

NEW FAIRFIELD



ZONING

REGULATIONS

September 1, 2014

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CHAPTER 1 – INTRODUCTION

1.0 AUTHORITY

These Regulations are adopted pursuant to the provisions of Title 8, Chapter 124 of the Connecticut General Statutes, as amended “General Statutes” and in conformity with the Plan of Conservation and Development of New Fairfield.

1.1 PURPOSE

These Regulations are enacted for the purpose of promoting the public health, safety, and general welfare of the Town of New Fairfield and for the purposes set forth at §8-2 of the General Statutes; To carry out these purposes, these Regulations are designed:

- A. To regulate the height, number of stories and size of buildings and other structures; the percentage of the area of the lot that may be occupied or covered by structures or other impervious surfaces; the size and location of yards, and other open areas the density of population; the location and use of buildings, structures and land for trade, industry, residence or other purposes, including water dependent uses, and the height, size and location of advertising signs and billboards;
- B. To conserve and stabilize the value of property, to lessen congestion in the streets and highways; to secure safety from fire, panic, flood and other dangers; to provide adequate light and air; to prevent the overcrowding of land, and the undue concentration of population;
- C. To provide adequate lights and air, to facilitate the adequate provision for community utility and facilities, such as transportation, water, sewerage, schools, parks and other public requirements;
- D. To encourage the provision of housing options and opportunities; to control soil erosion and sedimentation; to protect existing and potential sources of potable water; to protect water quality in Ball Pond, Candlewood Lake and other surface water resources;
- E. To protect agricultural resources; to promote the historic character of the community and the most appropriate use of land throughout the municipality to the extent consistent with soil types, terrain, infrastructure capacity and the plan of conservation and development for the community, and to provide for conservation subdivisions in residential zones; and,
- F. To encourage the development of housing opportunities that are consistent with soil types, terrain and infrastructure capacity, for all residents of the municipality; to promote housing choice and economic diversity in housing, including housing for both low and moderate income households, and to encourage the development of housing which will meet the housing needs identified in §8-37t and §16a-26 of the General Statutes.

1.2 ZONING DISTRICTS

1.2.1 Use Districts

In order to implement the purpose and objectives of these Regulations, the Town of New Fairfield is hereby divided into the following zoning districts:

R-88 - One-Family Residence District, 2 acres

R-44 - One-Family Residence District, 1 acre

OS - Open Space District, 10 acres

BC - Business/Commercial District

NB - Neighborhood Business District

LI - Light Industrial District

1.2.2 The Following are Overlay Districts within the Town

MFDE - Multifamily District for the Elderly, 5 acres

FOD - Floodplain Overlay District

AP - Aquifer Protection Overlay District

Conservation Subdivisions

1.3 ZONING BOUNDARIES

1.3.1 Zoning Map

The boundaries of the zoning districts shall be as shown on the map entitled "Zoning Map" which is filed in the Office of the Town Clerk and which shall be considered to be a part of these Regulations.

1.3.2. Boundary Interpretation

Where uncertainty as to the location of the zoning district boundaries arises, the following rules shall govern:

- A. Where district boundaries appear parallel to the centerline of streets, such boundaries shall be construed as being parallel to such streets at the distance indicated on the "Zoning Map";
- B. Where district boundaries are indicated as following lot lines, such boundaries shall be construed to be such lot lines;
- C. Where district boundaries are indicated as following the center line of a street, highway, brook or stream, such center line shall be construed to be the zoning district boundary or boundaries; and,
- D. Where there is a dispute as to the exact location of a zoning district boundary, the Commission shall retain the right to make the final determination.

1.4 APPLICABILITY

No premises shall be used and no building or structure or other improvement thereon shall be used or designed for use, and no building or other structure shall be erected, reconstructed,

structurally altered, enlarged, extended, rebuilt, moved, or used for any purpose except in conformity with these Regulations.

1.5 GENERAL PROVISIONS APPLICABLE TO ALL DISTRICTS

1.5.1 General

No lot or land shall be subdivided, sold, encumbered, improved, conveyed or developed so as to make said lot or land nonconforming or more nonconforming to these Regulations or to make any use, building or other structure nonconforming or more nonconforming, or to render any area or bulk requirement, setback, landscaping, open space or off-street parking and loading spaces nonconforming or more nonconforming to these Regulations.

1.5.2 Prohibited Uses- General.

- A. Uses of land and the improvements thereon including buildings or structures that not specifically permitted in the various zoning districts shall be prohibited.
- B. Any use or activity that creates a nuisance, including but not limited to the emission of gases, fumes, odor, dust, noise, glare, vibration, smoke, danger of fire, explosion, radiation, or result in pollution of ground, air or water or together physical hazard shall be prohibited.
- C. No dust, dirt, fly ash, or smoke shall be emitted into the air so as to endanger health or safety, to impair valued and enjoyment of property, or to constitute a critical source of air pollution.
- D. No offensive odors, or noxious, toxic, or corrosive fumes or gases shall be emitted into the air.
- E. No noise which is objectionable due to volume, intermittence, beat frequency, or shrillness shall be transmitted outside the property from where it originates except for devices that are used for warning of impending dangers or that are permitted under the General Statutes and regulations of the State Agencies promulgated thereunder.
- F. No material that is dangerous because of the potential for explosion, extraordinary fire hazard, or radioactivity shall be stored, used in manufacture of products, or manufactured except in accordance with applicable codes and Regulations of the Town of New Fairfield.
- G. No offensive wastes which may constitute a source of water pollution shall be discharged into the ground water.
- H. No exterior use of loud speakers for commercial advertising purposed or as part of a business operation is permitted, except for special events as permitted by these Regulations.
- I. No display or exhibition of merchandise, materials, or articles associated with a nonresidential use shall be exhibited or displayed for sale within the required front yard of a property except as specifically approved as part of a special permit application and no storage of merchandise, material, or articles associated with a use permitted by these Regulations is allowed unless complying with these Regulations and unless such storage is screened from street view.

1.5.3. Specific Uses Prohibited in All Districts

- A. Piggeries, pigeon coops, kennels, fur farms, goat farms, poultry farms, and similar uses are prohibited within the Town of New Fairfield;
- B. Racetracks (vehicle and animal);
- C. Drive-in Theaters;
- D. Correctional Institutions;
- E. Junk yards and junk businesses;
- F. Commercial slaughtering, commercial manufacturing of fertilizer or any commercial reduction or processing of animal matter;
- G. Dumping or incineration of refuse garbage, or junk except where controlled by the Town of New Fairfield;
- H. Trailer parks;
- I. Trailers. No trailer or mobile home shall be occupied for sleeping, cooking or for conducting a business in any district except that the Commission or its authorized agent may grant a temporary permit for the use of a trailer or mobile home for business purposes in connection to a bona fide construction operation for which a zoning permit has been issued;
- J. Amusement parks; and,
- K. New and Used Car Dealerships

1.5.4 Storm Water Management

In all districts all development shall be designed to the extent practicable with the goal of no net runoff from the site through the use Best Management Practices (“BMP”) to minimize, treat, prevent, and/or reduce degradation of water quality and flooding potential due to storm water runoff from parking and/or impervious surfaces and to reduce Effective Impervious Coverage wherever possible. No net runoff shall mean that the volume of runoff from the site after development shall not, to the extent practicable, exceed the volume of site runoff prior to the proposed development. In addition the storm water management system shall be designed, constructed and maintained with the BMP to minimize run-off volumes, prevent flooding, reduce soil erosion, and protect water quality.

1.5.5. Other Permits

Permits required by these Regulations are in addition to, not in lieu of, all other permits and certificates required by other ordinances and regulations of the Town of New Fairfield.

1.5.6 Construction Prior to Adoption of Amendment to Regulations

Nothing in these Regulations shall require any change in plans, construction or designated use of a building for which a permit has been issued prior to the adoption of these Regulations or

any pertinent amendment thereto, provided that construction of such building is commenced within one year of the issuance of the permit.

1.5.7 Odd Shaped Lots

In cases of uncertainty as to the proper application of any requirements of these Regulations to a particular existing Lot because of its peculiar or irregular shape, the commission shall determine the application of any Regulations in question.

1.5.8 Lots in More than One District

Where a lot lies in more than one district, a use permitted in one district may be extended on the same lot in the other district provided that:

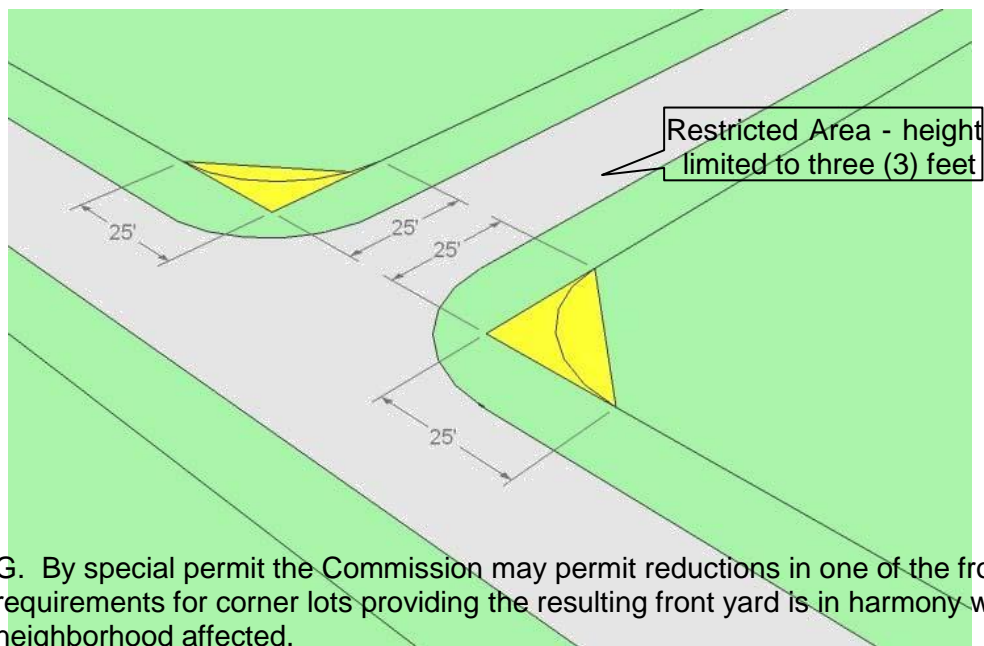
- A. The provisions of the less restrictive zoning district shall apply providing that at least seventy-five percent (75%) of the area of the lot is within the less restrictive district, and providing that the lot has the required frontage on a public road or highway. Otherwise the standards of the more restrictive district shall apply.
- B. Such use shall not extend more than thirty (30) feet into the more restrictive district;
- C. Total coverage by such use shall not exceed twenty-five (25) percent of the area of that portion of the lot in the other district; and,
- D. The extension of a use from a non-residential zone into a residential zone shall require a Special Permit pursuant to standards set forth in these Regulations for the issuance of a Special Permit.

1.5.9. Corner Lots

Due to their unique characteristics, corner lots shall comply with the following standards:

- A. All yards adjacent to a street line shall be a front yard;
- B. All yards adjacent to any other property line shall be a side yard;
- C. Frontage shall be measured from the street intersection along only one street line, unless the angle between the two streets is greater than one-hundred and thirty-five (135) degrees, in which case the frontage may be the cumulative distance along both street lines;
- D. The front face of the principle structure on the lot shall be generally oriented towards the street(s) used to satisfy the frontage requirement; and,
- E. Minor accessory structures shall be located behind both rear planes of the principal building relative to both streets.
- F. Corner Visibility in Residential Districts. On a corner lot in any residence district, no fence, wall, structure, hedge, planting, or other obstruction to vision more than three (3) feet in height shall be placed or maintained within the triangular area formed by the intersecting street lines and a straight line connecting points on said street lines, each of which points is twenty-five (25) feet distant from the point of intersection.

Visibility at Intersections



G. By special permit the Commission may permit reductions in one of the front yard requirements for corner lots providing the resulting front yard is in harmony with the neighborhood affected.

1.5.10. Reduction of Lot Area, Yards or Open Areas

Except as otherwise provided in these Regulations, no Lot Area, yard, or Open Space shall be reduced so as not to conform to the applicable requirements of these Regulations.

1.5.11. Fences

Unless otherwise approved by the Commission, no fence in any district shall exceed six (6) feet in total height above grade. Such fences, except those erected in land used for agricultural purposes, shall be constructed so that the finished side of the fence faces the abutting property and/or the street.

1.5.12. Liquor Regulations

No part of any land, building, or structure shall be used for the sale or distribution of any type of alcoholic beverage unless:

- A. such land, building or structure is located in a zoning district within which district such use is permissible, and,
- B. a permit has been issued by the Connecticut Department of Liquor Control.

1.5.13. Garage and Filling Stations

In no event shall any premises used for public storage garage, for the repair of motor vehicles or as a gas filling station shall be used for residential purposes.

1.5.14. Unregistered Motor Vehicles

No unregistered motor vehicle, or motor vehicle registered to the dealer, shall be stored or parked nearer to the street than the building line, and to the extent specifically permitted hereunder, all mechanical and repair operations shall be carried on within a building..

1.6 CONFLICT

Where there is conflict between a provision of these Regulations and a provision of any other applicable ordinance, regulation, or section of these Regulations, the greater restriction shall govern.

1.7 VALIDITY

If any section, subsection, paragraph, subdivision, clause or provision of these Regulations shall be ruled invalid by a Court of competent jurisdiction, such ruling shall be limited to the section, subsection, paragraph, subdivision, clause or provision so invalidated and the remainder of the Regulations shall remain valid and in effect.

1.8 REPEALED

The existing Zoning Ordinance shall be repealed as of the effective date of adoption of these Zoning Regulations and shall be superseded by these Regulations.

1.9 ADOPTION

The Zoning Commission hereby adopts these "ZONING REGULATIONS OF THE TOWN OF NEW FAIRFIELD" Amendments, enacted subsequent to the effective date of these Regulations shall be inserted in this volume after enactment and shall become part hereof as of their corresponding effective dates.

1.10 EFFECTIVE DATE

The effective date of these Zoning Regulations shall be October 23, 2009 at 12:01 A.M.

CHAPTER 2 - INTERPRETATION

2.0 CONSTRUCTION OF LANGUAGE AND OTHER LAWS

2.0.1. Construction of Language

For the purpose of these Regulations, the following terms, phrases, and words shall have the meanings herein:

- A. When not inconsistent with the context, words used in the present tense include the future, the singular includes the plural; the word "shall" is mandatory; the word "may" is permissive; the word "person" includes an individual, corporation, partnership, limited liability company, incorporated association, or any other entity; and the words "used for" include "arranged for", "designed for", "maintained for", or "occupied for".
- B. In the case of any difference of meaning or implication between the text of these Regulations and any caption, illustration, summary, table or illustrative table in the Regulations, the text shall control.
- C. Unless otherwise specified, the word "Regulations" shall refer to the Zoning Regulations of the Town of New Fairfield as they may be amended from time to time.
- D. Unless otherwise specified, the words "Section," "Subsection," "Paragraph," or "Article" shall refer to portions of these Regulations.
- E. Where a question arises as to the precise meaning of a word, the Commission shall by resolution, determine the meaning of the word, giving due consideration to the expressed purpose and intent of these Regulations.

2.0.2. Interpretation of Other Laws

In their interpretation and application, the provision of these Regulations shall be held to be minimum requirements, adopted for the promotion of public health safety and general welfare and other stated purposes of these Regulations. Wherever the requirements of these Regulations are at variance with the requirements of any other lawfully adopted rules, regulations, ordinance, the most restrictive or that imposing the higher standards shall govern.

2.0.3. Statutory Amendments

All references to the Connecticut General Statutes shall include all amendments thereto.

2.1 DEFINITIONS

The words used in these Regulations shall have the following meanings:

ABANDONMENT: The relinquishment of property, or the cessation of the use of the property, by the owner or lessee without any intent of transferring rights to the property to another owner or of resuming the use of the property.

ACRE: For the purpose of these Regulations, "Acre" shall mean 43,560 square feet.

ACCESSORY APARTMENT: A room or suite of rooms within a residential structure used as dwelling for one family and which includes kitchen and bathroom facilities.

ACCESSORY BUILDING: A detached building which is incidental and subordinate to that of the principal building and located on the same lot therewith.

ACCESSORY BUILDING, MINOR: A detached building, other than a private garage, which is incidental and subordinate to that of the principal building and located on the same lot therewith.

ACCESSWAY: A private way for vehicular traffic, providing access to a street for not more than three (3) lots.

AFFORDABLE HOUSING: A dwelling unit or units available to low and moderate-income households that comply with requirements of Section 8-30g of the General Statutes.

AGRICULTURE: The cultivation of the soil, harvesting of crops, raising of livestock and/or dairying as defined in Sec. 1-1 (q) of the Connecticut General Statutes but excluding the raising of fur-bearing mammals for their pelts, goats, pigeons, poultry, or swine.

ANIMAL SHELTER: Non-profit public or private animal facility that is licensed to care for neglected, abandoned or cruelly treated animals.

ANTENNA: Any device that transmits or receives electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.

ANTENNA HEIGHT: The distance measured from the ground elevation at the base of an antenna or any appurtenances thereto to the highest point of the antenna or any appurtenances thereto.

ANTENNA MOUNT: The structure or surface upon which telecommunications antennas are mounted, including building roof mounts, building side mounts, ground mounted tower and structure mounted.

ANTENNA TOWER: Any structure, including a tower or building, and any support appurtenant thereto that is designed and constructed primarily for the purpose of supporting one or more antennas.

AQUIFER: A geologic formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs that are water resources of a public water utility in accordance with §22a-354c of the General Statutes, or that are located in areas depicted on "Level A mapping" prepared by the DEP, or if no such mapping is available, located in areas as depicted on a map prepared by the Housatonic Valley Council of Elected Officials ("HVCEO") entitled "New Fairfield Aquifer Protection District."

AQUIFER PROTECTION AREA: The extent of an aquifer recharge area from which a public well field draws groundwater, as identified on the map prepared by the Housatonic Valley Council of Elected Officials ("HVCEO") entitled "New Fairfield Aquifer Protection District," or when Level A Mapping is available, is identified on "Level A mapping" prepared by the Department of Environmental Protection ("DEP"), or a public water utility in accordance with §22a-354c of the General Statutes.

ASSISTED HOUSING: Affordable housing that is receiving governmental financial assistance for its construction or substantial rehabilitation or any dwelling unit occupied by persons receiving rental assistance, as defined in Section 8-30g of the Connecticut General Statutes.

BED AND BREAKFAST ESTABLISHMENT: A single-family residence that provides compensated overnight accommodations for transient guests for not more than fourteen (14) consecutive days per guest in a residential structure. For the purpose of these Regulations, bed and breakfast establishments shall be considered an "Accessory Use."

BERM: A linear mound of earthen material used as part of a buffer strip or area.

BILLBOARD: An outdoor sign generally used to advertise establishments, goods, and/or services not located or available on the premises on which it is erected.

BOARDING HOUSE: A residential dwelling in which the owner-occupant rents bedrooms on a non-transient basis (30 days or more), without the serving of meals, for up to three (3) people.

BOARD OF APPEALS: The Zoning Board of Appeals of the Town of New Fairfield, Connecticut.

BUFFER STRIP OR AREA: An open landscaped area free of any buildings or pavement that provides a barrier between adjacent land uses of different types. Buffer areas may consist of existing vegetative cover and/or may be suitably landscaped as may be required by these Regulations.

BUILDABLE AREA: Land area exclusive of wetlands and watercourses as defined in the Inland Wetlands and Watercourse Regulations of the Town of New Fairfield, one hundred (100)-year floodplain as defined in Section 5.1.5 of these Regulations, and ledge outcrops and slopes greater than twenty-five (25) percent of contiguous areas of 100 square feet or more in size.

BUILDING: Any structure, either temporary or permanent, having a roof and one or more floors, supported by columns or walls, and intended, used or built for the shelter or enclosure of person, animals, materials, or property of any kind. This shall include tents, awnings, or vehicles situated on private property and used for the purpose of a shelter of person, animals, or property of any kind, including Hoop Structures and other portable structures.

BUILDING, ACCESSORY: See ACCESSORY BUILDING

BUILDING AREA: The aggregate or maximum horizontal cross section area of all buildings on a lot, with dimensions measured from the outside or exterior walls on the ground floor, excluding cornices, eaves, gutters, chimneys, or similar appurtenances projecting not more than thirty (30) inches.

BUILDING HEIGHT: Unless specified elsewhere in these regulations, building height shall be the vertical distance measured from the average finished grade of the ground surrounding the building and measured from within five (5) feet of the exterior walls of said building to the highest point of the roof for A-frame, dome, and flat roofs (including the top of any parapet); to the deck-line of mansard roofs; and to the mean height between the eaves and ridge for gable, gambrel roofs, hipped, salt-box or shed roofs. Chimneys shall not be included in computing the height limitations providing that the height of said projections shall not exceed fifty (50) percent of the maximum permissible building height. See Diagram in Section 9.4.

BUILDING LINE: A line parallel to the street line, or, in the case of an interior lot, parallel to the front lot line at a distance from the street line, front lot line, or right-of-way equal to the minimum required front yard setback.

BULK: The size and shape of buildings, structures or other site improvements; the physical relationships of the exterior walls of such improvements or their relation to lot lines and other buildings or other walls of the same building, and all open spaces required in connection with a building. Bulk Regulations include Regulations that deal with floor area, building height, spacing between buildings on a single lot or development, and length of buildings in a row.

CABIN: A dwelling unit having a design or character suitable for only seasonal or temporary housekeeping purposes.

CALIPER: The diameter of a tree trunk measured at four (4) feet five (5) inches from the base of the tree.

CAMP: A lot or lots under the same ownership containing a cabin or other shelter suitable for seasonal or temporary living purposes during the camping season from April 1 through the following November 1.

CAMPING AREA: An area devoted to camping by means of tents, camping trailers or trailer coaches (either self-propelled or without motor power), or any other object used for camping where the camper is charged for the use of the area on a limited basis.

CAMPING TRAILER OR TRAILER COACH: Any unit designed or constructed for sleeping and simple housekeeping for recreational or travel purposes and which is capable of being legally conveyed upon public streets.

CEMETERY: Land used for the burial of the dead, and dedicated for cemetery purposes, including columbarium, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

CERTIFICATE OF ZONING COMPLIANCE: Certificate issued upon application to the Zoning Enforcement Officer, certifying that the construction, reconstruction, structural alteration, placement, or relocation of a building, structure, or sign, or the proposed use of any building, structure, or premises complies with these Regulations or any applicable approved variances relating to such building structure, sign or use.

CHILD DAY CARE CENTER: An establishment that offers or provides a program of supplementary care to more than twelve (12) related or unrelated children outside their own homes on a regular basis for a part of the twenty-four hours in one or more days in the week or as otherwise defined more fully at § 19a-77 of the General Statutes.

COMMISSION: The Zoning Commission of the Town of New Fairfield.

COMMUNITY SERVICE ACTIVITY: A private or public school; a non-residential place of worship by duly incorporated non-profit, tax-exempt religious organization; community center; museum; hospital; library or governmental activity.

CONVALESCENT HOME: A State licensed dwelling in which more than two (2) persons, other than members of the family of the person owning or renting said dwelling, suffering from certain physical conditions or the infirmities of old age or other persons with confining

physical disabilities that are undergoing rehabilitation are provided with lodging, meals and nursing care. Also known as a Nursing Home, Rest Home, or Sanitarium.

COUNTRY CLUB: Buildings and facilities owned and operated by a corporation or association of persons for social and recreational purposes, but not operated for a profit. The affairs and management, of such club, are conducted by a board of directors, executive committee, or similar body chosen by the members. It is designed to serve food and alcoholic beverages on such premises to members and their guests provided that the serving of food and alcoholic beverages is secondary to some other principal purpose of the association or corporation. Customary country clubs **MUST** include, but are not limited to: swimming, tennis and/or golf course.

DEP: The Connecticut Department of Environmental Protection.

DWELLING UNIT: A building or portion thereof, providing complete housekeeping facilities (containing independent cooking, sleeping and toilet facilities) for residential occupancy by one family, or one room, or rooms connected together, constituting a single, separate, independent housekeeping establishment for owner or renter occupancy, and containing independent cooking, sleeping and toilet facilities.

DWELLING, SINGLE FAMILY: A single detached building on one lot used for residential purposes for one family only.

EARTH DISTURBING ACTIVITY: Any use of land that results in a change in the natural covering vegetation or topography; and/or may cause or contribute to erosion and sedimentation.

EMERGENCY SERVICES COMMUNICATIONS: Communications service and equipment needed for police, fire, or ambulance services.

FAA: The Federal Aviation Administration.

FAMILY: Any number of persons related by blood, marriage or adoption living in the same dwelling or not more than five (5) persons unrelated by blood or marriage living together as a single housekeeping unit, including foster children and/or domestic help, and as distinguished from paying guests occupying a boarding house, club, hotel, motel, or inn.

FAMILY DAY CARE HOME: A private family caring for not more than six children including the provider's own children not in school full time, where the children are cared for not less than three nor more than twelve hours during a twenty-four hour period and where care is given on a regularly recurring basis. During the regular school year a maximum of three additional children who are in school full time, including the provider's own children, shall be permitted, except that if the provider has more than three children who are in school full time, all the provider's children shall be permitted, or as otherwise defined under §19a-77 of the General Statutes.

FARM: A lot consisting of three (3) or more acres used for agricultural purposes, together with appurtenant farm buildings and/or a dwelling unit, but excluding the raising of pigs, fur-bearing animals and the maintaining of dog kennels.

FCC: The Federal Communications Commission.

FLOOR AREA RATIO (FAR): The ratio of Building Area of buildings, including accessory structures, to the total area of a lot.

FOUR-FORTY LINE: An elevation (contour) line surrounding Lake Candlewood equal to 440 feet above sea level (defined as the elevation datum established by the United States Geological Survey, National Geodetic Vertical Datum of 1929 [NGVD 29]). For purposes of these Regulations, this line shall be considered a lot line.

FUNERAL HOME: A facility used to prepare dead human remains for final disposition, excluding cremation, and to conduct funerals and wakes.

GARAGE, PRIVATE: A permanent accessory building or part of a building used for the storage of motor vehicles owned and used by the owner or tenant of the premises and in which no motor vehicle occupation or business for profit is conducted.

GARAGE, PUBLIC: A building or portion thereof, other than a private or storage garage, used solely for commercial storage, service, inspection, or repair of motor vehicles.

GARAGE, STORAGE: A building or portion thereof, other than a private or public garage, used solely for the storage of motor vehicles or boats, but not for the sale of fuel, accessories, and supplies.

GASOLINE FILLING STATION: A facility used for refueling of motor vehicles.

GAZEBO: A freestanding roofed structure open or screened on its sides (without windows) that shall not be used as a dwelling unit.

GROUP DAY CARE HOME: A home that offers or provides a program of supplementary care to not less than seven children nor more than twelve related or unrelated children on a regular basis for a part of the twenty-four hours in one more days in the week or as otherwise defined under §19a-77 of the General Statutes.

HAZARDOUS MATERIAL: Any virgin or waste substance that because of its physical, chemical or biological characteristics poses an actual or potential hazard to human health or drinking water quality when improperly managed. Hazardous materials are generally toxic, flammable, corrosive, and/or reactive (including wastes and chemicals listed as hazardous under the following laws or regulations: hazardous material as defined in 49 CFR 171.8 and includes each material listed in 49 CFR 172.101, any hazardous substance as defined and listed in 40 CFR 302.4, or any hazardous waste as defined in General Statutes § 22a-115).

HOME OCCUPATION: An incidental and accessory use of a residential dwelling unit, or part thereof, for gainful employment by the occupant utilizing customary domestic tools and equipment, but excluding such uses as medical clinics, hospitals, salons, food service establishments, retail establishments or similar uses.

HOOP HOUSE - GREENHOUSE: A temporary structure consisting of fabric or other flexible material stretched over a tubular frame, commonly used for greenhouses.

HOOP HOUSE- GARAGE: A temporary structure consisting of fabric or other flexible material stretched over a tubular frame, commonly used for equipment or vehicle garage functions.

HOTEL: A building used for the purpose of furnishing, for compensation, temporary lodging to the public, with or without meals and having lodging accommodations for five (5) or more persons exclusive of resident employees. The word "Hotel" includes the word "motel" and the word "inn."

HOME OCCUPATION, MINOR: A customary home occupation meeting the requirements of 3.1.1 C.

HOME OCCUPATION, MAJOR: A customary home occupation meeting the requirements of 3.1.2M.

HOUSEHOLD PET: Any domesticated animal kept for pleasure, rather than for commercial use, utility or profit, which is normally kept within a residence and includes, among others, dogs, cats, gerbils, guinea pigs, hamsters, reptiles, birds, turtles, and tropical fish.

HOUSING FOR OLDER PERSONS: A dwelling unit or units intended for and solely occupied by persons 62 years of age or older, or intended and operated for occupancy by persons 55 years of age or older in accordance with the Federal Fair Housing Act, as amended.

IMPERVIOUS COVERAGE, EFFECTIVE: The total actual Impervious Surface calculated for post-development conditions on a lot or parcel **reduced** by the amount of Impervious Surface that is subject to implementation of a Stormwater Management Plan. The Stormwater Management Plan must employ Low Impact Development as described in Section 6.7 and other techniques that capture, treat, and reduce the negative impact of storm water up to and including a twenty-five (25)-year storm event.

IMPERVIOUS SURFACE: The area of a parcel covered by buildings, structures (not including sheds or slotted decks less than 500 square feet with boards no wider than 6 inches), pavement, sidewalks, roadways, driveways paved and unpaved, swimming pools, basketball and tennis courts, and other similar recreation courts, as well as other impervious surfaces that prevent storm water from being absorbed into the ground. Other areas covered by manufactured materials designed to allow water infiltration and vehicle traffic, may be considered impervious by the Commission in the percentage reliably documented by manufacturer or integrator specifications.

JUNK: Discarded material, such as glass, rags, paper, or metal, some of which may be reused in some form and including the accumulation of more than one motor vehicle and/or boats that is stored in a wrecked condition or unregistered.

JUNK YARD: Any land or building used in whole or in part for the collecting, storage and /or sale of Junk or any "junk yard," "motor vehicle business," and "motor vehicle junk yard," as defined in the General Statutes. The term shall also include any place of outside storage and deposit, whether in connection with a business or not, for two (2) or more motor vehicles which are no longer intended or in condition for legal use on the public highways and shall also include any place of outside storage or deposit of used parts of motor vehicles which on any lot have an aggregate bulk equal to one (1) automobile. In residential districts and recreational districts, however, the term shall also include the outside storage of more than one (1) unregistered vehicle or boat/watercraft in any lot in such manner as to be visible from any street or lot.

KENNEL: An establishment for the breeding, boarding, or keeping of more than three (3) adult dogs whether for the owner's personal use and enjoyment or for the purpose of show, sport or making a profit, excluding veterinary clinics/hospitals.

LICENSED CARRIER: A company authorized by the FCC to construct and operate a wireless communication facility.

LOADING SPACE: A suitably surfaced space available for the temporary use of vehicles while loading or unloading merchandise or materials, arranged and of sufficient size as prescribed by these Regulations.

LOT:

1) A plot or parcel of land under the same ownership that it is capable of being occupied by one principal building and the accessory buildings and uses customarily incident to it, including such yards and areas as are required by meeting the requirements of these Regulations, but need not be delineated by a recorded deed or map. In the case of public institutions, commercial or industrial buildings, a group of buildings under the same ownership may be considered as occupying the same lot; or,

2) A plot or parcel of land in different ownership from any adjoining lot or lots as evidenced by deed or deeds recorded in the land records of the Town of New Fairfield prior to July 2, 1948, providing that it is capable of being occupied by one principal building and the accessory buildings and uses customarily incident to it; or

3) A building lot shown on a subdivision map approved by the New Fairfield Planning or Planning and Zoning Commission and filed in the land records of the Town of New Fairfield subsequent to July 2, 1948, or deemed by Public Act 05-247 Section 7 (validating certain maps filed on the New Fairfield Land Records between July 2, 1948 and March 4, 1964), to be so filed, providing such subdivision approval has not expired pursuant to General Statutes § 8-26c before said lot was sold for separate use.

LOT AREA: The total horizontal area lying within the lot lines, provided that no area of land lying within any street line shall be deemed a portion of any Lot Area.

LOT, CORNER: A lot having two (2) adjacent front sides facing a street or streets so that the interior angle of intersection is not more than one-hundred and twenty (120) degrees.

LOT COVERAGE: The percentage of Lot Area covered by Buildings and Structures.

LOT FRONTAGE: The distance between the side lot lines measured in a straight line at right angles to the mean direction of such lot lines, which line of measurement shall be coincident with the street line.

LOT, INTERIOR: Any lot that fails to meet the lot frontage requirements of these Regulations.

LOT LINE: The property line bounding a lot, except in the case of a lot abutting a street, the street line abutting the lot shall be considered a lot line, regardless of whether the centerline of the street or any other line within the street line may be the actual property line.

LOT LINE, FRONT: The street line or lines, or in the case of an interior lot, the lot line or lines closest and generally parallel to the nearest street from which the interior lot is accessed.

LOT LINE, REAR: A lot line opposite and most distant from the front lot line; if the rear lot line is less than ten (10) feet in length or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line ten (10) feet in length within the lot, parallel to and at the same maximum distance from the front lot line.

LOT LINE, SIDE: Any lot line that is not a front or rear lot line.

LOT, THROUGH: A lot, other than a corner lot, having frontage on two or more streets that do not intersect adjacent to the lot.

LOT, VALIDATED: Any lot shown on an unapproved and/or unendorsed map filed on the New Fairfield Land Records between July 2, 1948 and March 4, 1964. Such a lot and the related subdivisions were validated by Public Act 05-247 Section 7 so that they are considered legally approved filed subdivisions as of the date of the filing of the relevant map. Such subdivisions are referred to in these Regulations as “validated subdivisions” or validated subdivision plans.”

LOT, WIDTH: The distance between the side lot lines measured in a straight line at right angles to the mean direction of such side lot lines, measured at the building line required by these Regulations.

MECHANICAL OR ELECTRONIC AMUSEMENT DEVICE: Any machine which, upon payment by insertion of a coin token or other means, registers scores by mechanical or electronic means due to chance, skill of the operator or both. It shall include such devices as pinball or pin game machines, computer games, television games, coin-operated table games (i.e., pool, bumper pool, hockey, soccer, and bowling), and similar devices.

MOBILE HOME: A unit similar to a camping trailer or trailer coach, but which is equipped with bath facilities, flush toilet, and which is designed to be connected to a water supply and to sewer connections.

MOTEL: A building providing lodging for persons, with or without meals for compensation, and intended primarily for the accommodation of transients and so designed that access to the rooms is direct from the out-of-doors or common corridors. The word "motel" shall include "motor hotel," "automobile court," "motor court," and "tourist court."

MULTI-FAMILY STRUCTURE: A detached building containing three (3) or more dwelling units.

NON-CONFORMING BUILDING OR USE: A building or use that does not conform with the zoning regulations applicable to the zone in which the same is located.

NON-CONFORMING BUILDING OR USE, LEGAL: A building or use that does not conform with the zoning regulations applicable to the zone in which the same is located, but which legally existed prior to the effective date of these Regulations, or any amendment, thereto, which rendered the non-conformity, and which use has been operating continuously to the present with no intent to abandon such use.

NON-CONFORMING LOT: A developed or undeveloped parcel of land that fails to conform to the area, shape, setback and/or frontage provisions and other requirements of these Regulations applicable to the zone in which the same is located and that exists lawfully.

NURSERY: Land devoted to raising trees, shrubs or other plants and may include the incidental use of greenhouses and temporary structures for propagation, growing, and protection of said trees, shrubs, or other plants.

OVERLAY DISTRICT: A zoning district with established standards and goals that may be located over an existing zoning district. In such cases, the standards and requirements of both districts apply or, in the case of a contradiction, the most restrictive applies.

PARKING AREA: A reasonably level, suitably surfaced area (other than a street) containing parking spaces arranged and in sufficient number as prescribed by these Regulations.

PARKING SPACE: A reasonably level, suitably surfaced space, available for the parking of a motor vehicle, arranged and of sufficient size as prescribed by these Regulations.

PERGOLA: An outdoor structure consisting of parallel colonnades supporting an open roof or girders and cross rafters for support of plant life but not to be used for or designed for habitation dwelling space, carport, or garage.

PERMIT PREMISES: The portion of a building used for the sale or storage of alcoholic beverages.

PREMISES: A lot that may or may not contain buildings.

PROFESSIONAL OFFICE: An office for recognized professions such as doctors, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, and excluding veterinarians, but including others who through training or experience are qualified to perform professional services as distinguished from those of a business nature.

RECHARGE AREA: The area overlying a stratified drift aquifer and adjacent stratified drift and till/bedrock areas in which ground water flows directly into the aquifer.

RECHARGE AREA, SECONDARY: Till and bedrock areas which provide direct groundwater inflow into stratified drift aquifers.

REGULATIONS: The Regulations as herein adopted and as hereinafter amended from time to time.

RESTAURANT: A commercial establishment whose primary function is the direct sale of food to the general public for consumption on the premises, with food service primarily to customers seated at tables or at counters in enclosed buildings. A restaurant shall not include a drive-in, window service, or other outdoor service other than outdoor tables that are subject to approval by the Commission.

RESTAURANT, FAST FOOD: A commercial establishment whose principal business is the direct sale of pre-prepared or rapidly prepared food sold directly to the customer in a ready to consume state packaged in disposable containers or wrapping, with two or more of the following features: menu boards, central ordering area, microphone or headsets, unavailability of beer, wine or alcoholic beverages, visible cooking facilities or unavailability of table service.

SERVICE STATION: A facility licensed by the state and used for refueling, lubricating and/or minor repairing, and inspecting of motor vehicles, but excluding activities pursuant to a general repairer's license.

SETBACK: The minimum required distance between any part of a building or structure and the nearest lot line.

SETBACK, FRONT YARD: The minimum required distance between any part of a building or structure and the nearest front lot line.

SETBACK, REAR YARD: The minimum required distance between any part of a building or structure and the nearest rear lot line.

SETBACK, SIDE YARD: The minimum required distance between any part of a building or structure and the nearest side lot line.

SIGN: Any awning, banner, device, display, fixture, object, placard, structure, window valance, or part thereof, visible from a public street, whether situated indoors or outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including colors, design, figures, illumination, letters, projected images, logo, symbols, or words, but excluding the flag or insignia of any nation, state, town or recognized religious organization.

SIGN AREA: The computation of the sign area shall include all exposed faces of such sign. The area of signs comprised of individual detached letters or symbols, placed or painted on a building with no background other than the facade of such building, shall be computed as the smallest, continuous regular geometric shape enclosing all such letters or symbols. The area of signs consisting of partly suspended letters, symbols, or parts shall be computed, including all such parts, in the same manner as the above.

SIGN, PICTORIAL: A sign, a graphic or similar visual communication device which is designed, constructed and erected to advertise a business, profession or service conducted, sold or offered within the premises upon which it is affixed or attached, and which consists primarily of pictures or images, and lettering that clearly depicts or describes the business, profession or service(s), but shall not contain rotating, vibrating, glaring or glowing parts or lighting devices. Pictorial signs may be freestanding or affixed to a building.

SIGN, TEMPORARY: A sign that is to be displayed for a period not to exceed thirty (30) consecutive days.

SPECIAL PERMIT: Is a permit for the use of land or buildings subject to the standards set forth within the Zoning Regulations and the approval of the Zoning Commission after duly advertised public hearing in connection thereto.

STRATIFIED DRIFT: Predominantly sorted sediment deposited by glacial melt-water, consisting of gravel, sand, silt, or clay in layers of similar grain size.

STREET: A public or privately owned right-of-way serving as a means of vehicular or pedestrian travel and providing access to abutting properties.

STREET LINE: The line separating the street or other right-of-way from adjoining lots. The street line may be wider than the paved surface.

STRUCTURE: Any form or arrangement of materials assembled or constructed to give support or shelter such as buildings, towers, masts, shed, roofed storage areas, and also including ornamental structures and retaining walls as well as fences more than six (6) feet in height. This includes anything constructed or erected on the ground the use of which requires essentially permanent location on the ground or attachment to something having location on the ground. All buildings shall be considered structures

For the purpose of these Regulations, the word "structure" includes: all buildings, signs, swimming pools, tennis courts, basketball courts, paddle tennis courts, towers, docks and decks higher than two (2) feet above average grade; but excludes fences, patios, sidewalks, terraces, stone walls, and driveways.

SWIMMING POOL: A man made installed structure, temporary or permanent, containing a horizontal measurement of one-hundred (100) square feet or more or containing water to a depth of four (4) feet or more, and designed or intended to be used as a hot tub/spa or for swimming or bathing purposes.

TRAILER: An un-powered vehicle for transporting merchandise, materials or vehicles, designed to be hauled by a motor vehicle and which is capable of being legally conveyed upon public streets.

TRAILER PARK: Any plot of land or any contiguous plots of land owned or controlled by an individual or group of individuals upon which two or more camper coaches, pickup coaches, travel trailers, or recreational vehicles are located for dwelling or sleeping purposes.

USE: The purpose or activity for which land or buildings are arranged, designed, or intended or for which either land or buildings are or may be occupied or maintained.

USE, ACCESSORY: A use of a building or lot that is clearly incidental and subordinate to the principal use located in or on the same building or lot and serving a purpose customarily incidental to the use of the principal building.

USE PERMITTED AS OF RIGHT: A use of land, buildings, or structures permitted within the corresponding zoning district in which the same is located, providing that it meets all applicable requirements of these Regulations.

USE, PRINCIPAL: The primary use to which a building or lot is devoted.

VEHICLE, TEN THOUSAND POUND GROSS VEHICLE WEIGHT RATING (GVWR): A vehicle with commercial or combination license plates that has at least a ten thousand (10,000) pound gross vehicle weight rating specified by the vehicle manufacturer and printed on the Safety Certification Label, including secondary or final stage manufacturers, as the loaded weight of a vehicle.

WATERSHED: A drainage basin or land area draining water to a stream, river or other point on the landscape.

WELL FIELD: An area containing one or more pumping water supply wells in close proximity.

WELL FIELD RECHARGE AREA: The area from which groundwater flows directly to the well field.

WIRELESS COMMUNICATION FACILITY: The antennas, satellite dish antennas, telecommunications equipment, communication towers, monopoles, and/or support structures used in conjunction with the provision of commercial wireless communication services. These services include, without limitation, cellular communications, personal communications services, specialized mobilized radio and paging.

VIDEO ARCADE: An establishment designed and constructed for display and operation of more than four (4) mechanical or electronic amusement devices.

YARD: A space not occupied by buildings, open to the sky, on the same lot with a building, structure or use.

YARD, FRONT: A yard extending the full width of the lot along the front lot line and extending in depth from the front lot line to the nearest point of any structure on the lot.

YARD, REAR: A yard extending the full width of the lot along the rear lot line and extending from the rear lot line to the nearest point of any structure on the lot.

YARD, SIDE: A yard extending from the front yard to the rear yard along a side lot line, and extending in width from such side to the nearest point of any structure on the lot.

ZONING PERMIT: A permit issued upon application to the Zoning Commission or Zoning Enforcement Officer, certifying that the proposed construction, reconstruction, structural alteration, placement, or relocation of any building, structure or sign, or proposed new use or change of use of any building structure or premises will comply with these Regulations or any applicable approved variances for such building, structure, sign or use.

CHAPTER 3 - RESIDENCE ZONES

3.0 GENERAL PROVISIONS

No land, building, or structure shall be used, occupied, constructed, altered or moved except when in conformity with the area and dimensional standards, requirements, and pursuant to the procedures specified below and all other applicable requirements of these Regulations.

3.0.1. Residential Districts and applicable Overlay Districts:

A. The following are the Residential Zones as depicted on the Zoning Map

R-88 - One-Family Residence District, 2 acres

R-44 - One-Family Residence District, 1 acre

OS - Open Space District, 10 acres

B. The Following Overlay Districts apply to Residential Zones

MFDE - Multi-Family District Elderly, 5 acre

Conservation Subdivisions

Aquifer Protection

Flood Protection Zone

3.0.2.A. Table of Zoning Requirements – Residential Districts, Existing Lots, and Divisions into Four (4) Lots or Less

The following table sets forth the zoning lot and building requirements that apply in residential districts to existing Lots, a “first cut” lot (i.e. a proposed lot that does not constitute a subdivision), and lots in proposed subdivisions with four (4) lots or less. Where the requirements of this table are incomplete, or vary from the text, the text shall govern. At the option of an applicant, a subdivision of land into four (4) lots or less may follow the requirements set forth in Section 3.0.2. B. Table of Zoning Requirements – Subdivisions of five (5) or more lots.

| Zoning Requirement | R-88 | R-44 | OS | MFDE |
|--|-------------|--------------------|-----------------------|-------------|
| Minimum Lot Area | 2 ac. | 1 ac. | 10 ac. ⁽¹⁾ | 5 ac. |
| Minimum Road Frontage | 175' | 125' | 175' | 125' |
| Setback Requirements ⁽²⁾ | | | | |
| Front – minimum | 75' | 40' | 75' ⁽¹⁾ | 50' |
| Front – minimum after modification | 40' | 40' | 40' ⁽¹⁾ | 50' |
| Side – minimum | 35' | 20' | 35' ⁽¹⁾ | 50' |
| Side – minimum after modification | 20' | 20' | 20' ⁽¹⁾ | 50' |
| Rear – minimum | 60' | 50' | 60' ⁽¹⁾ | 50' |
| Rear – minimum after modification | 50' | 50' | 50' ⁽¹⁾ | 50' |
| Building and Coverage Requirements | | | | |
| Maximum Building Area | 15% | 20% ⁽¹⁾ | 6% ⁽¹⁾ | 25% |
| Maximum Impervious Surfaces | 25% | 25% | 12% | 50% |
| Maximum Effective Impervious Coverage ⁽³⁾ | 10% | 10% | 6% | 35% |
| Maximum Building Height | 35' | 35' | 35' | 35' |

⁽¹⁾ The Planning Commission at the request of an applicant for a subdivision application may, by special permit, modify minimum lot size, minimum road frontage, minimum setback, and maximum building area to encourage the permanent preservation of Open Space, as per Section 3.1.2.J.

⁽²⁾ Corner Visibility in Residential Districts shall meet the requirements of Section 1.5.9.F.

⁽³⁾ To achieve the Maximum Effective Impervious Coverage requirement, the requirements of Section 6.7 shall apply.

KEY TO ABOVE TABLE 3.0.2.A.

R-88 - One-Family Residence District, 2 acres

R-44 - One-Family Residence District, 1 acre

MFDE- Multi-Family District Elderly, 5 acres

OS - Open Space District, 10 acres

3.0.2.B. Table of Zoning Requirements – Residential Subdivisions of Five (5) or More Lots

The following table sets forth the zoning lot and building requirements for the subdivision of property into five (5) or more lots, whether in a single subdivision application or multiple applications after the effective date of the adoption of this Table.⁽⁵⁾ Where the requirements of this table are incomplete, or vary from the text, the text shall govern.

| Zoning Requirement | R-88 | R-44 | OS | MFDE |
|--|----------------------|----------------------|----------------------|-------------|
| Minimum Lot Area | 2 ac. ⁽¹⁾ | 1 ac. ⁽¹⁾ | 10 ac ⁽¹⁾ | 5 ac. |
| Maximum Density (building lots per acre of buildable area) | 0.35 ⁽²⁾ | 0.70 ⁽²⁾ | 0.07 ⁽²⁾ | |
| Minimum Road Frontage | 175' ⁽¹⁾ | 125' ⁽¹⁾ | 175' ⁽¹⁾ | 125' |
| Setback Requirements⁽³⁾ | | | | |
| Front – minimum | 75' ⁽¹⁾ | 40' | 75' ⁽¹⁾ | 50' |
| Front – minimum after modification | 40' ⁽¹⁾ | 40' | 40' ⁽¹⁾ | 50' |
| Side – minimum | 35' ⁽¹⁾ | 20' | 35' ⁽¹⁾ | 50' |
| Side – minimum after modification | 20' ⁽¹⁾ | 20' | 20' ⁽¹⁾ | 50' |
| Rear – minimum | 60' ⁽¹⁾ | 50' | 60' ⁽¹⁾ | 50' |
| Rear – minimum after modification | 50' ⁽¹⁾ | 50' | 50' ⁽¹⁾ | 50' |
| Building and Coverage Requirements | | | | |
| Maximum Building Area | 15% ⁽¹⁾ | 20% ⁽¹⁾ | 6% ⁽¹⁾ | 25% |
| Maximum Impervious Surfaces | 25% | 25% | 12% | 50% |
| Maximum Effective Impervious Coverage ⁽⁴⁾ | 10% | 10% | 6% | 35% |
| Maximum Building Height | 35' | 35' | 35' | 35' |

⁽¹⁾ The Planning Commission, by special permit, may modify minimum lot size, minimum road frontage, minimum setback, and maximum building area to encourage the permanent preservation of Open Space, as per Section 3.1.2.J.

⁽²⁾ See Section 9.3 for calculation of maximum density and minimum lot sizes.

⁽³⁾ Corner Visibility in Residential Districts shall meet the requirements of Section 1.5.9 F.

⁽⁴⁾ To achieve the Maximum Effective Impervious Coverage requirement, the requirements of Section 6.7 shall apply.

⁽⁵⁾ If a piece of property is divided into four (4) lots or less, and thereafter that property again becomes the application property for another division, the numbers of lots resulting from the first division shall be added to the number of lots in any subsequent division of the original piece, so that if that aggregate number is four (4) or more lots, the property will be required to meet the requirements of 3.0.2.B. and the Conservation Subdivision Special Requirements of Section 3.1.2.J.

KEY TO ABOVE TABLE 3.0.2.B.

R-88 - One-Family Residence District, 2 acres

MFDE- Multi-Family District Elderly, 5 acres

R-44 - One-Family Residence District, 1 acre

OS - Open Space District, 10 acres

3.0.3. Maximum Building Height

- A. Building height in the R-88, R-44, and MFDE Districts shall be calculated as set forth in the definition of “Building Height” in Section 2.1 and as diagramed in Section 9.4.
- B. To preserve significant waterfront views, building height in the OS District shall be the vertical distance measured from the average finished grade of the ground surrounding the building and measured from within five (5) feet of the exterior walls of said building to the highest point of the roof for all roof styles.

3.0.4. Minor Accessory Buildings and Structures

Except for buildings accessory to a farm or agricultural use and fences, Minor Accessory Structures such as tool sheds, greenhouses or similar small buildings and structures are permitted providing that:

- A. They shall not be more than one story or exceed 15 feet in height, including the height of any cupola or similar ornament or structure;
- B. They shall not be served by heating, except in the case of a greenhouse, for horticultural purposes or internal cooking facilities;
- C. They shall not be located between the street line and the rear plane of the principal building relative to the street,
- D. They shall not be located, established or continued on a lot without the prior establishment of a permitted principal use, nor shall any new lot be created that has an accessory use of structure without a principal use;
- E. Except as otherwise set forth herein, they shall be subject to the area, bulk and dimensional requirements of the district, in which it is being located;
- F. They shall be set back from the side and interior lot lines as follows:
 - 1. an accessory building or structure having a height less than twelve (12) feet shall be located no less than a distance equal to twice its height, but in no case shall an accessory building or structure be located less than ten (10) feet in the R-44 District or twenty (20) feet in the R-88 and Open Space Districts from the rear and side lot lines;
 - 2. an accessory building or structure having a height between twelve (12) feet and fifteen (15) feet shall be located a distance of at least twenty (20) feet from the side and rear lot lines, in all districts. No accessory building shall exceed fifteen (15) feet in height;
 - 3. In the R44 Zone the cumulative building area of such structures shall not exceed two- hundred (200) square feet. Tennis courts, basketball courts, swimming pools and accessory agricultural buildings shall be exempt from this provision;
 - 4. In the R88 Zone the cumulative building area of such structures shall not exceed four-hundred (400) square feet and the building area of any individual structure shall not exceed three-hundred and twenty-five (325) square feet.

Tennis courts, basketball courts, swimming pools and accessory agricultural buildings shall be exempt from this provision; and,

5. on a corner lot, no accessory building or structure shall be located on that portion of the lot comprising the corner.

G. If any individual structure is served by plumbing facilities (e.g. sinks, bathrooms), the owner of the property shall file a sworn statement with the Zoning Enforcement Officer every 2 years confirming that the use remains in compliance with the regulations. The Zoning Enforcement Officer shall be permitted access to the accessory building or structure to corroborate the statement.

3.0.5. Private Permanent Detached Garages

Private and permanent detached motor vehicle garage for the use of residents of the lot providing that:

A. the building area shall not exceed seven-hundred and fifty (750) square feet;

B. there may be up to two-hundred and fifty (250) square feet of additional building area, up to a maximum of one-thousand (1,000) square feet of building area per lot, if the lot size exceeds the minimum lot size for the applicable zoning district for the lot by over twenty-thousand (20,000) square feet;

C. it shall comply with all yard setback and coverage requirements applicable to the district within which it is located; and,

D. it shall not be a Hoop House Garage.

3.0.6. Swimming Pools

Private swimming pools may be installed in any district only as an accessory structure to a dwelling for the private use of the occupants of such dwelling, their families and guests providing that:

A. the swimming pool shall not be installed within the front yard of the premises;

B. it shall be installed in compliance with the minimum side and rear setback requirements applicable to the district within which the premises are located; and

C. it shall be installed and fenced in compliance with all other applicable requirements of the New Fairfield Health and Building Departments.

3.0.7. Tennis and Basketball Courts

Private tennis courts, paddle tennis courts, or basketball courts may be installed in any district only as an accessory to a dwelling for the private use of the occupants of such dwelling, their families and guests providing that:

A. the court shall not be installed within the front yard of the premises;

B. it shall be installed in compliance with the minimum side and rear setback requirements applicable to the district within which the premises are located;

C. lights shall be so designed, installed, shielded and maintained so that they do not glare onto neighboring residential properties nor cause undue glaring to motorists traveling on abutting streets and highways; lighting shall comply with Section 9.2; and,

D. fences installed for the permitted tennis court, paddle tennis court, or basketball court shall not exceed ten (10) feet in height. No fence surrounding a tennis court or paddle tennis court shall be of solid non-see through construction.

3.0.8. Gazebos

Gazebos may be installed in any district only as an accessory to a dwelling for the private use of the occupants of such dwelling, their families and guests providing that:

A. it shall not be located in the front yard;

B. there shall be no more than one per building lot;

C. it shall comply with the side and rear yard setbacks, except when the rear line is the 440' contour in which case the Gazebo may abut it;

D. it shall be independent and not considered accessory;

E. it shall not be more than fifteen (15) feet in height and two-hundred and twenty-five (225) square feet of floor area;

F. it shall not be made into habitable space through the inclusion of windows (including window glass), and heating or cooling systems, but may contain screens for insect protection; and,

G. it may be placed on a deck providing that the height of the combined deck and Gazebo shall not be more than the maximum building height allowed in the district in which it is located.

3.0.9. Pergolas

Pergolas may be installed in any district only as an accessory attachment to a residential dwelling providing that:

A. it shall not be in the front yard;

B. there shall be one (1) per permitted per building lot;

C. it shall not exceed a height of fifteen (15) feet, or if attached to a dwelling extend from the dwelling more than ten (10) feet, or if freestanding its dimensions shall not exceed fifteen (15) feet (height) by ten (10) feet (width of entrance to passageway, measured from the outer edge of the support colonnades) by twenty-five (25) feet (length of the passageway);

D. it shall not be considered an accessory building as discussed at Section 3.0.4 of these Regulations; and

E. there shall be no raised platform forming a floor.

3.1 RESIDENCE R-88 DISTRICT, 2-ACRE

3.1.1. Uses Permitted As Of Right

- A. Single-family residential detached dwellings;
 - 1. Accessory uses, buildings, and structures as provided at Section 3.1.3;
 - 2. Except as expressly prohibited by these Regulations, agriculture, farms and farming.
- B. Home office of the resident occupant provided that:
 - 1. No non-resident persons are employed on the premises or use the premises as a daily base of operation;
 - 2. It is clearly incidental to the residential use of the premises with not more than twenty-five (25) percent of the gross floor area of the principal structure used for such purposes;
 - 3. It employs only ordinary office equipment;
 - 4. No signs shall be used to promote the business, its products, or services; and,
 - 5. It shall not include the keeping of stock in trade, nor the rental, sale or distribution of any goods, nor the provision of any services to customers or clients within the premises.
- C. Minor Home Occupation of the resident occupant provided that:
 - 1. Not more than two (2) non-resident persons are employed on the premises or use the premises as a daily base of operation;
 - 2. The use is clearly incidental to the residential use of the premises with not more than twenty-five (25) percent of the gross floor area of the principal structure used for such purposes;
 - 3. The use employs only ordinary domestic tools and equipment;
 - 4. No signs shall be used to promote the business, its products, or services;
 - 5. The use shall not include the keeping of stock in trade nor the rental, sale, or distribution of any goods not produced within the premises;
 - 6. There shall be no use of hazardous materials without submission and approval of a management plan to ensure the protection of life, property, and water quality;
 - 7. The use shall not include the provision of any personal or professional services;
 - 8. The use shall not result in more than occasional client or truck traffic or otherwise alter the residential character of the property;

9. A Zoning Permit from the Zoning Enforcement Officer pursuant to Section 8.4 has been secured; and,

10. If the Zoning Enforcement Officer determines that the Minor Home Occupation fails to comply with the requirements of this Section, the use shall cease unless a Special Permit for a Major Home Occupation is granted per Sections 3.1.2.L and 8.2 of these Regulations.

D. Boarding homes for not more than three (3) un-related occupants but excluding tourist cabins, trailers or mobile homes, or Bed & Breakfasts, providing that:

1. No more than two (2) bedrooms may be leased within the principal single-family dwelling as an accessory use;
2. Boarders shall not be provided with separate cooking facilities;
3. There shall be one additional off-street parking space provided for each occupant;
4. The parking area shall not impede emergency vehicles. The driveway shall remain open at all times; and,
5. The Zoning Commission or its authorized agent may prescribe additional buffering and/or screening to mitigate the visual impact on neighboring properties.

E. Family Day Care Homes.

F. The storage or parking of not more than one (1) non-commercial recreational vehicle, camping trailer, trailer or trailer coach, boat and boat trailer providing that such vehicle shall:

1. Not be used as permanent living accommodations;
2. Not exceed thirty (30) feet in overall length;
3. Be registered and/or licensed in the State of Connecticut;
4. Be owned by the resident/occupant of the residential premises within which it is stored or parked;
5. Be stored within a permanent structure or, if in the outdoors, it shall be parked in an orderly manner behind the front building line or on the driveway, or at a location that may be approved by the Zoning Enforcement Officer; and,
6. Be buffered or screened to shield the visual impact on neighboring properties.

3.1.2. Special Permit Uses

The following uses of land, building, or structures may be permitted providing that a Special Permit pursuant to Section 8.5 has been granted by the Zoning Commission.

A. Municipal building and uses, fire and police stations, senior centers, municipal parks, playgrounds and recreational areas, sewage treatment plants, public utilities and buildings;

B. Places of worship, non-profit museum facilities, welcome centers, philanthropic, educational, religious and eleemosynary uses desired by a duly incorporated non profit body or governmental unit. In addition, when the purpose is to provide for the preservation or adaptive reuse of at least one historic building that may be relocated or situated on a site with other historic or non-historic buildings, the Commission may permit both municipal and museum uses in more than one building on the same site and may permit the reduction of rear setbacks otherwise required for such combination of uses in the R-88 zone to not less than 25 feet;

C. Cemeteries;

D. Hospitals, sanitariums, convalescent and nursing homes;

E. Country Club: Buildings and facilities owned and operated by a corporation or association of persons for social and recreational purposes, but not operated for a profit. The affairs and management, of such club, are conducted by a board of directors, executive committee, or similar body chosen by the members. It is designed to serve food and alcoholic beverages on such premises to members and their guests provided that the serving of food and alcoholic beverages is secondary to some other principal purpose of the association or corporation. Customary country clubs MUST include, but are not limited to: swimming, tennis and/or golf course.

F. Non-profit public or private animal shelters not legally pre-existing on the effective date of these Regulations, which is permitted by law to temporarily care for non-exotic neglected, abandoned, or cruelly treated animals providing that:

1. The Lot Area be no less than three (3) acres; and,
2. Any shelter or outdoor run shall be no less than one-hundred and fifty (150) feet from all property lines and no less than five-hundred (500) feet from any existing residential structure.

G. Group Day Care Homes subject to the requirements of Section 8.2 of the Regulations and consistent with the following additional requirements:

1. State licensing requirements are met, including those pertaining to building, fire safety, and health codes;
2. Lot size, building size setbacks, and lot coverage conform to those applicable to the zoning district;
3. Signage, if any, will conform to the requirements of the zoning district;
4. There shall be safe and adequate provision for boarding and off-boarding children from vehicles without hazards to pedestrians; off-street parking and loading must comply with Sections 6.1.1 and 6.2;
5. A safe on-site vehicle turnaround, or separate entrance and exit points must be provided;

6. No area for active play or play structures may be located in a front yard or within ten (10) feet of a property line. A sight-obscuring and childproof wall or fence of at least five (5) feet shall be installed along the entire perimeter of all play areas. In addition to such walls or fences, an exterior buffer of at least five (5) feet in height shall be planted and maintained along the entire perimeter of any play areas. Buffering shall also meet the requirements of Section 6.1.2 of these Regulations;

7. The site must be landscaped in a manner compatible with adjacent residences;

8. No structural or decorative alteration that will alter the residential character of an existing residential structure used for a group day care home is permitted. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood;

9. If the proposed group day care home is within one-thousand (1,000) feet of another currently operating group day care home, the Commission may approved the application only if the application shows that the cumulative effects will not have an adverse effect on the neighborhood due to traffic, noise and other safety factors;

10. No group day care home shall be located on a shared or common driveway used by two or more residences including the residence of the applicant;

11. The group day care home must be operated in a residential single-family dwelling by the resident of the dwelling; and,

12. The applicant must show that there will be no traffic congestion resulting from the operation of the group day care home.

H. Child Day Care Center only if situated on the premises of an operating Community Service Activity. The Commission shall specify the limit of the maximum number of children to be cared for. In addition to the requirements of Regulations Section 8.2, in determining whether a Special Permit shall be granted for such a facility and the appropriate number of children permitted, the Commission shall consider the following specific standards:

1. State licensing requirements are met, including those pertaining to building, fire safety, and health codes;

2. Off-street parking and loading requirements shall comply with provisions of Section 6.2;

3. There shall be safe and adequate provision for boarding and off-boarding of children from vehicles without hazards to pedestrians and traffic and such provision shall be made on the lot where the facility is located and without need to use any part of the public street right-of-way for turning;

4. Lot size, building size, setbacks, and lot coverage conform to those applicable to the zoning district. The use shall be located in a building on a lot having such

size, shape, landscaping, screening, outdoor play yard space and parking so as to provide for the health and safety of the children using the facility;

5. No area for active play or play structure shall be located in a front yard or within ten (10) feet of a property line. A sight-obscuring and childproof wall or fence of at least five (5) feet shall be installed along the entire perimeter of any play areas. In addition to such walls or fences, an exterior buffer of at least five (5) feet in height will be planted and maintained along the entire perimeter of any play areas. Buffering shall also meet the requirements of Section 6.1.2;

6. If the center is not located in a single use, freestanding building, the center must be adequately sound insulated so as to guard against noise interference with neighboring uses; and,

7. In determining the maximum number of children permitted at the center, the Commission may consider the number of sessions per day and the impact of the overlap to two or more sessions on the neighborhood.

I. Bed and breakfast establishments pursuant to the requirements of Section 3.6.

J. Conservation subdivisions pursuant to the requirements of Section 3.7.

K. Accessory apartments provided that:

1. Only one accessory apartment shall be permitted for each lot;

2. The lot shall conform to the minimum Lot Area requirement for the zone in which the property is located;

3. No accessory apartment shall be approved as part of a two-family dwelling;

4. The owner of the accessory apartment shall file a sworn statement with the Zoning Enforcement Officer every two years confirming that the use remains in compliance with the Regulations; the ZEO shall be permitted access to the apartment and related property to corroborate the statement;

5. The owner of the property shall occupy and will continue to occupy either the principal dwelling unit or the accessory dwelling unit and shall provide a sworn, notarized statement to that effect with any application;

6. The Commission may require additional landscaping to screen the accessory apartment and/or additional parking from adjacent residential properties; and,

7. The accessory apartment shall:

a. Not exceed one-thousand (1,000) square feet or 30% of the combined floor areas of the single-family dwelling and the accessory apartment, whichever is less;

b. If attached, shall be accessible from the principal dwelling by an operable door along a common wall;

c. Both the accessory apartment and the principal dwelling shall meet the requirements of the Building and Public Health Codes; and,

d. Based upon establishment of the accessory apartment, the building(s) shall:

i. Maintain the exterior appearance and style (such as roof line, roof, pitch, building materials, window style and spacing) of the principal residence; and,

ii. If attached, have any secondary entrance incorporated into the principal residence to reflect the architectural style of a single-family unit; and,

iii. Have adequate off-street parking as required by these Regulations and access from the public right-of-way shall serve both the principal and accessory units, and shall not be distinguishable as separate facilities; and,

iv. Have parking for both the residential use and Accessory Apartment use and such parking shall not be located in the front yard; and,

v. Locate parking spaces so that parking for the principal and accessory dwelling units does not block the driveway for emergency vehicle access.

L. Major Home Occupation or professional office of the resident occupant where the ZEO determines that the requirements of a Minor Home Occupation are not met and provided that:

1. Not more than three (3) non-resident persons are employed on the premises or use the premises as a daily base of operation;

2. The major home occupation or professional office is clearly incidental to the residential use of the premises with not more than twenty-five (25) percent of the gross floor area of the principal structure used for such purposes;

3. The home occupation shall not include the keeping of stock in trade nor the rental, sale or distribution of any goods not produced within the premises.

4. There shall be no use of hazardous materials without submission and approval of a management plan to ensure protection of life, property, and water quality.

5. The Commission may impose any additional conditions, including hours of operation, as necessary to mitigate impacts and protect adjacent properties and the surrounding neighborhood so as to preserve the residential character of the neighborhood.

6. There shall be parking for both the residential use and the Major Home Occupation and such parking shall be buffered as per section 6.1.2 and not located in the front yard.

3.1.3. Accessory Uses

The following additional accessory uses, buildings, and structures may be permitted by the Commission providing that the following requirements are met.

A. The storage or parking of not more than one (1) resident-owned registered commercially licensed motor vehicle not exceeding the size of a ten thousand pound gross vehicle weight rating (GVWR) vehicle as defined in these Regulations.

B. The storage or parking of not more than one (1) resident-owned registered commercial motor vehicle not exceeding the size of a ten thousand pound gross vehicle weight rating (GVWR) vehicle, as defined in these Regulations, or of business equipment on the premises, by contractors owning the premises, for contracts to be performed elsewhere, where there is no other outward evidence of such commercial use on the premises or the approaches thereto, provided such equipment or motor vehicle is housed or is arranged in an orderly way on a plot of land set aside for such purpose and each piece of equipment shall be stored at least one-hundred (100) feet from the property line and one-hundred (100) feet from the highway unless otherwise invisible from the highway.

C. The leasing of space in any existing accessory building by the owner thereof for long term and inactive storage of boats, automobiles, furniture and farm equipment, etc., or in the alternative, for the housing of passenger cars of neighbors, whether or not in active use, subject to the following conditions:

1. No appearance of such use shall appear on the site and no advertising sign of such storage activity shall be displayed on the premises or elsewhere in the Town; and,
2. No work or repairs shall be done on the stored property by anyone but the owner thereof while in such storage.

D. Except as expressly prohibited under these Regulations, agriculture, forestry, truck and nursery gardening, greenhouses, livestock and dairy farming, provided that all buildings designed for such uses shall be built no less than one-hundred (100) feet from the street line and not less than one-hundred (100) feet from any property line, providing existing barns for active agricultural and farm uses may be renovated or replaced on their existing footprints;

E. Buildings used for the storage and processing of agricultural products are permitted when they are an accessory use only on the farm;

F. Temporary roadside stands for the sale of farm products raised and/or produced on the premises, provided they shall contain not more than two-hundred (200) square feet. Such stands shall not be less than twenty (20) feet from any intersection. Stands in excess of two-hundred (200) square feet may be allowed by Special Permit under Section 8.2 of these Regulations;

G. Buildings used for storage on a farm of any number of motor vehicles and equipment when such vehicles and equipment are used in connection with the operation of such farm are permitted as an accessory use. The repair of such vehicles is permitted within a building not less than one-hundred (100) feet from any property line;

H. Buildings accessory to farm use, except roadside stands, and buildings housing farm animals; and buildings housing livestock or for housing Household Pets are permitted at a distance of no less than one-hundred (100) feet from a street line, and not less than one-hundred (100) feet from any property line;

I. The keeping of horses for the exclusive use of the occupants of the land providing that there shall be no less than three (3) acres of land for two (2) horses, and that for each additional horse there shall be an additional two (2) acres of land. In any event, however, the total number of horses shall not exceed ten (10); and,

J. Household Pets not to exceed three (3) dogs over six (6) months of age. Dog kennels are not permitted.

3.1.4. Maximum Density

The number of building lots in any residential subdivision shall be equal to 0.35 lots per acre of buildable area, rounded down to the nearest whole number calculated in accordance with Section 9.3.

3.1.5. Minimum Lot Area and Frontage

A. The minimum Lot Area shall be two (2) acres unless otherwise specified in this Section.

B. Each lot shall have a minimum frontage of one-hundred and seventy-five (175) feet on a public or private street or highway, or be served by an accessway.

C. Where a lot fronts on a permanent turn around, the minimum, lot frontage on said turn around shall be fifty (50) feet providing that the lot meets the requirements of Section 3.1.9 below.

3.1.6. Minimum Building or Structure Setbacks

A. Front Yard: seventy-five (75) feet may be reduced to forty (40) feet; ⁽¹⁾

B. Side Yard: thirty-five (35) feet may be reduced to twenty (20) feet; ⁽¹⁾

C. Rear Yard: sixty (60) feet may be reduced to fifty (50) feet; ⁽¹⁾

⁽¹⁾ By special permit, the Planning Commission may modify minimum lot size, minimum road frontage, minimum setbacks, and maximum building area to encourage the permanent preservation of Open Space in Conservation Subdivision as set forth at Section 3.7.

3.1.7. Maximum Building Area

Except as modified by Section 3.7, not more than fifteen (15) percent of the Buildable Area of the lot shall be covered by Buildings and Structures.

3.1.8 Maximum Impervious Surfaces

Not more than twenty-five (25) percent of the Lot Area shall be covered by Impervious Surfaces.

3.1.9 Maximum Effective Impervious Coverage

The Maximum Effective Impervious Coverage shall not exceed more than ten (10) percent of the Lot Area. To comply with the Maximum Effective Impervious Coverage requirement, any Impervious Coverage over ten (10) percent shall require a Stormwater Management Plan in accordance with Section 6.7 and Section 8.1.

3.1.10. Maximum Building Height

No building within an R-88 residential district shall exceed thirty-five (35) feet in height.

3.1.11. Minimum Lot Dimensions

Except as modified by Section 3.7, the configuration of any lot within an R-88 District shall be such that a square measuring one hundred fifty-five (155) feet per side and free of wetlands or watercourses can be situated within its boundaries. However, no part of any dwelling or principal building shall be erected at a point where the lot width is less than one hundred and fifty-five (155) feet. The maximum building setback line shall not exceed one-quarter (.25) of the building lot's depth. In the case of an interior lot served by an accessway, the building lot's depth shall be measured from the front lot line and not the accessway's street line.

3.2 RESIDENCE R- 44 DISTRICT, 1 ACRE

3.2.1. Uses Permitted As Of Right

In a Residence R-44 District, no building or premises shall be used and no building shall be erected or altered which is arranged, intended, or designed to be used except for one or more of the uses permitted in a Residence R-88 District pursuant to Section 3.1.1.

3.2.2. Special Permit Uses

All uses permitted by Special Permit pursuant to Section 3.1.2.

3.2.3. Accessory Uses

All accessory uses permitted pursuant to Section 3.1.3.

3.2.4. Maximum Density

Except as modified by Section 3.7, The number of building lots in any residential subdivision shall be equal to 0.7 lots per acre of buildable area, rounded down to the nearest whole number as set forth at Section 9.3.

3.2.5. Minimum Lot Area and Frontage

- A. The minimum Lot Area shall be one (1) acre.
- B. Each lot shall have a minimum frontage of one-hundred and twenty-five (125) feet on a public or private street or highway, or be served by an accessway.
- C. Where a lot fronts on a permanent turn around, the minimum lot frontage on said turn around shall be fifty (50) feet providing that the lot meets the requirements of Section 3.2.8 below.

3.2.6. Minimum Building and Structure Setbacks

- A. Front Yard: forty (40) feet;
- B. Side Yard: twenty (20) feet;
- C. Rear Yard: fifty (50) feet.

3.2.7. Maximum Building Area

Not more than twenty (20) percent of the Buildable Area of the lot shall be covered by Buildings and Structures.

3.2.8 Maximum Impervious Surfaces

Not more than twenty-five (25) percent of the Lot Area shall be covered by Impervious Surfaces.

3.2.9 Maximum Effective Impervious Coverage

The Maximum Effective Impervious Coverage shall not exceed more than ten (10) percent of the Lot Area. To comply with the Maximum Effective Impervious Coverage requirement, any Impervious Coverage over ten (10) percent shall require a Stormwater Management Plan in accordance with Section 6.7 and Section 8.1.

3.2.10. Maximum Building Height

No building within an R-44 residential district shall exceed thirty-five (35) feet in height.

3.2.11. Minimum Lot Dimensions

Except as modified by Section 3.7, the configuration of any building lot within an R-44 residential district shall be such that a rectangle of one-hundred and twenty-five (125) feet by one-hundred and fifty (150) feet can be contained within its boundaries. However, no part of any dwelling or principal building shall be erected at a point where the lot width is less than one-hundred and twenty-five (125) feet. The maximum building setback line (distance rectangle is placed from street line) shall not exceed one-quarter (1/4) of the building lot's depth. In the case of an interior lot served by an accessway, the building lot's depth shall be measured from the front lot line and not the accessway's street line.

3.3 WATERFRONT RESIDENTIAL DISTRICT WR

OPEN FOR FUTURE USE

3.4 OPEN SPACE DISTRICT OS - LARGE LOT ZONING

3.4.1. Intent and Purpose

The intent and purpose of the Open Space District is to:

A. preserve significant Open Space on Vaughn's Neck, a peninsula surrounded by Candlewood Lake and very remote from other areas of New Fairfield;

B. protection of the water quality and other sensitive resources of Candlewood Lake;

C. provide for development that reflects the remote and unique location and character of Vaughn's Neck, which is distant and non-contiguous to the balance of New Fairfield making it seriously inaccessible to fire protection, emergency services, and other community facilities; and,

D. Implement development consistent with the concerns set forth in the Plan of Conservation and Development regarding development in the Vaughn's Neck area.

3.4.2 Uses Permitted As Of Right

Single Family Residential.

3.4.3. Accessory Uses

Accessory uses customary and incidental to residential use but otherwise excluding uses such as those described at Section 3.1.3.

3.4.4. Maximum Density

The number of building lots in any residential subdivision shall be .08 per acre calculated according to Section 9.3. Areas not used for residential building lots and roads shall be preserved as Open Space.

3.4.5. Minimum Lot Area and Frontage

A. The minimum Lot Area shall be ten (10) acres.

B. Each lot shall have a minimum frontage of one-hundred and seventy five (175) feet on a public or private street or highway, or be served by an accessway.

C. Where a lot fronts on a permanent turn around, the minimum lot frontage on said turn around shall be fifty (50) feet providing that the lot meets the requirements of Section 3.4.8 below.

D. Corner Lots shall be construed pursuant to Section 1.5.9.

3.4.6. Minimum Building and Structure Setbacks⁽¹⁾

A. Front Yard: seventy-five (75) feet may be reduced to forty (40) feet;⁽¹⁾

B. Side Yard: thirty-five (35) feet may be reduced to twenty (20) feet; and,⁽¹⁾

C. Rear Yard: sixty (60) feet may be reduced to fifty (50) feet.⁽¹⁾

⁽¹⁾ By Special Permit in approving Conservation Subdivisions pursuant to Section 3.7, the Planning Commission may modify minimum lot size, minimum road frontage, minimum setbacks, and maximum building area to encourage the permanent preservation of Open Space.

3.4.7. Maximum Building Area

Not more than six (6) percent of the Lot Area shall be covered by Buildings and Structures.

3.4.8. Maximum Impervious Surfaces

Not more than twelve (12) percent of the Lot Area shall be covered by Impervious Surfaces.

3.4.9. Maximum Effective Impervious Coverage

The Maximum Effective Impervious Coverage shall not be more than six (6) percent of the Lot Area. To comply with the Maximum Effective Impervious Coverage requirement, any Impervious Coverage over six (6) percent shall require a Stormwater Management Plan in accordance with Section 6.7 and Section 8.1.

3.4.10. Maximum Building Height

No building within an Open Space District shall exceed thirty-five (35) feet in Building Height.

3.4.11. Minimum Lot Dimensions

The configuration of any building lot within an Open Space District shall be such that a rectangle of one-hundred and seventy-five (175) feet by two-hundred (200) feet can be contained within its boundaries. However, no part of any dwelling or principal building shall be erected at a point where the lot width is less than one-hundred and seventy-five (175) feet. The maximum building setback line (distance rectangle is placed from street line) shall not exceed one-quarter (1/4) of the building lot's depth. In the case of an interior lot served by an accessway, the building lot's depth shall be measured from the front lot line and not the accessway's street line.

3.4.12. Open Space Objectives and Requirements

The use of Open Space shall be limited to conservation, Open Space, passive recreation, and other purposes (including drainage) that are determined by the Planning Commission to be appropriate in light of the physical characteristics and nature of the Open Space land and its relationship with the proposed development and adjacent Open Space. A portion of the Open Space containing an area at least equal to thirty-five (35) percent of the area of to be subdivided shall be one continuous area. Except for structures for recreational facilities to be located in the Open Space and roadways serving them, Open Space located within twenty-five (25) feet of any structure or driveway shall not be counted for purposes of meeting the Open Space requirement. A payment of a fee in lieu of Open Space shall not apply to Open Space Subdivisions. All Open Space shall be subject to an Open Space easement/restriction that runs with the land; the easement/restriction shall sets forth the limitations for the use of the Open Space and provide that the Town of New Fairfield has the right but not the obligation to enforce the restrictions pursuant to § 47-42a of the General Statutes, as amended.

3.4.13. Ownership of Open Space.

The form of ownership of Open Space shall be acceptable to the Planning Commission and may be one of the following:

- A. Be dedicated to the Town by deed acceptable to Town Counsel, such deed to be prepared prior to filing any record maps for the development on the land records, provided the Board of Selectmen and Town have voted to accept such dedication. Open space parcels may be accepted by the Town when the parcel is unique or significant or if it offers opportunities for active or passive recreation or other resources for Town residents. In such cases access to the Open Space shall be provided and designed so that the use of the Open Space does not interfere with the reasonable use of residents of the development in connection with which it is created. The Town may also consider

dedication of Open Space when the parcel provides a needed link in a streambelt system or connects with other greenbelt, Open Space, recreation areas or municipal uses; or,

B. Be conveyed to a non-profit land conservation trust or corporation established for the purpose of conserving land in Open Space, such conveyance to be approved by the Planning Commission and the form of the instrument to be approved by Town Counsel and provided that said conveyance shall restrict subsequent sale or other disposition except to a similar trust or corporation to be approved by the Planning Commission or to the Town to be maintained as Open Space; this conveyance is particularly appropriate where the parcel contains significant areas of wildlife habitats, agricultural preservation, or is adjacent to other land owned by a non-profit land trust and/or where the addition of the parcel may enhance existing lands owned by such a trust; or,

C. Be conveyed to a nonstock corporation or homeowner's association or other validly created homeowner's association organized under the Laws of the State of Connecticut. Said corporation and/or association shall be organized by the developer prior to the sale of any lots in the subdivision or resubdivision and the deeds to buyer of lots in the subdivision or resubdivision or other related development shall provide that such buyers shall be member of said corporation. Only property owners in the subdivision or resubdivision shall be members of said corporation or association. The developer's deed of said Open Space land to said corporation or association shall provide that if said entity is dissolved, said Open Space land shall vest in the Town. This form of ownership is particularly appropriate when the Open Space parcel is largely internal to the residential community. The certificate of incorporation and/or by laws of said corporation shall at all times:

1. Limit membership to one class who shall be property owners in the subdivision or resubdivision;
2. Provide that each lot in the subdivision or resubdivision shall be entitled to one vote regardless of the number of owners of the lot;
3. Provide the assessments against members for all expenses, but not limited to, maintenance of said Open Space land, including any improvements thereon, taxes, and insurance;
4. Provide that each member may use the Open Space land, including any improvements thereon, in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other members; and,
5. Restrict the use of said Open Space land to members of said corporation, their family members, or social guests.

D. With the express approval of the Commission, Open Space land may be owned by each lot owner in the subdivision or resubdivision, with each owner of said lots having an undivided interest in said Open Space land, provided however, that such Open Space land shall remain undivided and no lot owner shall bring any action for partition or division of any part hereof, and further provide that the use of such Open Space land shall be limited to property owners in the subdivision or resubdivision, the family member or social guests.

E. With the express approval of the Commission, ownership of Open Space land may be retained by the developer for the uses set forth in the Regulations, or if said Open Space land is subject to conservation and preservation restrictions (within the meaning of Section 47-42a of the General Statute) the terms and conditions of which are acceptable to the Commission.

3.5 MULTIFAMILY DISTRICT FOR THE ELDERLY MFDE

3.5.1. General

The Commission may, of its own initiative or pursuant to an application hereunder, establish Multifamily Districts for the Elderly (MFDE) on sites and within areas complying with the eligibility criteria, standards and other requirements of this Section to serve the needs of an increasingly elderly population as set forth in the Plan of Conservation and Development. The district shall be established by zoning amendment and zone district change and by approval of a special permit for development pursuant to the requirements of this Section.

3.5.2. Intent and Purpose

A. Intent - It is the intent of this Section to establish a floating zone to enable the housing projects for the elderly in appropriate locations of the Town so as to respond effectively to the housing needs of an increasingly elderly population consistent with soil types, terrain, and infrastructure.

B. Purpose: The purpose of this Section is to assist in achieving the stated intent while providing for:

1. Housing opportunities that are designed to meet the special needs of elderly citizens;
2. The protection of the environmental character of the area and the particular suitability for the specific use;
3. Protection against undue concentration of population and overcrowding of land;
4. Preservation of buildings and property values;
5. Adequate access of light and air;
6. Adequate vehicular access and off-street parking;
7. Adequate disposition of buildings upon the land;
8. Freedom of architectural design which will enable to achieve, to the extent practicable, construction efficiency and economic building forms while assisting in establishing a compatible and attractive living environment.

3.5.3. Establishment of District

The Commission may propose and establish, at its discretion and in accordance with the provisions of § 8-2 of the General Statutes and in a location consistent with Section 3.5.4, a

Multifamily District for the Elderly-MFDE. The owner of record of a parcel of land within the Town of New Fairfield may petition for the establishment of a Multifamily District for the Elderly-MFDE only if such petition is accompanied by a Special Permit application pursuant to the requirements of Section 8.2 of the Regulations, including the additional requirements under Section 3.5.6, and provided that the parcel meets the site eligibility criteria of Section 3.5.4.

3.5.4. Site Eligibility Criteria

The Commission may, at its discretion, establish Multifamily Districts for the Elderly-MFDE providing that:

A. The site is located:

1. Within a commercial zone; or,

2. If located within a residential zone:

a. a portion of said site shall not be more than one-thousand five-hundred (1,500) feet from a commercial zone; or

b. as a condition of the subsequent Special Permit required pursuant to Sections 3.5.6 and 8.2., the Commission may require a covenant recorded on the land records to assure that so long as the property is utilized for Elderly- MFDE uses, paratransit services to convey residents to and from a commercial zone must be provided.

B. Unless paratransit services are provided pursuant to Section 3.5.4.A.2.b. above, the site is within a walking distance of not more than one-thousand five-hundred (1,500) feet from shopping facilities and services;

C. The site has the required frontage on roads and/or streets, which are improved or will be improved to the extent necessary to adequately accommodate the development traffic and emergency access;

D. Natural topographic contours within the site can, readily or with limited land disturbance, accommodate the buildings, the roads, the development features and other requirements of this Section;

E. The site has or will be provided with plantings, vegetative cover, or features that will adequately buffer site development from adjacent properties;

F. The site contains natural soils that will allow, with limited site preparation, the construction of on-site subsurface sewage disposal systems capable of handling effluent generated by the development;

G. The site has adequate potable water to meet development demands; and,

H. The site is so situated, consists of topography, and is furnished with natural features that will be able to accommodate the development, while said development will not exert a detrimental effect on nearby properties or the values thereof.

3.5.5. Development Standards and Control

A. Permissible Uses

1. Multifamily structures consisting of dwellings not to exceed two (2) bedrooms each designed for the exclusive use as elderly housing and not more than two persons per bedroom.
2. Accessory uses, buildings and structures including parking areas and garages, maintenance buildings, and recreational use buildings and facilities when said uses are built and maintained for the exclusive use of residents within the project and their guests.
3. All structures and uses under this Section 3.5 shall meet the definition, of "Housing for Older Persons" set forth at 42 USC 3607 (b) (2) as amended.

B. Maximum Density

Not more than six (6) bedrooms per gross acre of land.

C. Minimum Lot Area and Frontage

1. The minimum Lot Area shall be five (5) acres.
2. The lot shall have a minimum frontage of one-hundred and twenty five (125) feet on a public highway having a right-of-way of no less than fifty (50) feet or be served by an accessway of no less than thirty (30) feet in width, and having a paved drive of no less than twenty-four (24) feet wide.

D. Minimum Setbacks

No principal building, accessory building, or parking area shall be closer than fifty (50) feet from any front, side or rear property line. If located within or abutting a residential district, no building, structure or parking area pursuant to this Section shall be closer than the minimum side or rear building setback required in the residential district within which it is located or it abuts. Such setback yards shall be provided with screening as prescribed under Section 6.1.2 or as may be required pursuant to Section 6.1.10.

E. Maximum Building Area

Not more than twenty-five (25) percent of the Lot Area shall be covered by Buildings and Structures.

F. Maximum Impervious Surfaces

Not more than 50 (fifty) percent of the Lot Area shall be covered by Impervious Surfaces.

G. Maximum Effective Impervious Coverage

The Maximum Effective Impervious Coverage shall not exceed more than thirty-five (35) percent of the Lot Area. To comply with the Maximum Effective Impervious Coverage requirement, any Impervious Coverage over thirty-five (35) percent shall require a Stormwater Management Plan in accordance with Section 6.7 and Section 8.1.

H. Maximum Building Height

No building or structure shall exceed thirty-five (35) feet in Building Height.

I. Dwelling Unit Breakdown

No less than thirty (30) percent of the total number of dwelling units shall contain either two (2) bedrooms each or one bedroom with finished loft. For the purposes of calculating the dwelling unit breakdown as well as the minimum, the maximum density and the minimum outdoor recreation area, a "studio" or "efficiency" unit shall be construed as a one-bedroom dwelling without a loft, and a one-bedroom unit with a finished loft shall be considered as a two-bedroom dwelling.

J. Minimum Outdoor Recreation Areas

Outdoor recreation areas shall be provided at the rate of one-hundred (100) square feet for each efficiency, studio, or one-bedroom unit, and two-hundred (200) square feet for each two-bedroom unit. These areas may be designed for use for passive or for active recreation purposes.

K. Open Space

There shall be at least thirty (30) percent of the property designated as Open Space which may include the Recreation Areas. Preferably, the Open Space shall be owned by the MFDE Community for the benefit of that Community. The provisions of Sections 3.4.12 and 3.4.13 of these Regulations shall apply to the Open Space including without limitation, the prohibition against using a fee in lieu of Open Space.

L. Building Separation

For the purpose of emergency vehicle access, no building or structure shall be closer than twenty-five (25) feet from another building or structure.

M. Maximum Size of Building

Not more than six (6) dwelling units, regardless of the number of bedrooms in each dwelling, shall be contained within the enclosing walls of a building but this shall not prevent the use of a garage or carport from connecting two (2) buildings. In no event, however, shall the overall horizontal length of a building, excluding connecting garages or carports, be larger than seventy-five (75) feet without a horizontal off-set of at least three (3) feet.

N. Off-Street Parking

Off-Street parking shall be provided as per Parking Schedule in Section 6.2.9, Paragraph B of these Regulations. The Commission may require additional off-street parking spaces for visitors and guests.

O. Landscaping

Landscaping shall comply with Section 6.1 of these Regulations.

P. Outdoor Lighting

Lighting shall comply with Sections 6.6 and 9.1 of these Regulations.

Q. Storm water Management

Stormwater management systems within parking lots shall be designed and maintained in accordance with the Stormwater Management Plan requirements of Section 6.7, the Erosion and Sediment Control requirements of Section 6.5, and the Flood Protection Zone requirements of Section 5.1 Floodplain Overlay District (if applicable), to minimize, treat, prevent, and/or reduce degradation of water quality and flooding potential due to stormwater runoff from parking and other impervious surfaces. The Commission may refer any or all information provided regarding anticipated stormwater flow patterns and volume and proposed stormwater management system to the Town Engineer or consulting professional or agency for review and advisory comment.

3.5.6. Additional Application Requirements

In addition to the Special Permit application requirements described under Section 8.2 of these Regulations, the Special Permit application pursuant to this Section shall include:

A. Six (6) copies of a report describing in detail:

1. Number of dwelling units proposed;
2. Density of proposed development in terms of dwelling units per gross acre of land;
3. Anticipated number of persons per dwelling unit;
4. Area in buildings, parking, drives, and other impervious surfaces;
5. Area to be allocated for recreation purposes;
6. Breakdown of dwelling unit types if more than one type is planned;
7. Planned dwelling unit floor areas;
8. Anticipated selling price or rental charge for each type of dwelling unit;
9. A detailed statement describing the manner in which the applicant intends to set aside and maintain the availability of dwelling units meeting the "affordable housing criteria" referred under subsection 3.5.8 of this Section. The statement shall incorporate a draft document describing covenants, restrictions or limitations to be placed on the sale or lease of affordable housing units pursuant to the requirements of said subsection; such covenants shall include a provision making it mandatory that the age and income restrictions are clearly documented and observed;
10. A staging plan if the project is to be developed during a period greater than two (2) years; and,
11. The applicant must provide evidence substantiating that the proposed development meets the definition of "Housing for Older Persons" as set forth in the Federal Fair Housing Act 42 USC 3607 (b) as amended.

B. In addition to the Special Permit fee prescribed under Section 10, the application shall be accompanied by a fee to defray the cost of outside consultants, hired by the Commission, to review an application hereunder or any part thereof. Said fee shall be at the rate of two-hundred and fifty dollars (\$250) per dwelling unit plus additional amounts for technical review as set forth at Section 10.

3.5.7. Total Number of Multifamily Units for the Elderly

In no event shall the total number of units developed within the Town of New Fairfield under this Section exceed ten (10) percent of the total number of dwelling units within the Town of New Fairfield based on latest compiled Assessor's Grand List.

3.5.8. Affordable Housing

Affordable Housing: Affordable Housing shall comply with either subsection A. or B. below as follows:

A. "Affordable Housing" must be "Assisted Housing" as that term is used in § 8-30g of the General Statutes as amended or alternatively the applicant shall set aside twenty-five (25) percent of the total number of dwelling units within the complex which for a period of forty (40) years shall be sold or rented at prices for persons and families with income levels of seventy five (75) percent of the area median income as established by the United States Department of Housing and Urban Development for the area containing the Town of New Fairfield. The affordable housing units shall be conveyed by deeds that contain covenants or restrictions that shall incorporate the qualifications set forth herein and which shall be filed in the Office of the New Fairfield Town Clerk. Other than changing the percentage of dwelling units which must qualify as "Affordable Housing" and the choice of area median income and the percentage of such area median income which will qualify for this Section, all other methods set forth in Section 8-30g for determining the sale price or rental price of any such unit shall be applied as set forth in said statute as amended from time to time and the requirements of Section 3.5.8 B shall apply; or,

B. Applications pursuant to General Statutes § 8-30g shall comply with all provisions of said Section as amended from time to time including without limitations the percentage of dwelling units that shall qualify as "Affordable Housing" dwelling units. The application shall provide a conceptual plan, proposed zoning regulation, if applicable and an affordability plan meeting the requirements of Section 8-30g. The Affordability Plan shall:

1. Identify the thirty (30) percent of the units that will be designated as affordable housing, as defined by C.G.S. § 8-30g;
2. Describe the forty (40)-year restriction period, provide for affordable units to be built and offered for sale or lease on a *pro rata* basis as construction proceeds;
3. Set forth the proposed dispersion of the affordable units on a subdivision or site development plan, the specifications for the units and evidence that the affordable rental units shall be comparable in size to market rate units containing the same number of bedrooms, and shall contain the same amenities as provided as standard features to all other rental units of the same size;
4. Identify the entity responsible for administration of the affordability plan;
5. Require the sale and marketing of all units in compliance with State regulations for affirmative fair housing marketing programs as guidelines, including without limitation the federal Fair Housing Act, 42 U.S.C. §§ 3601 et

seg. and the Connecticut Fair Housing Act, C.G.S. §§ 46a-64b, 64c (together, the "Fair Housing Acts");

6. Provide a procedure for the determination of eligibility for affordable units, the Verification of Applicant's Income, calculation of the maximum initial sale price or maximum resale price or Maximum Rental for a Affordable Unit, so as to satisfy C.G.S. § 8-30g;
7. Provide a calculation of down payments;
8. Provide a description of fair access to amenities without fees exceeding affordability eligibility calculations;
9. Require that affordable units will be owner's or lessee's principal residence;
10. Provision requiring maintenance of units;
11. Provision preserving affordability requirements upon resale of Affordable Units;
12. Provisions requiring and explaining enforcement of affordable housing requirements;
13. Include deed restrictions to be included in each deed of an affordable unit during the forty (40)-year period in which the affordability program is in place to provide notice of the affordability restrictions and to bind future purchasers.

3.5.9. Special Provisions, Requirements, and Standards

A. The site shall be planned and developed and the buildings shall be sited and arranged in accordance with the following guidelines and criteria:

1. The site shall be furnished with sidewalks and/or walking paths constructed at grades which will permit safe and easy use by pedestrian traffic but primarily by senior citizens;
2. Principal and accessory uses and buildings shall be so designed and placed as to facilitate safe access for residents and their guests; and, in general;
3. Buildings shall be so designed as to be compatible with functions that they perform, in relationship to existing topography and so as not to visually intrude in the surroundings; and,
4. Road grades shall be limited to ten (10) percent in order to be accessible for walking by the resident population.

B. All developments under this Section must comply with one of the following or such other criteria as are necessary to meet the Federal Fair Housing Act (the "Act"), definition of "Housing for Older Persons" and shall be marketed to reflect these requirements:

1. The dwelling units are intended for and solely occupied by persons sixty-two (62) years of age or older (42USC 3607 (b)(2)); or

2. The housing proposed must be intended and operated for persons fifty-five (55) years of age or older and except for residency of one (1) dwelling unit, whose residency shall be for an employee and their family by the housing provider who perform substantial duties directly related to the management or maintenance of the housing, one hundred (100) percent of the occupied units must be occupied by at least one person fifty-five (55) years of age or older (See 42 USC 3607 (b) (2); providing that every other person residing in each household shall not be less than fifty (50) years of age.

C. The Commission may impose conditions to require the applicant to take such actions as are necessary to insure that the housing is developed and continues to qualify as "Housing for Older Persons" within the meaning of 42 USC 3607 (b) and these Regulations. Such conditions may include without limitation, deed restrictions, periodic reporting, affidavits of purchasers and renters, stipulated ownership and management policies and procedures, and appropriate homeowner association governance.

3.5.10 Application Procedure

Following the submission of a complete application under the provisions of and in compliance with the requirements of this Section, the Commission shall hold a public hearing(s) and act on the application in the manner prescribed under Section 8.7.2.

3.6 BED AND BREAKFAST ESTABLISHMENTS

The Commission may allow by Special Permit under the provisions of Section 8.2 the operation of Bed and Breakfast Establishments as defined under Section 2.1 within the R-88 and R-44 single-family residential districts, providing that in granting approval, the Commission considered the following criteria, standards, and provisions:

- A. That the establishment will be operated by the owner-occupant of the premise;
- B. The use shall be located within premises that conform to the minimum lot size applicable to the zoning district or the residence is in the New Fairfield Grand List for at least fifty (50) years;
- C. The property must be able to accommodate parking at the rate of one additional off-street parking space for each guest room. Off-street parking requirements shall comply with the provisions of Section 6.2. There shall be no parking in access/egress driveways;
- D. No bed and breakfast establishment shall be located on a shared or common driveway used by two or more residences including the residence of the applicant;
- E. The site must be landscaped and sufficiently buffered so as to protect the privacy of adjacent residences. The Zoning Commission may require additional screening/ buffering in order to meet the requirements of Section 6.1;
- F. No more than four (4) guest rooms rated for double occupancy will be permitted in the dwelling in which the owner is in residence full time. Full bathrooms shall be provided at the minimum rate of one (1) bathroom for each two (2) guest rooms; and,

G. The Health Department shall certify that the subsurface sewage disposal system and water supply are adequate to support the proposed use.

3.7 CONSERVATION SUBDIVISIONS

In order to encourage the development of residential subdivisions that apply conservation design principles for permanent preservation of substantial portions of subdivided parcels as Open Space, protect views, vistas and visual focal points, protect historically important sites, and to facilitate the establishment of greenways and trails and provide for circulations patterns that are compatible with variation of building setbacks and clustering of homes, the Planning Commission shall be authorized to grant Special Permits for Conservation Subdivisions on parcels with ten (10) acres or more of Buildable Area in accordance with Section 8.2 of these Regulations, provided that the lots meet the requirements of this Section as well as the Subdivision Regulations to the extent not superseded by these Regulations. For parcels of land with ten (10) acres or more of Buildable Area and that are proposed for division into five (5) or more lots, the applicant shall submit to the Planning Commission all documents that would be necessary to in order to obtain a Special Permit meeting all requirements for a Conservation Subdivision for their review, in addition to and in compliance with the Planning Commission's subdivision regulations to the extent not superseded by these Regulations. At the determination of the Planning Commission, a Conservation Subdivision may be required.

3.7.1. Project Requirements for Special Permit

In addition to other Special Permit Requirements of these Regulations the Planning Commission shall find that the Conservation Subdivision complies with the following:

- A. Neighborhood Compatibility: The design elements of the proposed development will not adversely affect the characteristics of the neighborhood;
- B. Adequate Utilities to Serve the Development: The water supply, sewage disposal, and storm drainage facilities shall be made adequate to serve the development as proposed;
- C. Character and Extent of Area to be Preserved as Open Space: The area proposed to meet the minimum Open Space requirement shall be of a size and configuration and location that meets one or more of the following criteria:
 - 1. Land meeting the objectives for Open Space preservation set forth in the Plan of Conservation and Development Chapter 6;
 - 2. Areas providing for the expansion and/or protection of existing Open Space and recreational areas;
 - 3. Areas of woodland and/or farmland useful as wildlife habitat;
 - 4. Streambelts and Greenbelts;
 - 5. Prime agricultural land;
 - 6. Areas providing or protecting drinking water supplies;

7. Areas adjacent to Town streets with features such as large trees and stone walls that retain the rural character of the Town;
8. Ridge tops and other scenic vistas, which add to the Open Space quality of the Town;
9. Areas of significant tree cover, identified historic and archeological sites, water-related resources, and other agricultural or environmentally important lands, soils or geological phenomena; and,
10. Land with serves as buffer between existing residential development and proposed development areas.

D. The Planning Commission may modify the lot dimension requirements at Section 3.1.9 and 3.2.9, minimum Lot Area, minimum lot frontage, maximum building area, and minimum yard setback requirements all in accordance with Section 9.3 to create Conservation Subdivisions, provided that:

1. Thirty to fifty (30-50) percent of the land area shall be dedicated as Open Space and preserved for such use in perpetuity. This may be accomplished, *inter alia*, through a deed to the Town of New Fairfield, a deed to a land trust formed for the purpose of holding and preserving such Open Space areas, or a homeowner's association organized, *inter alia*, for the purpose of holding and preserving such Open Space. Subject to the specific Open Space uses set forth at Section 3.7.1.C of these Regulations, the provisions of Sections 3.4.12 and 3.4.13 of these Regulations shall apply to the Open Space in Conservation Subdivisions including without limitation, the prohibition against using a fee in lieu of Open Space;
2. Any encumbrance placed on the land so dedicated shall not restrict establishment of a greenway trail;
3. Minimum yard setback requirements shall not be modified where a required yard abuts the perimeter of the traditional subdivision lots; and,
4. Any permitted modifications of the Zoning Regulations shall be noted on the approved subdivision plans filed in the land records of the Town of New Fairfield.

E The Planning Commission's modification of zoning requirements as permitted under this Section is limited to the same percentage that the Open Space is preserved in perpetuity in the parcel. (i.e., if thirty (30) percent of the parcel is preserved as Open Space, a requirement may be modified up to thirty (30) percent) providing that in no event shall a residential lot in a residential subdivision have less than one hundred (100) feet of frontage nor shall the maximum building area exceed eight (8) percent of the total land. The Effective Impervious Coverage shall be reduced to the extent possible. However this authority to modify is limited so that, the proposed building lots shall meet the setback requirements for the underlying residential district for any side or rear lot line abutting residential or NB property or lots previously subdivided.

F. Prior to modifying any zoning requirements as permitted in this section for Conservation Subdivisions, in addition to the requirements of Section 8-2 of the Regulations, the Planning Commission shall make the following findings:

1. There will be a significant community benefit resulting from the Open Space that is being reserved in perpetuity such as:
 - a. Protection of important natural resources;
 - b. Protection of scenic and historic or potential archaeological resources;
 - c. Preservation of a sizeable area of Open Space;
 - d. Preservation of areas along Town or State road that will protect rural appearance or character;
 - e. Establishment of an Open Space corridor or greenway or interconnection of existing Open Spaces; and/or,
 - f. Provision for public access.
2. That the Open Space will not result in small or fragmented Open Space parcels that do not provide community benefits.

CHAPTER 4 - BUSINESS ZONES

4.0. GENERAL PROVISIONS

No land, building, or structure shall be used, occupied, constructed, altered or moved except when in conformity with the area and dimensional standards, requirements, and pursuant to the procedures specified below and all other applicable requirements of these Regulations.

4.0.1. Table of Zoning Requirements

The following table is included as a quick reference of the zoning requirements. Where the requirements of this table are incomplete, the text shall govern.

| Zoning Requirement | Zoning District | | |
|---------------------------------------|-----------------|-------------------------|-------|
| | BC | NB | LI |
| Minimum Lot Area | 1 ac. | 1 ac. | 3 ac. |
| Minimum Road Frontage | 150' | Variable ⁽¹⁾ | 200' |
| Setbacks | | | |
| Front | 40' | Variable ⁽¹⁾ | 50' |
| Side | 20' | 20' | 50' |
| Rear | 20' | 50' | 40' |
| Maximum Building Area | 25 % | Variable ⁽¹⁾ | 15% |
| Maximum Impervious Surfaces | 75% | Variable ⁽¹⁾ | 65% |
| Maximum Effective Impervious Coverage | 50% | Variable ⁽¹⁾ | 50% |
| Maximum Building Height | 36' | 35' or 2.0 stories | 36' |
| Maximum Floor Area Ratio | - | - | 0.45 |

(1) See Section 4.2.4

KEY TO ABOVE TABLE 4.0.1.

BC – BUSINESS COMMERCIAL

NB – NEIGHBORHOOD BUSINESS

LI – LIGHT INDUSTRIAL

4.1 BUSINESS/COMMERCIAL DISTRICT BC

4.1.1. Uses or Buildings Permitted As Of Right

The following uses of land, buildings, or structures may be permitted as of right after site plan review and approval pursuant to Section 8.1:

- A. Any building, structure or use, permitted as of right in a Residence R-88 District.
- B. Retail and wholesale establishments, providing the usable floor area of any such building, structure, or use shall not exceed five-thousand (5,000) square feet.
- C. Service and repair establishments, providing the usable floor area of any such building, structure, or use shall not exceed five-thousand (5,000) square feet.
- D. Business and professional offices, providing the usable floor area of any such building, structure, or use shall not exceed five-thousand (5,000) square feet.
- E. Any customary accessory use, which in the Commission's judgment is clearly subordinate and incidental to the above uses.

4.1.2. Special Permit Uses or Buildings

The following uses of land, buildings, or structures may be permitted providing that a Special Permit pursuant to Section 8.2 has been granted by the Zoning Commission:

- A. Any use or building permissible by Special Permit under Section 3.1.2.
- B. Any use of building, structure or land permissible under Section 4.1.1 exceeding five-thousand (5,000) square feet of usable floor area.
- C. Theaters.
- D. Restaurants (but not Fast Food Restaurants).
- E. Gasoline filling station and auto repair and service stations.
- F. Mixed residential and non-residential uses in the same building or structure providing that:
 - 1. There shall be not more than one (1) dwelling unit for each one-half (1/2) acre of land area;
 - 2. No dwelling unit shall contain more than two (2) bedrooms;
 - 3. The on-site subsurface sewage disposal system is capable of handling effluent from the combined uses;
 - 4. Off-street parking is provided at the rate prescribed under Section 6.2.9; and,
 - 5. No dwelling unit shall be permitted in conjunction with uses listed under Paragraph E of this Section.

G. Child Day Care Centers providing that the Commission shall specify the maximum number of children to be cared for. In addition to the requirements of Section 8.2, in determining whether a Special Permit shall be granted for such a facility and to determine the appropriate number of children permitted, the Commission shall consider the following special standards:

1. Off-street parking and loading requirements shall comply with Section 6.1.1 and 6.2 except as follows: there shall be one (1) off-street parking space for each six (6) children or fraction thereof.
2. There shall be safe and adequate provision for boarding and off-boarding children from vehicles without hazards to pedestrians and traffic and such provision shall be made on the lot where the facility is located and without the need to use any part of the public street right-of-way for turning.
3. The use shall be located in a building on a lot having such size, shape, landscaping, screening, outdoor play yard space and parking so as to provide for the health and safety of the children using the facility.

H. Funeral Homes or Funeral Director's establishments, but not including any Crematory. In addition to the requirements of Section 8.2, the Commission shall consider the following and may impose conditions regarding such when deciding whether to grant a special permit, for said facility:

1. The storage and disposal of human waste from the facility and the related impact, if any, on the ground and surface waters so as to protect such resources; and,
2. The use shall be located in a building on a lot having such size, shape, landscaping, screening, and parking so as to provide for the health and safety of the persons using same.

I. Drive-in windows for financial institutions and pharmacies, provided that there is stacking room for at least six (6) cars without impeding the use of parking spaces or the flow of traffic within the site or on any adjoining street.

J. Any use which, in the Commission's judgment, is accessory and clearly subordinate, customary and incidental to the above uses.

4.1.3. Minimum Lot Area and Frontage

A. The minimum Lot Area shall be one (1) acre unless otherwise prescribed by these Regulations;

B. Each lot shall have a minimum frontage of one-hundred and fifty (150) feet on a public street or highway.

4.1.4. Minimum Building and Structure Setbacks

A. Front Yard: forty (40) feet

B. Side Yard: twenty (20) feet

C. Rear Yard: twenty (20) feet

D. If abutting a residential district, no building, structure or parking area within a Business/Commercial BC District shall be closer than one and one-half (1-1/2) times the minimum side or rear building setback required in the residential district that it abuts. Such setback areas shall be provided with screening as prescribed under Section 6.1.2 or as may be required pursuant to Section 6.1.10.

4.1.5. Maximum Building Area

Not more than twenty-five (25) percent of the Lot Area shall be covered by Buildings and Structures.

4.1.6. Maximum Impervious Surfaces

Not more than seventy-five (75) percent of the Lot Area shall be covered by Impervious Surfaces.

4.1.7. Maximum Effective Impervious Coverage

The Maximum Effective Impervious Coverage shall not exceed more than fifty (50) percent of the Lot Area. To comply with the Maximum Effective Impervious Coverage requirement, a Stormwater Management Plan must be completed in accordance with Section 4.1.10, Section 6.7, and Section 8.1.

4.1.8. Maximum Building Height

No building or structure within a Business/Commercial BC District shall exceed thirty-six (36) feet in height.

4.1.9. Miscellaneous Provisions

A. There shall be no permanent outdoor display of goods, merchandise, or products except when otherwise approved by the Commission or its authorized agent;

B. There shall be no outdoor storage of vehicles, trash, rubbish or other material and equipment except within approved containers and only when screened from public view;

C. No manufacturing or assembling shall be conducted within the premises except where such manufacturing or assembling is clearly incidental to the wholesale or retail activity permissible within the district; and,

D. In order to preserve the historic character of the Town retaining walls shall be stone walls or have the appearance of natural stone walls.

4.1.10. Stormwater Management

Stormwater management systems within parking lots shall be designed and maintained in accordance with the Stormwater Management Plan requirements of Section 6.7, the Erosion and Sediment Control requirements of Section 6.5, and the Flood Protection Zone requirements of Section 5.1 Floodplain Overlay District, to minimize, treat, prevent, and/or reduce degradation of water quality and flooding potential due to stormwater runoff from parking and other impervious surfaces. The Commission may refer any or all information provided regarding anticipated stormwater flow patterns and volume and proposed stormwater management system to the Town Engineer or consulting professional or agency for review and advisory comment.

4.1.11. Off-Street Parking and Loading

Off Street Parking and Loading shall comply with Section 6.2 of these Regulations.

4.1.12. Landscaping

Landscaping shall comply with Section 6.1 of these Regulations.

4.1.13. Outdoor Lighting

Outdoor Lighting shall comply with Sections 6.6 and 9.1 of these Regulations.

4.1.14. Outdoor Eating

Outdoor eating areas (placement of tables and seating) for restaurants will be subject to annual Zoning Permit approval, annual Health Department Permit approval, and will be subject to the following conditions:

- A. The outdoor eating area shall be contiguous and accessible to the restaurant to which it is accessory.
- B. The outdoor eating area shall be largely open to the elements and shall not be enclosed by walls or a roof that is not part of the main structure of the building. A canvas tent or canopy without walls may be placed over the eating area seasonally.
- C. Outdoor eating areas will not require additional parking in the initial application. If after the first season the Zoning Commission becomes aware that there is insufficient parking, the permit will not be renewed unless the applicant can provide sufficient parking as required by the regulation for the number of tables requested.
- D. The outdoor eating area shall not exceed either twenty (20) percent of the interior patron floor area or six (6) tables and twenty-four (24) chairs.
- E. The outdoor eating area shall be a seasonal operation, not to exceed a six month period from May 1st to October 31st of each year.
- F. If located on a pedestrian walkway, the placement of the tables and chairs shall not impede pedestrian traffic.
- G. Sidewalks and patio areas must be kept clean and well maintained.

4.2 NEIGHBORHOOD BUSINESS DISTRICT NB

4.2.1. Purpose

While single-family dwellings are permitted, this district allows small-scale business or personal service uses developed in a manner that:

- A. Demonstrates excellence in building and site design;
- B. Recognizes existing development patterns;
- C. Helps meet community needs;
- D. Enhances the rural character of the District and the Town;
- E. Avoids creation of traffic hazards within the Route 39 corridor; and
- F. Protects water quality and reduces Effective Impervious Coverage.

4.2.2. Uses or Buildings Permitted As Of Right

Any building, structure, or use permitted as of right in a Residence R-88 District, as listed in Section 3.1.1 and 3.1.3. Bulk and area requirements of Section 4.2.4 shall apply.

4.2.3 Uses Permitted by Special Permit

The following uses of land, buildings, or structures may be permitted provided that a Special Permit pursuant to Section 8.2 and Section 4.2.5 of these Regulations has been granted by the Zoning Commission and that no drive-through facilities are provided:

- A. Office establishments, such as financial institutions, business offices, and professional offices;
- B. Conversion of an approved home occupation to a business use as specified in Section 4.2.3.A;
- C. Conversion of an existing building to a multi-residential unit dwelling, not to contain more than three (3) dwelling units, each with a maximum of two (2) bedrooms. There shall not be more than one dwelling unit for each half-acre of land, and parking is to be provided at a rate of two spaces per dwelling unit;
- D. Mixed residential and non-residential uses, as specified in Sections 4.2.3 and 4.1.2.F;
- E. Bed & Breakfast establishments pursuant to Section 3.6; and,
- F. Modification of standards for maximum footprint, maximum lot coverage, maximum impervious coverage, minimum landscaped area. The requirements for these items may be modified where the applicant has satisfied to the Commission that the adaptive reuse of existing buildings has occurred (see Sections 4.2.4 and 4.2.11).

4.2.4. Bulk & Area Requirements Permitted As Of Right

See Section 4.2.7 of these Regulations for additional setback requirements.

| | Non-Residential, Multi-Family and Mixed Uses | Residential | Adaptive Reuse as per Section 4.2.3.F |
|--|---|------------------------|---|
| Minimum Lot Size | 1.0 acre | 1.0 acre | 1.0 acre |
| Minimum Frontage | 150 feet | 125 feet | 125 feet |
| Minimum Front Setback | 25 feet | 40 feet | Existing setback of validly preexisting nonconforming structure |
| Minimum Side Setback | 20 feet | 20 feet | 20 feet |
| Minimum Rear Setback | 50 feet | 50 feet | 50 feet |
| Maximum Building Footprint | 2,000 square feet | Not Applicable | Footprint of existing structure |
| Maximum Building Height | 2.0 stories 35 feet | 2.0 stories 35 feet | 2.0 stories 35 feet |
| Maximum Building(s) Coverage | 15 percent | 20 percent | 20 percent |
| Maximum Impervious Surfaces | 30 percent | 25 percent | 40 percent |
| Maximum Effective Impervious Coverage | 25 | 10 percent | 25 |
| Minimum Landscape Area | 70 percent | Not Applicable | 60 percent |

4.2.5. Special Permit Criteria

A. In granting a Special Permit in this district, the Commission shall determine that:

1. The applicant has met the criteria established in Section 8.2 of these Regulations;
2. The applicant has proposed safe vehicular access;
3. All access for the proposed development must be from Route 39;
4. The hours of operation are not earlier than 6:00 a.m. or later than 10:00 p.m.;
5. The applicant has demonstrated excellence in building and site design, as defined by Section 4.2.5.B; and,
6. The proposed development shall be compatible with:
 - a. New Fairfield’s rural character;
 - b. Neighborhood development patterns; and,
 - c. The purpose of this zone.

B. In determining whether excellence in building and site design has been demonstrated, the Commission shall be guided by the following design guidelines:

1. Building massing and location reflect the typical architectural style of the community and New England.

| Acceptable | Unacceptable |
|----------------------------------|---------------------------------------|
| Small Building Footprints | Large Building Footprints |
| New England building proportions | “Box” buildings |
| Complexes of small buildings | “Strip” orientation of a building |
| Interconnected small elements | One large building footprint |
| Articulated facades | Flat facades |
| Consistent building setbacks | Staggered or deep setbacks |
| Buildings “oriented” to street | Buildings oriented internally to site |

2. Building designs reflect New Fairfield’s rural and historic character and the architectural styles of New England.

| Acceptable | Unacceptable |
|-----------------------------|-------------------------------|
| Colonial character | “Character-less” architecture |
| Multi-level buildings | One-story “box” buildings |
| Articulated facades | Flat building facades |
| Sloped roofs (>6:12 pitch) | Flat roofs |
| Roof gables | Unbroken roof line |
| Multiple windows | No windows |
| Colonial-style wood windows | Metal frame display windows |
| Building eaves/overhangs | Flush walls |
| Shutters/ Porches / Columns | No exterior ornamentation |

3. Building materials are compatible with the New England architectural style with an emphasis on masonry and clapboard walls and appropriate details.

| Acceptable | Unacceptable |
|-------------------------------|---------------------------------------|
| Clapboards with corner boards | Stucco or Block Masonry |
| Brick or Stone Masonry | Metal buildings |
| Traditional Colonial colors | Untraditional building or trim colors |
| Architectural roof shingles | Flat shingles / metal roofs |

4. Vehicular access is safe and well designed.

| Acceptable | Unacceptable |
|--------------------------------------|--------------------------------------|
| Defined traffic circulation patterns | Undefined traffic or parking layouts |
| Few curb cuts | Multiple driveways per site |
| Defined or narrow curb cuts | Wide or undefined curb cuts |
| Interconnected sites | Separate sites with no connections |

5. Site design minimizes the prominence of parking.

| Acceptable | Unacceptable |
|--|--------------------------------------|
| Parking to the rear or side of the buildings | Parking in the front of the lot |
| Parking area discretely screened | Unscreened parking |
| Reasonable parking and paving | Excessive parking or paving |
| Defined traffic circulation patterns | Undefined traffic or parking layouts |

6. Site design enhances pedestrian circulation.

| Acceptable | Unacceptable |
|-------------------------------------|------------------------------------|
| Interconnected sites | Separate sites with no connections |
| Provision of walkways and sidewalks | Walking areas through parking lots |
| Safe pedestrian access | |

7. Landscaping complements the proposed development, adjacent sites and the community.

| Acceptable | Unacceptable |
|---------------------------------|---------------------------------|
| Effective buffers to abutters | Ineffective buffers to abutters |
| Landscaping along the street | Sterile streetscape |
| Landscaped front yards | Paved front yards |
| Screening of parking areas | Overly visible parking areas |
| Landscape areas in parking lots | “Sea” of asphalt |
| Saving large existing trees | Clear-cutting a site |
| Coordinated planting design | Uncoordinated plating design |
| Grass with mulch plating beds | Large areas of stone or mulch |
| Mass plantings | |
| Native species of planting | Non-native species |
| Stone walls | Chain link or stockade fences |

8. Utilities complement the site and the vicinity.

| Acceptable | Unacceptable |
|------------------------|----------------------------------|
| Underground utilities | Overhead utilities |
| Screened HVAC units | Rooftop HVAC units |
| Screened service areas | Exposed dumpsters, loading areas |

9. Natural resources and water quality are protected.

| Acceptable | Unacceptable |
|--------------------------------------|---|
| Working with natural contours | Major cuts / fills / blasting |
| Storm water detention / renovation | Direct discharge |
| Flood relief | Increase in flood severity / frequency |
| Zero increase in peak runoff | |
| Reduce Effective Impervious Coverage | No reduction in Effective Impervious Coverage <i>where reduction possible</i> |

10. Provisions have been made for site maintenance.

4.2.6. Off-Street Parking and Loading Guidelines

- A. The application must be in compliance with Section 6.2, except as otherwise set forth in this Section.
- B. Any overnight parking or storage of a vehicle meeting or exceeding the definition of a ten thousand pound gross vehicle weight rating (GVWR) vehicle is not permitted, unless approved by this Commission by Special Permit.

4.2.7. Landscaping Requirements

- A. The application must be in compliance with Section 6.1.
- B. If the property adjoining a proposed Special Permit activity is not of a business, commercial, or multi-family nature, then:
 - 1. No building, other than an Adaptive Reuse as defined in Section 4.2.11, shall be within one hundred (100) feet of said adjoining property line, or twenty-five (25) feet from the property line abutting Route 39, and,
 - 2. No paved area shall be within fifty (50) feet of said adjoining property line.
 - 3. A fifty (50) foot landscape buffer satisfactory to the Commission shall be maintained within the setback required in Sections 4.2.7.B.1 and 4.2.7.B.2 to protect neighboring residential properties. Retaining natural growth within the buffer area is preferable but supplemental planting to provide year-round screening may be required.
 - 4. In order to preserve the historic character of the Town retaining walls shall be stone walls or have the appearance of natural stone walls.

4.2.8. Signage

- A. Wall Signs – one or multiple signs attached to the exterior wall(s), not to exceed six (6) square feet in total area per building.
- B. Freestanding Sign – Notwithstanding the requirements of Sections 6.3.8.F and 6.3.9.C, not more than one double-sided freestanding sign may be permitted to be installed perpendicular to the public street or highway, not to exceed two (2) square feet in size; such sign shall not exceed four (4) feet in height above the average grade of the existing ground surrounding the sign. The location of the sign cannot impede vehicular visibility.
- C. No other signs are permitted.

4.2.9. Outdoor Lighting

Outdoor lighting shall comply with Sections 6.6 and 9.1.

4.2.10. Stormwater Management

Stormwater management systems within parking lots shall be designed and maintained to renovate parking lot stormwater through mechanical or natural means and whenever practical,

renovated stormwater shall be infiltrated into the ground through drywells or other means in order to recharge groundwater and to reduce Effective Impervious Coverage. The requirements of Sections 4.1.10, 6.5, and 6.7 shall apply.

4.2.11. Adaptive Reuse

It is the policy of the Commission to encourage the preservation, restoration, and maintenance of existing residential and related outbuildings (e.g., barns) of historical and/or architectural significance on Route 39, which were originally built prior to 1950. Accordingly, the Commission may grant Special Permit approval for the adaptive reuse of said structures within this District where the nature and conduct of such use shall: enhance and preserve the exterior integrity of the structures; enhance and preserve the aesthetic appearance of the remainder of the property; and, maintain the general character of the neighborhood, subject to the following standards and application requirements:

A. Structures eligible for adaptive reuse shall have historical and/or architectural significance to New Fairfield. The Commission shall issue findings of such significance based upon evidence submitted and/or input from the New Fairfield Historic Properties Commission and/or the New Fairfield Historical Society.

B. A description of all alterations, which shall be required to comply with present fire, building, health, and safety codes, shall be provided.

C. New construction shall respect the existing height, bulk, scale, and style of architecture, which exists. Materials used shall be of a similar scale, texture, and style as that which exists.

D. Preservation and/or Restoration: A structure shall not be altered in character, shape, or general appearance. The Commission may allow up to a ten (10) percent increase in square footage (based on the current New Fairfield Assessment Field Card) of a building or structure if the addition is undertaken in such a manner that it is not visible from a public right-of-way. New materials shall match existing/replaced materials in color, texture, scale, and general appearance.

4.3 LIGHT INDUSTRIAL DISTRICT - LI

4.3.1. Uses Permitted As Of Right

The following uses of land, buildings, or structures may be permitted as of right after Site Plan review pursuant to Section 8.1:

A. Any use of building, structure, and land permitted under Section 3.1.2 except for uses described in Paragraphs C., E. and F. therein, providing that the usable floor area of any building, structure or use shall not exceed five-thousand (5,000) square feet.

B. Business and professional offices providing that the usable floor area of any building, structure, or use shall not exceed five-thousand (5,000) square feet.

4.3.2. Special Permit Uses

The following uses of land, buildings, or structures may be permitted by Special Permit from the Zoning Commission pursuant to Section 8.2 of the Regulations:

- A. Any use of building, structure, or land permissible under Section 4.3.1.A. and 4.3.1.B. above that exceeds five-thousand (5,000) square feet of usable floor area;
- B. Research and development establishments, including research and development of manufactured, processed, or compounded products;
- C. Establishments engaged in the research, development, manufacturing, production, assembling, packaging, and distribution of precision-electrical or precision-mechanical instruments, and equipment; optical goods, business machines, electronic products, medical and dental instruments; pharmaceutical, toiletry, and cosmetics products;
- D. Offices for executive, administrative and data processing corporations;
- E. Any other unlisted use which is of the same general character as the uses listed above and which use, in the Commission's judgment, will be compatible with other uses permissible within a LI District, and that will not hinder the development thereof;
- F. Buildings and uses accessory to the uses enumerated above including parking and loading/unloading facilities, recreation areas, HVAC facilities and equipment, power plants and water tanks, sewage disposal and refuse disposal systems all of which shall relate and serve the permitted uses and buildings and no other. Clinic, cafeterias, and Child Day Care facilities may be permitted provided they are located within the main building and are designed and maintained for the exclusive use of the employees and business visitors and no others.
- G. Bonding may be required by the Commission as set forth at Sections 8.7.3 through 8.7.5. of these Regulations.

4.3.3. Minimum Lot Area and Frontage

- A. The minimum Lot Area shall be three (3) acres; and,
- B. The lot shall have a minimum frontage of two-hundred (200) feet on a public highway or street or be served by an access drive having direct access to a public highway or street.

4.3.4. Minimum Building and Structure Setbacks

- A. Front Yard: fifty (50) feet;
- B. Side Yard: fifty (50) feet;
- C. Rear Yard: forty (40) feet; and,

D. If abutting a residential district, no building, structure or parking area within a LI District shall be closer than one and one-half (1-1/2) times the minimum side or rear building setback required in the residential district that it abuts. Such setback yards shall be provided with screening as prescribed under Section 6.1.2 or as may be required pursuant to Section 6.1.10.

4.3.5. Maximum Building Area

Not more than fifteen (15) percent of the Lot Area shall be covered by Buildings and Structures.

4.3.6. Maximum Impervious Surfaces

Not more than 65 (sixty-five) percent of the Lot Area shall be covered by Impervious Surfaces.

4.3.7. Maximum Effective Impervious Coverage

The Maximum Effective Impervious Coverage shall not exceed more than fifty (50) percent of the Lot Area. To comply with the Maximum Effective Impervious Coverage requirement, any Impervious Coverage over fifty (50) percent shall require a Stormwater Management Plan in accordance with Section 6.7 and Section 8.1.

4.3.8. Floor Area Ratio (FAR)

The maximum permissible FAR shall be 0.45.

4.3.9. Maximum Building Height

No building or structure within a LI District shall exceed thirty-six (36) feet in height.

4.3.10. Performance Standards and Miscellaneous Provisions

A. There shall be no outdoor display of goods, merchandise, or products except when otherwise approved by the Commission or its authorized agent;

B. There shall be no outdoor storage of vehicles except within designated parking or loading/unloading areas;

C. There shall be no outdoor manufacturing, assembling, or packaging of any product;

D. Air pollution and odor emission shall comply with 22a-174-1 to 22a-174-200, inclusive, of the "Regulation of Connecticut State Agencies; Abatement of Air Pollution," promulgated by the Commissioner of Environmental Protection pursuant to § 22a-170, et seq. of the General Statutes;

E. The use and/or disposal of hazardous substances and/or waste shall be in compliance with regulations and/or controls promulgated by the Connecticut Commissioner of Environmental Protection pursuant applicable State and Federal regulations; and,

F. Stormwater management systems within parking lots shall be designed and maintained to renovate parking lot stormwater through mechanical or natural means and whenever practical, renovated stormwater shall be infiltrated into the ground through drywells or other means in order to recharge groundwater. The requirements of Section 4.1.10 shall apply.

4.3.11. Off-Street Parking and Loading

Off-Street Parking and Loading must comply with Section 6.2 of these Regulations

4.3.12. Landscaping

Landscaping must comply with Section 6.1 of these Regulations. Further, in order to preserve the historic character of the Town retaining walls shall be stone walls or have the appearance of natural stone walls.

4.3.13 Outdoor Lighting

Outdoor lighting must comply with Sections 6.6 and 9.1 of these Regulations.

4.3.14. Prohibited Uses

The following uses are expressly prohibited in a LI District:

A. Uses that create a risk of fire, explosion, noise, radiation, injury, damage or other physical detriment to any structure, person or natural feature or resource beyond the boundaries of the premises on which the use is located; and,

B. Any use causing the emission of dust, toxic or corrosive gases, smoke or fumes, or any use which is conducted so as to cause or result in the dissemination of radiation, interference with radio or television reception and transmission, or other physical or electronic disturbance detectable beyond the premises on which the use is conducted.

CHAPTER 5 - SPECIAL ZONES AND USES

5.1 FLOODPLAIN OVERLAY DISTRICT

5.1.1. Establishment

The establishment of the Floodplain Overlay District is based on data from the study conducted by the Federal Emergency Management Agency (FEMA) and presented in the report entitled, "The Flood Insurance Study, Town of New Fairfield, Connecticut, Fairfield County" (Study), dated **June 18, 2010** and adopted into the New Fairfield Code of Ordinances at Chapter 5 and by reference into these Zoning Regulations.

5.1.2. Special Flood Hazard Areas

This regulation shall apply to all areas of special flood hazard within the Town of New Fairfield identified by the FEMA in its Flood Insurance Rate Maps (FIRM) dated February 15, 1984, the Study, and other supporting data applicable to the Town of New Fairfield, and any subsequent revisions thereto, which are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence where more restrictive until such time as a map amendment or map revision is obtained from FEMA. Areas of special flood hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Study for a community. BFEs provided on a FIRM are only approximate (round up or down) and should be verified with the BFEs published in the Study for a specific location.

The Study and the FIRM divide the Town into three areas:

- A. A zones, with no base flood elevations determined, which represent areas of flooding anticipated to occur every one-hundred (100) years.
- B. AE zones, with base flood elevations determined, which represent areas of flooding anticipated to occur every one-hundred (100) years.
- C. X zones, which are areas between the limits of the 100-year flood and the 500-year flood; or certain areas subjected to one-hundred (100)-year flooding with average depth less than one (1) foot; or which are areas of minimal flood hazard.

5.1.3. Flood Insurance Rate Maps

Copies of the aforementioned Study and its accompanying Flood Insurance Rate Maps (FIRM) panel nos. **090001C0 0070, 0090, 0107, 0110, 0126, 0127, 0128, 0129, 0131, 0133 F** are on file in the office of the Town Clerk, Town of New Fairfield.

5.1.4. Purpose and Objective

The flood hazard areas of the Town of New Fairfield are subject to periodic inundation by floodwaters that may result in loss of life and property, health and safety hazards, disruption of commerce and government service, extraordinary public expenditures for flood protection and relief, and impairment of tax base. It is the purpose of this regulation to promote the public health, safety, and general welfare and to minimize public and private loss due to flood conditions in specific areas by:

- A. Regulating or prohibiting uses that alter the flood flow, excessively increase water height or velocity or generate hazardous debris;
- B. Requiring that uses vulnerable to floods shall at their creation or at the time of substantial improvement be protected against damage;
- C. Minimizing surface and groundwater pollution that will affect human, animal and/or plant life;
- D. Assuring that potential buyers can be aware that property is in an area of special flood hazard; and,
- E. Helping to maintain a stable tax base through the reduction of potential flood blight areas.

5.1.5. Floodplain Overlay District Boundaries

The Floodplain Overlay District is defined as being those areas within the bounds of A Zones, AE Zones, and X Zones as presented on the FEMA created Flood Insurance Rate Maps (FIRM). The Floodplain Overlay District overlaps other zoning districts. Where conflicts in uses or standards between the Floodplain Overlay District and the underlying zone occur, the more restrictive of the two will take precedence.

5.1.6. Floodplain Overlay District Zones

The Floodplain Overlay District is subdivided into two Zones:

- A. Floodway - The Floodway is the channel of a watercourse and the adjacent area within the A and AE zones that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.
- B. Flood Fringe - The Flood Fringe is that area between the Floodway and the outer limits of the base flood within the A and AE zones and sometimes the X zone. It thus encompasses the portion of the Floodplain Overlay District which can be encroached upon without raising the water surface elevation of the base flood more than one foot.

5.1.7. The Floodway and the Flood Fringe

The Floodway and the Flood Fringe are represented on the FIRM incorporated into these Regulations and referenced in the Study.

- A. When base flood elevation data and/or floodway data have not been provided, the applicant of any application, petition or request for Special Permit, Site Plan and/or Subdivision Approval shall provide the Zoning Commission with data which meets the standards of accepted engineering practice and the requirements of the National Flood Insurance Program, such that it may review and reasonably utilize such base flood elevation and/or floodway data in order to administer the provisions of this regulation. Information in the form of land surveys, structural engineering, and/or hydraulic engineering shall be prepared at the expense of the applicant. Should data be provided, the Commission shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1) foot at any point along the watercourse.

B. Where interpretation is needed as to base flood elevation data and/or floodway data, the Town Engineer shall be the technical reviewer of information submitted and shall report to the Zoning Commission after review. The Zoning Commission shall make the necessary interpretation. All records pertaining to the provisions of this regulation shall be maintained in the agency office of the Zoning Commission. This includes the elevation (in relation to mean sea level) of the lowest floor (including basement) and flood-proofing for all new construction and substantial improvements. When flood-proofing is utilized for a particular structure, the Zoning Commission shall obtain certification from a registered professional engineer or architect, in accordance with Section 5.1.13 C.3.

C. When base flood elevations have been determined with AE zones in the community's FIRM but a regulatory floodway has not been designated, the Zoning Commission must require that no new construction, substantial improvements, repair to structures which have sustained substantial damage or other development, including fill, shall be permitted which will increase the water surface elevation of the base flood more than one (1.0) foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development.

D. Aboveground Storage Tanks – Above-ground storage tanks (oil, propane, etc) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extend above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.

E. Portion of Structure in Flood Zone – If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The Structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.

F. Structures in Two Flood Zones – If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V Zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)

G. No Structures Entirely or Partially Over Water – New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless it is a functionally dependent use or facility.

5.1.8. Definitions

Unless specifically defined below, words or phrases used in these Regulations shall be interpreted so as to give them the meaning they have in common usage and to give this Regulation its most reasonable application.

AREA OF SPECIAL FLOOD HAZARD - The land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

BASE FLOOD - The flood having a one percent chance of being equaled or exceeded in any given year (commonly called the 100 year flood).

BASE FLOOD ELEVATIONS (BFE) – The elevation of the crest of the base flood (100 year flood). The height in relation to the mean sea level (NAVD of 1988) expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

BASEMENT – Any area of the building having its floor sub grade (below ground level) on all sides.

COMPENSATORY STORAGE. The water holding capacity of the floodplain, except those areas which are totally influenced shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

COST – As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repair made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds and gazebos.

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining; dredging, filling, grading, paving, or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities located within the area of special flood hazard.

EQUAL CONVEYANCE. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filing, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including , as a minimum, the installation of utilities, the construction of streets, an either finals site grading or the pouring of concrete pads).

EXPANSION TO AN EXISTING MANUFACTURED HOME PARKOR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEREDAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program (NFIP).

FINISHED LIVING SPACE – As related to fully enclosed areas below the base flood elevation (BFE), a space that is, but not limited to, heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.) has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace.

FLOOD INSURANCE STUDY (FIS) – The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters, the unusual and rapid accumulation of runoff or surface waters from any source, mud slides which are proximately caused or precipitated by accumulations of water on or under the ground, and the collapse or subsidence of land along the shore of any body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and enforceable event which results in flooding as defined herein.

FLOOD FRINGE - The Flood Fringe is that area between the Floodway and the outer limits of the base flood within the A and AE zones and sometimes the X zone. It thus encompasses the portion of the Floodplain Overlay District which can be encroached upon without raising the water surface elevation of the base flood more than one foot.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD ZONE, A: An area defined on a FIRM with no base flood elevations determined, which represents areas of flooding anticipated to occur every 100 years.

FLOOD ZONE, AE: An area defined on a FIRM with base flood elevations determined, which represents areas of flooding anticipated to occur every 100 years.

FLOOD ZONE, X: An area defined on a FIRM between the limits of the 100-year flood and the 500-year flood; or certain areas subjected to 100 year floods with an average depth of less than one (1) foot; or which are areas of minimal flood hazard.

FLOOD-PROOFING: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY: The channel of a watercourse and the adjacent area within the A and AE zones as shown on the corresponding FIRM that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

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. The term does not include the floor of a garage used solely for parking vehicles.

FLOOR AREA, GROSS: The sum of the area of all of the floors existing within the exterior walls of a building, including basements, cellars, and mezzanines.

FUNCTIONALLY DEPENDANT FACILITY: A facility that cannot be used for its intended purpose unless it is located in close proximity to water, The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

HISTORIC STRUCTURE – Any structure that is (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (1) B an approved state program as determined by the Secretary of the Interior or (w) Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles, and similar transportable structures placed on a site for 180 consecutive days of longer and intended to be improved property.

MANUFACTURED HOME PARK OR SUBDIVISION – A parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

MARKET VALUE – The value of the structure shall be determined by the appraised value of the structure, using the cost approach to the value method, prior to the start of the initial repair or improvement, or in case of damage, the value of the structure prior to the damage occurring.

MEAN SEA LEVEL: The North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION: For the purpose of determining flood insurance rates, structures for which the "start of construction" commenced on or after the effective first date of the FIRM (February, 1979) or amendments thereto and includes any subsequent improvements to such structure. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after February 1, 1984, and includes any subsequent improvements to such structure.

NEW MANUFACTURED HOME PARK OR SUBDIVISION – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date February 1, 1984, of the floodplain management regulation adopted by the community.

RECREATIONAL VEHICLE – A vehicle which is (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alternation of any wall, ceiling, floor, or other structural part of the building, whether or not that alternation affects the external dimensions of the building.

STRUCTURE – A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, and other man-made facilities or infrastructures.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any combination of repairs, reconstruction, or improvement of a structure, **taking place over a one year period**, the cost of which equals or exceeds fifty (50) percent of the market value (using the Cost Approach to Value Method) of the structure. The market value of the structure should be 1) the appraised value of the structure prior to the start of the initial repair or improvement, or 2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes 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. This term does not include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety codes that are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National or State Register of Historic Places.

VARIANCE – A grant of relief by a community from the terms of the floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

VIOLATION – A failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION – The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

5.1.9. Flood Damage Liability

The Floodplain Overlay District as delineated herein is based on data gathered according to accepted engineering standards. It is understood that more extensive flooding may result from man-made or natural causes, such as ice jams and bridge openings restricted by debris. This regulation does not imply that areas outside the Floodplain Overlay District or land uses permitted within such district will be free from flooding or flood damage.

This regulation establishes standards considered reasonable for regulation purposes and shall not create liability on the part of the Town of New Fairfield for any flood damages that result from reliance on this regulation or any administrative decision lawfully made hereunder. Further, this Regulations supplements Chapter 5 of the New Fairfield Code of Ordinances.

5.1.10. Permitted Uses in the Floodway

Located within areas of special flood hazard are areas designated as floodways on the community's Flood Insurance Rate Maps (FIRM). Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, no encroachments, including fill, new construction, substantial improvements, repairs to substantially damaged structures and other developments shall be permitted unless certification, with supporting technical data, by a Connecticut registered professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge. Fences in the floodway must be aligned with the flow and be of an open design. A permit may be given which allows

encroachments resulting in increase in base flood elevations provided the community first obtains a conditional floodway revision by meeting the requirements of C.F.R. 44, Chapter 1, Subsection 65.12.

The following uses are permitted by right in a Floodway Zone to the extent they are not prohibited by Chapter 5 of the New Fairfield Code of Ordinances or any other ordinance and provided no “development” takes place that would result in any **(0.00 feet)** increase of flood level at any point during the base flood.

- A. Agriculture - cultivation of crops, orchards, pasturing of animals.
- B. Forestry.

5.1.11. Special Permit Uses in the Floodway

The following uses are permitted within the Floodway only when the Zoning Commission has issued a Special Permit and provided no “development takes place that would result in any **(0.00 feet)** increase of flood level at any point during the base flood **(see section 5.1.10 for requirements in a floodway)**:

- A. Private or public open space recreational uses such as: wildlife or nature preserves and parks.
- B. New and Replacement Water Supply Systems - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- C. New and Replacement Sanitary Sewage Systems – All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters. On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding;
- D. Bridges - All bridges shall be constructed so as to create the least obstruction feasible. The Zoning Commission shall consider a variety of issues including but not limited to:
 - 1. Bridge opening being reasonably adequate to accommodate flood flow and debris;
 - 2. Durability of construction materials and design; and,
 - 3. Abutments being located out of the Floodway.
- E. Fences, signs and other incidentals or accessories to permitted uses and which are oriented so that they offer the least obstruction to the flow of flood waters and debris during the base flood event.

5.1.12. Permitted Uses in the Flood Fringe

The following uses are permitted by right in the Flood Fringe to the extent they are not prohibited by any other ordinances:

- A. Those uses permitted by right in the Floodway;
- B. Outside storage of materials or equipment provided that: by its nature it presents no risk of flotation or is firmly anchored; and is not incendiary, explosive, poisonous, or otherwise injurious to human, animal, or plant life.

5.1.13. Special Permit Uses in the Flood Fringe

The following uses shall be permitted within the Flood Fringe only when the Zoning Commission has issued a Special Permit.

- A. Those uses permitted by Special Permit in the Floodway;
- B. Residential buildings, new or substantially improved, constructed on fill, columns, pilings or other acceptable means provided that:
 - 1. The lowest floor, including the basement, is elevated to a height of one foot or more above the base flood elevation;
 - 2. Fill extending at a minimum of one foot above base flood elevation for a distance of at least fifteen (15) feet beyond the limits of any structure thereon;
 - 3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and,
 - 4. New and replacement water supply systems shall be located to avoid impairment to them or contamination from flood waters.
- C. Non-residential buildings, new or substantially improved, provided that:
 - 1. They comply with the standards set forth for residential buildings; except, they may be flood-proofed in lieu of being elevated provided that together with attendant utility facilities water supply facilities and sanitary facilities, the flood-proofing of all portions thereof starting at the lowest point and extending to one foot above the base flood elevation be watertight with walls substantially impermeable to water;
 - 2. Structural components are capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - 3. The standards of this subsection are certified by a registered professional engineer or architect, are reviewed and approved by the Town Engineer, are acceptable to the Zoning Enforcement Officer and Environmental Enforcement Officer, and are kept on file in the office of the Zoning Commission.

5.1.14. Standards

Where permitted by right or by Special Permit within the flood fringe, all structures shall comply with the following standards:

- A. New Construction and Substantial Improvements shall be:
 - 1. Anchored to prevent flotation, collapse, or lateral movement of the structure;

2. Constructed with materials resistant to flood damage;
3. Constructed by methods and practices that minimize flood damage; and,
4. Constructed with electrical, heating, ventilating, plumbing, air conditioning and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. Manufactured Homes shall be installed using methods and practices that minimize flood damage. For purposes of this requirement, manufactured homes shall be:

1. Placed and anchored so as to resist flotation, collapse, or lateral movement;
2. Elevated to have the lowest floor elevated at a height of one (1) foot or more above the base flood elevation; and,
3. Placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored. Anchoring may include, but not be limited to, the use of over-the-top-frames ties to ground anchors.
4. The standards above include manufactured homes located outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood.
5. Recreational vehicles placed on sites within areas of special flood hazard shall either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, or meet the elevation and anchoring requirements listed above for a manufactured home. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

C. Elevated Buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement shall be certified by a professional engineer, architect or meet the following minimum criteria:

1. Provide a minimum of two opening having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
2. The bottom of all openings shall be no higher than one foot above grade; and,
3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

5.1.15. Approval

A. In reviewing applications for Special Permits in the Floodway or Flood Fringe, the Commission will consider such issues as:

1. Danger to life and property due to increased flood height or velocity;
2. Alteration or obstruction of the flood flow or the flood storage;
3. Risk to environmental systems;
4. Prevention of potential for hazardous debris;
5. Extraordinary public risk or expense; and,
6. The effects of a proposed use in light of an equal degree of encroachment extending for a significant reach on both sides of the Floodway.
7. Determine whether the proposed development and building sites will be reasonably safe from flooding.
8. Aboveground Storage Tanks – Above-ground storage tanks (oil, propane, etc) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extend above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.
9. Portion of Structure in Flood Zone – If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The Structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.
10. Structures in Two Flood Zones – If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V Zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)
11. No Structures Entirely or Partially Over Water – New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless it is a functionally dependent use or facility.

B. In acting upon an application for Special Permit in the Flood Fringe, the Zoning Commission will consider all criteria set forth for Special Permits in Section 8.2 and in the Floodway an approval shall additionally require:

1. That all fill be the natural and reasonable extension of the land above the base flood elevation;
2. That all fill be protected against erosion by rip rap, vegetative cover, bulkheads, or other suitable material;
3. Safe access to the property in times of flood for emergency vehicles;
4. Notification of adjacent communities and the Department of Environmental Protection, Water Resources Unit of any pending application, petition, request of plans concerning any alteration or relocation of a watercourse. Issuance of a permit under this Section shall not obviate any other requirements for additional Federal or State permits;
5. Assurance that maintenance is provided within the altered or relocated portion of a watercourse so that flood-carrying capacity is not diminished; and,
6. That an as-built survey prepared by a licensed Land Surveyor in accordance with the Standards of an A-2 horizontal and vertical transit survey (1/5000 traverse closure and 0.01 foot vertical closure) be filed on the land records showing the elevation of the lowest floor, including the basement and the elevation to which the structure has been flood-proofed.
7. All necessary federal or state permits or approvals must be received and provided with the permit application. Copies of such permits or approvals must be provided and will be maintained on file with the permit application.

5.1.16. Site Plans

All applications for a Special Permit shall include a Site Plan as described in Section 8.1. In addition, the applicant will provide design and construction data, and when flood-proofing is utilized for a particular structure, which is certified by a licensed architect or engineer demonstrating that the least practicable hazard or detrimental change will result from the proposed use. A Site Plan will show the elevation (in relation to mean sea level) of the lowest floor (including basements) of all new or substantially improved flood-proofed structures.

5.1.17. Conflicts

This Section 5.1 of the Regulations is intended to supplement Chapter 5 of the New Fairfield Code of Ordinances. Where this Section and Chapter 5 of the New Fairfield Code of Ordinances or any other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5.2 AQUIFER PROTECTION OVERLAY DISTRICT

5.2.1. Purpose

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. Stratified drift aquifers, which are existing or potential public drinking water sources, have historically been contaminated by activities associated with certain land uses. Therefore, it is necessary that specific controls over land use be exercised within these areas to protect the Town's major groundwater resources and ensure a future supply of safe drinking water for the Town of New Fairfield and its residents.

5.2.2. Authority

These regulations are adopted pursuant to General Statutes §§ 8-2 and 8-3, that require the Zoning Commission to consider protection of existing potential public water supplies in these Regulations. Further, upon completion of Level A mapping for New Fairfield, this regulation is intended to implement the Aquifer Protection Area Program pursuant to General Statutes §22a-354a to §22a-354bb that has as its purpose to identify critical water supply aquifers and to protect them from pollution by managing land use.

5.2.3. Applicability

These Regulations shall apply to all parcels of land wholly or partly within the area designated as the Aquifer Protection Overlay District, as depicted on the Zoning Map.

5.2.4. Designation of the District

The Aquifer Protection Overlay District consists of the stratified drift aquifer and its primary and secondary recharge areas as identified on the map entitled "New Fairfield, CT Aquifer Protection District, Prepared by HVCEO 3/2/2004, herein incorporated as a part of the Zoning Regulations and Map. Amendments may only be adopted upon application for an amendment following the process for a Zoning Regulation or Zoning Map change. Further the regulated "Aquifer protection area shall also mean the "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.

5.2.5. Use Regulations

A. Prohibited Uses: The following uses present a high risk of groundwater contamination due to the use or storage of hazardous materials; the discharge of high volumes of domestic sewage; or the disturbance of groundwater bearing gravel deposits and/or overburden; and are therefore prohibited in the Aquifer Protection Overlay District except as set forth at 5.2.5 B below:

1. Manufacturing, use, transport, storage, or disposal of hazardous materials as a principal activity;

2. Manufacturing, processing, or assembling of goods in which hazardous materials are used in quantities greater than associated with normal household use;
3. Printing, plate making, lithography, photoengraving, or gravure, which involves the use, storage or disposal of hazardous materials,
4. Furniture stripping operations which involve the use, storage or disposal of hazardous materials, 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, and any painting, furniture refinishing, and metal working, using hazardous materials in quantities greater than associated with normal household use;
5. Research laboratories in which hazardous materials are in use in quantities greater than associated with normal household use;
6. On-site storage of hazardous materials for the purpose of wholesale sale, any storage, treatment or disposal of hazardous waste and any storage or disposal of any hazardous material in quantities greater than associated with normal household use, except:
 - a. As used in normal agricultural practices and stored in conformance with all other applicable regulations and codes;
 - b. For treatment of public drinking water supplies; or,
 - c. Swimming pool chemicals to be used on premises;
7. Warehousing or distribution of chemicals, including agricultural chemicals and lawn care products;
8. Solid waste disposal, septic lagoons, bulky waste truck terminals;
9. Oil or petroleum dispensing for the purpose of retail,(including gasoline stations) wholesale or fleet use;
10. Storage and distribution of liquid fuel;
11. Underground storage of chemicals or fuels;
12. Pipelines for the transmission of oil, gasoline or other hazardous substances;
13. Repair or maintenance of vehicles of any nature, including without limitation, boats, cars, trucks, all-terrain, snow-mobiles or of 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, including motor vehicle service yards;
14. Junkyards, including salvage operations of metal or vehicle parts;
15. Storage of road salt or other ice control chemicals;

16. Dry cleaning establishments where dry cleaning is performed on premises and any clothes or cloth cleaning service which involves the use, storage or disposal of hazardous materials including without limitation dry-cleaning solvents, and 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;
17. Laundry and cleaning services, including self-service facilities;
18. Hotels and motels;
19. Mortuaries or funeral homes, and any 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;
20. Mining of topsoil, sand, and gravel;
21. Motor vehicle washing or cleaning establishments, unless all waste waters from such activity are lawfully disposed of through a connection to publicly owned treatment works or are recycled with all recovered hazardous waste materials disposed of off-site to licensed facilities;
22. Discharges to ground water other than domestic sewage, except for discharges from the following that have received a permit from the Commissioner: (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) storm water discharge system, or (vi) swimming pools;
23. 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;
24. Production or refining of chemicals, including without limitation hazardous materials or asphalt;
25. 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;
26. 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;
27. 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;

28. Pest control services which involve storage, mixing or loading of pesticides or other hazardous materials;

29. 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 or special disposal site for the particular waste generated;

30. 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;

31. Accumulation or storage of waste oil, anti-freeze or spent lead-acid batteries which are subject to a general permit issued under §22a-208(i) and §22a-454(e)(1) of the Connecticut General Statutes;

32. Production of rubber, resin cements, elastomers, or plastic, which involves the use, storage, or disposal of hazardous materials;

33. 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 deicing parking areas or access roads to parking areas;

34. Accumulation, storage, handling, recycling, disposal, reduction, processing, burning, transfer, or composting of solid waste;

35. Dying, coating or printing of textiles, or tanning or finishing of leather, which activity involves the use, storage, or disposal of hazardous materials;

36. Production of wood veneer, plywood, reconstituted wood or pressure-treated wood, which involves the use, storage or disposal of hazardous material; and,

37. Pulp production processes that involve bleaching.

B. Conditional Uses: The following activities present a risk of contamination of groundwater because of the use or storage of hazardous materials and may only be permitted if the use is demonstrated to comply with the performance standards in these regulations.

1. Manufacturing, processing, or assembling of goods in which hazardous materials are used in quantities less than or equal to that associated with normal household use;

2. Storage or disposal of any hazardous material in quantities less than or equal to that associated with normal household use, except

a. As used in normal agricultural practices and stored in conformance with all other applicable regulations and codes;

- b. For treatment of public drinking water supplies; or,
 - c. Swimming pool chemicals to be used on premises;
3. Painting, furniture refinishing, and metal working, using hazardous materials in quantities less than or equal to that associated with normal household use;
 4. Research laboratories in which hazardous materials are in use in quantities less than or equal to that associated with household use;
 5. Multi-family housing for the elderly (MFDE);
 6. Convalescent and rest homes;
 7. Motor vehicle washing or cleaning establishments, where all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works or are recycled with all recovered hazardous waste materials are disposed of off-site to licensed facilities;
 8. Veterinary clinics;
 9. 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;
 10. Any agricultural activity regulated pursuant to §22a-354m(d) of the Connecticut General Statutes;
 11. Any activity provided all the following conditions are satisfied:
 - a. Such activity takes place solely within an enclosed building in an area with an impermeable floor;
 - b. Such activity involves no more than ten (10) percent of the floor area in the building where the activity takes place;
 - c. Any hazardous material used in connection with such activity is stored in such building at all times;
 - d. All waste waters generated by such activity are lawfully disposed through a connection to a publicly owned treatment works; and,
 - e. 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.
 12. Any activity solely involving the use of lubricating oil provided all the following conditions are satisfied:

- a. Such activity does not involve cleaning of metals with chlorinated solvents at the facility;
- b. Such activity takes place solely within an enclosed building in an area with an impermeable floor;
- c. Any hazardous material used in connection with such activity is stored in such building at all times; and,
- d. 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.

13. 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:

- a. Such dispensing activity takes place solely on a paved surface which is covered by a roof;
- b. The above-ground storage tank(s) is a double-walled tank with overfill alarms; and,
- c. All associated piping is either above ground, or has secondary containment.

5.2.6. Activities Regulated by the State

A. 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.

B. 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.

C. After adoption of a Level A Mapping as described herein, the Commission 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).

5.2.7. Groundwater Protection Permit

A. Groundwater Protection Permit shall be obtained from the Commission before any permit is issued for development, including the subdivision of land, that lies either entirely or partially within an Aquifer Protection Overlay District, A Groundwater Protection Permit shall also be obtained from the Commission for any property lying partially or completely within the Aquifer Protection Overlay District whenever occupancy changes so that the new occupancy results in a change of use or new intensity of use.

Single- and two-family houses and their customary accessory buildings and uses are exempt from these requirements except as required in 5.2.11.J and 5.2.11.K.

B. Application: An application for a Groundwater Protection Permit shall include the following Information:

1. A Site Plan in compliance with applicable requirements for the proposed activity;
2. A description of the intended use;
3. The distance to the nearest public drinking water supply;
4. Provisions for stormwater runoff controls, including a detailed drainage plan with drains design and location of parking lots, loading areas and access roads; locations of storm drains and points of discharge; location and design details for detention basins; stormwater control systems and provisions for their long-term maintenance, which must meet applicable performance and design standards;
5. Expected types and amounts of discharge to the ground and to surface water, and locations and design of floor drains and septic systems, showing that they meet applicable performance and design standards;
6. Proposed heating source for any building, including fuel type, storage facility, feed line type and location;
7. Location and description of all indoor and outdoor storage areas, including underground and above ground storage tanks and types of materials to be store, showing that storage facilities meet applicable performance and design standards;
8. Material Safety Data Sheets for all hazardous and toxic materials to be stored;
9. Description of any use of fertilizers, pesticides, or herbicides in any commercial greenhouse or nursery, on crops, or landscaped areas larger than two (2) acres, showing that the proposed use meets applicable performance and design standards; and,
10. All applications for permits and registrations shall contain sufficient information for a fair and informed determination of the issues. The Commission may request additional information from the applicant for this purpose, which may include, but is not limited to, water quality impact assessment, hydrogeologic studies and monitoring provisions.

C. The Zoning Commission shall be the granting agency for all Groundwater Protection Permits except for applications for change of use, which may be granted administratively by the Zoning Enforcement Officer if the new use is not regulated or prohibited under this Section. Any change of use application may be referred to the Commission at the discretion of the Zoning Enforcement Officer. A public hearing is allowed but not required for issuance of a Groundwater Protection Permit.

D. Review Procedure: The Commission shall refer all Groundwater Protection Permits to designated reviewing agencies. Reviewing agencies shall include the Water Pollution

Control Authority, the Town Sanitarian, the Inland Wetlands Commission, and any other agencies the Commission deems appropriate. Reviewing agencies shall be given thirty (30) days to submit written comments to the commission. Failure to submit comments within thirty (30) days shall be construed as no objection to issuance of a Groundwater Protection Permit. The Commission shall enter the reports of any referral agency into the record.

5.2.8. Permit Application and Transfer Procedures

A. The day of receipt of a registration, permit application or transfer form shall be the day of the next regularly scheduled meeting of the Commission, immediately following the day of submission of the application to the Commission or its duly authorized agent, provided such meeting is no earlier than three business days after receipt, or within thirty- five (35) days after such submission, whichever is sooner.

B. At any time during the review period, the Commission may require the applicant or registrant to provide additional information about the regulated activity. Requests for additional information shall not extend the time periods applicable to these APO Regulations or any other applications before Town land use agencies including the Zoning Commission and Planning Commission.

C. Incomplete permit applications and registrations may be denied without prejudice.

D. No permit or registration issued under these APO Regulations shall be assigned or transferred except with written approval by the Commission.

E. Action shall be taken on permit applications within thirty-five (35) 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.

F. An application for a permit shall be made on a form prescribed by the Commission and shall be accompanied by the correct application fee in accordance with these Regulations. Simultaneously with filing an application, the applicant applying under Level A Mapping shall send a copy of the application to the Commissioner, the Commissioner of Public Health and the affected water company.

G. The Commission shall notify the applicant or permittee within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission 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.

H. A permittee may request a modification of a permit from the Commission. Such request shall be on a form prescribed by the Commission, and shall include the facts and reasons supporting the request. The Commission may require the permittee to submit a new application for a permit or renewal in lieu of a modification request.

I. 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 Commission and submitted to the Commission.

J. Time periods for review. The Commission shall render its decision in compliance with Section 8-7d of the General Statutes. If the commission determines that the proposed

use is likely to adversely impact current or potential future public water supplies, the Commission shall deny the permit. A Groundwater Protection Permit application may be filed simultaneously with other site specific applications such as Special Permits, Site Plans, and Subdivision Applications.

5.2.9. Public Hearings Regarding Permit Applications

A. If the Commission decides to hold a public hearing regarding an application for a permit to conduct a regulated activity under this Section 5.2 within an aquifer protection area, such hearing shall commence no later than sixty-five (65) days after the receipt of such application which shall be the next regularly scheduled meeting of the Commission after the application is submitted. Public hearings for the Groundwater Protection Permit may be concurrent with other applications before the Commission for the same proposal.

B. 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.

C. The Applicant shall send to any affected water company, at least ten (10) days before the hearing, a copy of the notice of the hearing by certified mail, return receipt requested. Any affected water company may, through a representative, appear and be heard at any such hearing.

D. All applications, maps and documents relating thereto shall be open for public inspection.

E. At such hearing any person or persons may appear and be heard.

F. The hearing shall be completed within thirty-five (35) days of its commencement.

G. In reaching its decision on any application after a public hearing, the Commission 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 Commission in its decision.

H. The applicant or permittee shall be notified of the Commission's decision.

5.2.10. Decision Criteria

No Groundwater Protection Permit shall be issued by the Commission for any proposed use that is likely to pollute or adversely affect the quality of the public water supply, or is not consistent with the standards and/or requirements in this Section. The Commission 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:

A. In its decision, the Commission shall consider the recommendations of reviewing agencies. When a decision is contrary to the recommendations of reviewing agencies, the Commission shall state on the record the reasons for any departure from said recommendations.

B. As a condition of approval, the Commission may include any measure deemed necessary by the commission or reviewing agencies to ensure adequate long-term protection of water supplies. Conditions of approval may include, but are not limited to:

1. Groundwater monitoring;
2. A water quality impact assessment or hydrogeologic study;
3. A fertilizer and/or pesticide management plan;
4. Maintenance of storm water controls and septic systems; or,
5. Other protective measures, relative to specific design requirements or stipulations of operation of the facility or use.

C. In making its decision, the Commission shall take into consideration that:

1. Water quality will not be degraded;
2. Flooding will not be increased as a result of the site modifications; and,
3. All measures possible have or will be instituted to protect the groundwater.

5.2.11. Performance and Design Standards

A. General: All uses shall conform to these standards. The objective of these standards is to prevent potential contamination of groundwater supplies by prohibiting or controlling high-risk activities, preventing direct and accidental releases of hazardous materials, and providing for inspection and emergency response. An alternative standard or protection method may be approved if it is clearly demonstrated to provide equivalent or better protection.

B. Stormwater Disposal and Management Facilities. A maintenance plan shall be provided for stormwater treatment structures, such as oil separators, catch basins, or detention basins.

C. Building Floor Drains: No floor drains shall be connected to drywells, subsurface leaching structures, or surface waters.

D. Non-Sewage Wastewater Discharges: Non-domestic wastewater discharge shall not be connected to any on-site sewage disposal system (individual or community), dry well, or released into surface water.

E. Storage, Use and Handling of Hazardous Materials. All areas and facilities where hazardous materials are stored, used, or handled shall be designed and constructed to prevent groundwater contamination, including provisions for the control of inadvertent or accidental spills, leaks, or other discharges. The following standards shall apply.

1. Manufacturing, processing, or other activities using hazardous materials shall only be conducted within a building on flooring impervious to the material being used.
2. Underground storage tanks and distribution lines for hazardous materials shall be prohibited.
3. Outdoor unprotected storage of containers, tanks, drums, materials or parts containing hazardous material is prohibited.

4. Storage areas shall be within a building meeting the following requirements:
 - a. An impervious floor and containment area or dike of adequate size;
 - b. Thirty (30) percent of the total stored volume or one hundred ten percent (110%) of the largest container (whichever is larger);
 - c. The area shall be protected by a roof and adequate walls to prevent accumulation of precipitation;
 - d. Tank overfill protection devices shall be designed to prevent release of overfill outside the storage area or container; and,
 - e. Storage areas shall be located outside the flood zones or shall be flood proofed.

F. Venting. Venting systems for evaporation or distillation of hazardous materials shall be designated with a recovery system to prevent the discharge of contaminated condensate or drippage.

G. Loading Areas. Loading or transfer activities shall be conducted on impervious surfaces, roofed, and designated with a watertight sump or catch basin equal to one hundred ten (110) percent of the largest container handled to capture and control any spills or leaks.

H. Bulk Material and Solid Waste Storage.

1. Bulk storage facilities of non-hazardous materials, which may leach into the ground, such as road salt and manure, shall have an impervious floor and roof and be designed to prevent surface water run-off from entering.
2. Solid waste dumpster shall be:
 - a. On a concrete pad;
 - b. Remain covered; and,
 - c. Watertight.

I. Security and Emergency Spill Contingency Plan for Hazardous Materials. A plan and procedure shall be submitted that identifies the following:

1. Security and inspection measures to control vandalism or accident;
2. Procedures to contain and clean up spills or leaks of hazardous material;
3. Procedures for notification of local and state officials;
4. A schedule for updating any changes in materials or procedures; and,
5. Procedures to control hazardous materials release in case of total structure loss due to fire or other natural hazard;

J. Pesticide and Fertilizer Use: Any applications of chemical pesticides or fertilizers shall be accompanied by a management plan. The management plan shall indicate the types of material, application schedule, and conformance with applicable Best Management Practices. The Commission may require that the application of the material be accomplished under the direction of a licensed applicator.

K. Monitoring. If the Commission determines that additional safety measures and monitoring are needed because of hydrogeological conditions or potential contamination, then a monitoring program may be required which may consist of:

1. Installation of monitoring wells;
2. Periodic sampling; and,
3. Reporting of analysis to the Town Sanitarian.

L. On-site Septic Systems. For any on-site septic system in the Aquifer Protection Overlay District, the applicant shall show evidence of system approval by the Town Sanitarian.

M. Manure Storage, Application, and Other Agricultural Activities: Contamination may result from distribution, storage, accidental spillage or application of fertilizers, pesticides or herbicides. Best Management Practices for these activities are available through the U.S.D.A. Soil Conservation Service and Agricultural Stabilization and Conservation Service. These Best Management Practices should be implemented in all recharge areas designated aquifers, and it is recommended that new and enlarged manure storage sites in the primary recharge area must:

1. Have a roof that would prevent precipitation from coming into contact with the manure;
2. Have a liquid-tight floor; and,
3. Be located such that surface water runoff drains away from the storage area.

N. The creation of gravel excavations or filling operations by Special Use Permit may only be approved in the Aquifer Protection Overlay District if the applicant for that activity provides reports from a qualified hydrogeologist regarding the lack of an adverse impact on the groundwater quality as measured by the content of the water in its present condition as compared to expected increases in hazardous materials. This report and application will be reviewed by the appropriate authorities (with jurisdiction over public water supplies) who must approve the water source as suitable as a public water supply in its developed condition.

5.2.12. Inspection and Enforcement

A. Right of Entry: The Commission and its authorized agents, including the WPCA and Town Sanitarian, shall have the right to enter upon privately owned property for purposes of inspection for compliance with this Section.

B. Enforcement:

1. The Commission appoints the Zoning Enforcement Officer and may appoint other agents to act as its duly authorized agent to act in its behalf with the authority to issue notices of violation or cease and desist orders.
2. If the Commission 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 Commission or its duly authorized agent may:
 3. Issue a Notice of Violation.
 - a. The Notice of Violation shall state the nature of the violation, the jurisdiction of the Commission, and the necessary action required to correct the violation including without limitation halting the activity in the aquifer protection area.
 - b. The Commission may request that the person appear at the next regularly scheduled meeting of the Commission 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.
 4. Issue a written Cease and Desist order.
 - a. 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 Commission shall send a copy of such order to any affected water company by certified mail, return receipt requested.
 - b. Within ten (10) days of the issuance of such order the Commission 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 Commission 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.
 5. Suspend or revoke registration or permit.
 - a. The Commission 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 Commission 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.
 - b. The Commission 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 Commission shall notify the registrant or

permittee of its decision by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of a suspension or revocation in a newspaper having general circulation in the Town.

c. An order issued pursuant to subsection B. 2 shall be effective upon issuance, shall remain in effect until the Commission affirms, revises, or withdraws the order, and shall not delay or bar an action pursuant to subsection B.3 of this Section.

d. Performance Bonds: The Commission may required, as a condition of any Groundwater Protection Permit in such amount as the Commission deems sufficient to insure the performance and completion of any work required for protection of the public water supply, including long-term maintenance. In determining requirements for a performance bond, the Commission shall consider the recommendations of reviewing agencies. The Bond shall comply with the requirements of Sections 8.7.3 through 8.7.5 of the Regulations. Such bond or other security shall be released only when the work has been completed to the satisfaction of the Commission.

5.2.13. Non-conforming Uses

Structures and uses existing at the effective date of this Regulation which do not comply with the provisions of this Section 5.2 shall be considered non-conforming and may be continued, maintained, repaired, and replaced in conformance with Section 7.2 except as follows:

- A. Enlargement or expansion of a use that is non-conforming with respect to the provisions of this Section shall be prohibited.
- B. All non-conforming uses shall be terminated whenever and wherever the Town of New Fairfield and its Agents may legally exercise its police powers to protect the groundwater of the Town of New Fairfield.
- C. No non-conforming use shall be changed to another use without a Groundwater Protection permit and no non-conforming use shall be changed to a use prohibited under Section 5.2.5.A.
- D. The Zoning Board of Appeals shall grant no use variance for a use prohibited in an Aquifer Protection Overlay District.

5.2.14. Best Management Practices

- A. Every regulated activity shall be conducted in accordance with the following:
 - 1. Hazardous materials may be stored above ground within an aquifer protection area only in accordance with the following conditions:
 - a. 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 5.2.11 of these APO Regulations;

- b. 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;
- c. 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;
- d. 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 ten (10) percent of the total volume of all such containers in such area, whichever is larger, without overflow of released hazardous material from the containment area;
- e. 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;
- f. Hazardous material shall be stored only in a container that has been certified by a state or federal Commission or the American Society of Testing Materials as suitable for the transport or storage of such material;
- g. Hazardous material shall be stored only in an area that is secured against unauthorized entry by the public; and,
- h. 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.

2. No person shall increase the number of underground storage tanks used to store hazardous materials;

3. 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 twenty-five (25) percent 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;

4. 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,

5. A materials management plan shall be developed and implemented in accordance with the following:

- a. A materials management plan shall contain, at a minimum, the following information with respect to the subject regulated activity:

i. 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,

ii. A description of any operations or practices which may pose a threat of pollution to the aquifer, which shall include the following:

aa. A process flow diagram identifying where hazardous materials are stored, disposed and used, and where hazardous wastes are generated and subsequently stored and disposed;

bb. An inventory of all hazardous materials which are likely to be or will be manufactured, produced, stored, utilized or otherwise handled; and,

cc. A description of waste, including waste waters generated, and a description of how such wastes are handled, stored and disposed.

iii. 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;

iv. 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 Commission; and,

v. 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.

b. When a materials management plan is required under these APO 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,

c. 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 Commission.

d. In addition other stormwater management requirements of these Regulations, the development and implementation of a storm water management plan required for regulated activities in accordance with these APO 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.

5.2.15. Other State, Federal and Local Laws

A. 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 Town of New Fairfield, 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 Commission. Obtaining such assents, permits, or licenses are the sole responsibility of the applicant.

B. 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 Town of New Fairfield zoning or subdivision regulations.

5.2.16. Appeals

Following adoption of a Level 1 Map, Appeal of the Commission's regulation, order, decision or action shall be made in accordance with §22a-354q of the Connecticut General Statutes. Otherwise, appeals are as set forth under these Regulations.

CHAPTER 6 - BASIC STANDARDS

6.1 LANDSCAPING STANDARDS

Uses permissible by Special Permit under Section 8.2, or uses permissible by site plan review under Section 8.1 shall comply with the minimum landscaping, site amenities, features, and other standards and requirements of this Section, where applicable.

6.1.1. Parking Areas

A. Parking areas shall be planted with trees a minimum of three (3) inches in caliper measured six (6) inches above ground level so that there is at least one (1) tree per ten (10) parking spaces. Such trees shall be temporarily staked with two (2) stakes and protected against damage by vehicles with proper curbing. A minimum planting area equivalent to one-hundred and eighty (180) square feet per tree shall be provided.

B. Required parking areas shall have a landscape island at the end of each row of vehicle spaces and shall include intermediate recessed parking islands designed as bioretention islands as necessary to break up expanses of pavement and to catch and treat surface water parking lot runoff.

Bioretention landscape islands are recessed, and the pavement graded so that surface water flows into these areas. In small parking lots where there are no landscape islands, biofiltration of storm water can be achieved through the diversion of the storm water runoff to a biofiltration landscaped area at the perimeter of the lot.

The design of bioretention islands shall follow the principles provided in Figure 1 below utilizing a combination of soil process, infiltration, evaporation, and appropriate plantings. Typically such landscape islands are needed for every ten spaces however applicants may propose alternative spacing proposals which may be approved by the Commission where it will accomplish the goals of shading and collection and treatment of storm water runoff from the parking lot.

1. Design Criteria. Proper plant choices are essential to the long-term success. Trees selected must be deep rooted to withstand both drought and periodic flooding of their root systems. Avoid fruit trees and favor trees with small leaves that biodegrade quickly.

Shrubs and herbaceous perennials used under trees should be shade tolerant and salt tolerant and attractive at close range. Weedy growth or sprawling habit types should be avoided. Evergreen leaves and showy flowers are encouraged. Balance combinations of both evergreen and deciduous flowering trees, shrubs, and herbaceous perennials or groundcovers are best.

2. Maintenance. A maintenance program for bioretention landscape islands shall be submitted with the application including: annual testing of soil pH, maintaining mulching, inspection of plants for pests, pruning for shape and vigor, and regular litter removal. Trees shall be kept in their natural shape (no pollarding).

3. Parking lot perimeter applications. In perimeter areas parking lot edge biofiltration strips (see Figure 2 below) or sand filters, and/or grassed filter strips may be used. The use of subsurface drains (under-drainage) is optional for both

the islands and perimeter systems, depending on conditions of the particular site. Subsurface drains may also be designed to deliver water in times of drought.

Parking Lot Bioretention and Filtration Design Principles

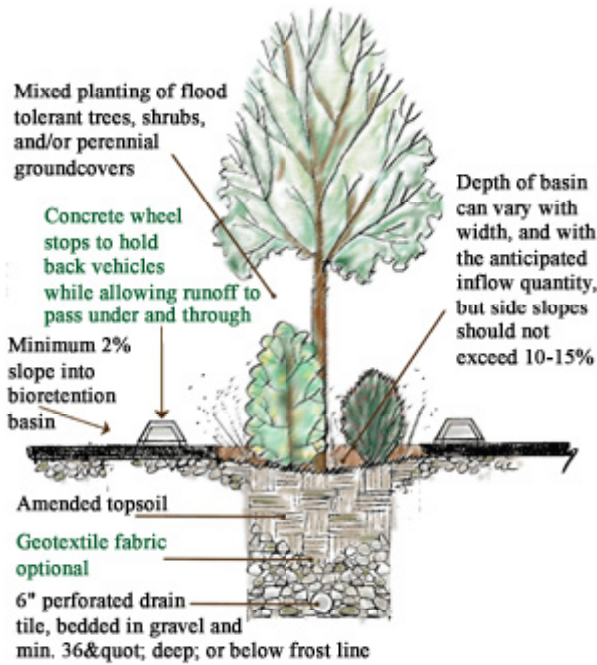


Figure 1. Cross section of a parking lot bioretention island with an 8-foot width.

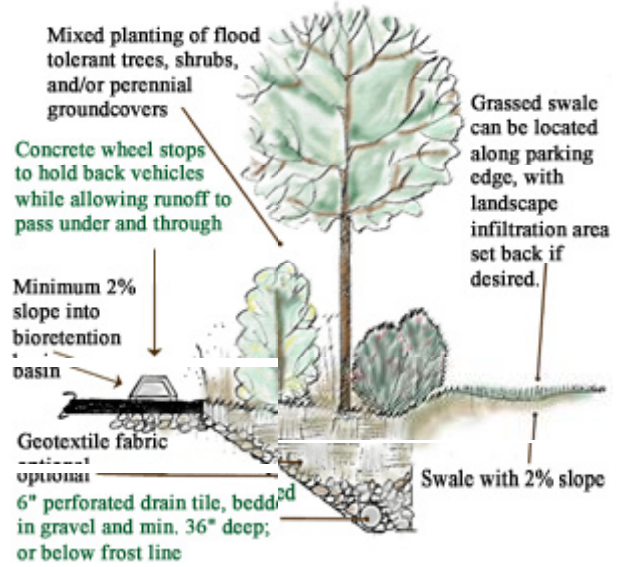
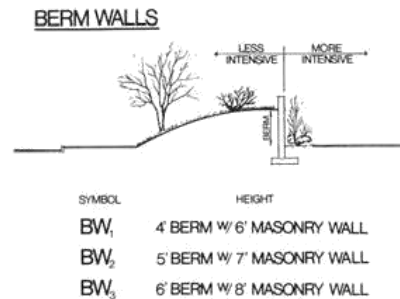
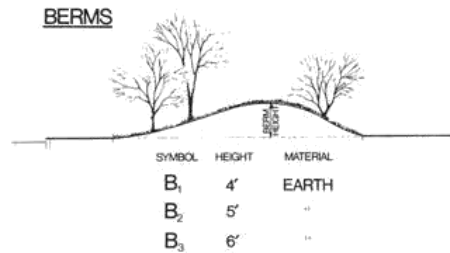
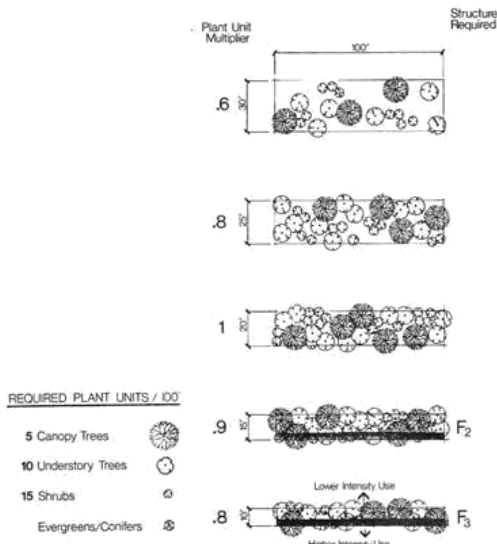


Figure 2. Cross section view of a parking lot edge with a biofiltration strip and optional subsurface runoff collection.

6.1.2. Buffer Areas

Nonresidential parking areas shall be buffered from any property line abutting land zoned for residential purposes utilizing one of the following flexible bufferyards illustrated below. Where the circumstances warrant, the Commission may require the substitution of plantings, the use of berms and/or walls, and additional screening.



6.1.3. Protection of Trees

When existing trees are to be preserved, they shall be so marked on plans and in the field. Trees shall be protected during construction by cribbing which shall consist of six (6)-foot high snow fencing surrounding the tree trunk at a distance of no less than the drip line of the tree, and which fencing shall be braced and held in position by properly installed wood posts set at least two (2) feet in the ground. Any tree which has been marked for preservation but which is damaged or removed shall be replaced with: 1) a tree of the same caliper, or 2) at the Commission's discretion, multiple trees totaling the same caliper. Replacement trees shall be of the same or similar species and where practical shall be balled and wrapped with burlap. Trees shall be retained in their natural shape (no pollarding).

6.1.4. Utility Lines

All utilities lines and equipment shall be placed underground.

6.1.5. Security Fences

Where required, security fences shall be designed, placed, and screened so as to afford minimum exposure to public view from public streets and highways.

6.1.6. Pedestrian Walks

Where proposed or required, pedestrian walks and cross-walks shall be constructed so as to be clearly distinguishable from surrounding paving or other areas. Such walks shall be no less than five (5) feet in width.

6.1.7. Lighting Standards

Lighting must meet requirements of Sections 6.6 and 9.1 of these Regulations.

6.1.8. Excavating and Grading

The following requirements are intended to prevent the blasting, excavation and/or grading of land in a manner that would be detrimental to the character of the Town and the value of adjacent properties. In addition, excavating and grading shall be done in accordance with the following standards:

- A. Jersey barriers or waste-concrete blocks shall not be used for retaining slopes. Concrete or metal cribbing, riprap, or gabion wall systems used for retaining slopes shall not be visible from the street or adjoining properties. Decorative block; formed and tinted concrete resembling natural stone or brick, or concrete covered by a course of brick or stone are recommended for retaining slopes in highly visible locations.
- B. Earthen slopes shall contain a suitable ground cover of grass, ivy, creeping varieties of shrubs or similar treatment.
- C. Ledge walls or retaining walls located to the rear of buildings and not visible from the public street or adjoining properties shall not exceed the height of the building.
- D. Tall ledge walls or retaining walls visible from a public street or adjoining properties are not recommended and shall be reduced through grading, terracing, or other means.

E. To reduce the visual impact of tall, ledge walls, or retaining walls, the Commission may require landscaping along the top and base of walls.

6.1.9. Site Features and Amenities

Where warranted for effect or for necessity, site features may include benches, kiosks, and rest areas but these must be designed and constructed to meet functional needs of the project and its relationship to surrounding land uses and features.

6.1.10. Additional Landscaping

The Commission shall retain the right to require additional landscaping, screening, buffering or lighting as deemed necessary to accommodate for topography or special circumstances.

6.2 OFF-STREET PARKING AND LOADING

General - Off-street parking and loading spaces shall be provided, designed, and constructed at the rate and in compliance with the dimensions and standards prescribed in this Section. Whenever the existing use of a building or structure is changed to a new use, parking and loading facilities shall be provided as may be required by the new use.

6.2.1. Size of Off-Street Parking Spaces

Exclusive of access or maneuvering space, the size of parking spaces shall be as follows:

A. Standard Parking Spaces

1. Parking spaces with a parking angle of 90°, arranged head to head or abutting a wall shall not be less than nine (9) feet wide by twenty (20) feet long.
2. The stall length of parking spaces overhanging a curbed landscape area of sidewalk may be reduced by up to two (2) feet.

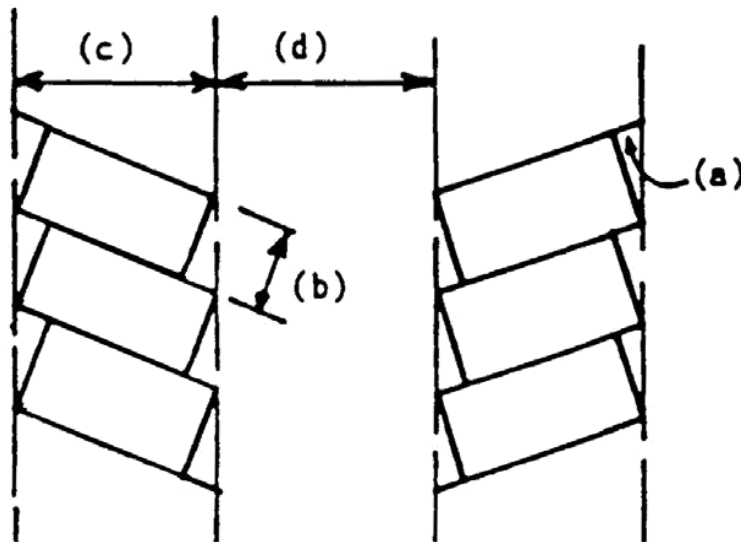
B. Oversized parking spaces

The Commission may require a limited number of parking spaces to be ten (10) feet wide and designated with pavement markings and/or signage for larger vehicles.

6.2.2. Layout of Parking Areas

Parking areas shall be designed as follows:

| (a) Parking Angle | (b) Stall Width | (c) Stall Length | (d) Aisle Width |
|----------------------|--------------------|------------------------------|--------------------|
| 90 degree | 9'0" | 18'0" - 20'0" ⁽¹⁾ | 24'0" |
| 60 degree | 9'0" | 19'0" - 21'0" ⁽¹⁾ | 18'0" |
| 45 degree | 9'0" | 18'0" - 19'6" ⁽¹⁾ | 13'0" |



⁽¹⁾ The shorter stall length may only be used in accordance with Section 6.2.1.A

6.2.3. Construction of Loading, Parking Areas and Drives

A. Loading and parking areas and associated drives shall be constructed with properly compacted gravel or crushed stone base and shall be provided with an all-weather surfacing capable of allowing free and safe movement of all vehicles customarily using the facility.

B. Where appropriate for seasonal or infrequently used parking spaces and to reduce stormwater runoff, the Commission may permit the use of grass/pavement block systems for a portion of the required parking spaces.

C. Entrance/exit drives to and from public highways shall be located, designed and constructed so as, to minimize interference with traffic on said highway. Curbing within loading, parking areas and drives shall be made of bituminous concrete, poured-in-place concrete, or granite.

6.2.4. Handicapped Parking Spaces

Handicapped parking spaces shall comply with the State of Connecticut Building Code. The Zoning Commission or its authorized agent shall retain the right to require the provision of handicapped parking spaces in locations and in numbers as the Commission or its agent may deem appropriate. Handicapped parking spaces shall be part of the total amount of parking spaces serving the use or uses. When required, handicapped spaces shall meet the

dimensions specified in this Section, and shall be located to enable the handicapped person to reach with relative safety and comfort walkways, entrances, ramps and elevators to buildings and/or uses. Handicapped parking spaces shall be identified with adequate signs and/or markings.

6.2.5. Computation of Required Parking and Loading Spaces

The number of required off-street parking and loading spaces shall be rounded up to the nearest whole number.

6.2.6. Parking for Multiple Uses

In the case of multiple or mixed uses, off-street parking spaces required shall be the sum of the requirements of the various individual uses computed separately in accordance with the parking schedule provided in this Section.

6.2.7. Parking for Non-coincidental Uses

Off-street parking spaces for a predominantly evening use may be used as part of the number of parking spaces required for a predominantly day-time use provided that (1) mutual and reciprocal parking use easements are filed in the office of the Town Clerk and that (2) such parking use easements are approved by the Commission.

6.2.8. Landscaped Buffers along Public Highways

Parking areas adjacent to public highways designed to contain three (3) or more parking spaces shall be separated from the traveled portion of the public highway by a landscaped berm no less than eight (8) inches high and ten (10) feet wide which area shall be furnished with a sidewalk of no less than five (5) feet in width. The sidewalk may be built within the street right-of-way and shall be maintained by the developer, successor, or assign. The Commission may reduce, waive, or modify this requirement when it determines that the size, shape, or topography of the lot makes such requirement inappropriate.

6.2.9. Parking Schedule

Off-street parking spaces shall be constructed and maintained for every permissible use of land, building, or structure based upon the following schedule of minimum requirements:

- A. Single-family dwellings: Two (2) spaces space but not more than four (4) spaces per dwelling.
- B. Multi-family dwellings: One and one-half (1-1/2) spaces per each efficiency and one-bedroom unit; and two (2) spaces per each two-bedroom unit.
- C. Motels, hotels, inns and similar places for transient living: One (1) space for each guest room plus one (1) space for each employee or resident manager.
- D. Retail stores and service establishments: One (1) space for each two-hundred (200) square feet of gross floor area.
- E. Convenience stores: One (1) space for each one-hundred and fifty (150) square feet of gross floor area.

- F. Delicatessen: One (1) space for each one-hundred and fifty (150) square feet of gross floor area.
- G. Barber shop, beauty parlor, hair salon, nail salon, tanning salon or similar establishment: One space per employee plus two spaces per operator chair or tanning booth.
- H. Banks: One (1) space for each one-hundred and fifty (150) square feet of gross floor area on the first floor plus one (1) space for each two-hundred and fifty (250) square feet of gross floor area on each upper floor plus stacking room for six (6) cars per drive-through window or automatic teller machine lane.
- I. General business offices: One (1) space for each two-hundred and fifty (250) square feet of gross floor area.
- J. Restaurants, taverns, bars, and nightclubs: One (1) space for each seventy-five (75) square feet of gross floor area.
- K. Restaurants, take-out: One (1) space for each fifty (50) square feet of gross floor area.
- L. Home Occupation: One (1) space for each one-hundred (100) square feet of floor area devoted to such use.
- M. Gasoline filling stations, motor vehicle repair and service stations: One (1) space for each employee plus four (4) spaces for each repair bay plus one (1) space for each 300 square feet of retail space. Repair bays and service spaces at the gas pumps shall not count as parking spaces.
- N. Manufacturing, assembling, fabricating, processing, and distribution establishments: One (1) space for every one and one-half (1-1/2) employee on the largest shift. Where the number of employees cannot be determined parking shall be provided at the rate of one (1) space for every three-hundred (300) square feet of gross floor area.
- O. Theaters, gymnasiums, stadiums, grandstands, auditoriums, meeting halls, places of Worship: One (1) space for each two persons employed in the premises, plus one (1) space for each four (4) seats, or each eight (8) feet of bench seating space.
- P. Funeral and mortuary establishments: One space per every three (3) seats, plus additional spaces as may be required by the Commission.
- Q. Libraries and museums: One (1) space for each four-hundred (400) square feet of gross floor area.
- R. Clubs, lodges and fraternal organizations: One (1) space for each three (3) occupants, based on maximum occupancy load, as determined by applicable building, fire, or health codes.
- S. Medical and dental offices: One (1) space for every one-hundred and seventy-five (175) square feet of gross floor area, plus one (1) space for each doctor and employee.
- T. Hospitals: One (1) space for each two (2) hospital beds plus one (1) space for each two (2) employees, and one (1) space for each doctor assigned to the staff.

U. Convalescent, Nursing or rest homes and similar institutions for the care of the aged or infirm: One (1) space for each two (2) employees and one (1) space for each doctor assigned to the staff, plus one space for each two (2) beds.

V. Health clubs: Five (5) spaces, plus one (1) space for each two-hundred and fifty square feet of gross floor area.

W. Schools - commercial, trade, music, dance, or business: One (1) space for each two (2) employees, plus one (1) space for each three (3) students based upon maximum designed capacity.

X. Schools - elementary, junior high, high, public, or private: One (1) space for each faculty member and employee, plus one (1) space for each four (4) seats in the auditorium or gymnasium.

Y. Parks, recreation areas, or community centers, private or public: One (1) space for each two (2) employees plus sufficient additional spaces as may be determined by the Commission or its agent to serve visiting public.

Z. Warehouse, storage, wholesale, or mail order establishments, cartage, express and parcel delivery establishments: One (1) space for each employee plus one (1) space for each vehicle maintained on the premises.

AA. Public utility and governmental services: One (1) space for each employee plus sufficient additional spaces as may be determined by the Commission to accommodate for visiting public.

BB. Child day care centers and group day care homes: One (1) space for each employee, plus one (1) space for each four (4) children, or fraction thereof.

CC. Parking for unlisted uses: The Commission shall determine a reasonable and appropriate number of off-street parking spaces for uses not listed above.

6.2.10. Deferred Parking

The Zoning Commission may defer the construction up to fifty (50) percent of the required parking spaces under the following conditions:

A. The Commission finds that the complete installation of all parking spaces is not necessary at the time of site plan approval;

B. The site plan contains the required number of parking spaces, designed to conform to all parking requirements, with the deferred parking spaces clearly delineated and labeled as "Reserve Parking";

C. Upon notice by the Commission or the Zoning Enforcement Officer that parking demand exceeds the parking spaces provided; the Commission may require that a portion or all of the deferred parking spaces be constructed;

D. The Commission may require an irrevocable performance bond, securing to the Town of New Fairfield, in such form, amount and with surety acceptable to the Commission and in compliance with Sections 8.7.3 through 8.7.5 of the Regulations, to insure the

installation of the deferred parking spaces, and which shall be reduced or released upon completion of a portion or all of the deferred parking spaces; and,

E. Nothing in this Section shall preclude the property owner from constructing a portion or all of the deferred parking spaces at any time.

6.2.11. Off-Street Loading

Off-street loading spaces shall be designed, located, constructed, and provided at the minimum rates prescribed by this subsection and in accordance with the following requirements:

A. Off-street loading spaces shall be located within the same premises as the use to be served, shall be at least twelve (12) feet wide and no less than fifty (50) feet long, exclusive of aisle and maneuvering space, and shall have a minimum vertical clearance as per Section 6.2.12 below;

B. All motor vehicle loading spaces which abut a residence district or intervening alley separating a residence district from a business or industrial district shall be completely screened there from by building walls, or a uniformly painted solid fence, wall, or door or any combination thereof, not less than eight (8) feet in height; any such walls shall be consistent with the requirements of Section 6.1.8A;

C. No permitted or required loading space shall be located within forty (40) feet of the nearest point of intersection of any two (2) streets; and,

D. No loading space shall be located in a required front or side yard, and any loading space located in any required rear yard shall be open to the sky.

6.2.12. Off-Street Loading Space Schedule

Off-street loading spaces shall be provided based on the following schedule:

A. For buildings and uses within business and industrial districts, the following rates apply:

| Gross Floor Area (square feet) | Minimum Number | Minimum Vertical Clearance |
|--------------------------------|----------------|----------------------------|
| 5,000 – 10,000 | 1 | 12 ft. |
| 10,000 – 30,000 | 2 | 12 ft. |
| 30,000 – 50,000 | 3 | 14 ft. |
| 50,000 – 100,000 | 4 | 14 ft. |

For each additional one-hundred thousand (100,000) square feet of gross floor area, or fraction thereof, one (1) additional berth.

B. Schools in residential districts shall provide a minimum of one off-street loading space.

6.2.13. Minimum Loading Spaces Required

Uses for which off-street loading facilities are required but which are located in buildings having less gross floor area than the minimum prescribed under Section 6.2.12 above shall be provided

with adequate receiving facilities, accessible by motor vehicle, off any adjacent alley, service drive, or open space on the same lot.

6.2.14. Permissive Off-Street Parking and Loading Facilities

Nothing under this Section shall be deemed to prevent the voluntary establishment of off-street parking and loading facilities to serve any of the permissible existing uses of land and buildings providing that all applicable regulations governing the establishment, location, design, and operation of such additional off-street facilities as adhered to.

6.2.15. Damage or Destruction

If any conforming or non-conforming building or use which is in existence on the effective date of this regulation but which is damaged by fire, collapse, explosion, or other cause and which is subsequently reconstructed, re-established or repaired without being expanded, additional off-street parking and loading facilities need not be provided beyond that which existed at the time of damage or destruction.

6.3 SIGNS

6.3.1. Intent and Purpose

The intent and purpose of this Section is to provide minimum standards to p ***preserve and enhance the character of the Town*** for new and replacement signs by regulating the location, size, height, number, illumination, and the overall design of new and replacement signs and other graphic displays in order to accomplish the following:

- A. To promote public safety by providing that official traffic regulating devices be easily visible and free of nearby visual obstructions, including blinking signs, excessive number of signs or signs resembling official traffic signs;
- B. To promote a reasonable and comprehensive system of sign controls to ensure the development of a high quality environment;
- C. To prevent undue distraction to motorists and pedestrians;
- D. To insure the ***compatibility of signs*** and other street graphics with the permitted land uses;
- E. To provide reasonable standards by which uses within the various zoning districts may relate their function to the public;
- F. To encourage a design that ***preserves the historical values of the Town*** with a minimum of clutter, while recognizing the need for signs as a major form of communication;
- G. To provide for fair and equal treatment of all sign users; and,
- H. To encourage signs that are well-designed and pleasing in appearance with good design relationship, spacing, and location.

6.3.2. General Provisions and Standards

The following provisions shall apply to all signs and street graphics to be displayed in any district:

- A. Permits Required - Unless otherwise exempted by this Section no sign or street graphic shall be displayed, established, constructed, reconstructed, enlarged, extended, moved or structurally altered unless said sign or graphic complies with the applicable requirements of this Section and a permit has been issued by the Commission or its duly authorized Agent. Any sign not expressly permitted is prohibited. Signs or graphics for residential purposes require a zoning permit; signs or graphics for non-residential purposes or within non-residential districts require a permit approved and issued under Section 8.1;
- B. Signs which become unsafe or in disrepair in the opinion of the Commission or Zoning Enforcement Officer, shall, upon notice from the Zoning Enforcement Officer, be repaired or removed by the owner or lessee of the property on which such signs stand within one (1) month of notice;
- C. Signs that are no longer function or have been abandoned shall be removed or relocated by the owner or lessee of the property on which such signs stand within one (1) month following such designation by the Zoning Enforcement Officer;
- D. The replacement of a nonconforming sign shall be in accordance with these Regulations;
- E. Repairs or alterations to validly pre-existing nonconforming signs are permitted with a permit.
- G. Multi-tenant "Directory Signs" at the road are difficult to read and are discouraged.

6.3.3. Exempted Signs and Graphics

The following signs and graphics are exempted from the provisions of this Section and do not require a permit:

- A. Service, Civic, and Religious Organization Signs. One (1) double-facing sign, not exceeding six (6) square feet in area, including only any flag, badge, or insignia, identifying any civic, charitable, religious, patriotic, fraternal, or similar organization including notice of the regular meeting hours, if applicable, provided that such sign is located on the lot where the meetings are held; Signs associated with any educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event may be installed, provided that such signs shall be installed for a period of not more than thirty (30) days before and seven (7) days after the event and that the person responsible for install of such signs obligate themselves to remove them. In no instance shall any such temporary sign be permitted for a period of more than thirty-seven (37) days.
- B. Government and Public School Signs. Traffic or other directional signs erected by the governmental buildings provided such signs do not exceed four (4) square feet in area.

C. Real Estate Signs - Temporary real estate signs. Real estate signs are permitted without a permit for the purpose of advertising the sale or the lease of the premises upon which the sign is placed provided there shall be not more than one (1) sign per premises not exceeding eight (8) square feet – four (4) square feet per side; said sign shall be removed promptly after the sale or rental of the premises; Real estate "open house" signs are permitted on private property only on the day the open house event is held. No riders or attachments are permitted.

D. Contractor's signs - signs of the building trade or related contractors or professionals may be erected or maintained on the premises where the work is being performed provided, providing there shall be not more than one (1) sign per street front. The area of any one side shall not exceed twelve (12) square feet in total area, provided that not more than one such sign will be installed on the premises and that such sign will be removed promptly upon completion of the work.

E. Public Notice Signs - Single-faced signs regulating and/or prohibiting trespassing, hunting or fishing on lands likely to be used for such or similar purposes or activities by unauthorized persons providing that each such signs shall not exceed one (1) square feet in sign area and providing that there shall be not more than one (1) such sign per each fifty (50) lineal feet of the perimeter of the premises.

F. Traffic Control Signs on Private or Public Property - Signs or graphics on private or public property including nurseries, greenhouses, farms, places of worship, schools, governmental buildings and facilities, professional buildings, and other non-residential facilities and premises, are exempted providing that such sign or graphics are installed for the sole purpose of organizing traffic and for guiding pedestrians and/or motorists providing said sign(s) do not exceed two (2) square feet in area. Said sign shall not exceed one (1) square foot for a single sided sign or two (2) square feet for a double-sided sign.

G. Residential Signs - Signs displaying the name and address and, if applicable, the permitted home occupation of the resident occupant of the premises providing that said signs do not exceed two (2) square feet in area. Said sign shall not exceed one (1) square foot for a single sided sign or two (2) square feet for a double-sided sign (one square foot per side).

H. Residential Tag Sale or Garage Sale Signs - Residential or garage tag sale signs may be permitted for the purpose of advertising such a sale provided that:

a. Only two (2) sale periods consisting of two (2) weekends each shall be allowed per year per premises;

b. Such signs shall be erected only during the two (2) weekends allowed for each sale period (a total of four (4) weekends per year per premises) and must bear the owner's name, address, and dates of the event and must be removed within twenty-four (24) hours after the last day of the event. Failure to remove signs accordingly shall result in a penalty as provided by these Regulations;

c. Not more than three (3) signs shall be erected per premises providing that only one (1) sign shall be located on the premises where the tag sale or garage sale is held; the other signs may be erected for directional purposes only on private property providing prior consent of the off-the-premises owner is obtained;

- d. Signs shall not be installed on Town, State property or utility poles; and,
- e. Such signs shall not exceed an area of four (4) square feet per side.

I. Residential Development. A single sided sign up to twelve (12) square feet in size and non-illuminated, identifying an approved subdivision of ten (10) or more lots for sale for up to twelve (12) months, unless extended.

6.3.4. Overall Design, Construction, Location, Erection, and Maintenance

The following apply to all signs and street graphics:

A. No sign, including those exempted above shall be placed in such position as to endanger traffic on a street or public way by obscuring a clear view or by confusing with official street or highway signs or signals.

B. No sign, other than official street or highway signs, shall be erected or maintained within street or highway rights-of-way.

C. No sign including those exempted above shall consist of or contain rotating, revolving, vibrating or moving materials such as paper, cloth, metal, plastic, whether attached to a fixed sign or used independently thereof.

D. All signs shall be designed, located, erected, and maintained in accordance with the structural safety standards specified in the State Building Code, and shall be designed to be harmonious and compatible with the architectural character of the building or premises to which they refer and the general character of the district within which they are located.

E. All signs shall be constructed of strong durable material that will not warp or distort with weather or age; shall be firmly supported as to withstand wind conditions normally expected on a yearly basis; and be kept well maintained in good condition and good repair. No banners are permitted.

F. The alteration, reconstruction, or replacement of any sign meeting the requirements of this Section shall not require a new zoning permit providing that the total area of the sign is not increased.

G. No sign shall be affixed to any tree, or to any utility poles.

H. Interior neon signs are prohibited.

I. Logos - Logos, which are defined as distinctive trademarks or symbols of a company, business, corporation, or franchise, except as set forth below, may be used only as a part of the sign; said logo shall be no larger than two and one quarter (2-1/4) square feet in total area, per side.

J. Exterior building wall signs shall be affixed to a structural wall.

K. Aside from logos, exterior wall signs & directory signs will only state the name of the business.

L. All signs within the same complex will show uniformity

6.3.5. Prohibited Signs and Graphics

It shall be unlawful to erect, cause to erect, or allow to remain erected:

A. Any sign for which a zoning permit has not been issued;

B. Any sign which, once erected, does not comply with the specifications or any other permit requirement on which basis a permit was issued;

C. Any temporary sign for which a permit has not been issued or the permit has expired;

D. Any sign defined as a "billboard";

E. Any sign, lights or supports thereof which identify a use or uses which no longer exists or has been abandoned for a period of more than thirty (30) days;

F. Any swinging or hanging sign or graphic projecting from a building or hanging from a single post, which overhangs any public roadway, street or pedestrian way or any private way ordinarily used by pedestrians or motorists;

G. Continuous architectural strip lighting, whether placed within a building or on its exterior; or,

H. Any sign or street graphic that violates the restrictions and limitations of Section 6.3.4 above.

I. Phone numbers, services provided, are not are not permitted on wall or directional signs.

6.3.6. Sign Colors

Signs colors shall be as follows:

A. Black letters on white or on natural background; or,

B. *Other combination of colors as may be deemed appropriate by the Commission* to be in keeping with the purpose of this Section and designed so as to be harmonious and compatible with the architectural character of the building (s) or premises to which they refer and the general character of the Town. Such signs must be found to be in keeping with both style and color that will assist in the protection of the historic character, property values, public safety, and general welfare of the residents of the Town.

C. Signs within the same business complex shall show uniformity of color.

6.3.7. Measurement of Sign Area

A. The sign area shall be the smallest area that encompasses all letters, designs, symbols, logos including the advertising surface. The sign shall include any background material if such material is designed to be an integral part of the sign because of its texture, color or building material.

B. Supports that affix a sign to the ground or building shall not be included in the area of the sign unless such supports are obviously designed to be part of the sign. When attached to the wall, the area of the sign shall not include the wall itself unless the background is different from the balance of the wall and is designed as an integral part of or is obviously related to the sign.

C. Any sign may be double-faced provided that both sides are equal in area; and only one face can be seen at a time. Unless otherwise provided for a particular type of sign in these Regulations, one face shall be counted in determining conformity to sign area limitations.

6.3.8. Maximum Sign Area

The maximum sign area that may be permitted for installation and display in non-residential districts shall be as follows:

A. Wall Sign - One sign displaying the name of the owner or the occupant of the premises and/or the activity conducted or the product sold or service provided thereon, providing that said sign does not exceed one (1) square foot of sign area for each lineal foot of the front facade of the principal building, or portion thereof, in which the business, store, product or service identified is located; but in no case shall the total area of such sign or signs exceed one-hundred (100) square feet in total area, whichever is less.

B. Wall Sign-Double Frontage - Where a building or structure is located on a lot having frontage on two (2) public streets or roads, or public areas (i.e. parking lots, etc.) the total sign area which may be permitted, shall not exceed the provisions of Paragraph A. above. However, an additional sign may be permitted for installation on the additional facade for viewing from the additional street, road or public way providing that such a sign does not exceed one-fourth (1/4) square foot for each lineal foot of the facade exposed to said street, road or public way. At the Commission's discretion, this sign may be larger provided that the aggregate of all sign areas shall not exceed the maximum sign area permissible for the particular use.

C. Hanging Sign - An individual sign that is attached and perpendicular to a principal building or structure may be permitted providing that such a sign does not exceed six (6) square feet in area per face, and providing that it does not project more than twelve (12) inches over any street, highway or pedestrian walkway regardless of ownership.

D. Pictorial Sign - Pictorial signs are permitted providing that:

1. The total sign area does not exceed six (6) square feet for a single sided sign, or twelve (12) square feet for a double sided sign;
2. There will be only one (1) such pictorial sign per use or premises, except when such premises or use abuts two (2) streets; and providing that
3. Such sign has been reviewed and has received approval by the Zoning Commission.

E. Freestanding Sign - A single freestanding sign may be permitted to be installed perpendicular to the public street or highway to which the building or structure fronts or abuts providing that:

1. If within a residential zone, such sign shall not exceed two (2) square feet in total area (one foot per side);
2. If within a non-residential zone, such sign shall not exceed thirty (30) square feet for a single-sided sign or sixty (60) square feet for a double-sided sign (30 square feet per side); and that;
3. In the case of a multiple occupancy complex, facility or structure within a non-residential zone only one (1) such freestanding sign will be erected.
4. All freestanding signs shall be landscaped at the base around the sign.

F. Temporary Signs – Except for Political signs, and unless otherwise provided, Signs that are not intended or permitted to be erected on a permanent or ongoing basis may be permitted provided that:

1. Such signs are not to be displayed for more than thirty (30) consecutive days;
2. Such sign does not exceed thirty-two (32) square feet in total area;
3. Such signs are not placed so as to obstruct the visibility of pedestrian and/or vehicular traffic; that such sign will not be displayed more than twice within a calendar year at the same location; and,
4. A zoning permit for such sign has been issued.

G. Temporary Window Signs - Window signs are permitted on a temporary basis without a zoning permit for a maximum of twenty-one (21) consecutive days provided that:

1. The total area of such sign shall not exceed twenty-five (25) percent of the window surface to which is applied;
2. Such sign shall not be affixed to the same window to which a permanent window sign is affixed, except that in the event of stores or premises with only one window, such temporary sign may be affixed to the same window as the permanent sign so long as the temporary sign shall not exceed fifteen (15) percent of the total window surface; and,
3. If an owner displays signs in violation of this Section, the Zoning Enforcement Officer or the Zoning Commission may require the removal of such signs and the owner may be required to receive a zoning permit prior to the subsequent display of such temporary signs.

H. Permanent Window Signs - Permanent window signs may be displayed provided that:

1. A zoning permit has been issued for a permanent window sign;

2. Such sign(s) is the smaller of fifteen (15) percent of the window surface in which it is displayed or six (6) square feet in area; and,

3. Not more than two (2) window surfaces are utilized.

I. Directional Signs. Signs solely for the control of traffic and parking, excluding State and Town traffic control signs. These signs shall have a maximum area per sign of two (2) square feet per side.

J. Agricultural Signs. Signs to identify the location of a farm are limited to one (1) sign per farm and nine (9) square feet per side.

6.3.9. Maximum Height of Sign

The maximum height of signs that may be permitted shall be as follows:

A. Real estate signs shall not exceed five (5) feet.

B. Temporary signs shall not exceed ten (10) feet.

C. Freestanding signs within non-residential districts shall not exceed ten (10) feet above the average of the existing ground surrounding the sign. In no event, however shall the bottom of the sign be higher than four (4) feet above the existing ground level.

D. Freestanding signs within residential districts shall not exceed five (5) feet above the average of the existing ground surrounding the sign.

E. Directional signs within the premises of a permitted non-residential use shall not exceed five (5) feet above the average ground level surrounding the sign.

6.3.10. Illumination of Permitted Signs, Buildings, and Structures

The illumination of permitted signs, buildings, and structures shall conform to the following requirements:

A. The direct illumination of permitted signs shall be limited to non-animated, non-flashing, white, incandescent, or fluorescent lights.

B. The internal or indirect illumination of permitted signs, including those within window enclosures, shall comply with the following:

1. External lighting fixtures that project light on a sign from above or below are strongly encouraged. Light fixtures should be simple and unobtrusive in size and appearance;

2. Signs shall be located so as to prevent glare into the street or any adjoining property;

3. Internally illuminated sign cabinets that allow the entire face to illuminate are prohibited.

4. Signs may be indirectly illuminated by concealing the light source from view behind opaque letters, words, symbols, or logos, creating a halo effect surrounding them on the wall or sign face on which they are mounted.

C. Floodlights shall be shielded so as to limit illumination to the sign, building, or structure being illuminated and prevent the source of light from being visible from any point off the premises on which the illuminated sign, building, or structure is erected.

D. Except for signs in Paragraph F. below, no sign shall be illuminated after 10:00 p.m. local time or "closing time" whichever is later.

E. Except for signs in Paragraph F. below, no sign within residential districts shall be illuminated.

F. Only the following signs may be externally illuminated within residential districts providing they meet the illumination requirements of Paragraphs A, B, and C of this subsection:

1. Signs identifying the residence of a physician, dentist or such other person whose services in emergency are customarily considered essential to the public health, safety and welfare;
2. Signs of a school, church, medical, fire or police protection facility, or other institution of a similar nature; and,
3. Signs for the regulation of traffic, marking of hazards or similar nature.

6.3.11. Location of Signs

The placement and installation of signs shall conform to the following requirements:

A. No sign shall be placed closer than fifteen (15) feet from the street line, providing the Commission may in any zone, by four concurring votes, reduce the setbacks in compatibility with abutting properties.

B. No sign shall be affixed to the roof of any building. Nor shall any sign affixed to any wall of any building project above the top of said wall, nor to an appurtenance.

C. No nonresidential sign shall face any lot line of an adjoining lot in a residential district having unobstructed visibility of the sign for a distance of fifty (50) feet.

6.3.12. Application and Permit Fees

Applications for signs shall be accompanied by the following:

A. A detailed drawing(s) to suitable scale depicting the proposed sign, its location, the legend, the lettering style, logo if any, and describing the material, illumination, mounting supports and any other detail which will assist in evaluating the proposal and its compliance with the standards and requirements of this Section.

B. Fees in the amount as prescribed in Section 10.

6.4 EXCAVATION, REMOVAL, FILLING, AND GRADING OF EARTH MATERIAL

6.4.1. Intent and Purpose

It is the intent and purpose of this Section to regulate the excavation, removal, filling and grading of earth material within the Town of New Fairfield to protect the public health and safety, to encourage the orderly development of the Town, and to provide for the restoration of property following any excavation, filling or grading so as to minimize any unnecessary accelerated erosion and sedimentation.

6.4.2. General

Within the Town of New Fairfield there shall be no excavation or removal of humus, topsoil, loam, gravel, clay, stone or any other earth material, nor filling or grading of land, by any means, except as provided by and in compliance with this Section, and providing that there shall be no removal from the premises in any district of any earth, gravel, clay or quarry stone except as surplus material from a bona fide construction, landscape or agriculture operation being executed on the premises.

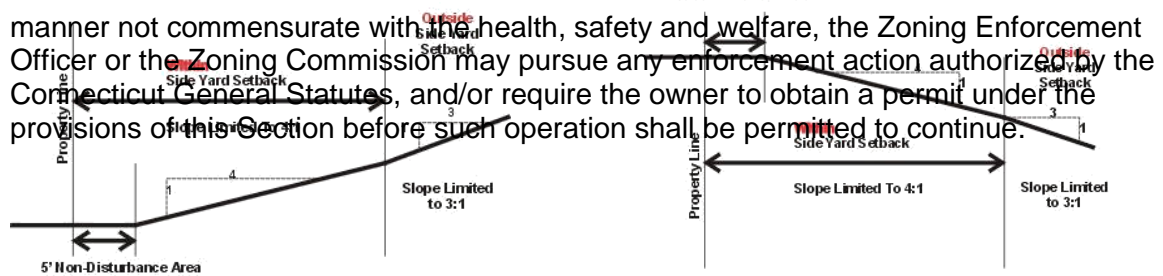
6.4.3. Exemptions

The procedural and permit requirements of this Section shall not apply to the following, provided such activity is conducted in accordance with the standards of this Section:

- A. Excavation or filling of earth material in connection with and clearly incidental to the construction or alteration of a building on the same premises, or the installation of special appurtenances to the use of land such as swimming pools, septic systems, walls or fencing, or utility service lines, provided that a zoning permit or, in such cases as a zoning permit is not required, a building and/or a septic permit has been issued for such construction or installation and the proposed excavation or filling is specified in such permit;
- B. Excavation, filling or other grading in accordance with specific plans for same that have been approved by the Planning Commission or the Zoning Commission covering the lots, roads, drainage, and other provisions, or any special permit grant, providing that applicable bonds have been posted in compliance with Sections 8.7.3 through 8.7.5 of the Regulations, all necessary permits have been obtained, and erosion and sedimentation control plan was approved as part of the subdivision approval or the special permit grant;
- C. Excavation and/or digging in connection with percolation tests to investigate septic system feasibility;
- D. Incidental filling, grading or excavation in connection with normal maintenance, repairs or minor improvements to property or customary landscaping, not to exceed one-hundred cubic yards of material, provided that the activity does not occur within 300 feet of the 440 line surrounding Candlewood Lake; and,
- E. The dredging of an existing pond for which a dredging permit has been issued by the appropriate federal, state, and local agencies. If excavation, filling, removal or grading of earth material under any of the foregoing exemptions is conducted in such manner as to circumvent the protection sought by the requirements of this Section, or so as to appreciably change the groundwater table or alter natural drainage basins or flows in a

“FILL” GRADING

“CUT” GRADING



manner not commensurate with the health, safety and welfare, the Zoning Enforcement Officer or the Zoning Commission may pursue any enforcement action authorized by the Connecticut General Statutes, and/or require the owner to obtain a permit under the provisions of this Section before such operation shall be permitted to continue.

6.4.4. Grading Standards

- A. Unless modified by the Commission through granting of a Special Permit, no significant filling or excavation shall occur within five (5) feet of a property line.
- B. Unless modified by the Commission through granting of a Special Permit, no finished slopes in any filled or excavated area shall exceed:
 - 1. A slope of four (4) horizontal to one vertical (4:1) within the required yard setback; and,
 - 2. A slope of three (3) horizontal to one vertical (3:1) elsewhere.
- C. Excavation and grading resulting in steep finished slopes, ledge walls or requiring retaining walls shall be landscaped pursuant to Section 6.1.8.
- D. Grading shall not result in the creation of any stagnant water, sharp pits, depressions, soil erosion, depressed land values, drainage or sewerage problems or other conditions which would impair the use of the property or the adjacent property in accordance with the Zoning Regulations.

6.4.5. Drainage Standards

- A. Any activity shall comply with the Erosion and Sediment Control standards of Section 6.5 and stormwater management standards of Section 1.5.4.
- B. Except as otherwise provided in these Regulations, peak flow rates and runoff volumes shall be determined by using the Rational Method, the Time of Concentration Method, the Tabular Method or the Unit Hydrograph Method and a 25-year design storm.

6.4.6. Special Permit

The Zoning Commission may authorize the excavation and removal of earth material or the grading and the filling of land subject to the standards and conditions of this Section, and providing that an application for a special permit pursuant to this Section and Section 8-2 is granted.

6.4.7. Application for Special Permit

An application for special permit shall include plans and reports prepared and certified by a Connecticut registered professional engineer, which plans and reports shall consist of:

A. Ten (10) prints of a plan or plans, drawn to a scale not smaller than one (1) inch to fifty (50) feet, showing and/or incorporating the following:

1. Contours at intervals not greater than two (2) feet extending for a distance of one-hundred (100) feet beyond the boundaries of the area of activity. Where necessary, spot elevations shall be shown;
2. Location and extent of wetlands, watercourses, and boundaries of land subject to 100-hundred year flooding;
3. The soil types and their location and boundaries;
4. Class A-2 survey of the premises showing abutting property owners and streets;
5. Boundaries of the area to be excavated, graded, or filled; and,
6. Location and extent of temporary stockpiling areas.

B. Ten (10) copies of an engineering report detailing information and data concerning the following:

1. Purpose of the excavation and/or filling and/or grading activity proposed;
2. Proposed commencement and completion dates;
3. Amount of material to be removed and/or deposited;
4. Number of daily vehicular trips required to complete the proposal;
5. If the earth disturbing activity is to be conducted over a period exceeding one (1) year, the report shall include a phasing plan describing activities in six-month increments; and,
6. Proposed hours of operation.

C. Ten (10) copies of an erosion and sedimentation control plan approved by appropriate New Fairfield agency.

D. Fees for Special Permit applications as detailed under Section 10.

6.4.8. General Procedure

Following the submission of a complete application in compliance with the requirements of Section 6.4.7 above and Section 8-2, the Commission shall advertise for and hold public hearing and subsequently decide on the application in accordance with the requirements of Regulations of Sections 8.2 and 8.7.2.

6.4.9. Review by the Commission

The Commission in reviewing and in acting on the application shall consider the criteria and guidelines found under Section 8.2.4. In addition, the Commission shall ascertain that the proposal will, as submitted, by conditions or modifications that may be prescribed by the Commission, conform to standards, requirements, and guidelines as follows:

- A. No screening, sorting, washing, crushing, mixing or other forms of material processing shall be conducted within the premises;
- B. No equipment, other than necessary to complete the work on-site shall be kept on the premises,
- C. All work shall be completed in accordance with the proposed contours as approved;
- D. During all stages of operation proper drainage shall be provided to prevent the collection and stagnation of water and to prevent harmful effects upon surrounding properties;
- E. All excavated material to be stockpiled within the premises shall be contained within a sediment control barrier;
- F. Off-site hauling of materials shall be permitted only as specifically authorized by the Commission;
- G. Unless specifically approved by the Commission, no excavation shall take place within thirty (30) feet from any street line or property line; and,
- H. All disturbed areas which are not to be excavated further shall be graded to slopes not to exceed one (1) foot vertical for every three (3) feet horizontal (1:3). A layer of topsoil four (4) inches thick shall be spread over the graded area, which area shall be subsequently treated with 10-10-10 fertilizer at the rate of fourteen (14) pounds per one-thousand (1000) square feet. Finally, the disturbed area shall be seeded with perennial rye grass spread at the rate of one and one-half (1.5) pounds per one thousand (1000) square feet and kept mulched until the area is stabilized to erosion free conditions. The above required final grades, placement of topsoil and treatment shall not apply to areas of exposed rock or ledge surfaces.

6.4.10. Time Limits and Extensions

The Commission may specify the overall time period within which the excavation, filling or other regrading shall be completed, but in no event shall this time period exceed two (2) years. The Commission may grant an extension of time within which to complete the proposed project upon showing by the applicant of good cause but in no event shall more than one extension of time be granted and, if an extension is granted, the time period of the extension shall not exceed the duration of the original permit.

6.4.11. Bond

The Commission may require as a condition of any special permit grant, performance and/or maintenance bond meeting the requirements of Sections 8.7.3 through 8.7.5 of the Regulations, in such amount as the Commission shall deem sufficient to insure the faithful performance of the work proposed, pursuant to both the provisions of this or other applicable sections of these Regulations and to the specific conditions of approval.

6.4.12. Enforcement

The Zoning Commission or the Zoning Enforcement Officer may pursue any enforcement procedure authorized by the General Statutes. In addition, the Commission shall retain the right to take any necessary and appropriate measure including recommending to the Town any action with respect to the performance and/or maintenance bonds meeting the requirements of Sections 8.7.3 through 8.7.5 of the Regulations.

6.4.13. Modification of Plans

Any applicant/permittee may file a revised plan with the Commission modifying or revising the scope of the work approved, provided that the bond posted pursuant to Sections 6.4.11 and 8.7.3 through 8.7.5 shall remain in force until all the requirements of the original permit and any subsequent approved modification or revision have been met to the satisfaction of the Commission.

6.5 EROSION AND SEDIMENTATION CONTROL

6.5.1. Purpose

This Section is intended to prevent accelerated erosion and sedimentation of land during and after development, prevent detrimental impacts to soil and water resources, and reduce the danger from stormwater runoff on the proposed site based on the best available technology. This Section supplements Chapter 13 of the New Fairfield Code of Ordinances.

6.5.2. Applicability

No Zoning or Building Permit shall be issued and no construction activities shall commence upon any property where the disturbed area of such development is more than one-half (1/2) acre in area until:

- A. an Erosion and Sedimentation Control Plan has been approved by the Commission, or its designated agent in accordance with these Regulations, or,
- B. it has been determined by the Commission's designated agent or Zoning Official that such plan is not required if:
 - 1. The disturbed area is less than one-half (1/2) acre in area;
 - 2. The permit is for construction of a single-family dwelling that is not part of a subdivision of land; or,
 - 3. The permit is for appurtenant improvements to such single-family dwelling, such as driveways, septic systems, lawns, or outbuildings.

C. if a prior permit was issued by the Inlands Wetlands Commission, the Zoning Commission reserves the right to accept it and waive the need to complete an additional Erosion and Sedimentation Control plan.

6.5.3. Standards and Guidelines

A. Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the principles as outlined in the 2002 Connecticut Guidelines on Erosion and Sediment Control, as amended (“Guidelines”) Soil erosion and sediment control plans shall result in a development that minimizes erosion and sedimentation during construction, is stabilized and protected from erosion when completed and does not cause off-site erosion and/or sedimentation.

B. The Commission may grant exceptions when requested by the applicant if technically sound reasons are presented.

C. The appropriate method from the Guidelines shall be used in determining peak flow rates and volumes of runoff, unless an alternative method is approved by the Commission.

6.5.4 . Erosion and Sediment Control Plan

A. To be eligible for certification, a soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed site based on the best available technology. The 2002 Connecticut Guidelines on Erosion and Sediment Control, as amended describes the principles, methods and practices necessary for certification. Alternative principles, methods and practices may be used with prior approval of the Commission.

B. Said plan shall contain, but not be limited to:

1. A narrative describing:

a. The development;

b. The schedule for grading and construction activities, including:

i. Starting and completion dates;

ii. Sequence of grading and construction activities;

iii. Sequence for installation and for application of soil erosion and sediment control measures; and,

iv. Sequence for final stabilization of the project site.

c. The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities;

d. The construction details for proposed soil erosion and sediment control measures and stormwater management facilities;

e. The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities;
and,

f. The operations and maintenance program for proposed soil erosion and sediment control measures and stormwater management facilities.

2. A site plan map at a scale of at least forty (40) feet to one (1) inch shall show the:

a. Location of the proposed development and adjacent properties;

b. Existing and proposed topography, including soil type, wetlands, watercourses, and water bodies;

c. Existing structures on the project site, if any;

d. Proposed area alterations, including cleared, excavated, filled or graded areas, and proposed structures, utilities, roads and, if applicable, new property lines;

e. Location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities;

f. Sequence of grading and construction activities;

g. Sequence for installation and/or application of soil erosion and sediment control measures;

h. Sequence for final stabilization of the development site; and,

i. Measures for the protection of trees and other significant vegetation.

C. Any other information deemed necessary and appropriate by the applicant or requested by the Commission or its designated agent. Where it is deemed necessary by the Commission or its designated agent plans shall be prepared by a registered land surveyor or professional engineer.

D. The Zoning Commission may waive any of the requirements of Section 6.5.4.B. of small scale projects except when such small scale projects require a permit from the Inland Wetlands and Conservation Commission. Further single-family dwellings that are not a part of a subdivision of land are exempt from these requirements.

E. Each Soil Erosion and Sediment Control Plan submitted for approval shall be accompanied by a fee payable to the Town of New Fairfield in accord with any Fee Schedule adopted by the Commission.

F. Development shall not begin unless the control measures scheduled for installation prior to site development or as needed based on field conditions are installed and functional.

G. All control measures and facilities shall be maintained in effective condition during the duration of development and stabilization.

H. Failure to install or maintain control measures in an appropriate manner shall be grounds for issuance of a Cease and Desist Order.

I. The Commission may require bonding in accordance with Sections 8.7.3 through 8.7.5 of the Regulation to secure the satisfactory installation and maintenance of erosion and sedimentation control measures in the event of failure by the applicant to do so.

6.5.5. Minimum Acceptable Standards

A. Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the principles as outlined in Chapters 3 and 4 of the 2002 Connecticut Guidelines on Erosion and Sediment Control, as amended. Soil erosion and sediment control plans shall result in a development that minimizes erosion and sedimentation during construction, is stabilized and protected from erosion when completed and does not cause off-site erosion and/or sedimentation.

B. The minimum standards for individual measures are those in the 2002 Connecticut Guidelines on Erosion and Sediment Control, as amended. The Commission may grant exceptions when requested by the applicant if technically sound reasons are presented.

C. The appropriate method from the 2002 Connecticut Guidelines on Erosion and Sediment Control, as amended, shall be used in determining peak flow rates and volumes of runoff, unless an alternative method is approved by the Commission.

6.5.6. Issuance or Denial of Certification

A. The Commission, or its designated agent, or the Environmental Enforcement Officer acting as Soil Erosion and Sedimentation Control Officer ("SESC Officer"), shall either certify that the soil erosion and sediment control plan, as filed, complies with the requirements and objectives of the regulations or deny certification when the development proposal does not comply with these regulations.

B. Nothing in these regulations shall be construed as extending the time limits for the approval of any application under the provisions of Chapters 124, 124A or 126 of the Connecticut General Statutes.

C. Prior to certification, any plan submitted to the municipality may be reviewed by the Fairfield County Soil and Water Conservation District which may make recommendations concerning such plan, provided that such review shall be completed within thirty (30) days of the receipt of such plan.

D. The Commission may forward a copy of the development proposal to the Conservation Commission, or other review agency or consultant, for their review and comment within thirty (30) days of the receipt of the plan.

6.5.7. Compliance with Plan Requirements and Enforcement

A. Any person engaged in development activities who fails to file a soil erosion and sediment control plan in accordance with these regulations or who conducts a development activity, except in accordance with the provisions of a certified plan shall be deemed in violation of these regulations.

B. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, that are a condition of certification of any modified site plan and as deemed by the Commission, its agent or the Environmental Enforcement Officer required to secure the satisfactory installation and maintenance of erosion and sedimentation control measures in the event of failure by the applicant to do so, may be required to be covered by a performance bond, or other assurance acceptable to the Commission or its designated agent or the Environmental Enforcement Officer, in accordance with the provisions specified in Section 8.2 for Special Permits, Section 8.1 for Site plan reviews and Sections 8.7.3 through 8.7.5 regarding bonding.

C. Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional.

D. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.

E. All control measures and facilities shall be maintained in effective condition during the duration of development and stabilization and to ensure the compliance of the certified plan.

F. The Commission or a designated agent thereof, such as the Zoning Enforcement Officer, Environmental Enforcement Officer, Planning Commission, Conservation Commission, Town Engineer or Town Consulting Engineer shall have the power to enforce these Regulations.

G. If it is determined that an approved plan as implemented is not properly controlling soil erosion and sediment generation, submission of a new soil erosion and sedimentation plan for review and approval may be required.

H. Failure to install or maintain control measures in an appropriate manner shall be grounds for issuance of a Cease and Desist Order.

I. For construction sites where soil disturbance activities are on-going and total soil disturbance activities are greater than one (1) acre, or where the site includes more than one-quarter (1/4) acre of slopes greater than twenty-five (25) percent, a Qualified Inspector or Professional shall be required to conduct a site inspection at least once every seven (7) calendar days or after a significant rainfall event of one-half (1/2) inch or more. A Qualified Inspector or Professional shall mean a person that is knowledgeable in the principles and practices of erosion and sediment control, such as a licensed Professional Engineer, Certified Professional in Erosion and Sediment Control (CPESC), or licensed Landscape Architect. It also means someone working under the direct supervision of the licensed Professional Engineer or licensed Landscape Architect, provided that person has training in the principles and practices of erosion and sediment control. Inspection reports shall be provided to the Town Zoning Enforcement Officer no later than five business days after completion of the inspection. The frequency of inspections may be reduced on advice of the Town Zoning Enforcement Officer, if the construction site has been stabilized and where construction activities have ceased.

J. The Commission, Zoning Enforcement Officer or Environmental Enforcement Officer may revoke a plan approval and/or any permit(s) associated with an approved plan that is exercised in violation of said approval. Any applicant aggrieved by the decision may

take an appeal in accordance with any applicable provisions of the Connecticut General Statutes.

6.5.8. Inspection

Inspection may be made by the Commission, or its designated agent or the Environmental Enforcement Officer, during development to ensure compliance with the certified plan and that control measures and facilities are properly performed or installed and maintained. The Commission may require the permittee 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. If the site inspector determines that the control measures in place are not adequate to control erosion, additional measures may be required to be installed within a reasonable time limit as determined by the inspector. Any such request for additional control measures shall be made in writing and may be brought to the attention of the Commission

6.5.9. Duration Of Approval; Lapse of Approval; Renewal; Transferability

A. An approved plan is valid for a period of one (1) year after the date of decision. Upon petition of the applicant, the Commission may, at its sole discretion, grant the applicant an additional one (1) year of approval as part of its decision.

B. The Zoning Enforcement Officer or Environmental Enforcement Officer (acting as SESC Officer under the New Fairfield Code of Ordinances) shall determine the status of an approval and make a determination if the approval is valid or if approval has lapsed. An approved plan may be renewed by the commission or agent issuing the original approval if it is determined that findings made and conditions imposed on the original approval still apply. Applications for renewal shall be made in writing between not less than thirty (30) nor more than sixty (60) days prior to the lapse of the original approval. Upon timely application, a renewal may be granted after the expiration. An extension under this Section shall be granted one time only and for a period of time of up to a maximum of one (1) year.

C. The validity of an approval shall not be affected by changes in ownership unless made a condition of approval.

6.5.10. Conflicts

This Section 6.5 of the Regulations is intended to supplement Chapter 13 of the New Fairfield Code of Ordinances. Where this Section and Chapter 13 of the New Fairfield Code of Ordinances or any other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

6.6 OUTDOOR LIGHTING

6.6.1. Intent and Purpose

It is the intent of this Section to preserve, protect, and enhance the lawful nighttime use and enjoyment of any and all property through the use of appropriate lighting practices and systems. The purpose of this Section is to encourage proper placement, orientation, distribution and fixture type and size of outdoor lighting. It is the further intent of this Section to require lighting that controls glare and light trespass onto public roadways and adjacent properties, minimizes obtrusive light, and conserves energy while maintaining safety, security, and productivity.

6.6.2. General Provisions and Standards

The following provisions shall apply to all outdoor lighting in any district (see Section 9.1. diagram for lighting examples):

- A. All exterior lights shall be low-level lighting. For low-level lighting in general parking and pedestrian areas an average horizontal illumination level of 0.8 foot-candles, with a minimum horizontal illumination level of 0.2 foot-candles, and a ratio of average to minimum illumination (uniformity ratio) or 4:1 is recommended. For vehicle-use only areas, the recommended average horizontal illumination level is 0.5 foot-candles, with a minimum horizontal illumination level of 0.13 foot-candles, and a uniformity ration of 4:1;
- B. Lighting shall be designed, located, installed, and directed in such a manner as to prevent objectionable light and glare across the property lines at any location on or off the property;
- C. All lighting for parking and pedestrian areas shall be full-cutoff type fixtures;
- D. Lighting for display, building and aesthetics shall be from the top and shine downward, not up lighted, except as otherwise provided. The lighting must be low-level, shielded to prevent direct glare and/or light trespass, and contained to the target area;
- E. All building lighting for security or aesthetics shall be full-cutoff or a fully shielded/recessed type, not allowing any upward distribution of light;
- F. Floodlighting is prohibited;
- G. Adjacent to residentially zoned or residentially used property, no direct light source shall be visible at the property line at or above ground level;
- H. Gasoline Service Stations. All area lighting shall be full-cutoff. Under-canopy lighting shall be recessed so that the lens is recessed or flush with the bottom surface;
- I. All non-essential lighting shall be turned off after ten (10:00) pm, leaving only necessary lighting for site security (non-essential lighting applies to display, aesthetic, parking, and sign lighting). Motion or infrared sensor lighting control is encouraged after 10:00 pm;
- J. Lighting designed to illuminate the U.S. flag shall be low-level and focused directly on 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 eighteen (18) feet from the average ground level to the highest point on the fixture in the BC and LI zones or twelve (12) feet in all other zones;
- L. The applicant shall provide a lighting plan evidencing the above requirements. Such plans shall employ soft, transitional light levels that are consistent from area to area, minimizing contrasts between light sources, lit areas, and dark surroundings;
- M. Exemptions: Traditional seasonal lighting and temporary lighting used by Police, Fire Department, or Emergency Services are exempt from these Regulations; and,

N. The Commission shall retain the right to require that the number or height of light fixtures be increased or decreased where necessary to provide for motorist and pedestrian safety, to address topographic constraints, or to protect adjacent residential zoned areas.

6.7 STORM WATER MANAGEMENT PLAN

Where a proposed zoning application or site plan application involves a residential lot or residential development where more than ten (10) percent of a total Lot Area consists of existing or proposed Impervious Surfaces and for all other non-residential proposed development without regard to the percentage of proposed or existing impervious surfaces, a site plan application and a Storm Water Management Plan (SWMP), shall be required and submitted to the Commission or the ZEO.

The purpose of the SWMP is to insure that proper measures will be taken to filter and treat storm water from impervious surfaces on the site and thus protect the quality of groundwater and surface water. All Storm Water Management Plans shall be subject to review by the Town Engineer.

Storm water management plans shall be meet the following requirements.

6.7.1. General Standards

The Storm Water Management Plan shall be designed to meet the following general standards:

- A. Prevent flooding on-or off the site;
- B. Minimize pollutant loads in storm water runoff into inland wetlands, surface and subsurface water;
- C. Maintain the hydrology of existing sub-watersheds including wetlands and water courses;
- D. Low Impact Development (LID) on-site storage and treatment of storm water methods shall be employed to the maximum extent feasible. Direct channeling (via pipe or paved culvert or the like) of untreated surface water runoff into adjacent ground and surface water shall be avoided; and,
- E. Pollutants shall be controlled at their source to the maximum extent feasible using best available control technologies to contain and treat pollutants prior to surface discharge or infiltration into the ground. Methods include, but are not limited to, sweeping of streets and parking lots (especially in the early spring), use of oil and water separators and traps, vegetated and manufactured sediment basin systems and the use of overland (sheet flow) runoff to vegetated filter strips and swales.

6.7.2. Plan Requirements

The Storm Water Management Plan shall provide the following information and meet the following requirements:

- A. A narrative report prepared by a licensed engineer indicating:

1. Any risk or threat groundwater or water resource from the proposed site development, site improvements, or on-site operations associated with the development application;
2. Methods of assessment and LID best management practices and other similar practices proposed to prevent and reduce any such risk or threat. Where required by the Commission the applicant shall provide supporting documentation, including calculations, engineering details to illustrate the existing and proposed development's compliance with these regulations; and,
3. The SWMP shall be designed in accordance with the storm water management design guidelines of either the "Connecticut Stormwater Quality Manual" published by the University of Connecticut Cooperative Extension Service, NEMO Project and/or the Connecticut DEP's "Manual for Best Management Practices for Stormwater Management."

B. The site plan shall provide the location and area of existing and proposed site conditions to include:

1. impervious and pervious surfaces;
2. vegetation cover including, but not limited to, lawns, woodlands, landscaped areas and protected buffer areas;
3. environmentally sensitive areas such as wetland, watercourses and flooding areas;
4. soil types from onsite investigations or, where appropriate, from published soil mapping;
5. potential storm water runoff and pollution sources including erosive soil types and steep slopes greater than twenty five (25) percent; and,
6. storm water management practices including details and specifications for installation and maintenance.

C. LID Best Management Practices. The following LID practices and methods shall address reduction of Impervious Surfaces and Effective Impervious Coverage, pollution reduction, runoff volume, ground water recharge, stream and water body protection and peak storm water runoff control. The Plan shall implement these LID and similar techniques and design guidelines recommended by NEMO including but not limited to:

1. Vegetated swales, buffers, filter strips;
2. Vegetative buffer or filter strips and level spreaders, grassed drainage swales, wet or dry;
3. Maintain or restore pre-development vegetation;
4. Minimize creation of steep slopes;
5. Bio-retention structures/residential rain gardens;
6. Rain water harvesting/rain barrels or dry detention ponds;
7. Underground detention ponds;
8. Proper location and reduction of Impervious Surface area on site;
9. Disconnect flows from multiple Impervious Surfaces;

10. Permeable pavement choices; and,
11. Groundwater infiltration systems (curtain drains, dry wells galleries, etc.).

6.7.3. Approval Considerations

- A. Prior to the issuance of Zoning Permit or Site Plan Approval the Commission, or the Zoning Enforcement Officer determine that the proposed plan will employ Best Management Practices that will substantially reduce and improve the on-site filtration and treatment storm water runoff from the site.
- B. The Commission, or its agent, may solicit the opinion of the Health Department, Town Engineer, Inland Wetlands Commission and the Planning Commission concerning any application.
- C. In approving any application, the Commission may require that there be no increase in runoff peak flows from the relevant lot for storms of designated frequencies (for example, the 25-year, 50-year, or 100-year storm frequency) if it deems such requirement reasonably necessary or appropriate to protect down gradient properties.

6.7.4. Maintenance

- A. All storm water management systems and structures shall be maintained by the owner. Where operation and maintenance is critical to the proper function of a storm water management system the Commission shall require submission of an Operations and Maintenance plan for use by the owner or others responsible for maintenance of the systems. This plan shall be prepared and submitted prior to the installation of the system. The Commission may require that a bond be posted and/or that periodic reports be filed with the Commission or its agent to ensure that the required maintenance has been performed.
- B. The Operations and Maintenance plan for storm water management systems and structures shall include, at a minimum, the procedures, guidelines and recommendations outlined and described in the latest edition (and latest revisions) of the Connecticut Stormwater Quality Manual.

6.7.5. Waiver/Exemptions

The Commission may waive one or more of the information requirements for a Storm Water Management Plan subject to the provisions of Section 8.1.15 not including sheds or slotted decks less than 500 square feet with boards no wider than 6 inches.

CHAPTER 7 – SPECIAL STANDARDS

7.1 NONCONFORMING LOTS

7.1.1. Nonconforming Improved Lots

7.1.1.1. Improved Lots in Validated Subdivision or Recorded Approved Subdivision and Resubdivision.

- A. Subject to subsection B of this subsection 7.1.1.1, an improved lot shown on an approved residential subdivision or resubdivision plan or an improved Validated Lot shown on a residential validated subdivision plan (providing such subdivision or resubdivision was not terminated before said lot was sold for separate use) shall not be required to conform to a change in zoning regulations or boundary effective subsequent to the approval of the plan or land record recording of the validated subdivision. A lot is improved after the date a building permit is issued and the foundation is completed in accordance with such building permit;
- B. Any construction, including modification or improvement to an existing structure, including, without limitation, an agricultural building, commercial building, dwelling and or any permitted accessory structure, on an improved lot shown either on a validated subdivision plan or on an approved subdivision or resubdivision plan shall conform to a change in the zoning regulations or zoning boundary adopted subsequent to the subdivision lot or validated lot becoming an improved lot; however, notwithstanding this requirement such construction shall be permitted as follows:
1. An agricultural building, commercial building, dwelling and any permitted accessory structure located on a nonconforming lot which is nonconforming as to lot size, coverage, shape, set back or yard requirements may be extended, expanded, altered, moved, or reconstructed provided:
 - a. If no yard, lot coverage, shape or setback is made more nonconforming;
 - b. If the nonconforming lot is in the R-88 or Open Space Residential Districts, the yard, lot coverage, shape, setback and other requirements of the R-44 district are met;
 - c. If the nonconforming lot is in the R-44 District:
 - i. The lot shall be at least one half (1/2) acre in area with frontage of no less than one-hundred (100) feet on a public street or highway or be served by an accessway; and,
 - ii. The building and the front yard setback shall be at least twenty-five (25) feet and side and rear yard setbacks at least twenty (20) feet; and,
 - iii. The configuration of the building lot shall be such that a rectangle of one-hundred (100) feet by seventy-five (75) feet can be contained within its boundaries. No part of any dwelling or principal building shall be erected at a point where the width of the lot is less than seventy-five (75) feet. The maximum building

setback line, (the distance that the rectangle is placed from the street line) shall exceed one-quarter (1/4) of the building lot's depth; and,

iv. No more than twenty-five (25) percent of the land area shall be covered by buildings and structures;

v. Except as permitted by this Section 7.1.1.1 the improvements and improved lot shall meet all other requirements of the applicable zoning district.

7.1.1.2. Improved Lots Not In Validated or Approved Subdivisions.

Any construction, including modification, alteration, expansion, extension, relocation or improvement to an existing structure, including, without limitation, an agricultural building, commercial building, dwelling and or any permitted accessory structure, on an improved nonconforming lot that is not shown on an approved subdivision or resubdivision plan or on a validated subdivision plan, shall be required to conform to the Regulations in effect at the time of such construction or the issuance of a building permit for such construction.

7.1.2. Nonconforming Vacant Lot

7.1.2.1. Vacant Lots in Validated Subdivision or Recorded Approved Subdivision and Resubdivision.

A. Subject to subsection B below, no vacant lot shown on an approved subdivision or resubdivision plan or a validated subdivision plan for residential property (providing such subdivision was not terminated before said lot was sold for separate use) is required to conform to a change in zoning regulations or boundary effective subsequent to the approval of the plan or subsequent to the date of filing the validated subdivision on the land records. A lot is vacant until the date a building permit is issued for it and a foundation completed according to the building permit. However, a lot is not vacant if any structure on such lot is subsequently demolished.

B. Any construction on a vacant lot shown on a validated subdivision plan or shown on an approved subdivision or resubdivision plan (providing such subdivision was not terminated before said lot was sold for separate use) shall not be required to conform to a change in the zoning regulations or boundaries of the applicable zoning district if the change was adopted after the approval of the subdivision or resubdivision plan or after the date of the map filing for a validated subdivision.

7.1.2.2. Vacant Lots Not in Validated Subdivision or Recorded Approved Subdivision and Resubdivision.

Any vacant lot that is not shown on an approved subdivision or resubdivision plan or validated subdivision plan, with an area that is less than the requirements for the zoning district it is in and is contiguous or adjacent to a lot owned by the same individual shall be combined with the contiguous parcel. Subject to this merger requirement, construction of a dwelling and permitted accessory buildings shall be permitted on such a vacant lot that is legally created but nonconforming as to lot size and frontage requirements providing the lot is in the R-88 district and:

- A. The lot conforms to the minimum access requirements of these Regulations;
- B. The owner shall not own sufficient contiguous land which, when combined with the nonconforming lot, would make a conforming lot or more nearly conforming lot; and
- C. The proposed use, dwelling or other structure meets the lot size, lot coverage, shape, and frontage requirements of the R-44 district and conforms to all other requirements of these Regulations.

7.1.3. Requirements.

Except as permitted by this Section 7, the improvements and lot shall meet all other requirements of the applicable zoning district.

7.2 NON-CONFORMING USES, BUILDINGS, AND STRUCTURES

7.2.1. General

It is the intent of these Regulations that nonconformities are not to be expanded, that they should be changed to conformity as quickly as the fair interests of the parties permit and that the existence of any existing nonconformity shall not in itself be considered grounds for the issuance of a variance for any other property. Any use of land or any building, or structure which fails to conform to one or more of the provisions and standards of these Regulations or any amendment thereto, but which lawfully existed on September 6, 1937, the effective date of Zoning Regulations in New Fairfield, or on the effective date of any amendment to such Regulations, providing such use, building or structure has continued to exist since the date such use was lawfully created, shall be designated a nonconforming use and may continue to be used subject to compliance with the applicable requirements of this Section,

7.2.2. Non-Conforming Use of Land

Any nonconforming use of land that lawfully existed on the effective date of these Regulations or any amendment thereto may be continued provided that:

- A. No nonconforming use of land shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such a use at the time of the adoption of the regulations to which it fails to comply unless specifically allowed by the provisions of this regulation;
- B. No such nonconforming use of land shall be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this regulation;
- C. If such a nonconforming use of land, or any portion thereof ceases for any reason for any continued period of one (1) year (and the owner or owners fail to demonstrate an uninterrupted intent to continue such use), or is changed to a conforming use, any subsequent use of the land shall be in conformity with the applicable provision of the district within which the land is located.

7.2.3. Nonconforming Use of Building or Structure; Nonconforming Buildings or Structures

Any nonconforming building or structure or nonconforming use of building or structure which existed as of September 6, 1937, or was created in compliance with the 1937 Zoning Regulations, or in compliance with any amendment thereto, may be continued provided that:

- A. Such nonconforming use, building, or structure shall not be enlarged or extended unless the use, building or structure is changed to a conforming use, building or structure, or more conforming building or structure.
- B. Such nonconforming use, building, or structure shall not be structurally altered, reconstructed, expanded or enlarged unless such alterations, reconstruction, enlargements or expansions conform to all applicable requirements of these Regulations, including use requirements, providing such alterations, reconstruction, expansion or enlargement shall be permitted to the extent required by law or to the extent they consist of maintenance and repair work required to keep the structure or building in sound condition.
- C. If any nonconforming use, building or structure ceases to exist for any reasons for a continuous period of more than one (1) year and the owner or owners fail to demonstrate an uninterrupted intent to continue such use, building, or structure from the date the use was lawfully created to the present, or if such use is changed to a conforming use, or if the nonconforming use, building or structure in which such use is conducted or maintained is moved for any distance whatsoever for any reason, then any subsequent use, building or structure, shall conform to the use and other requirements for the district within which the use, building or structure is located.
- D. If any structure in which any nonconforming use is conducted or maintained is removed, the subsequent use of such structure shall be in conformity with the standards specified by the applicable zoning regulations.
- E. Any vertical expansion or extension of all or a portion of a structure or building that is nonconforming as to setback from a property line (or as to any other dimensional or bulk requirement) shall be deemed a prohibited expansion of such nonconforming building or structure. This vertical expansion prohibition applies to raising a roof or to second and third floor additions on a building footprint that is nonconforming as to any setback or other dimensional requirements. Further, where a variance has been granted to permit a building or structure or portion thereof to encroach into a setback, no vertical expansion or extension of such building or structure is permitted without the grant of an additional variance from the Zoning Board of Appeals for the specific vertical expansion or extension proposed.

7.2.4. Restoration of Damaged Structures or Buildings

Any structure or building legally nonconforming as to use or as to the minimum area and dimensional requirements of the district in which it is located, and which structure or building is damaged or destroyed by fire, explosion, vandalism, act of God or the public enemy, may be built and the use may be continued, but not to any greater extent than in the previously existing structure provided that said rebuilding shall be commenced within one (1) year from the date of such destruction. The Commission or its duly authorized agent may, for reasonable cause, extend such a period.

7.3 ACCESSWAYS

7.3.1 Authorization

An accessway serving more than one (1) interior lot must be specifically authorized during a subdivision application before the Planning Commission or by a Zoning Permit application before the Zoning Commission. An accessway shall not serve more than three (3) interior lots unless the Planning Commission has granted a waiver in accordance with the Subdivision Regulations.

7.3.2 Requirements

Where so authorized, any accessway shall meet the following requirements:

- A. The accessway shall be at least twenty-five (25) feet wide;
- B. The travel-way shall be at least twelve (12) feet wide if serving one (1) lot, and at least eighteen (18) feet wide if serving two (2) or more lots;
- C. The travel-way shall accommodate the minimum turning radius and height clearance of emergency apparatus;
- D. Where curves in travel-ways form acute angles that hinder backing movements, the Commission, at the request of the New Fairfield Volunteer Fire Department, may require paved turnarounds to allow emergency apparatus to reverse direction;
- E. Where travel-ways exceed five-hundred (500) feet, the Commission may require paved turnouts to allow emergency apparatus to pass;
- F. The travel-way shall be constructed on an approved sub-base consisting of a twelve (12) inch thick gravel layer or an eight (8) inch thick crushed stone layer and any drainage piping shall support a minimum of fifty thousand (50,000) pounds;
- G. The travel-way shall be paved with two (2) inches of compacted bituminous concrete.
- H. The grade of the travel-way shall not exceed twelve (12) percent except that said grade shall not exceed eight (8) percent for the first thirty (30) feet measured from its intersection with the street right-of-way.
- I. Each lot owner depending on an accessway for access to a street or a highway must either own in fee simple a proportionate part of the accessway or a permanent easement over it and the authorizing Commission may require verification of such ownership or easement; and,
- J. The Commission shall refer proposals for accessways to the Fire Department for review and comment.

7.4 ACCESS FOR THE DISABLED

Structural alterations, including but not limited to handrails, wheelchair ramps, to existing buildings for which a certificate of occupancy has previously been issued or in existence prior to October 1, 1970, shall be permitted for single-family residential uses to the extent required to provide access to individuals with a physical disability even if such alterations violate applicable

setback and maximum lot coverage requirements. No plot plan or A-2 survey shall be required except for multifamily, commercial, or light industrial uses.

7.5 TELECOMMUNICATION FACILITIES

7.5.1. Purpose

The purpose of this Section is to permit wireless communication facilities in accordance with applicable Federal and State jurisdictions with the Town of New Fairfield while promoting the purposes of the New Fairfield Zoning Regulations including but not limited to protecting the public health and safety, protecting neighborhoods, minimizing the adverse visual and operational effects of wireless communication facilities. These regulations are intended to establish guidelines and standards for the siting of antenna facilities in furtherance of these purposes.

7.5.2. Jurisdiction

The Zoning Commission regulates municipal wireless telecommunication towers and non-tower telecommunications facilities. It is understood that the Connecticut Siting Council (“CSC”) regulates non-municipal wireless telecommunications towers and associated facilities. For Policy preferences for CSC regulated facilities, see Section 9.2.

7.5.3. Permitted by Zoning or Other Permits

A. Residential Household Antenna - An antenna with no antenna tower used solely for residential household television and radio reception provided any such antenna meets required setbacks and does not exceed the maximum total building height for the zoning district in which it is located.

B. Residential Satellite Dish Antenna - A satellite dish antenna in a residential zone provided:

1. The dish antenna measures one (1) meter (3.28 feet) or less in diameter;
2. A building-mounted installation complies with yard setback and total building height standards for a principal structure and is not visible from the street;
3. A ground-mounted installation is located in the rear yard, complies with yard setback and total building height standards for an accessory structure, and is not visible from the street.

C. Commercial Satellite Dish Antenna - A ground-mounted or roof-mounted satellite dish antenna in a Retail or Business zone provided:

1. The dish antenna measures two (2) meters (6.56 feet) or less in diameter,
2. The dish antenna is screened from public view.

D. Amateur Radio Antennas - An amateur radio antenna owned and operated by an amateur radio operator licensed by the FCC provided:

1. A ground-mounted installation is located in the rear yard;

2. A building-mounted installation is affixed to the rear of a residential structure;
3. Any tower and antenna combination is less than forty (40) feet in total height and is erected no nearer to any property line than a distance equal to the vertical height of the tower and antenna;
4. A suitable safety fence may be required to be erected to preclude unauthorized access.

E. Existing Tower and Antenna Facilities - Repair or antenna replacements on existing towers or at existing Antenna Facility locations, provided there are no changes in design, height or appearance of the Tower and replacement antennas are the same size or smaller than existing antennas and provide the same degree or more stealth technology to camouflage facilities than previously in place.

7.5.4. Permitted by Site Plan Approval

A. Other Residential Antenna - An antenna that does not comply with Section 7.5.4. and is:

1. Used solely for residential household television and radio reception;
2. A satellite dish antenna in a residential zone; or,
3. Is an amateur radio antenna owned and operated by an amateur radio operator licensed by the FCC.

B. Commercial Satellite Dish Antenna - A ground-mounted or roof-mounted satellite dish antenna in a Retail or Business zone that does not comply with Section 7.5.4.

7.5.5. Permitted by Special Permit

A. Other Antennas on Existing Structures. Any other antenna which is not attached to a tower, provided:

1. The antenna complies with all applicable FCC and FAA regulations;
2. The antenna complies with all applicable building codes;
3. The antenna does not extend more than ten (10) feet above the highest point of the structure; and,
4. The antenna is completely screened or designed and installed to be architecturally compatible with the structure in question.

B. New Public Safety Tower or Antenna - A new antenna tower intended and used primarily for the purpose of local police, fire, ambulance, and/or other emergency services.

C. New Tower or Antenna on Town-Owned Property - A new antenna located on property owned, leased or otherwise controlled by the Town of New Fairfield for use for Town emergency services and also for use by commercial providers.

D. New Tower or Antenna - Any new tower or antenna not regulated by the Connecticut Siting Council.

7.5.6. Requirements for Applications Requiring Special Permit Approval

A. Application Requirements:

1. Each application shall include documentation that a licensed carrier or an authorized emergency services organization is either an applicant or a co-applicant on the application.
2. Each application shall include documentation that the proposed facility will not cause any interference with any emergency or public safety radio system.
3. Each application shall include documentation showing how the proposed facility will accommodate emergency service communications for police, fire and ambulance services or a statement from each organization that such accommodation is not desired.
4. Each application shall include documents indicating that:
 - a. all towers, antennas, and/or equipment to be installed meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas.
 - b. if such standards and regulations are changed, then the owners of the towers and antennas governed by this regulation shall bring such towers and antennas into compliance.
5. Each application shall include documentation regarding noise emission from equipment and identify appropriate steps to provide soundproofing so that any noise above ambient levels is inaudible at the property line.
6. The applicant shall provide a written maintenance plan for the site, including, but not limited to, all facilities including landscaping at the site.

B. Visual Considerations:

1. Towers and antenna and appurtenances shall be painted a neutral color or other such finish as determined by the Commission so as to minimize visual obtrusiveness.
2. The design of the equipment, buildings, and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
3. If an antenna is installed on a structure other than a tower, the antenna and supporting equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible.

4. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority and specifically authorized by the Commission.

5. No signs or advertising shall be allowed on any antenna, facility, or tower unless required by an overriding legal authority, except that a two (2) square foot sign is required to be posted showing the emergency contact and telephone number.

C. Equipment Considerations:

1. Any equipment cabinets or other appurtenances used in association with the tower or antenna shall be clearly shown as part of the application including how such equipment is designed to blend with the surrounding landscape or be obscured from adjacent properties and streets.

2. Security fencing, no more than six feet in height, may be required by the Commission around the antenna, tower, and equipment depending on the nature of the installation.

3. Landscaping, including buffering, may be required by the Commission around the antenna, tower, and equipment depending on the nature of the installation.

CHAPTER 8 PROCEDURES

8.1 SITE PLAN STANDARDS AND REVIEW PROCESS

8.1.1. Intent and Purpose

In accordance with Section 8-3(g) of the Connecticut General Statutes, the Zoning Commission hereby establishes the Site Plan review process in an effort to aid in determining the conformity of a proposed building, use, or structure with the specific provisions of these Regulations.

8.1.2. Applicability

All applications for zoning permits in connection with proposals that will result in new buildings, structures or uses or changes of use from single family residential to any other permitted use or that will change the exterior dimensions of an existing building or type of use in any way shall be accompanied by a site plan. The Commission having jurisdiction on the application may require additional copies of the site plans when the proposed use is to be reviewed by other government agencies.

8.1.3. General Procedure

Whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for any building, use or structure, a decision on an application for approval of such site plan shall be rendered within sixty-five (65) days after receipt of such site plan. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed sixty-five (65) days or may withdraw such plan or application. A decision to approve, deny or modified a site plan application hereunder shall be published in a newspaper having general circulation within the Town of New Fairfield within ten (10) days after the Commission has rendered its decision, and a copy of such decision shall be sent to the applicant by certified mail within fifteen (15) days of the date after such decision has been rendered.

8.1.4. Application Requirements

Applications for site plan review shall consist of the following:

- A. Application fee in the amount specified in Section 10.
- B. Site Plans.

Except as set forth below, ten (10) copies of site plans drawn to a scale of at least 1" = 50' and shall be on sheets either 36" X 24", 18" X 12", or 18" X 24" which shall show the following or meet the following requirements:

1. A Class A-2 perimeter survey of the subject parcel prepared by a Conn. Registered land surveyor, showing existing and proposed terrain elevations at two-foot contour intervals identifying the name of all abutting property owners;
2. A site plan prepared by a Conn. Licensed professional engineer in cooperation with a Conn. Licensed Surveyor where required, showing:

- a. Existing and propose property boundaries, dimensions, with area dimensions given in feet and areas given in square feet.
- b. Existing and proposed terrain elevations at two (2)-foot contour intervals and proposed grading areas, showing cuts and fills and amount and type of material to be removed from site.
- c. Existing and/or proposed buildings and uses including but not limited to curbing, driveways, parking and loading areas, and abutting streets.
- d. Poles, hydrants, and other utility appurtenances.
- e. Areas to be used for exterior storage and waste collection.
- f. Type and location of any screening to be provided.
- g. Required set backs, off-street parking and loading spaces, access and egress details.
- h. Existing and proposed storm drainage structures and plans on the subject property and off the property that may be affected by the proposed building or use.
- i. Existing and proposed utilities, water supply or wells and related details, septic systems or other sewer disposals facilities and details.
- j. Location, type, size and details of any proposed signs meeting the requirements of Section 6.3 and site lighting meeting the requirements of Sections 6.6 and 9.1.
- k. Zoning chart showing existing, current requirement and proposed zoning district, Lot Area, setbacks, parking requirements, FAR, building and lot coverage requirements.
- l. Location of proposed activities.
- m. Address of property and name of owner of record, scale, north arrow, date of drawing or its revision, and name of person preparing the site plan and his seal.
- n. Proposed landscaping plan prepared by a Connecticut Licensed landscape architect in compliance with Section 6.1 and also showing existing trees sixteen inches (16") in caliper or larger as well as existing and/or proposed landscaping, including the type, size, and location of proposed plantings. The Commission may waive such tree location information on large parcels (over five [5] acres) in areas proposed only as open space or conservation restriction areas where the trees are to be permanently protected.
- o. Existing and proposed easements and rights of way for public utilities and other public uses with dimensions given in feet.

p. Location of all wetlands, watercourses and flood hazard areas on the property. Identification of wetland soils, including locations of any soil borings or test holes. Soil types shall also be identified in accordance with categories established by the National Cooperative Soil Survey of the United States Department of Agriculture, Soil Conservation Service.

q. Bodies of water and high water level for all inundated areas; 440-contour line for Candlewood Lake.

r. Location of public roads, adjacent road cuts and width of rights-of-way and travel ways.

s. Any other data and details that may aid in assessing the proposal and its compatibility with the Regulations.

C. Ten (10) copies of drawings at appropriate scale showing floor plans and exterior elevations of buildings and structures.

D. The disturbance of any area exceeding one half acre that is subject to a Sedimentation and Erosion Control Plan hereunder shall conform to Section 6.4, the requirements of General Statutes, Section 22a-325 to 329 inclusive, and the guidelines for soil erosion and sedimentation control promulgated by the State of Connecticut thereunder. If approved, the Soil Erosion and Sediment Control Plan will be certified by the Zoning Commission, its agent or the Environmental Enforcement Officer.

E. The report from the New Fairfield Health Department, Fire Marshall, the Inland Wetland Commission, New Fairfield Public Works, the Town Consulting Engineer, the Zoning Enforcement Officer unless waived by the Commission or where applicable, the Zoning Enforcement Officer.

8.1.5. Site Plan Design Standards

In an endeavor to ensure that structures and uses of land are arranged in a manner that satisfies all the requirements of these Regulations, the Commission or the ZEO shall inspect and approve all site plans prior to the issuance of a zoning permit. The criteria for approval, in addition to the satisfaction of all other requirements of these Regulations, are as follows:

A. Street Improvements. If necessary, proper provision shall be made for grading and improvement to the lot frontage on an existing street and for improvements for any new intersections. Where necessary to prevent land locking properties or for traffic circulation as set forth in the Plan of Conservation and Development, provision shall also be made for future extension of streets and related improvements.

B. Driveways. A Zoning application, Site Plan or Special Permit application, which involves the installation of a driveway, must meet the following conditions:

1. All driveways shall be located in such a manner as to safeguard against hazards to traffic and pedestrians in the street and on the lot and to avoid traffic congestion on any street.

2. A residential driveway shall not exceed in grade at any point along its length, 2 percent within the road right-of-way, eight (8) percent for the next thirty (30) feet, and twelve (12) percent elsewhere.

3. A commercial driveway shall not exceed in grade, two (2) percent within the road right-of-way, eight (8) percent for the next thirty (30) feet, and ten (10) percent elsewhere. At no point along its length shall a driveway exceed this maximum slope permitted.

4. Except where a different grade is specifically required by these Regulations or the subdivision regulations or Town ordinances, no driveway shall be constructed with a grade greater than eight (8) percent, either ascending or descending within twenty (20) feet of the intersection of the driveway with the street or highway. Accessways shall meet the requirements of Section 7.3 of these Regulations.

8.1.6. Parking and Loading

Parking and loading shall be as provided for under Section 6.2 of these Regulations.

8.1.7. Signs

Signs shall be as provided for under Section 6.3 of these Regulations.

8.1.8. Drainage and Stormwater Management Systems

A. General. All site plans shall include provisions for collection and discharge of storm water to prevent flooding of parking lots, loading spaces, adjoining or downstream properties, to avoid hazards and traffic, and to protect streams and wetlands from pollution

B. Impervious Surfaces. Impervious Surfaces shall be addressed in accordance with the requirements of Section 6.4, Section 6.7, Section 5.1, and Section 5.2, where applicable.

1. An absolute minimum of existing vegetative cover shall be disturbed during the construction period.
2. All disturbed areas shall be properly graded and shaped as soon as possible. Final grading shall include removal of all large rocks, stumps, debris, and all other deleterious materials from the finished surface. Permanent vegetative cover shall be established as soon as practicable upon achievement of the final grade.
3. Cut and fill slopes shall not be steeper than two to one (2:1) unless stabilized by a retaining wall or cribbing, except as approved by the Commission when handled under special conditions.
4. At the toe of all cut and fill slopes in excess of ten (10) feet in height, bailed hay or straw erosion checks shall be installed.
5. All disturbed areas shall be protected from potentially erosive run-off from up slope areas by means of diversion, benches, or other acceptable means.
6. Cuts and fills shall not endanger adjoining property.
7. Fill shall be placed and compacted so as to minimize sliding or erosion of soil.

8. Fill shall not encroach on natural watercourses or constructed channels.
9. Grading shall not be done in such a way as to divert water onto the property of another landowner without the express consent of that landowner.
10. Necessary measures for dust control shall be exercised during grading operations.
11. Measures shall be taken to minimize any increase of direct run-off resulting from construction or development.
12. When grassed waterways are installed in lieu of pipe, they shall be protected against erosion by the use of mulch materials, hay bale erosion checks, and/or log and hay check dams placed at appropriate intervals.
13. Grading equipment will not be allowed to cross streams except by means of bridges and culverts or other methods as approved by the Commission or Environmental Enforcement Officer.
14. Sediment basins (debris basins, de-silting basins, or silt traps) should be installed and maintained to remove sediment from run-off waters and from land

8.1.9. Water and Sewer

Proper provision shall be made for the water supply and sewage disposal requirements for the proposed development and use. Systems shall be designed and constructed in accordance with procedures set forth in these Regulations, applicable state laws and local ordinances. The design and construction shall be approved by the Town Health Officer or his agent. Provision shall also be made for collection, storage, and disposal of solid wastes accumulated, which will result from the proposed development and use and for control of litter by means of receptacles, fences, or other means approved by the Commission.

8.1.10. Outside Storage

Outside storage such as storage of merchandise, goods, supplies, machinery, motor vehicles, and equipment shall not extend into the area required for setback from a property line nor into the area required for a landscape buffer.

8.1.11. Fire Safety

Proper provision shall be made for fire protection that shall comply with the Residential and Commercial Supplemental Water Supply Systems Ordinance.

8.1.12. Existing Topography and Natural Features

Existing topography shall be disturbed to a minimum. Trees, stone walls, and any unique or fragile features shall be preserved where possible.

8.1.13. All Public Improvements

All required public improvements shall conform to the "Subdivision Regulations of the Town of New Fairfield" and the New Fairfield Ordinances.

8.1.14. Site Plan Changes

If any modifications of the plan are made prior to its approval, four corrected copies shall be presented to the Zoning Enforcement Officer prior to the issuance of any zoning or building permit relating to the application.

8.1.15. Waiver of Requirements

The Commission or the Zoning Enforcement Officer, as applicable, may, upon written request by the applicant, waive one or more of the site plan requirements for Site Plan approval if the applicant can show, to the satisfaction of the Commission, that the information is not needed to reach a decision on the application. Such waiver shall require an affirmative vote of the Commission or written approval of the ZEO.

8.1.16. Preliminary Plan

The Commission may recommend that, prior to the submission of an official application for approval of a site plan, the applicant prepare and present a preliminary site plan for informal consideration by the Commission. The preparation of the preliminary plan is recommended to facilitate general consideration of factors and problems associated with said site plan before the applicant proceeds with the official application and preparation of final maps, plans, and documents required for formal consideration by the Commission. If the site plan is presented in preliminary rather than in final form, any alterations or changes recommended by the Commission may be made more readily and economically by the applicant. Neither the preliminary site plan nor the informal consideration by the Commission, however, shall be deemed to constitute any portion of the official and formal procedure of applying for and approving a site plan as contemplated herein or under the provisions of the General Statutes.

8.1.17. Action by the Zoning Commission

The Commission shall act on the site plan application, shall publish notice, and notify the applicant all in accordance with the time period specified under this § 8-7d of the General Statutes. In acting on any application hereunder, the Commission may require, as a condition of approval of any modified site plan, the posting of a bond and with surety and conditions satisfactory to it and as set forth in Sections 8.7.3 through 8.7.5 of these Regulations, securing that all prescribed modifications to the site plan are met.

8.1.18. Review by the Zoning Commission

In reviewing the application, the Commission shall find that the application meets "de facto", by variance, or by modifications prescribed by the Commission, all applicable requirements of these Regulations and that the application, if granted, shall not exert a detrimental impact on the public health, safety, and welfare.

8.2 SPECIAL PERMIT APPLICATIONS

8.2.1. Intent and Purpose

In accordance with Section 8-2 of the Connecticut General Statutes, the Zoning Commission hereby establishes the application requirements for land uses, building and structures for which these Regulations, prescribe that a special permit must be obtained.

8.2.2. General Procedure

Following submission of a complete application in compliance with the requirements of this Section the Zoning Commission (or other board or commission to which the Zoning Commission has delegated Special Permit authority) shall, within sixty-five (65) of the day of receipt, hold a duly advertised public hearing following the procedure as set forth at Section 8.7.2 of the Regulations with respect to time periods and notices. Further, owners of land adjacent to the land that is the subject of the application shall be provided notice of the public hearing as set forth at Section 8.7.2. The Commission shall approve, approve with modifications, or deny an application within sixty-five (65) days of the close of the public hearing. Whenever a commission grants or denies a special permit or special exception, it shall state upon its records the reason for its decision. Notice of the decision of the commission shall be published in a newspaper having a substantial circulation in the municipality and addressed by certified mail to the person who requested or applied for a special permit or special exception, by its secretary or clerk, under his signature in any written, printed, typewritten or stamped form, within fifteen (15) days after such decision has been rendered. In any case in which such notice is not published within such fifteen (15)-day period, the person who requested or applied for such special permit or special exception may provide for the publication of such notice within ten (10) days thereafter. Such permit or exception shall become effective upon the filing of a copy thereof (1) in the office of the town, city or borough clerk, as the case may be, but, in the case of a district, in the offices of both the district clerk and the town clerk of the town in which such district is located and (2) in the land records of the town in which the affected premises are located, in accordance with the provisions of Section 8-3d. In reviewing and in acting on the application the Commission shall ascertain that the special permit meets all applicable requirements of these Regulations, providing that the Commission may impose conditions and modifications necessary to protect the public health, safety, convenience and property values and to provide for compliance with the specific standards of the Regulations applicable to a particular use.

8.2.3. Application Requirements

Applications for special permit shall include fees, plans, documents, and information as follows:

- A. Application fee in the amount as specified in Section 10;
- B. Site plans in accordance with Section 8.1
- C. Architectural Plans. When new buildings or structures, or substantial alterations to existing buildings are proposed, the application shall include ten (10) copies of preliminary architectural plans, floor layouts, and facade elevations drawn at a scale suitable for legibility and interpretation. Said plans and drawings shall be prepared by a Connecticut registered professional engineer or architect, and shall include a description of all exterior building materials and textures, fenestration and roofing.
- D. Sewage and Water Supply. Where applicable, the proposal shall include plans for sewage disposal and for water supply. The plans shall be prepared by a Connecticut registered engineer. The applicant shall be responsible for the submission of a letter/report from the New Fairfield Health Department (or The Connecticut Department of Health) commenting on the adequacy of the proposed method for sewage disposal and for water supply.
- E. Proposed Uses. The application shall include a written statement describing in detail the proposed use or uses planned for the facility if approved.

F. Traffic Study - Any development that anticipates the generation of more than one hundred (100) vehicular trips per day shall be accompanied by a ten (10) copies of a traffic study evaluating the impact of the proposal on Town roads serving the development site. The study shall be prepared by a qualified engineer and shall, at least, evaluate existing traffic, projected additional traffic, the adequacy of right-of-ways and travelways, and recommendations to mitigate impact on pedestrian and vehicular circulation on-site and off- site.

G. Report by Town Agencies - During the initial review process the Commission, or its authorized agent, may request the submission of written reports from the New Fairfield Volunteer Fire Department, the Fire Marshal, the Town Engineer, the Board of Selectmen, or any appropriate municipal consultant. When requested such reports shall be made available prior to or during the course of the public hearing on the application.

8.2.4. Review by The Commission

In considering an application for Special Permit, the Commission shall determine that the following specific conditions are met in addition to the other standards in these Regulations required for the specific use(s) proposed:

A. Compliance with Regulations - the proposed use or uses are permissible by these Regulations and that the proposal meets "de facto," or by variance, all applicable bulk, dimensional and other requirements of these Regulations.

B. Suitable Location for Use - the location and size of the proposed use and the nature and intensity of use in relation to the size of the lot will be in harmony with the orderly development of the area and compatible with other existing uses.

C. Suitable Structures for Use - the kind, size, location, and height of structure and the nature and extent of landscaping on the lot are appropriate for the use and will not hinder or discourage the appropriate use of adjoining property nor diminish the value thereof.

D. Neighborhood Compatibility - the design elements of the proposed development are attractive and suitable in relation to the site characteristics and style of other buildings in the immediate area, and that the proposed use will not alter the essential characteristics of the area or adversely affect property values in the neighborhood.

E. Adequate Parking and Access - the parking and loading facilities are adequate and properly located and the entrance and exit driveways are laid out to achieve maximum safety.

F. Adequate Streets for Use - The Streets providing access to the proposed use are adequate in width, grade, alignment, and site line visibility, and have adequate capacity for the additional traffic generated by the proposed use. The proposed use will not pose undue inconvenience to pedestrian or vehicular circulation nor impede implementation of the Traffic Circulation Plan.

G. Adequate Emergency Access - the proposed use shall have easy accessibility for fire apparatus and police protection and is laid out and equipped to further the provision of emergency services.

H. Adequate Public Utilities - the water supply, the sewage disposal, and the storm water drainage shall conform to accepted engineering criteria, comply with all standards of the appropriate regulatory authority, and not unduly burden the capacity of such facilities.

I. Environmental Protection and Conservation - the proposed plans have provided for the conservation and/or enhancement of natural, scenic, historic, archaeological, and other unique features, drainage basins, including, where appropriate, the use of conservation restrictions to protect and permanently preserve natural, scenic, historic, or unique features that enhance the character and environment of the area.

J. Consistent with Purposes - the proposed use will not have and detrimental effects upon the public health, safety, welfare, or property values, and that the proposed use will not conflict with the purposes of the Regulations.

8.2.5. Change in Plans

When approval of the Commission has been secured, any change of approved building plans or uses shall require further approval by the Zoning Commission. The Commission may delegate that such changes be reviewed and acted upon by its authorized agent.

8.2.6. Time Limits and Effective Date

All work required in connection with a special permit granted hereunder shall be completed within five (5) years from the effective date of Commission action. The effective date of action shall be the date of publication of the legal notice in a newspaper having circulation within the Town of New Fairfield. The Commission, upon written request by the grantee and for justifiable cause, may extend said period but such extension or extensions shall not exceed ten (10) years. For the purposes of this Section, "work" means all physical improvements required by the approved plans.

8.2.7. Obligation to Complete Improvements

Prior to issuing a zoning permit, the applicant/developer, successor or assign shall post a performance bond equal to one-hundred (100) percent of all site improvement work as determined by the Commission or its authorized agent in accordance with Sections 8.7.3 through 8.7.5. Said bond shall remain in force for a period of two (2) years, at the end of which period the bond may be claimed, released in part or in total, or the period may be extended upon request by the applicant. The Commission or its authorized agent may require that a portion of the bond be retained after all work has been completed to ascertain that all landscaping material has been installed according to plans.

8.2.8. Zoning Certificate of Compliance

The Commission may, at its discretion and to accommodate for seasonal conditions and special circumstances, authorize the issuance of zoning certificates of compliance prior to the installation of all required site improvements.

8.2.9. Appeal of Special Permit and Site Plan applications.

There shall be no appeals of special permit or site plan approvals or denials to the ZBA; all such appeals shall be directly to court as authorized by the General Statutes.

8.3 ENFORCEMENT

8.3.1. Authority

The Zoning Enforcement Officer(s) (“ZEO”) shall act as the authorized agent of the Zoning Commission and the ZEO and/or the Zoning Commission shall be responsible for the administration and enforcement of these Regulations. The ZEO shall be responsible to the Commission. The ZEO or Zoning Commission may issue any zoning permit pursuant to these Regulations; and may cause any building, structure, place, or premises to be inspected and examined and may order, in writing, the discontinuance of any use of property, or the remedying of any condition that may be found to exist in violation of any provision of these Regulations.

8.4 PENALTIES

8.4.1. Fines

As provided under § 8-12 of the General Statutes, the owner or agent of any building or premises where a violation of any provision of these Regulations has been committed or exists, or the lessee or tenant of an entire building or entire premises where such violation has been committed or exists, or the owner, agent, lessee or tenant of any part of the building or premises in which such violation has been committed or exists, or the agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation exists, shall be subject to the penalties as provided in Chapter 124 of the General Statutes, including without limitation a fine of not less than ten (10) not more than one hundred (100) dollars for each day that such violation continues; but, if the offense is willful, the person convicted thereof shall be fined not less than one hundred (100) dollars not more than two hundred and fifty (250) dollars for each day that such violation continues, or imprisoned not more than ten (10) days for each day such violation continues or both, or as such fines or penalties shall be revised pursuant to said Chapter 124; The Commission may request Town Land Use Counsel to commence civil or criminal action in State or Federal court for the purpose of enforcing the provisions of these Regulations.

8.4.2 Notice of Violation /Cease and Desist Orders

If any person who, having been served with a Cease and Desist Order to discontinue and/or remedy any violation of these Regulations, shall fail to comply with such order within ten (10) days after such service, or having been served with such an order with respect to a violation involving the grading of land, removal of earth or soil erosion and sediment control, shall fail to comply with such order immediately, or continues to violate any provision of these Regulations that is specified in such order shall be subject to:

A. A civil penalty not to exceed two thousand five hundred (\$2,500) dollars, payable to the Treasurer of the Town of New Fairfield; and/or,

B. After placing on the agenda of the Zoning Commission a notice of intent to file a Notice of Zoning Violation, the ZEO at the direction of the Commission, the Commission or other authorized agent of the Commission so directed, shall file said Notice of Zoning Violation on the New Fairfield Land Records. Once any violation has been corrected and all fines or penalties have been paid in full, the ZEO, Commission or such other agent shall file a Notice of Release of Zoning Violations on the New Fairfield Land Records.

8.5 ZONING PERMIT REQUIREMENTS

8.5.1 Zoning Permit Required

A. Before any land, building or structure is devoted to any new or changed use which is subject to these Regulations; or before any building, structure or sign shall be erected, reconstructed, structurally altered or moved upon or to any premises, a zoning permit shall be issued by the Zoning Commission or its authorized agent as hereinafter provided, stating that as a condition of its issuance that such building, sign or structure will comply with all the provisions of these Zoning Regulations, except where otherwise varied by the Zoning Board of Appeals.

B. No change, extension or alteration of any nonconforming use, building, structure or premises shall be made unless and until a zoning permit shall have been issued by the Zoning Commission or its authorized agent on application to it as hereinafter provided stating that such change, extension or alteration is in conformity with all applicable provisions of these Regulations, except where otherwise varied by the Zoning Board of Appeals.

8.5.2 Application Procedure

Application for such zoning permit shall be made to the Zoning Commission or ZEO in writing upon such forms as shall be prescribed by it and no construction, alteration or extension shall be commenced as above set forth prior to the valid issuance of a zoning permit. All such applications for zoning permits shall contain a full description of the use or uses to which such buildings, structures or premises will be devoted and shall be accompanied by a plot plan prepared by a Connecticut registered land surveyor showing the boundaries and dimensions of the premises upon which the building or structure shall be constructed or moved and the exact location of existing buildings and structures thereon giving exact setback distances from front, side or rear lot lines. In the case of proposed buildings or structures or additions or alterations to existing structures, the applicant shall indicate on such a plot plan the proposed location of such building or additions showing approximate proposed dimensions including setback distances, and showing proposed location of well and septic system, or exact location of well and septic system as provided by the records of the New Fairfield Health Department, and where applicable the location of wetlands and watercourses, and flood safety zones. When required, the application shall be accompanied by, an inland wetland permit, a driveway permit, a septic and well permit and such plans and specifications as may be prescribed by the Zoning Commission as in the case of permits granted pursuant to Section 8.1 or Section 8.2. The certified plot plan may be waived by the ZEO or Zoning Commission where the information is not necessary for the particular zoning permit being issued or the work involves structural alterations to existing buildings for which a certificate of occupancy has previously been issued or which existed prior to October 1, 1970, and which are used as single-family residences and there is no change which relates to building setbacks.

8.5.3 Time Limits

A. Zoning permits issued as set forth above shall expire, without notice, and become null and void if construction, use, work or other activity authorized by such permit is not:

1. Commenced within six (6) months of the date of issue; and completed within one (1) year of the date permit has been issued unless otherwise prescribed by the Commission or ZEO; or,

2. Construction, use, work or other activity authorized by such permit has been based on information, data and mapping provided by the applicant that is false, erroneous, or fraudulent.

B. The time limits specified above may be extended by the Zoning Commission or the Zoning Enforcement Officer if requested prior to expiration and upon demonstration of substantial cause.

8.6 CERTIFICATE OF ZONING COMPLIANCE

8.6.1. General

Before any land or existing building or structure is devoted to any new or changed use under a zoning permit issued hereunder, or any new building or structure is erected or altered pursuant to a zoning permit issued hereunder, the Zoning Enforcement Officer shall determine that said use or structure or alteration conforms in all respects to these Zoning Regulations. The ZEO may require an A-2 Survey or certified plot plan prepared by a registered land surveyor to determine such compliance.

8.6.2. A-2 Survey Requirement- Foundation

Upon completion of the foundation of any building, addition to a non-residential building, or addition to an existing residential building or structure that is located within five (5) feet of the minimum required setback distance, no further work shall be done on such building or structure after completion of the foundation until an A-2 survey by a Connecticut registered land surveyor has been filed with the Zoning Enforcement Officer.

8.6.3. Certified Plot Plan or A-2 Survey Requirement- Completion

Upon completion of any building or addition as described in the preceding paragraph, the applicant shall re-submit the said plot plan prepared by a Connecticut registered land surveyor certifying as to the location of the completed building or addition, showing the approximate location of wetlands if any, before a certificate of zoning compliance is issued by the Zoning Enforcement Officer, and/or a certificate of building occupancy is issued by the Building Inspector.

8.6.4. Exceptions to A-2 Survey Requirement

Notwithstanding any provision of Section 8.6 to the contrary, no certified plot plan or A-2 survey shall be required when:

A. the alteration or addition involves an open deck, or a swimming pool, or a tennis court or a paddle tennis court that has been built in full compliance with the approved plans and the zoning permit issued and, in the Zoning Enforcement Officer's judgment, such plot plan or A-2 survey is unnecessary to determine conformance with these Regulations; or

B. the work involves structural alterations to existing buildings for which a certificate of occupancy has previously been issued or which existed prior to October 1, 1970, and which are used as single-family residences.

8.7 GENERAL APPLICATION PROCEDURES AND ACTION

8.7.1. General Procedures

A. Applications shall be:

1. Submitted to the New Fairfield Land Use Office on forms provided;
2. Accompanied by the appropriate fees as specified in Section 10;
3. Accompanied by such supporting material, plans and other information as required by these Regulations; and,
4. Signed by the applicant and the owner of the property affected.

B. Start of Statutory Review. For the purposes of calculating statutory time frames for processing applications, the date of receipt of an application to the Zoning Commission, Planning commission or Zoning Board of Appeals shall be the day of the next regularly scheduled meeting of the such agencies immediately following the day of submission of an application to the Land Use Office or thirty-five (35) days after submission, whichever is sooner.

C. Complete Applications. An application shall not be considered complete until all of the information required by these Regulations or by the Zoning Commission, Planning Commission, or ZBA has been received by the relevant agency at a regularly scheduled meeting. An incomplete application or an application filed without the required fee may be denied for failure to comply with the Regulations or may be withdrawn by the applicant.

D. Multiple applications. When a proposed development requires multiple applications, the Zoning commission, Planning commission or ZBA may conduct any public hearings simultaneously or in the order deemed appropriate.

E. The Commission, Board or authorized agent may:

1. seek advice and opinion of other officials, boards, or commissions to assist in evaluating applications;
2. retain an engineer, architect, landscape architect, professional land use planner or other consultant to review, comment, and guide its deliberations on any application; and,
3. require that the applicant, to the extent authorized by any Town Ordinance, deposit funds with the commission for the costs of any consulting review fees and reimburse the commission for the cost of such consulting review.

8.7.2. Public Hearings

A. When required. The Zoning Commission, Planning Commission or ZBA, as applicable, shall hold a public hearing on an application or request for a special permit, variance application, Zoning Regulation Amendment or Boundary Change petition, or appeal of a decision of the ZEO or zoning commission in its enforcement capacity, such hearing shall commence within sixty-five (65) days after receipt of such petition,

application, request or appeal and shall be completed within thirty-five (35) days after such hearing commences. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered within sixty-five (65) days after completion of such hearing. The Commission or Board shall decide the application with sixty-five (65) days of the close of the public hearing. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such petition, application, request or appeal.

B. Newspaper Notice. Upon scheduling a public hearing by such Commission or Board, the agency involved shall cause notice of the hearing to be published in a newspaper having general circulation in the Town of New Fairfield at least twice at intervals of not less than two (2) days, the first no more than fifteen days, nor less than ten (10) days, and the last not less than two (2) days before the date of the hearing or as otherwise provide by § 8-7d of the General Statutes.

C. Other Notices. Upon the scheduling of the public hearing by the Commission or Board, the applicant shall notify by Certified Mail all owners of property as required for a particular application. For purposes of such additional notice, including where the notice is to property owners within a certain distance from the perimeter of the subject property, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed. Such notices shall be sent at least ten (10) days in advance of the public hearing. The notice shall include a brief description of the application along with the date, time, and location of the public hearing. Prior to the commencement of the public hearing, the applicant shall submit to the Zoning Commission, Planning Commission, or Zoning Board of Appeals, all certificates of mailings and list of all property owners notified as evidence of compliance with the requirement.

D. Water Company Notice. Upon the scheduling of a public hearing by the Commission and/ or Board, the applicant shall provide written notice to a water company when any application, petition, or request is filed with the Zoning Commission, Planning Commission or Zoning Board of Appeals concerning any project on a site that is within an aquifer protection area as delineated in accordance with §22a-354c of the General Statutes or within a watershed of such water company provided such water company has filed a map with the Zoning Commission, Planning commission or ZBA or on the New Fairfield Land Records showing the boundaries of the watershed. Such notice shall be provided by Certified Mail, Return Receipt Requested, within seven (7) days of the date of submission of any such application, petition, or request. Prior to the commencement of the scheduled meeting or hearing regarding the application, petition, or request, the applicant shall submit a copy of the material provided to the water company and proof of mailing or the return receipt.

E. Adjoining Municipality Notice. The Zoning Commission, Planning Commission or ZBA shall notify the clerk of any adjoining municipality of the pendency of any application, petition, request or plan, by certified mail, return receipt requested, within seven (7) days of the filing of an application, or as otherwise provided by the General Statutes.

8.7.3 Bonds - Performance

A. To ensure that the proposed development, excluding buildings, conforms to an approved Special Permit or other approval requiring bonding, a performance bond may be required by the Zoning Commission or Planning Commission. If required, the performance bond shall be posted prior to the endorsement of the final site plan and the issuance of any Zoning Permits. Approval of the plan shall become effective upon the date of filing and recording a copy of an endorsed final plan and other required documents in the Office of the Town Clerk. No construction work shall be initiated prior to the final approval of said site plan. Exceptions may be granted if the performance amount is less than one-thousand (\$1,000) dollars.

B. A performance bond shall be posted in one or more of the following methods and in a form that is acceptable to Town Land Use Counsel:

1. A cash bond;
2. A savings bank deposit book;
3. Pledge of a bank account;
4. A irrevocable letter of credit; or,
5. Any other form of surety that the Commission deems acceptable, after consultation with the Town's land use counsel.

C. The amount of the performance bond shall be established by the Commission. Applicants shall furnish the commission with a listing of the type and estimated quantities of materials needed to complete the improvements as if let-to-bid by the Town without advantages of on-site building materials or the sale of removed earth material. In addition, the bond shall include an amount to cover the escalation of all improvements costs over a two year period.

D. The amount of the performance bond shall be sufficient to cover the cost of any proposed or required site improvement such as street grading, roadway paving, and street plantings; the installation of curbs, gutters, storm drainage facilities, landscaping, sidewalks, monuments, bridges, and culverts, erosion and sediment control measures; and all other such improvements that the Commission deems necessary to promote public health and safety and to safeguard the Town from undue expense in regard to the future maintenance of said improvements. All improvements shall be designed in accordance with established standards, rules, and regulations applicable to the Town. The Commission may require a separate cash bond be posted for all erosion and sediment control and site stabilization measures.

E. Upon the completion of the proposed and required improvements, the applicant may be required to submit to the Commission:

1. As-built plans and survey of improvements, sealed by a land surveyor licensed to practice in Connecticut;
2. Certification of accurate monument location (supplied by a land surveyor licensed to practice in Connecticut);

3. Easements in a form satisfactory to Town Land Use counsel; in addition to those required upon original recording of the plans/surveys;

4. Proof of fulfillment of any other requirements or conditions.

F. The Bond shall be released upon certification that all required improvements have been completed to the satisfaction of the Commission and other applicable Town departments. The Commission may also extend the period, reduce the amount, in part or in total, of any bond when it has found that all conditions and modifications specified upon approval have been met. In addition, a maintenance bond covering all site improvements completed for the development may be required by the Commission prior to the release of any performance bond. If the improvements are not installed as required, the Commission is under no obligation to accept the work. The Commission may recommend to the Board of Selectmen that the bond be declared defaulted and that the necessary action to call the bond be taken.

8.7.4. Bonds- Maintenance

When required by the Commission to assure proper maintenance of all site improvements and structures, a maintenance bond in the amount of ten (10) percent of the cost of the site improvements shall be submitted to the Town and approved by the Board of Selectmen. The maintenance bond shall be in effect for a maximum period of one year from the date the improvements are accepted by the Town. The bond shall be posted prior to the issuance of any Certificate of Zoning Compliance. The applicant shall maintain all site improvements and structures within the time frame of the bond.

A. During such period, the applicant shall, when notified by the Town, promptly and at his own expense, repair all failures and defects including but not limited to, the construction of roads, drainage structures, appurtenances, bridges and other improvements as may occur during such maintenance period. The applicant shall similarly repair all defects, settlements, and irregularities of the structures and appurtenances of drains, pipes, mains, conduits, curbs, gutters, sidewalks, road surfacing, landscaping or other defective improvements detected during the maintenance period.

B. If the applicant fails to remedy any such defect within a reasonable time, the Town may, without prejudice to any other remedy, cause the required repairs to be made and paid for with the proceeds of the maintenance bond.

C. The Commission may also extend the maintenance period, reduce the amount, in part or in total, of any bond when defects are found during the maintenance period.

8.7.5. Completion of work

If applicant shall fail to complete all work associated with an application approved by the Commission within the prescribed amount of time, such approval shall expire and become null and void. Should an application be declared null and void, the Commission may recommend to the Board of Selectmen that any posted bond be declared defaulted and take the necessary action to call the bond so that the property is adequately stabilized and permanent erosion and sediment control measures are in place.

8.8 ZONING BOARD OF APPEALS

8.8.1 Powers and Duties

Pursuant to the authority granted by § 8-6 and § 8-7 of the General Statutes, the Zoning Board of Appeals (Board) shall have the following powers and duties.

A. Appeals – To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the official charged with the enforcement of these Zoning Regulations adopted under the provisions of Title 8, Chapter 124 of the General Statutes;

B. Variances – To determine and vary the application of these Zoning Regulations in accordance with the following:

1. The application of a Regulation affirming a Connecticut Statute shall not be subject to variance.
2. The Board shall find that a literal enforcement of these Regulations would result in exceptional difficulty or unusual hardship of a non-financial nature, solely with respect to the parcel of land that is the subject of the application, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated.
3. The Board shall only grant the minimum variance necessary to alleviate the exceptional difficulty or unusual hardship in harmony with the general purpose and intent of these Regulations, with due consideration for conserving the public health, safety, convenience, welfare and property values, so that substantial justice shall be done and the public safety and welfare secured.
4. No use variance shall be granted where a dimensional variance would relieve the exceptional difficulty or unusual hardship.
5. No use variance for a business use or an industrial use shall be granted in a residence zone.
6. No use variance for an industrial use shall be granted in the BC and NB Zones, or for a business use in the LI Zone that is not already permitted.
7. No use variance shall be granted for a use prohibited in an Aquifer Protection Overlay District.
8. A use variance shall only be granted where, without the use of variance, the private property would be rendered valueless.
9. No variance shall be granted from Effective Impervious Coverage requirements in these Regulations including the particular Effective Impervious Coverage requirements for each zoning district.
10. Whenever the Board grants or denies any variance in the Zoning Regulations applicable to any property it shall state upon its records the reason for its decision, the Regulation the is varied in its application, and when a variance is granted, a

specific description of the exceptional difficulty or unusual hardship on which its decision is based.

11. The concurring vote of four members of the Board shall be necessary to vary the application of the Zoning Regulations.

12. The Zoning Board of Appeals shall not be required to hear any application for the same variance or substantially the same variance for a period of six (6) months after a decision by the Board or by the Court on an earlier such application.

13. Any applicant to whom a variance is granted from the floodplain overlay district regulations (Chapter 5) shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation (BFE), and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest flood elevation.

C. To hear and decide all matters, including Special Exceptions upon which it is required to pass by the specific terms of these Regulations.

8.8.2. Dealers and Repair Licenses, Gasoline and Motor Oil Sales

In addition to the powers and duties under Section 8.8.1, the Zoning Board of appeals shall have the powers and duties pursuant to § 14-54 and § 14-321 of the General Statutes, as amended, concerning local authority approvals required for the locations and operation of auto dealers and repairers, and the establishment of gasoline and motor oil sales.

8.8.3. Procedural Requirements

A. All appeals and variance applications to the Zoning Board of Appeals ("ZBA") shall be in writing, on forms prescribed by the ZBA and each appeal or petition shall fully set forth the case for granting a variance or appeal. Every appeal or variance application shall refer to the specific provision of the Zoning Regulations appealed from or to be varied and shall exactly set forth as the case may be, the interpretation of the Regulation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that said variance should be granted. All appeals and/or variance applications shall be accompanied by appropriate drawings or plans, and fees as may be necessary to defray the costs of the required legal notice publication and as set forth at Section 10.

B. In accordance with the § 8-7 of the General Statutes, the concurring vote of four (4) members of the ZBA shall be necessary to reverse any order, requirements or decision of the official charged with the enforcement of these Regulations or to decide in favor of the applicant on any matter upon which it is required to pass under any bylaw, ordinance, rule or regulation or to vary the application of these Zoning Regulations. An appeal may be taken to the ZBA by any person aggrieved or by any officer, department, board or bureau of the municipality aggrieved, and shall be taken within such time as is prescribed by the rule adopted by said board, or, if no such rule is adopted by the ZBA, within fifteen (15) days, by filing with the Zoning Commission or the officer from whom the appeal has been taken and with said board a notice of appeal specifying the grounds thereof. The officer from whom an appeal has been taken shall forthwith transmit to said Board all papers constituting the record upon which the action appealed from has been taken.

C. The Zoning Board of Appeals shall hold a public hearing on any matter upon which it is required to decide. Said hearing shall comply with Section 8.7.2 of these Regulations and decisions shall be in compliance with the procedures specified under §§ 8-7, 8-7b., 8-7d., and 8-7e of the General Statutes.

D. Whenever the Zoning Board of Appeals grants or denies any variance of the Zoning Regulations, or sustains or reverses wholly or partly any order, requirement or decision appealed from, it shall state upon its records the reason for its decision and the regulation which is varied its application or to which an exception is granted, and when a variance is granted describe specifically the exceptional difficulty or unusual hardship on which its decision is based.

E. Notice of the decision of the ZBA shall be published in a newspaper having substantial circulation within the Town of New Fairfield and addressed by certified mail to any person who appeals to or requests a variance from the ZBA, by its secretary or clerk under his/her signature in any written, printed, typewritten or stamped form within fifteen (15) days after such decision has been rendered. Such exception, variance or reversal shall become effective at such time as is affixed by the ZBA, provided that a copy thereof shall be filed in the Office of the Town Clerk.

8.9 AMENDMENTS TO ZONING DISTRICT BOUNDARIES AND REGULATIONS

The Zoning Commission may, from time to time, establish, amend, change or repeal these Zoning Regulations or the boundaries of any zoning district by proceeding in the manner prescribed herein, after public hearing, and in accordance with the provisions of Chapter 124 of the Connecticut General Statutes. Such change, establishment, amendment or repeal may be Commission initiated or it may be by petition. Unless expressly provided for by the Zoning Commission such establishment, amendment, change or repeal shall become effective on the day following the day of publication of the legal notice in connection thereto.

8.9.1. Petitioners

Owners of record of any real property or duly authorized agent may petition the Zoning Commission for a change in the zoning status of their property. Petitions for a change in these Regulations and/or the zoning district boundaries shall be filed with the Zoning Commission on a form provided by it including the following.

8.9.2. Content and Format of Petition

A. For change in zone designation or zoning district boundaries. A petition for a change in the zone designation or boundaries shall be accompanied by the following:

1. Ten (10) copies of a map at a scale of one inch equals two hundred (200) feet or larger showing properties within five-hundred (500) feet in all directions of the premises proposed to be rezoned.
2. Ten (10) copies of engineering calculations of the area of the lots (or portions thereof) contained within a five-hundred (500) foot distance above. The maps and calculations shall be prepared by a Conn. registered surveyor or civil engineer.

3. Ten (10) copies of the Official Zoning Map graphically showing the proposed zoning district change, the proposed boundaries, and the proposed zoning district designation.

4. Ten (10) copies of a simple metes and bounds description defining, in written form, the boundaries and proposed zoning district change.

5. After Commission receipt of the petition, but fifteen (15) days before the advertised public hearing date, the petitioner(s) shall:

a. Post a ten (10) square-foot sign or signs at the petitioner's expense. Said sign or signs shall be made of durable material and shall contain the following message: "PREMISES PROPOSED FOR REZONING". The sign shall also state

i. the present and proposed zone designation;

ii. the area of the premises to be rezoned;

iii. the time and place in which the public hearing will be held. The sign(s) shall be posted within the premises to be rezoned at a place(s) visible from the public street or highway.

b. Notify by certified mail all property owners who have not co-signed the petition but whose premises are included within the area proposed to be rezoned. Signed return receipts evidencing this mailing shall be submitted to the Commission on or before the public hearing date.

B. For change or changes in the text of the Zoning Regulations. A petition to change the text of the Zoning Regulations shall be accompanied by the following:

1. Ten (10) copies of the proposed text amendment identifying by reference to appropriate article, section, subsection or paragraph numbers and to any other designation to be altered and indicating in brackets the text to be deleted and in capital letters the text to be added.

2. Ten (10) copies of a written statement indicating the reasons for the proposed change and to what extent such change would enhance the general health, safety and welfare of the Town of Fairfield.

C. Fees – All petitions to amend the Official Zoning Map or the text of the Zoning Regulations shall be accompanied by fees as specified under Schedule 10 of these Regulations.

8.9.3. Procedure for Amendments

Before it exercises its powers the Zoning Commission shall refer the proposal or petition to the Planning Commission as per Section 8-3a. of the General Statutes; and, if applicable, to the regional planning agency as per Section 8-3b of the General Statutes. The Commission shall also hold a duly advertised public hearing on the proposal in compliance with Section 8.7.2 of the Regulations.

8.9.4. Considerations by the Commission

In considering and in acting on any petition pursuant to this Section, the Commission may consider the:

- A. Report of the New Fairfield Planning Commission;
- B. Report of the regional planning agency;
- C. Effect of the proposal on any applicable plan or plans duly adopted by the Town of New Fairfield;
- D. Effect of the proposal on the community's tax base; its infrastructure; and on neighboring property values; and,
- E. Effect of the proposal on the general health, safety, and welfare
- F. Purposes of these Regulations and requirements and authority provided by § 8-2 of the General Statutes.

8.9.5. Commission Decision

Whenever the Commission makes a change in the Zoning Regulations or the zoning boundaries shown on the Zoning Map it shall state upon its record the reasons why such change is made. The Commission shall further state upon its records the effective date of such change, amendment or repeal.

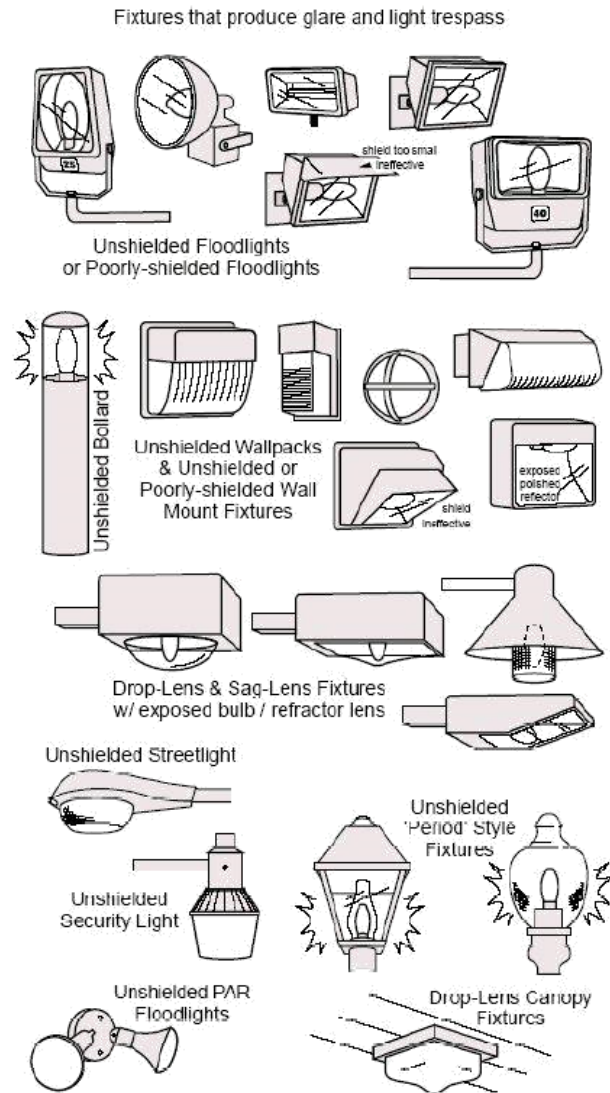
8.9.6. Successive Applications

The Commission shall not be required to hear any petition for amendment or change of boundaries or repeal of Regulations within one (1) year of the date of the Commission decision or court decision on such petition, change or repeal.

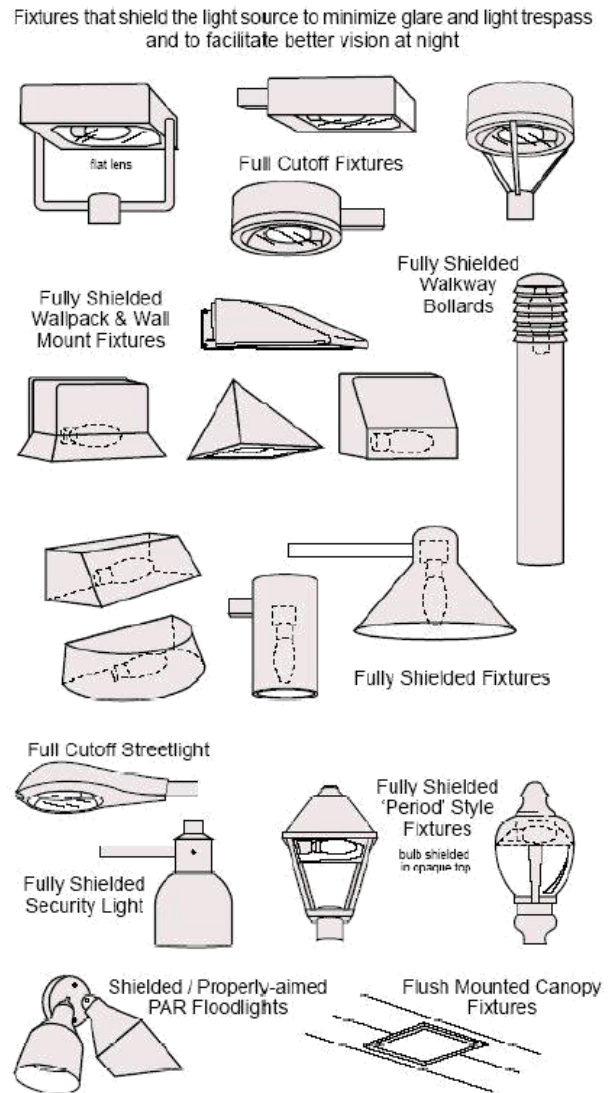
CHAPTER 9 - SUPPLEMENTARY REGULATORY STANDARDS

9.1 EXAMPLES OF UNACCEPTABLE / ACCEPTABLE OUTDOOR LIGHT FIXTURES

Unacceptable



Acceptable



BC 9/03

*The purpose of the above illustration is to show how the glare is to be controlled. It is not meant to endorse a particular style of light.

9.2 TELECOMMUNICATIONS POLICY PREFERENCES

9.2.1. Statement of Purpose

The Town of New Fairfield recognizes that wireless communication services are an important part of the daily lives of many people. The Town wishes to allow for the availability of adequate wireless communications service in New Fairfield while striving to find the least obtrusive means of having such services available.

9.2.2 Basic Program

There are two ways that wireless telecommunications services are regulated in Connecticut:

- A. The Connecticut Siting Council regulates non-municipal wireless telecommunications towers and associated facilities;
- B. The Zoning Commission regulates municipal wireless telecommunication towers and non-tower telecommunications facilities.

These policy preferences are intended to provide guidance to wireless telecommunications providers (WTPs), the Siting Council (CSC), and the Zoning Commission (ZC) in terms of the siting of new wireless telecommunications facilities (both tower and non-tower).

The Town of New Fairfield intends to carefully review applications for wireless telecommunications facilities (whether to the CSC or the ZC) that may affect the community or its residents.

When the Town is notified (as required) of pending application to the CSC for a wireless telecommunications tower, it is the intent of the Town to schedule a public informational meeting where the WTP can explain the need for and the impact of the proposed wireless telecommunications tower and associated facilities. Based on the input received at this meeting and other information collected, the Town of New Fairfield will prepare and provide testimony to the CSC for use during the permitting process.

9.2.3 Basic Policy Preferences

The Town of New Fairfield seeks to encourage or require the siting of wireless telecommunications facilities in ways that will:

- A. Allow for permitting of locations which are found to be the least visually obtrusive;
- B. Establish locations least disruptive to the public health, safety, and welfare of New Fairfield and consistent with the Plan of Conservation and Development;
- C. Protect the Town's visual quality and minimize any adverse visual impacts through proper design, siting, and screening;
- D. Safeguard the community;
- E. Minimize potential damage to adjacent properties;
- F. Minimize the number of towers, especially ground-mounted towers;

G. Restrict the height to that needed to establish opportunities for co-location of multiple carriers; and,

H. Provide for the orderly removal of abandoned antennas and towers.

9.2.4 Specific Policy Preferences for Towers

The Town of New Fairfield requests that WTPs and the CSC consider the following issues in evaluating each application for wireless telecommunications towers in New Fairfield:

A. Location

1. Towers should be located to serve areas lacking adequate wireless telecommunication service that have been identified by the CSC.
2. Applications should include a review presenting alternate locations and alternate technologies.
3. In order to minimize visual impacts, more short towers providing capacity in smaller geographic areas are generally preferred over fewer tall towers providing coverage over a larger geographic area.
4. If a tall tower is considered necessary, it should allow for co-location of multiple carriers, including emergency services, within the service area.
5. Parties wishing to locate telecommunications towers within New Fairfield should fly a balloon from the site at the proposed tower location so that visual impacts may be evaluated from various locations. The Balloon shall fly on a Saturday, with 1 mile visibility from 7:00 AM – 7:00 PM at the proposed maximum height of the tower.

B. Protection of Important Resources

1. The location should preserve the integrity of environmentally sensitive areas including unique wildlife habitats, wetlands, historic, and archaeological resources.
2. A location within or adjacent to any officially designated historic areas and any resource on the Local, State, and/or National Register of Historic Places should be avoided.
3. There should be no detrimental impact to any scenic area, vista, ridgeline, or significant geologic or natural features within New Fairfield, especially those noted in the Plan of Conservation and Development.
4. Views from any designated scenic roads should be protected.
5. The use of public areas, including parks and recreational facilities should not be compromised.
6. The design, location and operation should not interfere with existing and proposed public safety communication facilities utilized by the Town.

C. Design Considerations

1. Towers should include an adequate fall zone that will protect safety.
2. The use of stealth technologies to camouflage facilities should be employed whenever possible.
3. Signage and/or lighting should not be permitted except what may be clearly necessary for public safety;. Strobe lighting shall be avoided wherever possible.
4. Site planning standards should include minimizing impervious surfaces, avoiding soil erosion and runoff problems, maintaining natural buffers, providing for security, and safe access management.
5. Towers should accommodate both the applicant's antennas and comparable antennas to reduce the number of Towers required to serve the Town.
6. Wherever possible, antennas should be screened from view from adjacent lots and from public streets and accessory buildings used only for housing telecommunications equipment and fences should be architecturally designed to blend into the neighborhood. Landscape buffers shall be provided around the perimeter of the facility.
7. All utilities to serve the facility shall be installed underground unless otherwise approved by the commission.
8. Generators, if utilized, should comply with state noise regulations.

D. Permitting Considerations.

Provisions should be made for removal of the tower if it is no longer being used as was originally permitted.

9.3 DENSITY BASED ZONING CALCULATIONS

Maximum densities used throughout these Regulations are derived by the following process.

Minimum lot sizes in each district are converted into ratios (i.e. the R-88 District two-acre minimum lot size is expressed as one dwelling unit divided by two acres).

1 dwelling unit /2 acres = 0.5 dwelling units per acre

Next, any mandatory open space is set aside (for this example, the 20 percent level is used), leaving 0.4 dwelling units per acre.

0.5 dwelling units per acre - 20 percent open space = 0.4 dwelling units per acre

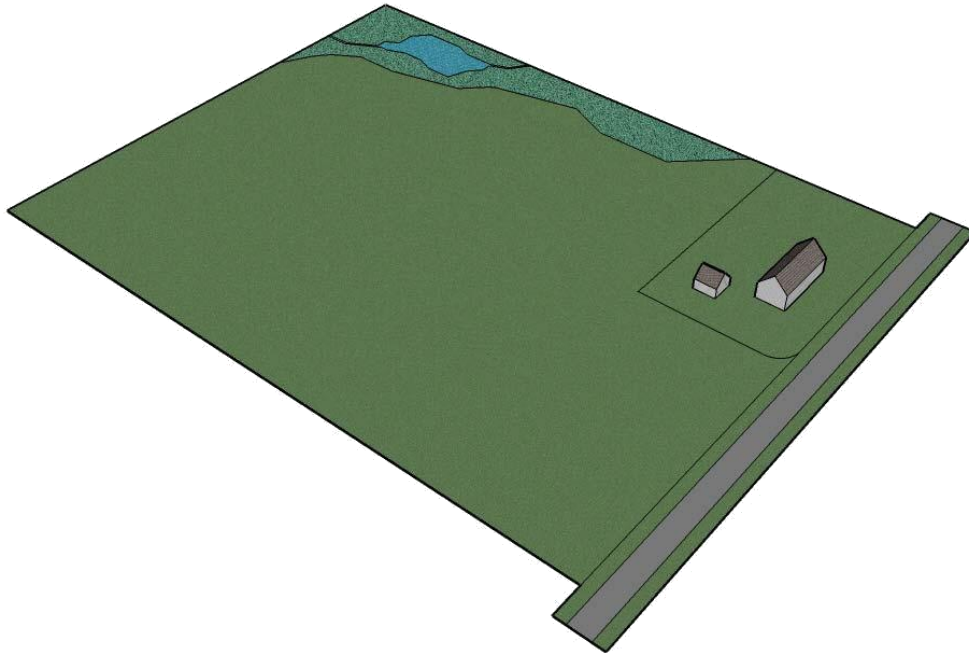
Finally, ten percent (10%) of the density is subtracted for roads and an efficiency loss factor that accounts for irregularities in lot shape, terrain, soils, and other natural constraints. These factors vary according to the minimum requirements of each district.

0.4 dwelling units per acre – 10% roads & efficiency loss factor = 0.35 dwelling units per acre

To illustrate how density factors and minimum lot sizes function together, a conventional (minimum lot size based) development pattern and a conservation (density-based) development pattern are applied to a parcel of land in a simplified example below.

Starting with a ten (10) acre farmstead in the one-acre R-44 zone, subtract one (1) acre to create a lot for the existing farmhouse.

10 Acre Farmstead



Not to scale

To determine the number of dwelling units permitted in a conventional (minimum lot size) subdivision, multiply the R-44 density factor of 0.7 dwelling units per acre by ten (10) acres.

0.7 dwelling units per acre x 10 acres = 7 dwelling units

After accounting for the existing farmhouse, six (6) additional dwelling units remain.

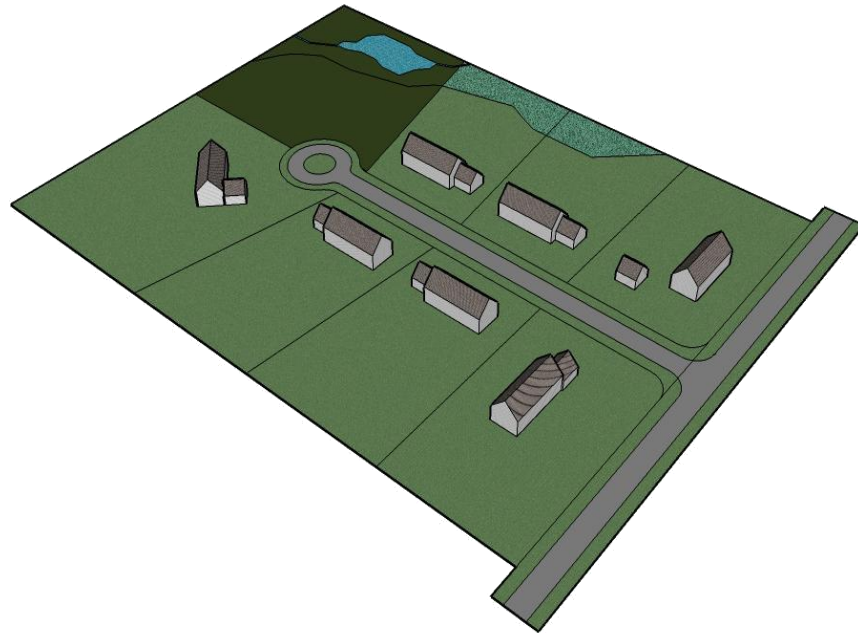
7 dwelling units – farmhouse = 6 additional dwelling units

To illustrate how this methodology compares to the old minimum lot size methodology, subtract two (2) acres of open space from the ten (10) acre farmstead, then subtract one (1) acre for the existing farmhouse and one (1) acre to account for the road and an efficiency loss factor, resulting in six (6) acres left for six (6) one-acre lots.

10 acre farmstead – 2 acres open space – 1 acre farmstead – road & efficiency loss = 6 one-acre lots

A conventional subdivision is illustrated below:

Conventional (Minimum Lot Size) Subdivision



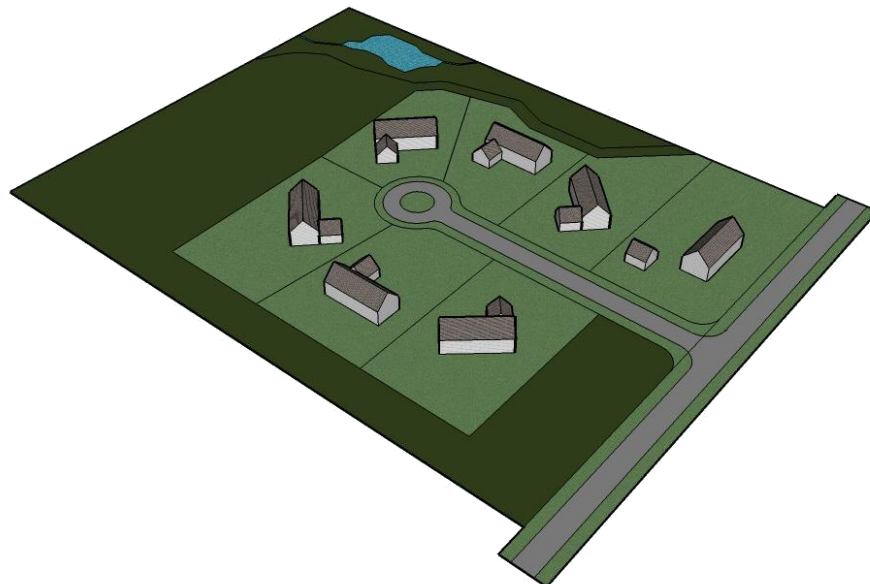
Not to scale

To determine the number of dwellings permitted in a conservation (density-based) subdivision, multiply the R-44 density factor of 0.7 dwelling units per acre by ten (10) acres.

0.7 dwelling units per acre x 10 acres = 7 dwelling units

Once the number of dwelling units is determined, the Planning Commission can waive minimum lot size, road frontage and other specified standards in order to increase the amount of open space, configure open space to protect important resources and/or provide maximum benefit to all residents, preserve half of the existing street frontage, and reduce the amount of road that must be built and maintained. A conservation subdivision is illustrated below.

Conservation (Density-Based) Subdivision



Not to scale

The 0.7 dwelling units per acre density factor is applied only to buildable land that is free of wetlands, floodplain, and steep slopes exceeding twenty-five (25) percent, thus reducing the development potential of environmentally sensitive land such as the wetlands illustrated above.

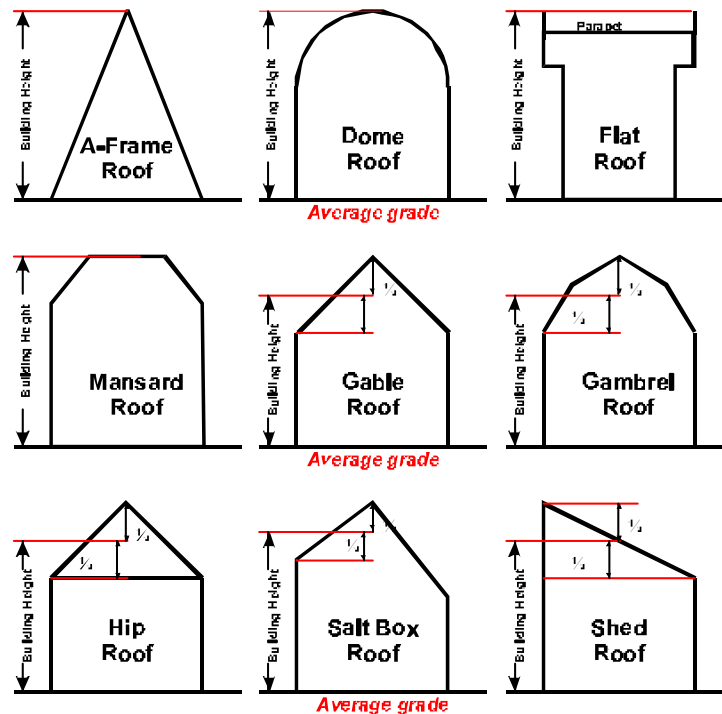
The Open Space District is unique in its application due to the differential between its density of 0.08 dwelling units per acre (equivalent to a conventional ten-acre zone) and its minimum lot size requirement of two-acres. To require a ten-acre minimum lot size corresponding to its density factor would encourage unnecessary consumption and clearing of land that is contrary to several of the purposes of the District such as maximizing open space and protecting Candlewood Lake.

For example, 100 acres of buildable land in the Open Space District would be multiplied by the density factor of 0.08 to arrive at a development potential of eight dwelling units. With a minimum lot size of two-acres, the eight dwelling units could be built on as little as 16 acres plus the area of a road right-of-way. The resulting development might look similar to that found in an R-88 District, but leave as much as 80% of the surrounding land as open space. The actual lot sizes could be considerably larger based on preference, soil conditions for septic systems and terrain.

9.4 BUILDING HEIGHT

Unless specified elsewhere in these regulations, building height shall be the vertical distance measured from the average finished grade of the ground surrounding the building and measured from within five (5) feet of the exterior walls of said building to the highest point of the roof for A-frame, dome, and flat roofs (including the top of any parapet); to the deck-line of for mansard roofs; and to the mean height between the eaves and ridge for gable, gambrel roofs, hipped, salt-box or shed roofs. Chimneys shall not be included in computing the height limitations providing that the height of said projections shall not exceed fifty (50) percent of the maximum permissible building height.

Building Height



CHAPTER 10 – FEES

10.1 FEES FOR ZONING

10.1.1. General

A. Fees are established by and may be revised from time to time by the Zoning Commission and are supplemented by the technical review fees authorized by the Ordinances of the Town of New Fairfield;

B. All listed fees are payable at the time of submittal of any application. Failure to submit fees may result in denial of the subject application as incomplete. If technical review fees are listed, the base technical review fee must be included with the application.

C. Base technical review fees listed in the following table are payable on submittal of the application. Additional technical review Fees will be assessed as determined necessary. Applications are responsible for the actual cost of such technical review required to obtain specialized technical review to fully and properly review and evaluate the application; any payment in excess of actual costs of the base technical review fee will be refunded to the applicant. Actual technical review fees required in excess of the base technical review fee shall be paid by the applicant within ten (10) days of the Town's written notice of the actual or estimated fee.

D. No fee shall be charged for zoning application for projects by or for the Town of New Fairfield or for permits for repair or replacement of owner-occupied single family residential buildings that have been destroyed or damaged by fire, storm or other casualty.

10.1.2. Fee Schedule

A. **Zoning Permit*** (plus fees to defray the cost of legal notices if required)

| | |
|---|------------------------------------|
| 1. Single family dwelling | \$275 |
| a. Addition greater than 150 square feet | \$200 |
| b. Addition equal to or less than 150 square feet | \$100 |
| 2. Commercial Building | |
| Commercial Building less than or equal to 5000 square feet | \$400 |
| Commercial Building greater than 5000 and up to 10000 square feet | \$800 |
| Commercial Building greater than 10000 square feet | \$1000 |
| a. Addition greater than 200 square feet | \$250 |
| b. Addition equal to or less than 200 square feet | \$150 |
| 3. Accessory Building | \$ 55 |
| 4. Sign Permit Applications: | \$5.00 sq. ft. or fraction thereof |
| 5. Residential Home Occupation Minor | \$125 |

*Includes State Surcharge.

B. Site Plan Review

| | | |
|------------------------------|-------------|-------|
| 1. Application fee* | | \$100 |
| 2. State Surcharge | | \$ 60 |
| 3. Public Hearing Fee** | | \$200 |
| 4. Base Technical Review Fee | </=5,000 SF | \$350 |
| 5. Base Technical Review Fee | >/5,000 SF | \$700 |

* Fee does not include Zoning Permit Fee if required

** If required, paid within 10 days of demand

C. Special Exception/ Special Permit

| | | |
|------------------------------|-------------|-------|
| 1. Application fee* | | \$200 |
| 2. State Surcharge | | \$ 60 |
| 3. Public Hearing Fee | | \$200 |
| 4. Base Technical Review Fee | </=5,000 SF | \$350 |
| 5. Base Technical Review Fee | >/5,000 SF | \$700 |

* Fee does not include Zoning Permit Fee if required.

D. Change of Use-Amendment to Special Exception or Special Permit

| | | |
|------------------------------|--|-------|
| 1. Application fee* | | \$200 |
| 2. State Surcharge | | \$ 60 |
| 3. Public Hearing Fee | | \$200 |
| 4. Base Technical Review Fee | | \$350 |

* Fee does not include Zoning Permit Fee if required.

E. Earth Excavation Permit and Renewals

| | | |
|----------------------------------|--|-------|
| 1. Application fee* | | \$300 |
| 2. State Surcharge | | \$ 60 |
| 3. Public Hearing Fee | | \$250 |
| 4. Base Technical Review Fee** | | (1) |
| 5. Monitoring/Inspection Fee *** | | (2) |

* Fee does not include Zoning Permit Fee if required.

** Based on estimate of Town's consulting engineer.

*** \$10 per 1000 cubic yards of earth material proposed for excavation plus any technical review fees required to determine compliance.

F. Petition for Zone Boundary or Regulation Change

| | | |
|----------------------------|--|-------|
| 1. Application fee* | | \$250 |
| 2. State Surcharge | | \$ 60 |
| 3. Public Hearing Fee | | \$200 |
| 4. Amendment to Zoning Map | | \$300 |

* Fee does not include Zoning Permit Fee if required.

G. Aquifer Protection-Ground Water Permit (if not part of another application)

- | | |
|--------------------------|-------|
| 1. Application fee | \$100 |
| 2. State Surcharge | \$ 60 |
| 3. Technical Review Fee* | |

* Based on an estimate by the Town's consulting engineer for the technical review cost.

H. MFDE application

- | | |
|-----------------------------|-------|
| 1. Application fee per unit | \$250 |
| 2. State Surcharge | \$ 60 |
| 3. Public Hearing Fee | \$200 |
| 4. Technical Review Fee* | |

* Based on an estimate by the Town's consulting engineer for the technical review cost that the per-unit fee does not cover.

I. Pre-application Review

- | | |
|------------------------------|-------|
| 1. Application fee* | \$100 |
| 2. Base Technical Review Fee | \$250 |

J. Zoning Certificate of Compliance/First Split, Lot Line Revision Review

- | | |
|--------------------|-------|
| 1. Application fee | \$100 |
| 2. State Surcharge | \$ 60 |