the members and it is read and discussed at a previous regular meeting.