

# TOWN OF WINCHESTER



# ZONING REGULATIONS

ADOPTED BY

WINCHESTER PLANNING AND ZONING  
COMMISSION

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# TOWN OF WINCHESTER



## WINCHESTER PLANNING AND ZONING

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**16.4** Records  
**16.5** Enforcement

**SECTION I — DEFINITIONS**

For the purpose of these regulations, certain terms or words shall be defined as below. Words in the present tense include the future, the singular number includes the plural, and vice-versa. The word "person" includes a partnership, association or corporation.

**ACCESSORY BUILDING, STRUCTURE OR USE:** A building or structure or use which is subordinate and customarily incidental to the main building, structure and use on a lot, provided that any accessory building or structure shall not exceed twelve (12) feet in height. The term "accessory building" or "accessory structure," when used in connection with a farm shall include all buildings and structures customarily used for farm purposes and shall not be limited in height. No accessory building, structure or use shall be established in the absence of a principal building or use.

**BUILDING:** An independent structure having a roof supported by columns or walls resting on its own foundation and includes sheds, garages, stables, boathouses, greenhouses or other accessory buildings. When any portion of a building is separated from every other portion by a division wall, without openings, such separated portion shall be deemed a separate building.

*Adopted 11/13/90: Effective 11/20/90*

**BUILDING AREA:** The ground enclosed by the walls of a building, including the area of all covered porches and other roofed portions, but excluding cornices, eaves, gutters chimneys and other like architectural details not projecting more than thirty (30) inches, and further excluding any unroofed steps, balconies, porches and terraces.

**BUILDING HEIGHT:** The vertical distance from the average finished grade within 10 ft. of the walls of the building to the highest point of flat or mansard roofs, including the top of a parapet, or to the mean level between the eaves and ridge for gable, hip, or gambrel roofs.

**BUILDING LINE:** A line parallel to a street at a distance equal to the required front yard, or at a greater distance when otherwise established by the Town of Winchester, or where established by the owner and recorded in land records of the Town of Winchester.

**COMMISSION:** The Planning and Zoning Commission of the Town of Winchester.

**COURT:** An open space, other than a yard, on the same lot with a building, which space is bounded on three or more sides by the walls of such building.

**DWELLING:** A dwelling or portion thereof designed exclusively for residential occupancy, including one family, two family, multiple dwelling, row dwelling, congregate dwelling, and seasonal cottage, but not including hotel, motel, and inn.

**DWELLING, ONE FAMILY:** A detached dwelling designated for or occupied by one family.



**DWELLING, TWO FAMILY:** A detached dwelling designated or occupied by two families living independently of each other.

**DWELLING, MULTIPLE:** A dwelling or group of dwellings on one lot containing separate living units for more than three families, having separate or joint entrances, services of facilities.

**DWELLING, ROW:** A dwelling designated or occupied by one family, which is attached to two or more similar dwellings in a row or group, containing not less than three such buildings.

**DWELLING, CONGREGATE:** A dwelling containing two or more family units occupied by persons 62 years or older, together with common facilities sufficient to meet the needs of all residents, which shall include a common kitchen, dining and meeting and laundry facilities, and may include other common facilities.

**ENFORCEMENT OFFICER:** The Enforcement Officer under Section 13 shall mean the Town of Winchester Inland Wetlands Agency, acting as the designated agent for the Commission, or, to the extent that the Winchester Inland Wetlands Agency does not accept such designation, the Litchfield County Soil & Water Conservation District.

**FAMILY:** Any number of individuals related by blood or marriage, living together as a single housekeeping unit. A group of not more than six persons not related by blood or marriage may be considered a family, if living as a single housekeeping unit.

**FAMILY UNIT:** A dwelling or part of a dwelling occupied or intended to be occupied by one family.

**FARM:** A tract of land containing five (5) acres or more, used in part or wholly for agricultural purposes, which may include the raising and keeping of domestic and other animals.

**LOT:** A parcel of land occupied or capable of being occupied, in conformity with these regulations by one principal building (or more than one principal building where specifically permitted hereunder) and accessory structures or uses customarily incident to it, including such open spaces as are required by these regulations.

**LOT AREA:** The total area within the boundary lines of a lot.

**LOT, CORNER:** A lot having two adjacent sides facing a street or streets, with an interior angle of intersection of not more than 120 degrees, and a street line curve of less than 100 feet.

**LOT LINE:** A line of record bounding a lot.

**LOT LINE, FRONT:** All lot lines between a street and a lot and, with respect to a lot having less than the minimum width on a street required for the applicable district, shall also include all lot lines parallel to a street from which the lot gains access.

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**LOT LINE, REAR:** All lot lines other than front lot lines and side lot lines.

**LOT LINE, SIDE:** All lot lines extending from a street or a front lot line toward a rear lot line. The line or lines bounding a lot which extend from the street towards the rear in a direction approximately perpendicular to the street. In the case of corner lots, all lines extending from street shall be considered side lot lines.

**LOT, MINIMUM WIDTH OF:** The distance between the side lot lines in a straight line at right angles to the mean direction of such side lot lines, which lines of measurement shall touch, but not be in front of the building line. In the case of a corner lot, the minimum width shall be measured at, but not on the street side of, the building line, and shall extend from the side lot line to the opposite street line.

**NONCONFORMING BUILDING:** A building, which does not conform to all the applicable provisions of these regulations.

**NONCONFORMING USE:** A use of land, building or premises, which is not a use permitted by the provisions of these regulations for the district in which such land, building or premises are situated.

**OPEN SPACE:** A space not occupied by a structure, except fences, utility facilities, flag poles, and driveway, open to the sky on the same lot as the principal structure.  
*Adopted 11/13/90: Effective 11/20/90*

**SEASONAL COTTAGE:** A detached dwelling intended and designed for human occupancy by a single family for a seasonal or recreational use, and not for permanent residence, connected to a safe water supply with sewage disposal in accordance with applicable regulations, and having a minimum floor area of 500 sq. ft. A seasonal cottage shall not be occupied for more than a total of thirty days between October 15th and the following May 1st.

**SHOPPING CENTER:** A mixed-use facility that may contain retail, restaurants, offices, financial institutions, and personal service establishments within one or more buildings grouped together with a common parking area. Such facility must contain at least 50,000 square feet of gross floor area. Such facility may be on more than one lot provided there are adequate cross easements for parking and access.

**STREET:** For the purpose of these Regulations, the word "street" shall include a public or private highway or right-of-way giving access to the lot.

**STRUCTURE:** Anything erected or constructed, which requires location on the ground or attached to something having a location on the ground. *Adopted 11/13/90: Effective 11/20/90*

**TOURIST CABIN:** A residential dwelling with or without kitchen facilities containing not more than two bedrooms, and primarily intended for the accommodation of transients.

**TRAILER:** Any vehicle which is used for sleeping or living quarters or business, and which is, has been, or may be mounted on wheels.

**TRAILER CAMP:** "Trailer Camp" for purposes of definition shall describe any premises used in excess of one trailer parked on any one premise.

**YARD, FRONT:** A space extending across the full width of a lot between the front lot line and the front of a principal building.

**YARD, MINIMUM FRONT:** An open space extending the full width of the lot between a front lot line and the building line. Rear lots shall have a minimum front yard requirement measured from any front lot line parallel to any street from which the rear lot gains access. All Tables in these regulations indicating front yard requirements shall mean minimum front yard requirements.

**YARD, MINIMUM REAR:** An open space extending across the full width of the lot between the rear lot line and a parallel line within the lot set back a distance equal to the minimum rear yard requirements. On a lot with no rear yard, the side yard shall extend to the opposite lot line. All Tables indicating rear lot requirements shall mean the minimum rear yard requirements.

**YARD, MINIMUM SIDE:** An open space extending from the front lot line to the rear lot line between the side lot line and a parallel line set back within the lot a distance equal to the minimum side yard requirement. On a lot with no rear yard, the side yard shall extend to the opposite lot line. All Tables in these regulations indicating side yard requirements shall mean minimum side yard requirements.

**YARD, REAR:** A space extending across the full width of the lot between the rear lot line and the rear of the principal building.

**YARD, SIDE:** A space extending for the full depth of a lot between any side lot line and the side of the principal building. *Amended & Adopted 7/13/98, Effective 7/28/98.*

**SECTION 2 — DISTRICTS**

**2.1** For the purpose of these Regulations, the Town of Winchester is divided into the following classes of districts:

RESIDENCE DISTRICTS

- R-1 District
- R-2 District
- R-3 District
- R-4 District

COMMERCIAL DISTRICTS

- CA-1 District
- CA-2 District
- CA-3 District
- CB-1 District
- CB-2 District
- CB-3 District
- CX District
- CX-1 District

RURAL DISTRICTS

- RU-1 District
- RU-2 District
- RU-3 District

INDUSTRIAL DISTRICTS

- IA-1 District
- IA-2 District
- IA-3 District
- IB-1 District
- IB-2 District
- IB-3 District

HIGHLAND LAKE DISTRICT

HL District

*Adopted 11/13/89, Effective 11/21/89*

PLANNED DEVELOPMENT DISTRICT ZONE

PD DISTRICT

PROFESSIONAL OFFICE OVERLAY ZONE

P. O. Zone

**2.2** The boundaries of districts established hereunder are shown on certain maps entitled, "Zoning Map City of Winsted Winchester Connecticut Scale 1" = 1600 ft. Map 1 of 2" and "Zoning Map Winchester Central Business District Winchester Connecticut Scale 1" = 800 ft. Map 2 of 2," both approved November 21, 1989, as now or hereafter amended, referred to in these regulations as the "Official Zoning Map" or "Zoning Maps." The Official Zoning Map is hereby declared part of these regulations. When, in accordance with the provisions of these regulations, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map together with an entry on the Official Zoning Map, in the "Revision" block, indicating the revision number, the designation of the old zone, the designation of the new zone, the effective date of the

revision and the initials of the Chairman of the Commission. The Official Zoning Map shall be filed in the Office of the Town Clerk and an updated copy shall be displayed in the office of the Commission.

- 2.3 When uncertainty exists in the opinion of the Commission or the Zoning Enforcement Officer as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
- a) District boundaries indicated as approximately following the center lines of streets, highways or alleys, shall be construed as following said center lines;
  - b) District boundaries indicated as approximately following lot lines shall be construed as following such lot lines;
  - c) District boundaries indicated as approximately following Town limits shall be construed as following Town limits;
  - d) District boundaries indicated, as following railroad rights-of-way shall be construed as the center of said rights-of-way;
  - e) Boundaries indicated as approximately following the center line of streams, brooks, natural water courses and other bodies of water shall be construed as following such center lines;
  - f) District boundaries which are set back from streets and approximately parallel to such streets shall be construed as parallel to such streets and unless specific dimensions are shown on the Official Zoning Map, shall be construed to be:
    - 1) for Residence Districts, Rural Districts, Professional Overlay Zone, and PD District, 150 feet from the street line; and
    - 2) for Commercial and Industrial Districts, 100 feet from street line; and
  - g) For the Highland Lake District, the district boundary shall be defined as a line 1,000 feet from and parallel to the lake edge, except in the vicinity of East and West Lake Streets, where the district boundaries shall be defined as the centerline of these two streets. For the purposes of this subparagraph, the lake edge shall be defined as the contour line with an elevation equal to that of the primary spillway on the Highland Lake Dam.

From the centerline intersection of West Lake Street and Boyd Street, the district boundary shall run in a westerly direction, along a prolongation of the West Lake Street centerline, until it intercepts the 1000- foot setback line.

From the centerline intersection of East Lake Street, Hurlburt Street, and East Wakefield Blvd., the district boundary shall run in a southwesterly direction, along a line that is 45 degrees east of the first 200 feet of the East Wakefield Blvd. centerline, until it intercepts the 1,000-foot setback zone line. *Amended & Adopted 11/13/95, Effective 12/1/95*

**SECTION 3 — PURPOSE, INTERPRETATION AND GENERAL REQUIREMENTS****3.0 PURPOSE AND INTERPRETATION.**

3.0.1 **PURPOSE:** These regulations are adopted under the General Statutes of the State of Connecticut, as amended, for the following purposes:

- a) To promote and to protect the public health, safety, and welfare of the inhabitants of the Town of Winchester, Connecticut (the "Town"), and of the public generally;
- b) To facilitate adequate transportation, water, sewerage, schools, parks, and other public benefits;
- c) To encourage the most appropriate use of land throughout the Town, thereby conserving the value of properties;
- d) 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; the size of yards, courts, and other open spaces; and the height, size, character and location of signs;
- e) To regulate the density of population and the location and use of buildings, structures and land for trade, industry, residence, or other purposes;
- f) To divide the Town into zoning districts of such number, shape, and area as may be best suited to carry out the purposes of these regulations;
- g) To regulate the erection, construction, reconstruction, alteration, or use of buildings or structures and the use of land in such zoning districts;
- h) To permit certain classes or kinds of buildings, structures or uses of land within the Town only after obtaining a special permit or special exception;
- i) To lessen congestion in the streets;
- j) To secure safety from fire, panic, flood, and other dangers;
- k) To provide adequate light and air;
- l) To prevent the overcrowding of land and avoid undue concentration of population;
- m) To facilitate the adequate provision for transportation, water, sewerage, schools, parks and public requirements;
- n) To further the policies of the Plan of Development;

- o) To guide development in a manner which recognizes the importance of the natural environment and the Town's natural resources;
- p) To protect the value of buildings and property throughout the Town and the Town's ground and surface waters; and to preserve the historical resources, natural features and visual qualities that enhance the character of the Town;
- q) To encourage development of housing opportunities for all citizens of the Town consistent with soil types terrain and infrastructure capacity;
- r) To prevent unreasonable pollution, impairment or destruction of the public trust in air, water or other natural resources of the Town;
- s) To guide development which minimizes impacts to wetlands, watercourses, flood prone areas, hillsides, surface water and groundwater resources, and other sensitive and significant features of the natural landscape, and to establish soil erosion and sedimentation controls; and
- t) To encourage energy-efficient patterns of development, the use of solar and other renewable forms of energy and energy conservation.

### 3.0.2 INTERPRETATION

- a) In interpreting and applying these regulations, the regulations shall be considered as the minimum requirements for the promotion of the public health, safety, and general welfare.
- b) When these regulations impose a greater restriction on the use of buildings or structures or require larger yards, courts, or other open spaces, or require a greater percentage of lots to remain unbuilt, or impose other standards higher than those imposed by any law, ordinance, regulation, or private agreement, these regulations shall control. When restrictions are imposed by any law, ordinance, regulation, or private agreement, which are greater than those required, by these regulations, such greater restrictions shall not be affected by these regulations.
- c) When one section of these regulations imposes standards greater than those of another section, the standards of the more restrictive section shall control.
- d) In the construction of these regulations, the words and definitions contained herein shall be observed and applied, except where the context clearly indicates otherwise, as follows:



- d) Words used in the singular shall include the plural, and words used in the plural shall include the singular; words used in the present tense shall include the future tense.
- d) The word "shall" is mandatory and not discretionary.
- d) The word "may" is permissive.
- d) The word "lot" shall include the words "piece," "parcel," "premises," or "land."
- d) The words "zone," "zoning district," and "district" have the same meaning.
- d) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- d) The word "subdivision" shall include "resubdivision."
- d) The phrase "these regulations" shall refer to the entire Zoning Regulations, i.e., the Zoning Ordinance as a whole, including the Official Zoning Map.

- e) Uses of land, buildings, or structures not clearly permitted in various districts are prohibited.

### 3.1 **COMPLIANCE WITH PROVISIONS OF REGULATIONS**

No land, building, premises, or part thereof shall hereafter be used, and no building, or part thereof, or other structure shall be constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with these regulations. No lot shall be less in area or width, nor have smaller yards, nor shall any building or buildings occupy in the aggregate a greater percentage of the lot, nor shall any building be greater in height as prescribed in the table applicable to the district in which it is located, or as otherwise provided in these regulations.

### 3.2 **DENSITY AND BUILDING COVERAGE CALCULATIONS FOR CERTAIN UNBUILDABLE LANDS**

Only 50% of the total area of lands with inland wetlands soils, land subject to flooding, water bodies or watercourses, or land with slopes in excess of 25% may be used to calculate density or building coverage in any zone or special permit in which these calculations apply. In nonresidential zones the Commission may modify this requirement when, in the opinion of the Commission, the location or configuration of such lands in relation to the buildable area on site warrant such modifications. *Adopted 9/24/90, Effective 9/28/90.*

### 3.3 **REQUIRED FRONTAGE AND ACCESS**

No building shall be built on any lot unless such lot has frontage of at least twenty-five (25) feet on a public street, or unless it has unobstructed and exclusive permanent easement of access, or private right-of-way at least twenty-five (25) feet wide to a public street.

In the case of the subdivision of land in any district, other than Open Space subdivisions under Section 4.3, not more than the following percentage of lots in such subdivision shall have frontage on a public street less than the required minimum lot width specified for the applicable district in these regulations; provided, however, that the Commission, upon a finding of hardship due to topography and soil conditions of the land or to promote creative land use planning, may increase said percentage of lots, but by no more than two (2) times:

<b>Maximum Percentage of Lots having Frontage Less than Minimum Lot Width</b>	
<u>Number of Lots in Subdivision</u>	<u>Specified For Applicable District (Rear Lots)</u>
1-10	Forty Percent (40%)
11-15	Thirty Percent (30%)
16-20	Twenty Percent (20%)
21 and over	Ten Percent (10%)

**3.4 REQUIRED FLOOR AREA**

No dwelling shall be erected, moved, or structurally altered unless the floor area devoted to living space exclusively for one family is not less than 950 sq. ft. minimum. A dwelling shall contain an additional 125 sq. ft. for each bedroom in excess of two. The first story of a dwelling with livable floor area on an upper floor shall be not less than 675 sq. ft. in area.

3.4.1 A seasonal cottage shall contain not less than 500 sq. ft. of floor area. Multiple dwelling floor areas are listed in Section 4.4.7 hereafter.

3.4.2 Living space may include customary rooms, closets, halls, kitchens, pantries and bathrooms, but shall be included only if it has minimum headroom of seven (7) feet. Where located above the first floor, living space shall be included only if accessible by a permanent stairway. Unfinished space above the first floor, designed for a use mentioned above, and otherwise complying with the provision of this paragraph, may be included as living space to the extent of one-third of the required area. Porches, which are not fully enclosed and heated, basement rooms whose floor is entirely below the grade level, garages and other accessory structures shall not be included as living space.

**3.5 OPEN SPACES REQUIRED FOR EACH STRUCTURE**

Except as specifically provided herein, no part of any yard or other open space required about any structure may be included as part of a yard or other open space required for any other building.

**3.6 BUILDING ON EXISTING LOTS**

Providing that sewage disposal in accordance with applicable regulations, and a safe water supply can be provided without endangering the health and safety of adjoining residents,

nothing in these regulations shall prevent the construction of a permitted building, or the establishment of a permitted use on a lot containing less than the prescribed lot area or lot frontage which, at the time of adoption thereof or any pertinent amendments hereto;

- a) was owned separately from any adjoining lot and recorded in the land records of the Town of Winchester; or
- b) was shown on a plan of subdivision, approved by the Commission and filed in the Town Clerk's Office with the Land Records of the Town of Winchester, in the manner prescribed by law.

3.6.1 Except as provided in Section 3.6b, where two or more non-conforming adjoining lots of record are in the same ownership on or after the effective date of these regulations, then all such lots shall be combined as necessary toward meeting the lot area and width requirements of these regulations. If all such adjoining lots when combined still do not meet the area and width requirements of these regulations, such composite parcel shall be treated as a lot under Section 3.6a of these regulations.

3.6.2 No dwelling for more than one family shall be constructed on a lot, existing or created under the conditions of Sections 3.6 and 3.6.1 above, which contain less than 100% of the required "Minimum Lot Area per Family Unit" in the applicable zone.

3.7 **USE OF LAND FOR ACCESS OR PARKING**

The use of land for access or for parking in connection with a use shall be considered to be accessory to and part of such use, except that this provision shall not prohibit access across a Commercial District to a use lying in an Industrial District.

3.8 **DWELLING FOR MORE THAN ONE FAMILY**

In the case of dwellings for more than one family, the number of family dwelling units on any lot shall not exceed one for each unit of land area appearing under the heading: "Minimum Lot Area per Family Unit" in the table applicable to the district in which such lot is located. For the purpose of determining the number of family dwelling units to be permitted in such dwellings, the average depth of the lot shall not exceed three times the average width thereof.

3.9 **HEIGHT LIMITATIONS**

The building height limit shall be applied separately for each wing or other distinct portion of the building or distinct portion thereof by one foot for every two feet by which such building or such portion thereof lies inside the nearest limiting line of any required front, side or rear yard. Spires, cupolas, towers, chimneys, flagpoles, penthouses, ventilators, tanks, and similar features, occupying in the aggregate not more than 10 percent of the building area, and not used for human occupancy, may be erected to a reasonable and necessary height.

**3.10 PROJECTIONS INTO OPEN SPACE**

Nothing in these regulations shall prohibit the projection of not more than one foot into a required open space of; pilasters, belt courses, sills, cornices, or similar architectural features, nor the planting or landscaping of such open spaces.

**3.11 LOTS ON NARROW STREETS**

In the case of lots fronting on streets less than 50 feet wide, the front yard required by the applicable provisions of these regulations shall be increased by one-half the difference between 50 feet and the actual width of the street.

**3.12 LOTS LYING IN MORE THAN ONE DISTRICT**

In the case of a lot lying in more than one district, the provisions of the less restrictive district may be applied for a distance of not over 25 feet into the more restrictive district, provided that such lot has frontage on a street in the less restrictive district.

**3.13 ACCESSORY BUILDINGS AND STRUCTURES WITHIN REAR YARD**

Detached accessory buildings and structures not more than twelve (12) feet in height, not containing more than 400 sq. ft. in ground floor area or such maximum area as allowed in individual districts and not used or intended to be used for human habitation or for the housing of animals, may be located in the minimum rear yard, including the portion of the minimum side yard within any minimum rear yard, provided that they are not less than four (4) feet from any side or rear lot line; and further provided, that they occupy, in the aggregate, not more than twenty percent (20%) of the area of the minimum rear yard.

*Amended & Adopted 11/13/95, Effective 12/1/95.*

**3.14 SPECIAL REGULATIONS FOR SUBDIVISIONS**

In the case of the subdivision of land in any district, where a lot area of 20,000 square feet or more is required, in accordance with a plan of subdivision and with the approval of the Commission, the minimum lot area and the minimum lot area per family unit may be reduced by not more than twenty percent (20%) of the required area applicable, provided that the total number of lots and the total number of family units to be contained in such subdivision does not exceed the number otherwise permitted by these regulations for the district in which such subdivision is located.

**3.15 CONVERSION OF EXISTING DWELLINGS**

Any dwelling for which a certificate of occupancy was issued on or before May 24, 1946, or which the Commission determines was substantially constructed and completed prior to that date, may be converted to contain a greater number of family dwelling units, provided that the lot area per family dwelling is not less than one-third (1/3) of the minimum lot area per family unit prescribed in the Table applicable to the District in which it is located.

**3.16 VISIBILITY FOR CORNER LOTS**

No wall, fence, or structure, and no hedge, shrub, or other growth, which is more than three (3) feet high, and which will obstruct corner visibility, shall be maintained on

a corner lot in the triangular area formed by the two street lines and a third line which touches the building line and is a chord of the angle of the street intersection.

**3.17 BUILDINGS AND STRUCTURES OVER AND ALONG BODIES OF WATER**

*Amendment to Section 3.17 Adopted 6/12/89 Effective 6/21/89.*

- 3.17.1 No dock, wharf, walk, causeway, buildings, or any other structure, shall be erected, constructed, enlarged or altered upon or over any water body, and no fill or solid material shall be placed or extracted on the waterside of the high water line of any water body, except in conformance with a special permit issued in accordance with these regulations by the Commission.
- 3.17.2 Application for such special permit shall be made in writing by the owner or his agent, and shall contain all of the required information required thereon, together with two copies of a map drawn to scale, showing:
- a) The line of the waterfront 500 feet each side of the site of proposed construction, and location of any structures located within these limits and below the high water line of the water body;
  - b) The lot lines of the subject property and the lot lines of each adjoining lot, with buildings or structures thereon;
  - c) A plan of the proposed construction, alteration or enlargement in sufficient detail to make the proposal clear; and
  - d) Documentation or specific reference to recorded instrument showing the owners rights in the land to be built on.
- 3.17.3 Such special permit shall be subject to all the applicable requirements of the zoning regulations, and shall not be construed to permit any use not permitted by these regulations or town ordinances.
- 3.17.4 Such special permit shall not be granted, if:
- a) the proposed structure creates any safety hazard for the general public using the water body;
  - b) the proposed structure or the proposed fill or extraction restricts the use of the land below high water for adjoining property owners, or depreciates the value of adjoining property.
  - c) in the case of a retaining wall, if the proposed wall extends into the lake beyond the established shore line in the immediate area.

d) if the activity is a regulated activity under the Inland Wetlands Regulations, a permit therefore has not been issued by the Inland Wetlands Commission.

3.17.5 Consistent with Section 162 of the Town Ordinances, whenever an activity under this section also requires action by Town of Winchester Inland Wetlands and Watercourses Commission under Section 162 the review and action required under Section 3.17 of the town of Winchester Zoning regulations will be conducted by the Wetlands Commission as part of its enforcement of Section 162 of the Ordinances. It is the intent of the Planning and Zoning commission to allow review of these activities under one application and by one Town entity.

*Adopted 9/24/2007; Effective 10/11/2007.*

### **3.18 LANDSCAPING REGULATIONS**

The following Landscaping Regulations shall apply to Open Space subdivisions under Section 4.3 and Planned Development areas under Section 4.7 of these regulations. The proper maintenance of a required landscaped area shall be construed as a requirement of these regulations, and lack of such proper maintenance shall be considered a violation of these Regulations.

#### **3.18.1 SCREEN.**

As used in these Regulations, the term "screen" shall mean an opaque solid wall or solid fence of uniform color, constructed with materials of suitable appearance, extending not less than 5 feet nor more than 8 feet above the ground level of the area to be enclosed with the screen.

#### **3.18.2 LANDSCAPED AREA.**

As used in these Regulations, the term "landscaped area" shall mean an open area, unoccupied, except by residential walks and driveways, except that nonresidential walks and driveways may cross a street yard. Landscaped areas shall be constructed and maintained in lawn, suitable evergreen ground cover, or stone, slate, or concrete paving not exceeding 40% of the required area. Bituminous materials may be used only on areas where such surface is required for a specific recreational use, or for a permitted vehicular use.

#### **3.18.3 LANDSCAPED BUFFER.**

As used in these Regulations, the term "landscaped buffer" shall mean an open unoccupied area, as above, but requiring also a mixture of evergreen and deciduous trees, and other plant materials which will in a reasonable time produce a visual barrier between adjacent land uses of different types. Where landscaped buffers are required, a planting plan and plant list with types and sizes shall be required as part of the site development plan requiring approval. *Adopted 1988, Effective 8/5/88*

**3.18.4 LANDSCAPE TREATMENT**

*\*This Section has been relocated to Section 9.11.*

**3.18.5 USABLE OPEN SPACE FOR DWELLING UNITS.**

Required usable open space shall be intended, designed, and constructed for the outdoor use and enjoyment of the residents, and, except in the case of balconies, porches, and terraces, shall:

- a) Be open to the sky and unobstructed, except for ordinary structural projections not exceeding twelve (12) feet; and
- b) Be landscaped in accordance with Section 3.18.2.

3.18.6 Required Usable Open Space shall have a screen or landscaped buffer between such open space and any street, driveway, parking area or service area on the same lot or any adjoining lot. The Commission, as a special exception, may modify or waive the foregoing requirements which it finds that an existing screen, landscaped area or landscaped buffer substantially satisfies the requirements of this section, or where two (2) open spaces on separate lots adjoin and are to be used as a single open space area.

3.18.7 The area of a balcony or terrace, reserved for the exclusive use of a dwelling unit, may be counted at its net area in meeting the required usable open space per dwelling unit, provided such balcony or terrace:

- a) has no side less than six (6) feet;
- b) contains not less than 70 square feet of usable area;
- c) is open for the full length of its longest dimension to a yard or court except for a protective railing.

**3.19 NOTICE REQUIREMENTS**

In addition to any other notice provisions of local or state regulations, and statutes, applicants requesting a change in zone, a special permit, a special use, or a special exception shall notify by certified mail each property owner within 300 ft. of any point on the boundary of the subject property of the date, and place of the public hearing, wherein such request is to be considered by the Commission. Such notice shall be mailed a minimum of seven (7) days prior to the date of public hearing. At the time of public hearing the applicant shall present receipts from the postal service to demonstrate compliance with this section. Return receipts are not requested. *Adopted 8/14/89, Effective 8/18/89*

The Commission upon its finding that compliance with the requirements of this Section would impose an undue burden, may, by a vote of 2/3rd or more of its member, waive the

requirements of this Section and such waiver shall be noted in the notice of publication of the public hearing required by state statutes.

**3.20 MULTIPLE DWELLING APPLICATIONS**

Applications for multiple dwellings of less than fifteen (15) units or for multiple dwellings within the Winchester Central Business District as shown on Map 2 of the Official Zoning Map will be considered and required to meet the requirements of Section 4.4 of these regulations. All other applications for multiple dwellings will be considered and required to meet the requirements of Section 4.7 of these regulations. The Commission may grant exceptions for special circumstances provided such circumstances are set forth in writing as part of its approval.

**3.21 SITE PLAN REQUIREMENT FOR COMMERCIAL AND INDUSTRIAL ZONES**

In all Commercial and Industrial zones (except for Industrial Park land under control of the Economic Development Commission), approval of a site plan of development by the Commission is a prerequisite to receiving zoning permit(s), and/or certificate(s) of zoning compliance for the following circumstances:

- a) Construction of new buildings, whether primary or accessory.
- b) Expansion of existing buildings by more than:
  - 1) 20% in floor area or volume for buildings with a pre-expansion footprint smaller than 5,000 square feet, or
  - 2) 10% in floor area or volume for buildings with a pre-expansion footprint of 5,000 square feet or larger.
- c) Construction of new site facilities, including, but not limited to parking areas larger than three stalls, landscaping greater than 1,500 square feet in size, retaining walls greater than four feet in height, drainage systems with contributing watersheds greater than one acre.
- d) Changes in use of buildings, site facilities, or land; including, but not limited to changes that require different off-street parking or loading requirements, alteration or moving of curbscuts, or a different on-site traffic distribution.
- e) Reconstruction of conforming and non-conforming buildings and facilities that are destroyed by calamity.
- f) Resumption of conforming and non-conforming uses of land that are destroyed by calamity.
- g) Resumption of conforming and non-conforming uses of buildings or land that have been discontinued for a period of six months (182 days).



The site plan of development shall include information required in Section 6.3.2 subsections, a, b, c, d, and e of these regulations. *Amended & Adopted 11/13/95, Effective 12/1/95*

### HL DISTRICT FENCE REGULATIONS

*Adopted: 12/10/01 Effective: 12/26/01*

#### 3.22 FENCES & WALLS

##### 3.22.1 HIGHLAND LAKE DISTRICT

In reviewing applications under this section, the Commission shall take into consideration the impact of proposed fences or walls on the visual access to Highland Lake from both private properties and the public way.

All fences or walls within fifty (50) feet of the high waterline or exceeding four (4) feet in height shall require a Special Permit approved by the Commission in accordance with the following:

##### 3.22.1.1 SPECIAL PERMIT FOR FENCES AND WALLS

- a) All fences and walls shall comply with Section 3.16 of these regulations;
- b) To the greatest extent possible, fences and walls shall be located in such a way as to maintain views of Highland Lake from the neighboring properties and from the nearest public street. At a minimum, fences or walls shall be located to maintain one straight-line uninterrupted view-shed area to Highland Lake per property as viewed from the nearest public street. The width of the view-shed area shall be not less than nine (9) feet and shall be located within the side yard of the property.
- c) Fences and walls shall not exceed a height of six (6) feet, the design of which shall be semi-open, such as the examples shown in Section 3.22.1.3 of these regulations;
- d) Fences located within twenty (20) feet of the high water line of the Highland Lake shall not exceed a height of four (4) feet, the design of which shall be semi-open, such as the examples shown in Section 3.22.1.3 of these regulations;
- e) Walls located within the required front yard or within twenty (20) feet of the high water line of Highland Lake shall not exceed a height of 36 inches;
- f) A fence which is not semi-open in design, or a wall exceeding 36 inches in height, may be constructed provided that a written statement of consent for construction of such fence or wall is submitted to the Commission by the owner(s) of the adjoining property on the side(s) where such fence is to be constructed. Said written consent statement shall specify the location, height and general design of the fence or wall and shall be signed by the adjoining property owner(s).
- g) The height of fences or walls shall be measured from the ground on which the fence or wall sits. In the event of a fence section(s) which does not touch the ground, the

height shall be measured from the ground immediately adjacent to such fence section(s) (whichever measurement will result in a lesser height). Fence posts, columns, and decorative caps may be permitted to exceed the maximum fence heights by not more than twelve (12) inches;

For fences, a clearance of three (3) inches shall be allowed for installation purposes and shall not be counted in determining the height of a fence;

- h) All fences shall be constructed so that the finished side shall face outward toward the abutting properties and rights-of-way;
- i) To allow access for maintenance, fences and walls shall be located at least two (2) feet from all property lines or, with mutual written consent from the adjoining property owner(s), may be located on the property line;
- j) Retaining walls and temporary construction fences are exempt from this section;
- k) The commission may waive the view-shed requirements of this section in situations where providing a view-shed would serve no useful purpose for passersby on the public street or to neighboring properties.

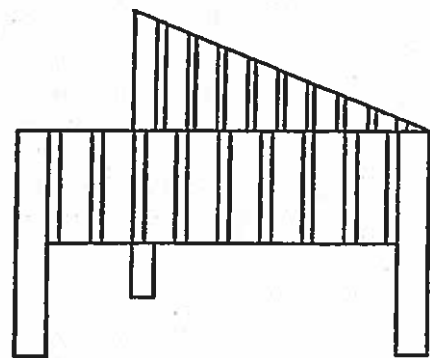
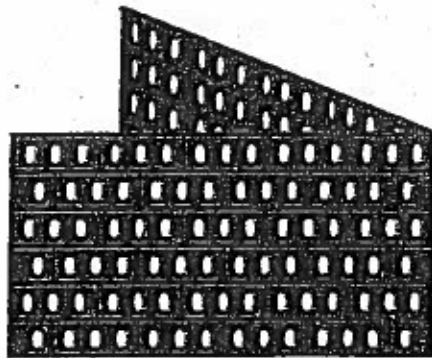
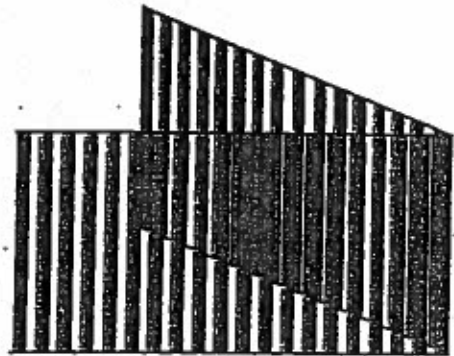
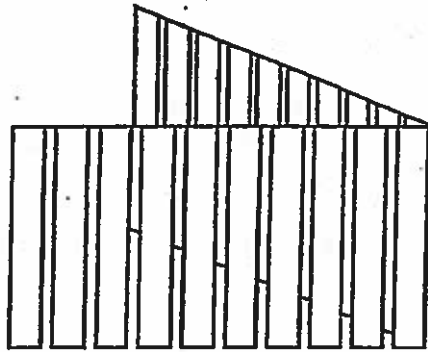
#### 3.22.1.2 PLAN REQUIREMENTS

All applications for a special permit approval under this section shall be accompanied by the following:

- a) Copies of an application and a fee as prescribed by the commission;
- b) Copies of a site plan, drawn to scale not to exceed 1 inch equals 50 feet showing all the lot lines, structures, easements or rights-of-way, natural features, and location of the proposed fence or wall. The site plan shall also include dimensions of the proposed fence or wall as well as setback distances;
- c) Copies of the Assessor's map(s) showing the subject property and all the properties within 300 feet of the subject property;
- d) Copies of a drawing of the proposed fence or wall at a scale not to exceed 1/8 inch equals 1 foot, showing the height, building materials and style of the proposed fence or wall;
- e) 5"x7" color photographs of the property, site area and surrounding neighborhood.

3.22.1.3

**EXAMPLES OF A SEMI-OPEN FENCE**



**SECTION 4 — RESIDENCE DISTRICTS****4.1 USES PERMITTED**

- 4.1.1 Single Family dwellings, one dwelling per lot.
- 4.1.1.1 Seasonal cottages within Winchester, provided they shall be situated on land located between Highland Lake and East Lake Street or Wakefield Boulevard.
- 4.1.1.2 Except as provided in Section 3.6.1, lot areas and frontages for a seasonal cottage shall conform to the requirements in the applicable zone for a single-family dwelling.
- 4.1.1.3 No seasonal cottage shall be converted to a permanent dwelling for year-round use until the Health Officer shall certify the adequacy of water supply and sewage disposal for such permanent use, and building construction conforms to the State Building Code. The floor area after conversion of a seasonal cottage erected after the adoption of this section shall conform to Section 3.4.
- 4.1.2 Dwelling for not more than three (3) families, provided the lot size conforms to the requirements of Section 4.2, and for more than three (3) families, when permitted as a Special Use, Section 4.4.
- 4.1.3 Professional and Business Offices, conducted by the resident of the premises within a building, provided:
- a) There is no retail sale of merchandise or goods on the premises;
  - b) There is no repair, fabrication, or alteration to merchandise or equipment;
  - c) Not more than one person not residing on the premises is employed on the premises;
  - d) The total floor area occupied by office use does not exceed 35% of the floor area of a dwelling, excluding the basement.
- 4.1.4 **HOME OCCUPATIONS**  
A home occupation is a use customarily and properly carried on for compensation by the resident of the premises, which:
- a) Is clearly secondary to the use of the dwelling for dwelling purposes;
  - b) Does not change the residential character of the dwelling in any viable manner;
  - c) Does not create objectionable noise, odor, vibrations, waste, or unsightly conditions noticeable off the premises;

- d) Does not create interference with radio and television reception in the vicinity, and does not create a health or safety hazard;
  - e) Equipment used in such occupation shall be customarily incidental to residential occupancy;
  - f) Such occupations shall be engaged in only by the immediate members of the family residing on the premises, all of such family members being related by blood or marriage;
  - g) Except for fruits and vegetables grown on the premises, no display shall be visible from the street;
  - h) Articles not made, raised, or grown on the premises, may not be sold on the premises;
  - i) The total floor area occupied by such home occupation does not exceed 25% of the dwelling floor area above the basement.
- 4.1.5 The letting of rooms or furnishing board by the resident of the premises to not more than six persons, provided that no accessory structure is used for this purpose.
- 4.1.6 Educational, religious, or philanthropic use by a nonprofit corporation or governmental unit, or use as a day care center whether or not operated for a profit, excluding correctional institutions or institutions for the insane, provided that:
- a) The scale and design of the structure is compatible with the neighborhood;
  - b) Landscape planting or other visual separation is provided to minimize the effects of the use on neighboring properties; and
  - c) All uses permitted under this subsection shall be considered Special Permit Uses. None of the uses permitted herein shall be initiated until an application for a Special Permit has been submitted to and approved by the Commission. *Adopted 1988; Amended: 3/27/89, Effective 4/1/89*
- 4.1.7 Agriculture, farming, dairy farming and stock breeding, forestry, truck and nursery gardening, including greenhouses only as incidental thereto, provided that no livestock or poultry shall be kept on any lot of less than three acres, except that not more than twenty (20) chickens or similar poultry may be kept on a smaller lot in a building or enclosure not less than twenty (20) feet from any property or street line.
- 4.1.8 A police station, firehouse or other municipal building, a telephone exchange, transformer substation, sewer or water pumping station, bus or railway waiting room, with no outside service yard or outside storage of supplies, provided:

- a) The scale and design of the structures is compatible with the neighborhood;
  - b) Landscape planting or other visual separation is provided to minimize the effects of the use on neighboring properties; and
  - c) Building plans of the structure and a "Site Plan of Development," showing conformance with the above criteria shall have been submitted to the Commission.
  - d) All uses permitted under this subsection shall be considered Special Permit Uses. None of the uses permitted herein shall be initiated until an application for a Special Permit has been submitted to and approved by the Commission.
- 4.1.9 A bona-fide club, lodge or community house, not operated for profit, provided that no activity is carried on which results in objectionable noise audible off the premises, provided that:
- a) The scale and design of the structure is compatible with the neighborhood;
  - b) Landscape planting or other visual separation is provided to minimize the effects of the use on neighboring properties; and
  - c) Building plans of the structure and a "Site Plan of Development," showing conformance with the above criteria shall be submitted to the Commission for its approval.
  - d) All uses permitted under this subsection shall be considered Special Permit Uses. None of the uses permitted herein shall be initiated until an application for a Special Permit has been submitted to and approved by the Commission.
- 4.1.10** A convalescent or nursing home, with not less than 1,500 sq. ft. of a lot area per patient accommodation, provided that:
- a) The scale and design of the structure is compatible with the neighborhood;
  - b) Landscape planting and other visual separation is provided and maintained to minimize the effects of the use on neighboring properties;
  - c) A Site Development Plan, including buildings and landscape plans showing conformance with the above criteria, shall have been approved by the Commission;
  - d) Further provided that the building shall be connected to the public water supply and sewer systems before occupancy;

- e) All uses permitted under this subsection shall be considered Special Permit Uses. None of the uses permitted herein shall be initiated until an application for a Special Permit has been submitted to and approved by the Commission.

**4.1.11** Accessory uses customary with and incidental to a permitted use, including structures used for permitted home occupations. No accessory structures shall be used for residence purposes, except by persons employed on the premises or nonpaying guests of the occupant of the premises, and when so used shall be used for no other purpose except the storage of noncommercial motor vehicles.

**4.1.11.1** Structures used for storage, processing and manufacture of agricultural products are permitted as an accessory use on a farm.

**4.1.11.2** Roadside stands for the sale of farm products and homemade articles are permitted when accessory to the premises on which they stand, of not more than 200 sq. ft. area, with not more than two (2) signs aggregating twelve (12) sq. ft. in area advertising products. Such stand and signs shall not be less than ten (10) feet from any street line and not less than fifty (50) feet from any street intersection.

**4.1.11.3** The slaughtering of livestock and poultry, as an accessory use to a commercial farming operation, is permitted on a farm, provided that in normal operation all stock slaughtered is raised on a farm, and provided further that in any one calendar year the total number of livestock or poultry slaughtered shall not exceed 125 percent of the total raised on the farm where slaughtering takes place.

**4.1.11.4** Structures used for the storage on a farm of any number of motor vehicles and equipment, when used as an accessory to such farm, are permitted as an accessory use. Also permitted is the repair of such vehicles, within a structure on a farm, but this shall not permit operation of a repair garage for the general public.

**4.1.11.5** Accessory structures to a farming use, Sections **4.1.11.3** and **4.1.11.4** above, structures housing farm animals and poultry shall be not less than one hundred (100) feet from a street or lot line, and not less than one hundred and fifty (150) feet from the nearest existing residential structure on land under separate ownership.

**4.1.11.6** Accessory structures may include private garages, whether or not attached to the main structure with space for not more than three (3) noncommercial motor vehicles on one lot, and for one (1) additional such vehicle for each 10,000 sq. ft. by which the area of the lot exceeds one (1) acre. Not more than one such space may be used by a commercial motor vehicle of not more than three (3) tons capacity. Space for not more than one-third of the permitted number of vehicles may be let to persons other than residents of the premises for the storage of noncommercial motor vehicles only.

<b>TOWN OF WINCHESTER</b>	<b>REGULATIONS</b>	<b>ZONING</b>
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4.1.12 Open Space Subdivisions subject to the provisions of Section 4.3; Multiple Dwellings subject to the provisions of Sections 3.20 and 4.4; Congregate Residence Development subject to the provisions of Section 4.5; Cable Television structures and facilities subject to the provisions of Section 4.6; and Planned Development uses subject to the provisions of Sections 3.20 and 4.7.

4.1.13 In considering the applications submitted for Special Permit approval, the Commission shall require compliance with the following:

- a) That the existing and future character of the neighborhood in which the Special Permit is to be located will be protected;
- b) That adequate safeguards have been taken to protect adjacent property and the neighborhood in general;
- c) That traffic circulation within the site and the amount, location, and access to parking is adequate;
- d) That the basic design of the proposed uses or structures, the relationship between the structures and the land, and the overall physical appearance of the proposed use of the structures will be in general harmony with the character of the neighborhood surrounding and will not serve to blight or detract from abutting residences or other property;
- e) That adequate safeguards have been taken to protect the natural environment; and
- f) That all required public services will be reasonably available to serve the proposed development.

**4.2 REQUIRED LOT AREA, WIDTH, YARDS, COVERAGE, HEIGHT RESIDENCE ZONES**

DIS-TRICT	MIN. LOT AREA (SQ. FT)	MIN. LOT WIDTH (FEET)	MIN. LOT AREA FAM. UNIT (SQ FEET)	FRONT YARD (FEET)	SIDE YARD EACH (FEET)	REAR YARD (FEET)	BLDG. COV. (%)	HEIGHT (FEET)
R-1	40,000	150	30,000	50	35	35	10	30
R-2	20,000	100	15,000	40	20	35	15	30
R-3	11,250	75	9,000	30	12	30	20	30
R-4	7,500	60	6,000	25	10	25	25	30



- 4.2.1 In the case of a corner lot in R-3 and R-4 zones, which lot meets the lot area requirements and was owned separately on June 11, 1956, and where provision of the required front yard on both streets will prevent construction of a dwelling, the front yard required on one street may be reduced to 15 feet, and the opposite side yard may be reduced to 6 feet.

**Section 4a — HIGHLAND LAKE DISTRICT (HL)**

*Amended & Adopted 11/13/89; Effective 11/21/89*

**4a.1 USES PERMITTED**

**4a.1.1 Single Family Dwellings, one dwelling per lot.**

4a.1.1.1 Seasonal Cottages within Winchester, provided they shall be situated on land located between Highland Lake and East Lake Street or Wakefield Boulevard, one seasonal cottage per lot.

4a.1.1.2 Except as provided in Section 3.6.1, lot areas and frontages for a Seasonal Cottage shall conform to the requirements in the applicable zone for a single-family dwelling.

4a.1.1.3 No seasonal cottage shall be converted to a permanent dwelling for year-round use until the Health Officer shall certify the adequacy of water supply and sewage disposal for such permanent use, and building construction conforms to the State Building Code. The floor area after conversion of a seasonal cottage erected after the adoption of this section shall conform to Section 3.4.

**4a.1.2 Professional and Business Offices, conducted by the resident of the premises within a building, provided:**

- a) There is no retail sale of merchandise or goods on the premises;
- b) There is no repair, fabrication, or alteration to merchandise or equipment;
- c) Not more than one (1) person not residing on the premises is employed on the premises;
- d) The total floor area occupied by office use does not exceed 35% of the floor area of the dwelling, excluding the basement.

**4a.1.3 HOME OCCUPATIONS**

A home occupation is a use customarily and properly carried on for compensation by the resident of the premises, which:

- a) Is clearly secondary to the use of the dwelling for dwelling purposes;

- b) Does not change the residential character of the dwelling in any visible manner;
  - c) Does not create objectionable noise, odor, vibrations, waste, or unsightly conditions noticeable off the premises;
  - d) Does not create interference with radio and television reception in the vicinity, and does not create a health or safety hazard;
  - e) Equipment used in such occupation shall be customarily incidental to the residential occupancy;
  - f) Such occupations shall be engaged in only by the immediate members of the family residing on the premises, all of such family members being related by blood or marriage;
  - g) Except for fruits and vegetables grown on the premises, no display shall be visible from the street;
  - h) Articles not made, raised, or grown on the premises, may not be sold on the premises;
  - i) The total floor area occupied by such home occupations does not exceed 25% of the dwelling floor area above the basement;
  - j) Does not involve the rental of boats or instruction and training with respect to the operation of boats.
- 4a.1.4 Parks, playgrounds, golf courses (subject to Section 4a.1.7) and other recreation facilities operated by a governmental unit, nonprofit corporation or community association.
- 4a.1.5 The letting of rooms or furnishing board by the resident of the premises to not more than six (6) persons, provided that no accessory structure is used for this purpose.
- 4a.1.6 Educational, religious, or philanthropic use by a nonprofit corporation or governmental unit, or use as a day care center, whether or not operated for a profit, excluding correctional institutions or institutions for the insane, provided that:
- a) The scale and design of the structure is compatible with the neighborhood;
  - b) Landscape planting or other visual separation is provided to minimize the effects of the use on neighboring properties;
  - c) Building plans of the structure and a "Site Plan of Development" showing conformance with the above criteria, shall be submitted to the Commission for its approval;

- d) All uses permitted under this subsection shall be considered Special Permit Uses. None of the uses permitted herein shall be initiated until an application for a Special Permit and Site Plan of Development have been submitted to and approved by the Commission.
- 4a.1.7 A police station, firehouse or other municipal building, a telephone exchange, transformer substation, sewer or water pumping station, or a golf course provided:
- a) The scale and design of the structures is compatible with the neighborhood;
  - b) Landscape planting or other visual separation is provided to minimize the effects of the use on neighboring properties;
  - c) Building plans of the structure and a "Site Plan of Development" showing conformance with the above criteria, shall have been submitted to the Commission;
  - d) All uses permitted under this subsection shall be considered Special Permit Uses. None of the uses permitted herein shall be initiated until an application for a Special Permit and Site Plan of Development have been submitted to and approved by the Commission.
- 4a.1.8 A bona-fide club, lodge or community house, not operated for profit, provided that no activity is carried on which results in objectionable noise audible off the premises, provided that:
- a) The scale and design of the structure is compatible with the neighborhood;
  - b) Landscape planting or other visual separation is provided to minimize the effects of the use on neighboring properties;
  - c) Building plans of the structure and a "Site Plan of Development," showing conformance with the above criteria shall be submitted to the Commission for its approval;
  - d) All uses permitted under this subsection shall be considered Special Permit Uses. None of the uses permitted herein shall be initiated until an application for a Special Permit and Site Plan of Development have been submitted to and approved by the Commission.
- 4a.1.9 A convalescent or nursing home, with not less than 1,500 sq. ft. of lot area per patient accommodation, provided that:
- a) The scale and design of the structure is compatible with the neighborhood;

- b) Landscape planting and other visual separation is provided and maintained to minimize the effects of the use on neighboring properties;
- c) A Site Development Plan, including buildings and landscape plans showing conformance with the above criteria, shall have been approved by the Commission;
- d) Further provided that the building shall be connected to the public water supply and sewer systems before occupancy;
- e) All uses permitted under this subsection shall be considered Special Permit Uses. None of the uses permitted herein shall be initiated until an application for a Special Permit and Site Plan of Development have been submitted to and approved by the Commission.

4a.1.10 Accessory uses customary with and incidental to a permitted use, including buildings used for permitted home occupations. No accessory buildings shall be used for residence purposes.

4a.1.11 Accessory buildings may include private garages, whether or not attached to the main building, with space for not more than three (3) noncommercial motor vehicles on one lot. Not more than one (1) such space may be used by a commercial motor vehicle of not more than three (3) tons capacity. Space for not more than one-third of the permitted number of vehicles may be left to persons other than residents of the premises for the storage of noncommercial vehicles, only.

Detached accessory buildings and structures not more than twelve (12) feet in height, not containing more than 150 sq. ft. in ground floor area, and not used or intended to be used for human habitation or for the housing of animals, may be located in the minimum rear yard, including the portion of the minimum side yard within any minimum rear yard, provided that they are not less than four (4) feet from any side or rear lot line; and further provided, that they occupy in the aggregate, not more than twenty percent (20%) of the area of the minimum rear yard. *Amended & Adopted 11/13/95, Effective 12/1/95*

Notwithstanding the previous paragraph, any proposed accessory structure within fifty (50) feet of the high water line of Highland Lake or any body of water, will require a Special Permit from the Planning and Zoning Commission. In reviewing the request for Special Permit, the Commission will place primary emphasis on the proposed structures visual impact on abutting properties, adjacent roadways and the body of water itself. *Amended and Adopted 8/25/08, Effective 9/14/2008*

4a.1.12 In considering the applications submitted for Special Permit Approval, the Commission shall require compliance with the following:

- a) That the existing and future character of the neighborhood in which the Special Permit is to be located will be protected;
- b) That adequate safeguards have been taken to protect adjacent property and the neighborhood in general;
- c) That traffic circulation within the site and the amount, location and access to parking is adequate;
- d) That the road network, to include intersections, impacted by the proposed development will be capable of satisfactorily handling the increased traffic generated by such use;
- e) That the basic design of the proposed uses or buildings, and the land, and the overall physical appearance of the proposed use of the buildings will be in general harmony with the character of the neighborhood surrounding and will not serve to blight or detract from abutting residences or other property;
- f) That adequate safeguards have been taken to protect the natural environment; and
- g) That all required public services will be reasonably available to serve the proposed development.

**4a.2 REQUIRED (MINIMUM) LOT AREA, WIDTH, YARDS, COVERAGE, HEIGHT, AND SET BACKS**

MIN. LOT AREA (SQ. FT.)	MIN. LOT WIDTH (FEET)	FRONT YARD (FEET)	SIDE YARD EACH (FEET)	REAR YARD (FEET)	BLDG. & DRIVEWAY COV. (PERCENT)	HEIGHT (FEET)
40,000	150	50	35	35	15	30

4a.2.1 In case of a corner lot, which lot meets the lot area requirements and was owned separately on June 11, 1956, and where provision of the required front yard on both street will prevent construction of a dwelling, the front yard required on one street may be reduced to fifteen (15) feet, and the opposite side yard may be reduced to six (6) feet.

4a.2.2. SPECIAL EXCEPTION RELATING TO DECKS, BALCONIES, PATIOS & TERRACES  
Notwithstanding any other provision or section of these regulations, the construction of decks, balconies, patios and terraces shall be permitted on any residence existing within the

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H.L. District as of the effective date of the Highland Lake District subject to the following requirements:

- a) The subject structure does not encroach within the side yard to an extent greater than the existing building or structure and limited to a minimum side yard of 9 feet.
- b) The total permitted coverage of the building and the proposed structure as noted:

LOT SIZE (SQ. FT)	% OF COVERAGE	TOTAL COVERAGE (SQ. FT.)
20,000	16%	3,200
15,000	18%	2,700
10,000	20%	2,000
5,000	24%	1,200

- c) A landscape buffer planted parallel to the side yard for the full length of both sides of the proposed structure. The landscape buffer shall create a permanent screening element between residential lots. This requirement may be waived upon filing a written agreement by and between the applicant and the abutting neighbor, to the zoning agent.
- d) The subject structure is not within 20 feet of the lake shore/retaining wall face/high water level.
- e) Prior to the issuing of any building permits, the enforcement agent shall inspect the subject property for the compliance with paragraph C of this section of the regulation.
- f) The protection of pervious soils incentive: any structure built of materials and in a manner that preserves the integrity of pervious soils under and around the subject structure shall be entitled to additional coverage of 4% to the above noted table in paragraph B. Structures built of concrete, or asphalt are not entitled to any coverage increase under this provision. *Adopted 9/9/1991, Effective 9/16/1991*

**4a.3 SPECIAL REGULATIONS RELATING TO USES**

No person shall operate any motor vehicle including motorcycles and ATV's whether designed for off road or on road use, in such as way as to destroy vegetative ground cover.

**4.3 OPEN SPACE SUB-DIVISIONS***Adopted 9/24/90, Effective 9/28/90***4.3.1 OBJECTIVES AND PURPOSE**

The purpose of this Section is to:

- a) Permit flexibility in land development by allowing for a variation in lot sizes in all residential zones except R-4 without increasing the density permitted within the zone in which the property is located;
- b) Provide open space, conservation and recreation areas (both active and passive);
- c) To the extent practicable, preserve the natural and scenic qualities of the site and its surrounding neighborhood, including wetlands, watercourses, ridge tops, existing stand of mature vegetation, rock outcrops, scenic and historic sites;
- d) Protect water quality, natural drainage systems and areas affordable housing in conformance with the policies set forth in the plan of development.

**4.3.2 PERMITTED AREA REQUIREMENTS**

Lots approved under this Section shall conform to the following area requirements:

ZONE	MIN. LOT AREA	FRONTAGE	FRONT YARD	SIDE YARD
R-1	20,000 sf.	80 ft.	30 ft.	20 ft.
R-2	10,000 sf.	75 ft.	30 ft.	12 ft.
R-3	6,500 sf.	65 ft.	25 ft.	8 ft.
R-4	NOT PERMITTED			
RU-1	20,000 sf.	80 ft.	50 ft.	20 ft.
RU-2	15,000 sf.	75 ft.	30 ft.	15 ft.
RU-3	40,000 sf.	125 ft.	50 ft.	30 ft.

4.3.2.1 The Commission may reduce the minimum lot area for up to twenty-five (25%) of the lots in the subdivision to not less than fifty (50%) percent of the minimum lot area specified for the zone district in which the subdivision is located when it finds that such reduction will further promote the purposes of this Section.

4.3.2.2 For the purposes of this Section only, lots need not have frontage on a street or drive owned and maintained by a homeowner's association established pursuant to Title 45, Chapter 828, of the Connecticut General Statutes, as amended.

#### 4.3.3 SIZE OF TRACT

A tract shall be at least twenty (20) acres in area, except that if, in the opinion of the Commission the shape, topography, existence of wetlands or watercourses, or other unique features should be preserved for the benefit of the community, or the subdivision, the provisions of this Section may be applied to any parcel of land. In no case, however, shall the total open space subdivision be less than ten (10) acres.

Such developments shall be considered special permits and upon application to the Commission by the owner(s) of, or holder(s) of a contract to purchase a property, the Commission may approve, disapprove, modify and approve, or approve with conditions, a special permit, site plan and subdivision plan for the development of an open space subdivision. The Commission may review and act upon the special permit application, the open space subdivision site plan and the subdivision application concurrently.

The Commission may receive and review an application for Special Permit and grant a preliminary approval, preliminary disapproval, or preliminary approval with modifications, provided that the preliminary site plan submitted for review be prepared at a level of accuracy to measure and determine that all requirements of a final submission can be met by the applicant.

#### 4.3.4 GENERAL REQUIREMENTS

The maximum number of lots to be permitted on a given tract of land is determined by reducing the total acreage of the tract by fifteen (15) percent for street right of way, and by dividing the remaining developable area by the minimum lot requirements for the zoning district in which the tract is located. Land utilized by utilities or others for easements for major facilities such as electric transmission lines and water mains, where such land is not available to the owner for development, shall not be considered as part of the gross acreage in computing the maximum number of lots to be permitted under this Section. All developable land calculations shall conform to Section 3.2 of these Regulations.

Open Space subdivisions may be permitted when authorized by the Commission by Special Permit and Site Plan approval meeting the standards and requirements set forth in Section 4.7.4, and further subject to approval of a subdivision plan meeting the requirements of the subdivision regulations, except as modified by these Regulations.

The Commission may increase the number of lots permitted by the above formula when in its judgment the principles of these regulations are met, the land is better used or housing and development goals of the plan of development merit the increase. In no case, however, may the increase be greater than twenty (20) percent of the formula calculations.

#### 4.3.5 PROTECTION OF ADJACENT RESIDENCES

To insure the protection of existing residences contiguous to a tract of land for which approval of an open space subdivision is sought, the Commission may require that new lots be separated from existing contiguous parcels by a distance equal to 150% of the rear yard



requirement for the zone in which the tract is located, or by the introduction of buffer plantings as required by the Commission.

**4.3.6 PUBLIC SEWER AND WATER**

The tract of land proposed for development under this Section shall be served by public water supply and sewage disposal systems. When the lot size in an Open Space Subdivision is 30,000 square feet or greater, the Commission may permit an alternative method of water supply or sewage disposal, provided such systems are approved by the Commission, and as appropriate, the Connecticut Department of Environmental Protection, and Torrington Area Health District.

**4.3.7 OPEN SPACE LAND**

- 4.3.7.1 The balance of land not contained in the building lots, or utilized by street, driveway or unusable utility rights of way, shall be of such a condition, location, size and shape as to be open space. In no case shall the dedicated open space be less than thirty percent (30%) of the total area subdivision. The use of the land set aside as open space shall be approved by the Commission and such use shall be noted on the record subdivision map.
- 4.3.7.2 The open space and shall be either deeded to the Town in an acceptable condition, established legally as part of a homeowner's association, or deeded to a land trust.
- 4.3.7.3 If the land is deeded to the Town, no final subdivision approval or any building permit shall be issued until the land is accepted by the Board of Selectman. The property deeded to the Town under the provisions of this Section must be retained for public use for a period of at least 35 years. If any land is disposed of by the Town after that period of time, the Town shall provide an equivalent amount of open space elsewhere in Winchester.
- 4.3.7.4 If a homeowner's association is established, it must be legally established pursuant to the provision of Title 47, Chapter 828 of the Connecticut General Statutes, Rev. 1958, as amended. The applicant shall submit such suitable legal instruments which, to the satisfaction of the Commission, will insure that such land will continue to be used for its purposes approved by the Commission, and shall not be disposed of by sale or otherwise except to an organization established for the purposes of owning and maintaining such open space, in which case the land must first be offered to the Town of Winchester. In such legal instruments, provisions shall be made for the adequate maintenance of the areas set aside as open space and further provide the necessary safeguards and conditions to carry out the purposes contained in the Section of the regulations. In the event that the homeowner's association fails to maintain the open space, provisions shall be made for the Town of Winchester, its agents, servants and employees, to enter upon such open space, without liability, in order to remove or cause to be removed any thing, object or condition which may be deemed to be a nuisance or

in the nature of a nuisance. Within such open space, no buildings may be erected without the express approval of the Commission and no change in the approved designation of use of the land set aside for conservation, park and recreation shall be made without approval of the Commission, provided that such use remain as conservation, park or recreation use.

**4.3.9 REQUIRED FEE**

To defray the expense of processing applications, including the cost of legal notices, a fee of Five Hundred Dollars (\$500.00) shall accompany each application and a further fee of Fifty Dollars (\$50.00) per lot shall be payable upon final application approval.

**4.4 MULTIPLE DWELLINGS**

After the effective date of these regulations, no building shall thereafter be erected or altered, and no lot or parcel of land shall be used for more than three dwelling units, except as a Special Exception, which may be granted by the Commission after a public hearing. Such Special Exception shall be granted only when the Commission shall find that the use:

- a) Will not result in undue concentration of population in the neighborhood
- b) Will not create traffic hazards or traffic volumes beyond the capacity of the roads;
- c) Will not have a depreciating effect on the neighborhood;
- d) Will conform to these Regulations; and
- e) Will be subject to such further conditions as the Commission deems necessary to protect the public health, safety, convenience, and property values;
- f) The Special Exception shall be based on a site development plan which, when approved by the Commission, shall be filed in the Land Records of the Town of Winchester. Building permits shall be issued only in conformance with the approved plan, and no certificate of occupancy shall be issued until all of the work shown on such approved plan has been completed, or a performance bond assuring completion has been filed with the Commission;
- g) The Site Plan of development, required in (f) above, shall contain all of the information required in Section 6.3.2, subsections (a)-(d) and (f), inclusive, with such other information as the Commission may require. *Amended & adopted 5/8/89, Effective 5/16/89.*

In the case of housing owned or operated by a governmental body the Commission may modify the requirements of these regulations.

4.4.1 Multifamily dwellings may be located in Residence or Rural Zone Districts, and only where all dwelling units will be connected to public or community water and public sewers before occupancy.

4.4.2 **PERMITTED USES**

Multiple dwellings are defined as garden apartments not over two stories in height, town houses — two stories in height, and apartments — three or more stories in height, for rental or for sale as individual units. The legal and financial responsibility for proper operations and maintenance of commonly used property shall be assured, in a form satisfactory to the Town Attorney, and recorded in the land records, before individual dwelling units may be sold in separate ownership.

4.4.2.1 In multiple dwellings, uses shall be limited to:

- a) Dwelling units occupied by one family in each unit;
- b) Customary accessory uses, for the exclusive use of tenants and their guests, including parking areas, recreational community, laundry, and storage facilities; and
- c) Accessory buildings and structures, including garages, carports, recreation or community buildings, tennis courts, swimming pools, provided such structures are not located in any required yard.

4.4.2.2 In the case of attached single dwelling units (Town Houses), the home office of a person residing on the premises is permitted, provided there is not more than one nonresident employee. In the case of an apartment, the home office of a person residing on the premises is permitted provided there is not more than one nonresident employee, and further provided that public access to such office is in no way connected to or with the entrance or hallways giving access to the other dwelling unit in the building. Home offices in garden apartments are not permitted.

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**4.4.3 SCHEDULE OF LOT AREA, WIDTH, YARDS, COVERAGE, HEIGHT - (amended 6/9/04)**

	GARDEN APTS.	TOWN HOUSES	APTS.	IB-3 ZONE
Min. Gross Lot Area/Dwelling Unit	3,500 sf.	3,500 sf.	3,000 sf.	1,000 sf.
Min. Size, Individual Lot	N.A.	2,225 sf.	N.A.	N.A.
Min. Width of Dwelling Unit	N.A.	16 ft.	N.A.	N.A.
Min. Street Frontage of Parcel	150 ft.	150 ft.	200 ft.	N.A.
Min. Usable Open Space/D.U.	600 sf.	600 sf.	400 sf.	400 sf.
Min. Public Street Yard	(1)	(1)	(1)	(1)
Min. Side Yard (3)	(1)	(1)	(2)	(1)
Min. Rear Yard (3)	(1)	(1)	(2)	(1)
Max. Building Coverage	25%	30%	40%	(1)
Max. Usable Bldg. Height, Stories	2	2	N.A.	(1)

**Key:**

- N.A.            Not Applicable
- Note (1)      as required in the applicable zone
- Note (2)      150% of yard required in the applicable zone, plus 5 feet for each story above three stories
- Note (3)      Side and rear yards abutting predominantly developed single family areas shall have a landscaped buffer strip 35 feet wide, as defined in Section 3.18.

**4.4.4 SITING OF STRUCTURES**

Structures shall be so located on the lot as to provide for the amenities of urban living, to assure the maximum of light and ventilation, to control the impact of traffic and parking on the site, and to integrate the development with the neighborhood.

- 4.4.4.1    Building walls with windows shall face a street or open space, and in the case of opposing walls, with windows in both walls, shall be not nearer than 60 feet, and with windows in one wall not nearer than 40 feet, but in no case nearer than twice the height of the opposing walls.
- 4.4.4.2    Any court shall be not less than 30% open on one side, and the depth shall not exceed 1.5 times the width. The walls of opposing detached apartment buildings on the same lot shall be not less than 40 feet apart, nor less than 75% of the height of the highest opposing wall, whichever is greater. Where no part of the planes of walls of separate buildings on the same lot are opposite each other, the distance between the nearest corners of such buildings shall be not less than fifteen (15) feet, nor less than 35% of the height of the lowest wall, whichever is greater.

**4.4.5 RECREATION AND USABLE OPEN SPACE**

Usable open space shall be provided in the amount of 600 sq. ft. per dwelling unit, in accordance with the general provisions of Section 3.18.5.

**4.4.6 OFF-STREET PARKING**

*\*This Section has been relocated to Section 9.12.*

**4.4.7 MINIMUM LIVING FLOOR AREA - (Amended 6/9/04)**

Minimum floor area for the exclusive use of one individual or family within the perimeter of the dwelling unit shall be provided, as follows:

Efficiency unit, (no separate bedroom)	— 300 sf.
1 bedroom unit (3 room Max.)	— 400 sf.
2 bedroom unit (4 room Max.)	— 500 sf.

4.4.7.1 The area of storage outside the perimeter of the apartment, balconies and porches, and common stairs, or other common areas, shall not be included in the required minimum floor area.

4.4.7.2 Where the topography of the site slopes naturally and permits ground floor apartments, some parts of which are below grade, residential living quarters on a ground floor may be permitted, provided the floor level of any room, except a kitchen or bath, for the full length of the exterior wall providing light and ventilation to such room, is not less than twelve (12) inches above the finish ground level on a line twenty (20) feet away from and parallel to such wall.

4.4.7.3 All dwelling units having a living room more than one (1) story above the main or front entrance shall have passenger elevator service.

**4.4.8 DISTRIBUTION OF APARTMENT SIZES**

Any apartment development containing more than twelve (12) dwelling units shall have a distribution of unit sizes to provide, in the judgment of the Commission, an adequate number of efficiency or one bedroom units.

**4.4.9 DEVELOPMENT OPTIONS - (added 6/9/04)**

4.4.9.1 In the IB-3 zone, not more than 50% of the ground floor area of a building shall consist of dwelling units.

**4.5 CONGREGATE RESIDENCE DEVELOPMENT**

Congregate Residence Development, which shall include congregate dwellings and may include other types of dwellings, is intended to provide options for common dining and common use of other facilities and services essential to residential life. *Adopted 5/8/89, Effective 5/16/89.0.*

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4.5.1 LOCATION

Congregate Residence Development may be located in Residence or Commercial Districts, and only where all dwelling units will be connected to public or community water and public sewers before occupancy.

4.5.2 SPECIAL EXCEPTION USE

Congregate Residence Development shall be allowed as a Special Exception, which may be granted in accordance with the procedures and standards set forth in Sections 4.4 and 4.1.1 of these Regulations, and with the standards designated and set forth below.

4.5.3 STANDARDS

The standards applicable to congregate residence developments shall be the same as those for multiple dwellings except for those special standards established for congregate residence developments and set forth below.

4.5.4 MINIMUM LOT SIZE/RESIDENTIAL DENSITY

	MIN. LOT AREA (SQ. FT.)	MIN. LOT AREA PER FAM. UNIT (SQ. FT.)
Residential District	400,000	7,500
Commercial Districts	40,000	3,600

4.5.5. ACCESS

Driveways having access to and from public streets shall have ingress and egress lanes separated by a divider, or islands serving the same function, of no less than five (5) feet in width.

4.5.6 OFF STREET PARKING

*\*This Section has been relocated to Section 9.12.*

4.7 PLANNED DEVELOPMENT ZONE – PD ZONE

*\*This Section has been deleted effective 4-23-2009*

**SECTION 4.7 has been eliminated from the regulations effective 4-23-2009. (PD Zones existing on or before the effective date, will continue to be regulated by the eliminated regulations)**

**4.7.1 STATEMENT OF PURPOSE**

- a) The purpose of this section is to permit variety and flexibility in land development, to preserve and make available open space for recreation and conservation, to encourage the most efficient use of Town services, to provide for the highest and best use of land most suited for development and to retain and protect existing development.
- b) Planned Development may be permitted in areas meeting the standards required and in accord with the procedures delineated herein subject to issuance of a Special Permit by the Commission after a public hearing.

**4.7.2 STANDARDS**

- 4.7.2.1 No tract of land will be considered for a Planned Development Zone unless it contains a minimum land area of one (1) acre.
- 4.7.2.2 No tract of land will be considered for a Planned Development Zone unless all habitable buildings thereon are connected to public sanitary sewers prior to issuance of certificate of occupancy.
- 4.7.2.3 A Planned Development area shall be served from or have access to a Town road as defined in Section 1.04 of the Town's Subdivision Regulations or State Highway. In the case of a development containing more than fifty (50) dwelling units there shall be not less than two (2) access points to the Town road or State Highway.
- 4.7.2.4 Where a tract of land does not meet a required standard or similar requirement contained herein, nothing shall prevent the owner or his agent from making arrangement with the appropriate governmental authorities to furnish such utilities, facilities or improvements at the expense of the owner or his agent in order to improve the site to the standards required herein (Section 4.7.5.5 Utilities and Section 4.7.5.6 Circulation.)
- 4.7.2.5 Residential density permitted in a Planned Development Zone shall be not more than six dwelling units per acre.
- 4.7.2.6 Units within buildings constructed in a Planned Development may be for sale or rental in individual, public, cooperative or condominium ownership.

**4.7.3 PERMITTED USES**

- 4.7.3.1 The following land uses shall be permitted in a Planned Development Zone provided that a use not otherwise permitted in the existing zone shall not exceed twenty-five percent (25%) of the total gross floor area of the Planned Development Zone:

- a) Residential Units: single family, two family, multifamily detached, multifamily attached.
- b) Nonresidential supporting facilities such as recreation facilities and administrative/community facilities for the use of owners or tenants. Recreation facilities and administrative/community facilities for public use may be permitted upon the granting of a Special Permit.
- c) Business or professional offices.

#### 4.7.4 PLANNED DEVELOPMENT SPECIAL PERMIT

4.7.4.1 Planned Developments may be permitted when authorized by the Commission by Special Permit in accordance with the standards and requirements hereinafter set forth.

4.7.4.2 Application for a PD Special Permit shall be made in writing by the owner or his agent and shall be accompanied by the following plans and data where applicable to the extent of the proposed development:

- a) PD Application Form, as prescribed by the Commission, completed and signed by the applicant.
- b) Written statement by the applicant in which there is furnished:
  - 1) An evaluation of the proposed PD as it relates to the purposes set forth in Section 4.7.1.
  - 2) A general statement regarding the nature of all proposed open space and the method ownership and maintenance which shall be satisfactory to and approved by the Commission and the Town Attorney, and made a part of the Town Land Records.
  - 3) A general statement concerning the types and uses of all nonresidential structures proposed.
  - 4) A general statement indicating the proposed types of dwelling units, method of ownership and design.
  - 5) A general statement indicating the types of utilities proposed and the method by which each utility will be provided, including performance bond where required by the Commission.
  - 6) Such other information as the Commission may deem appropriate.



- c) An existing conditions map of the entire PD area at a scale of 1"=40' showing boundaries of the tract, existing contours at a maximum of 5 foot intervals, major topographic features such as ponds, streams, wetlands, rock outcroppings, wooded lands and other outstanding natural features, general soils classifications for all areas to be developed, and location of any existing structures on the tract.
- d) A Site Plan of Development at a scale of 1"=40' (or other approved scale) showing the layout and location of proposed roads, structures, utilities, open spaces and other major facilities. If the PD is to be carried out in separate sections, proposed boundaries of each Section shall be shown.
- e) A Site Plan of Development prepared, where applicable, by an architect, a landscape architect, a professional engineer or land surveyor and including the following information unless specifically waived:
  - 1) Location and zone(s) of property.
  - 2) Proposed land and building uses including acreage/square footage figures.
  - 3) Location and floor elevations of all buildings or other structures proposed with reference to appropriate flood date where applicable.
  - 4) Proposed grades and/or contours over entire area of proposed grade change.
  - 5) Proposed parking areas, including stalls, curbing, lighting and landscaping.
  - 6) Proposed vehicular and pedestrian circulation patterns including location and dimension of private and public street and common drives.
  - 7) Proposed planting and landscaping.
  - 8) Proposed buffer areas where required.
  - 9) Proposals for sewage disposal which shall have been approved by the appropriate local, state and Federal authorities before a PD Special Permit is approved.
  - 10) Proposals for storm drainage, including catch basins, manholes, culverts, retention devices, drainage computations.
  - 11) Existing and proposed water, gas and other utilities and easements.
  - 12) An architect's rendering of a typical facade elevation.

- 13) Drawings of all signs to be utilized for sales, advertising, traffic control, identification, etc.
- 14) Where exterior lighting is used, the Site Plan shall show the locations, height, and type of outdoor lighting fixture.
- 15) Where applicable, proposed future division of property among landowners.
- f) No individual map required herein shall exceed an overall size of 24" x 36". In cases where the total area of the proposed PD area requires submission of data described in Sections 4.7.4.2(c), 4.7.4.2(d) and 4.7.4.2(e) on two or more sheets, an overall key map shall be provided and match lines shall be indicated on each map submitted.
- 4.7.4.3 Each PD application for a Special Permit shall be accompanied by a fee of \$100. A certified check or money order shall be made payable to the "Town of Winchester."
- 4.7.4.4 Within sixty (60) days of receipt of a completed application for a PD Special Permit, the Commission shall hold a public hearing on said application.
- 4.7.4.5 Within sixty (60) days after the Public Hearing, unless such time is extended with the written consent of the applicant, the Commission shall either approve, with or without conditions or disapprove the application for a PD Special Permit. Within ten (10) days of said action by the Commission, the applicant shall be notified in writing of the Commission's action.
- 4.7.4.6 **Conformance to Site Plan:** The site plan of development, when approved by the Commission, shall be filed in the Land Records of the Town of Winchester. Building permits shall be issued only in conformance with the approved site plan. No certificate of occupancy shall be issued until all of the work shown on such approved Site Plan has been completed or a cash performance bond assuring completion has been filed with the Commission. Such approved Site Plan, and permits issue thereunder, shall become null and void unless substantial physical construction on the ground is in progress within six (6) months of approval of such plan, unless an extension of time is granted by the Commission.
- 4.7.5 **ZONING REQUIREMENTS**
- 4.7.5.1 **DENSITY**  
Residential density permitted in a Planned Development Zone shall be not more than six (6) dwelling units per acre.

**4.7.5.2 SCHEDULE OF LOT AREA, WIDTH, YARDS, COVERAGE, HEIGHT**

Minimum Gross Land Area/Dwelling Unit	7500 sf
Maximum Size, Individual Lot	See Note 1
Lot Width	Not Required
Minimum Yard Requirements	See Note 2
Maximum Building Coverage	25%
Maximum Usable Building Height	30 ft.

**Note 1:** If land is proposed to be subdivided or apportioned to individual units, such arrangement shall be indicated on the Site Plan of Development.

**Note 2:** Minimum Yard requirements at the site boundary lines shall be as required in the applicable zone. In the case of multiple unit buildings, minimum front and rear yard requirements of the applicable zone shall apply in all cases where sale of individual units includes land area. Minimum side yard requirements of the applicable zone shall apply at the ends of multiple unit buildings.

**4.7.5.3 LOCATION OF BUILDINGS**

- a) Minimum horizontal distance between facing walls of a court and between buildings on a lot or on separate lots:
- 1) Where both facing walls contain a window or windows: such distance shall be no less than one and one-half (1-1/2) feet for each foot of height of the higher facing wall above the lowest adjacent ground elevation.
  - 2) Where only one of the facing walls contains a window or windows: such distance shall be no less than one foot for each foot of the facing wall with no windows, above the lowest adjacent ground elevation.
  - 3) Where neither of the facing walls contains a window: such distance shall be no less than twenty (20) feet.
  - 4) Between corners of two (2) buildings where no exterior wall of one building lies such that it can be intersected by a line drawn perpendicular to any exterior wall of the other building, other than such a line that results from collinear exterior walls: ten (10) feet.

(graphics) \*See Page 46

Between vertical portions of two (2) facing walls, neither of which portions contain a window or windows, where no window directly faces an opposite wall, and no portion of a window on one facing wall is visible from any portion

of a window on the other facing wall at an angle of less than sixty (60) degrees from perpendicular: ten (10) feet.

(graphics) \*See Graphic #1 on Page 47

- b) Minimum horizontal distance between windows which face one another within an angle of less than ninety (90) degrees: fifteen (15) feet.

(graphics) \*See Graphic #2 on Page 47

#### 4.7.5.4 MINIMUM LIVING AREA PER DWELLING UNIT

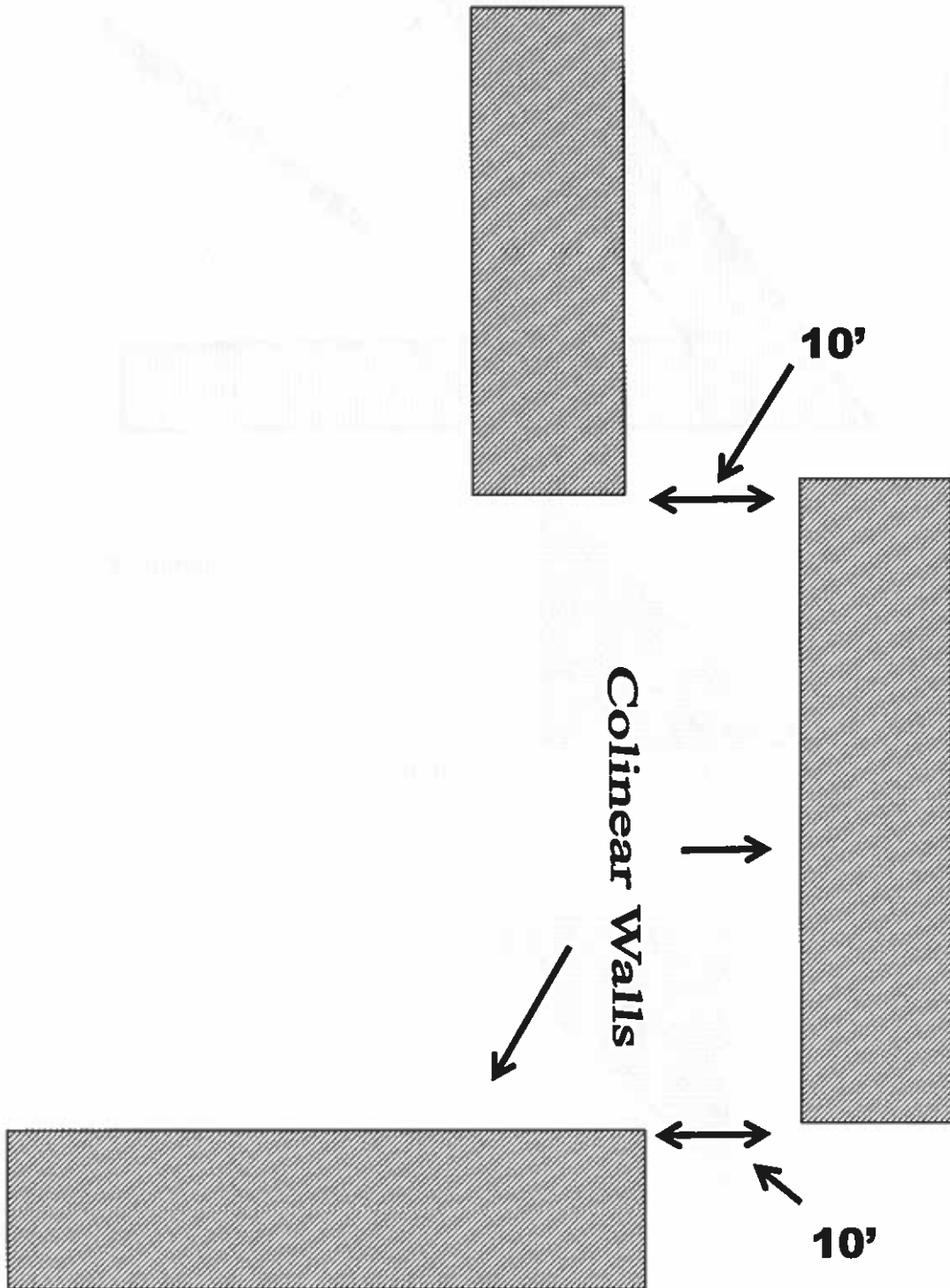
Minimum floor area shall be in accordance with Section 4.4.7 of the Zoning Regulations.

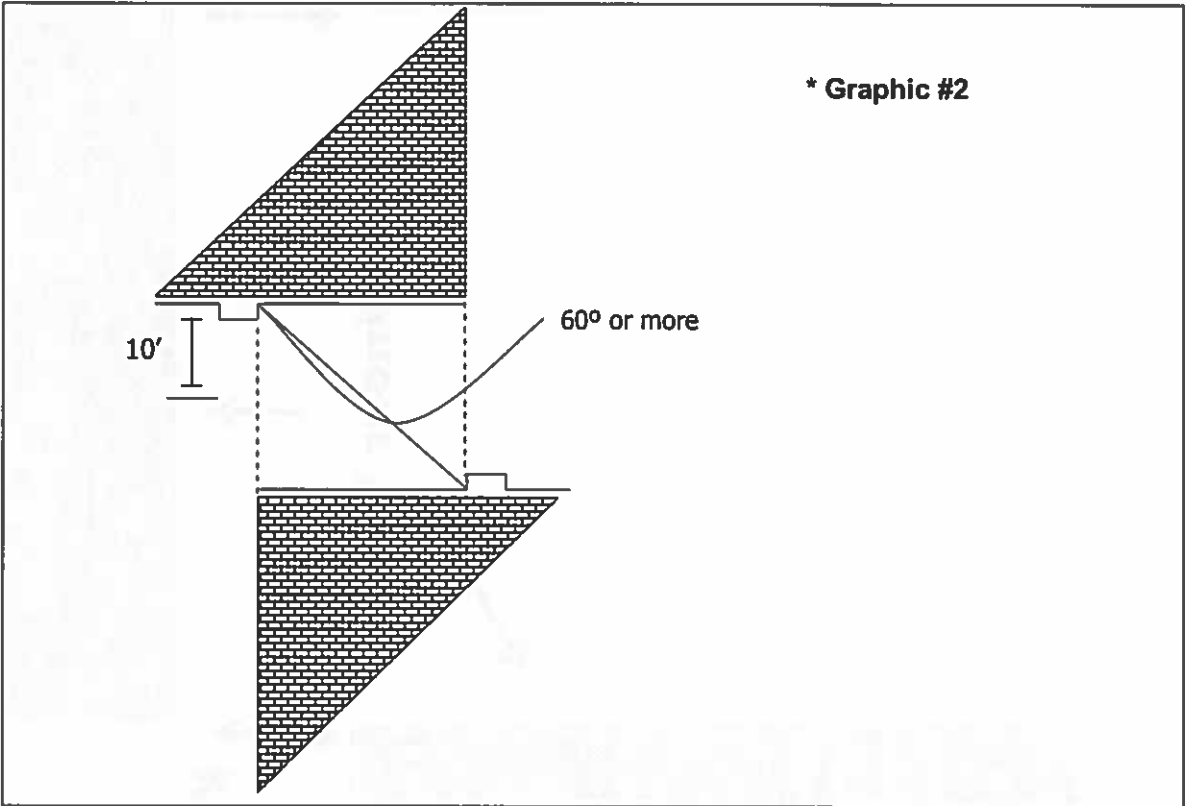
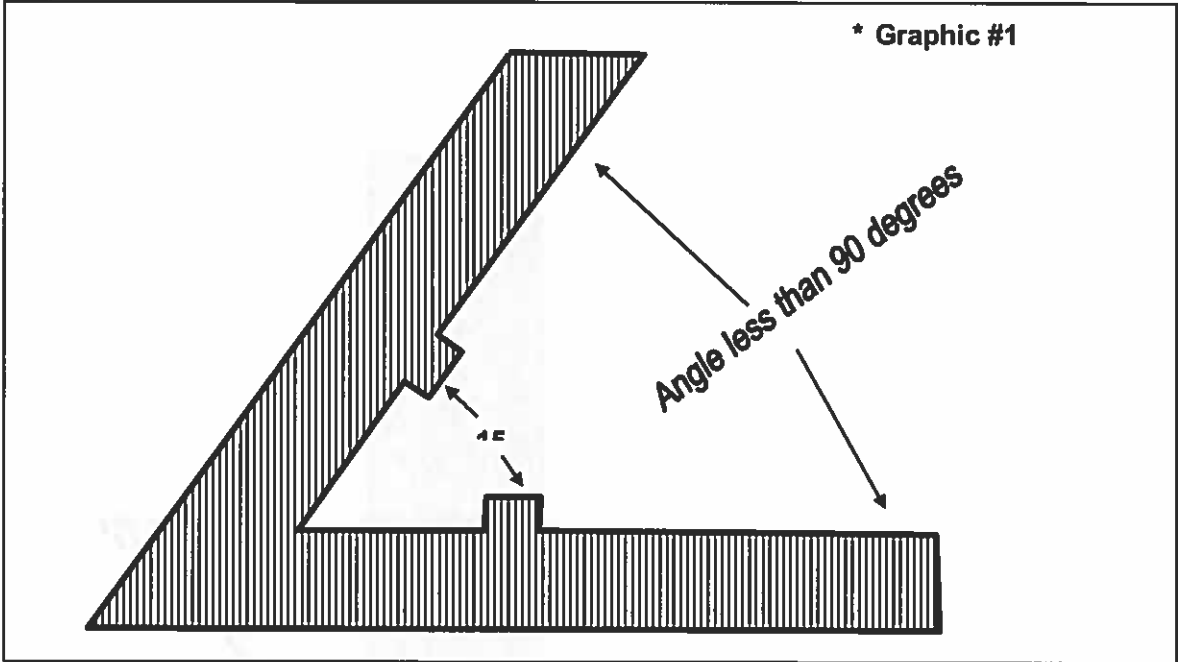
#### 4.7.5.5 UTILITIES

- a) The Planned Development shall be served by public sanitary sewers and by a public water supply system or a community water supply system as approved by the State Department of Health, the State Department of Environmental Protection and the Town Sanitarian.
- b) When a Planned Development is located in an area served by public sanitary sewers or a public water supply or when located within such a distance of such public sanitary sewer or water supply systems as to make extension thereof economically feasible, such public sanitary sewer and/or water supply system shall be extended at the expense of the owner or his agent to serve the Planned Development.
- c) Fire protection for the Planned Development shall be provided without cost to the Town by the installation by hydrants within 500 feet of all structures or as required by the Town Fire Marshall, or through the provision of adequate storage facilities for fire-fighting purposes.

#### 4.7.5.6 CIRCULATION

- a) A Planned Development area shall be served from or have access to an accepted, improved Town Road or State Highway.
- b) Interior streets and driveways shall be designed to eliminate through traffic, reduce traffic speeds and provide for adequate circulation within the development.
- c) Walkways shall provide pedestrian access to and between residential structures, supporting facilities and open space, and shall be separated from vehicular traffic wherever reasonably possible.





**4.7.5.7 PARKING**

*\* This Section has been relocated to Section 9.13.*

**4.7.5.8 OPEN SPACE**

- a) All land not used for the construction of dwellings or supporting facilities, i.e. parking, vehicular circulation or private yard, shall be considered open space. It shall be so arranged and defined that its area, permanent use and control can be established. Except when required for Town use, it shall be dedicated for use by the residents of the Planned Development with adequate controls to assure its maintenance and with restrictions or covenants prohibiting or restricting building on it.
- b) Usable open space shall be provided in the minimum amount of 600 sq. ft. per dwelling unit, in accordance with the provisions of Section 3.18.5 of the Regulations.
- c) The area of a balcony, reserved for the exclusive use of a dwelling unit, may be counted at twice its net area in meeting the required usable open space per dwelling unit, provided such balcony:
  - 1) Has no side less than six (6) feet;
  - 2) Contains not less than seventy (70) square feet of usable area;
  - 3) Is open for the full length of its longest dimension to a yard or court, except for a protective railing.
- d) Required yard areas shall not be included in the computation of usable open space.

**4.7.5.8 LIGHTING****a) Building Lighting**

- 1) All light fixtures for the purpose of illuminating buildings or ground shall be directed away from **residence** or rural zones and away from neighboring residential uses.
- 2) Light fixtures shall not be over fourteen (14) feet above the ground and light sources shall be so shielded that direct light or glare shall not extend into any residence or rural zone, nor extend beyond the property lines of the premises using such lighting.

b) Parking Lot Lighting

Where a parking lot to be lighted at night contains more than five (5) car spaces, any light fixtures used for such illumination shall be limited to 20 feet in height above the ground, with the sources of light shielded so that direct light or glare shall not extend onto the ground in any residence or rural zone, nor extend beyond the property lines of the premises containing such parking lot. The Commission may permit lighting fixtures at a greater height above the ground, provided the Site Development Plan contains data which, in the judgment of the Commission, will assure carrying out the purposes of this section.

4.7.5.10 SIGNS

- a) One (1) sign limited to two (2) square feet of area identifying the occupant of the premises.
- b) On individual lots which are for sale or for rent, not more than two (2) temporary real estate signs limited to four (4) square feet each, advertising the sale, rental or lease of the premises.
- c) One (1) temporary sign limited to twelve (12) square feet, designating the owner, individual(s) or firm(s) or other pertinent data relating to a construction project. Such sign shall be removed within five (5) days after the issuance of a Certificate of Occupancy.
- d) One (1) permanent planned development sign, limited to twelve (12) square feet, identifying the planned development tract, may be constructed at each entrance road.
- e) For business and professional office uses only, one (1) sign limited to twenty-four (24) square feet in area, provided that the sign does not exceed six (6) feet in any dimension. The area of any sign or signs attached to or painted on a building shall not exceed 10% of the area of the wall to or on which such sign or signs are attached or painted.

4.7.6 METHOD OF OWNERSHIP

- 4.7.6.1 Units within buildings constructed in a Planned Development may be for sale or rental in individual, public, cooperative or condominium ownership. Ownership of units may include a portion of the land adjacent to each unit. Land to be owned in conjunction with structures, all easements and common areas shall be shown on drawings and specified in documents. Documentation which is acceptable to the Commission, as to the organization and incorporation of applicable ownership association shall be submitted to the Commission. All open space, other than that accepted by the Town, and supporting facilities shall be under specified common ownership with provision for



maintenance, liability and the rights of access and use be residents of the Planned Development.

**SECTION 4.7, PLANNED DEVELOPMENT ZONE ELIMINATED FROM THE REGULATIONS.  
EFFECTIVE DATE 4-23-2009.**

**Section 5 — Rural Districts****5.1 USES PERMITTED**

- 5.1.1 Any uses permitted in a residence district.
- 5.1.2 Seasonal cottages in any rural zone of the New Haven Railroad tracks, Rowley Street, and North Main Street, subject to the provisions of Sections 4.1.1.2 and 4.1.1.3 above.
- 5.1.3 The display and sale of farm or garden produce raised on the premises.
- 5.1.4 A golf, tennis, or similar club, whether operated for profit or not, provided that the furnishing of rooms, meals, refreshments, beverages, entertainment or similar activities is only incidental to the principal activity, and provided that such club is located on a plot of not less than five (5) acres, and that no structure is located within 75 feet from any street line, and no activity is carried on which results in objectionable noise audible off the premises.
- 5.1.5 Commercial kennels, livery and boarding stables, riding schools and veterinary hospitals, provided that they are on lot of not less than five (5) acres, and that no dogs are kept in any structure or enclosure within 50 feet from any property line.
- 5.1.6 Livestock auctions after approval of the Zoning Board of Appeals, provided provisions for safe movement and parking of traffic is accrued.
- 5.1.7 A hotel having sleeping accommodations for fifteen (15) or more guests, subject to the following regulations:
  - a) The lot area shall be not less than five (5) acres and not less than 7,000 square feet for each sleeping accommodation.
  - b) Restaurants, bars, capacity rooms for public entertainment, shall have an aggregate at one time not in excess of twice the number of sleeping accommodations.
  - c) All buildings shall be not less than 150 feet from any lot line except where adjacent to a business or industrial district.
- 5.1.8 A private hospital, sanatorium or clinic, provided that the lot shall contain not less than 7,000 square feet for each patient accommodation, but excluding hospitals for the treatment of the insane, or for alcohol or drug dependency treatment; provided, however, that where connected before occupancy to a public water and sewer system, the lot shall contain not less than 1,500 square feet for each patient accommodation.

- 5.1.9 A restaurant, or tearoom, provided that the lot area shall be not less than five (5) acres, and no less than 4,000 square feet for each seating accommodation, and that all structures used for such purposes shall be not less than 150 feet from any lot line.
- 5.1.10 Commercial greenhouses, provided they are located not less than 100 feet from any lot line.
- 5.1.11 Accessory uses customarily incidental to a permitted use on the same lot, including buildings used for permitted home occupations. Accessory buildings may be used for dwelling purposes, provided that the total number of family dwelling units on any lot is not greater than permitted by this Section. Accessory uses may also include the storage of not more than two (2) commercial vehicles belonging to the resident of the premises, provided such vehicles are kept not less than 150 feet from any street line and not less than 50 feet from any other property line.

#### **5.1.12 SPECIAL USES IN RURAL RESIDENCE DISTRICTS**

The Commission, after a public hearing, may approve the following Special Uses, subject to the proper safeguards to protect the public health and safety, to conserve the value of adjacent properties, and to provide for the highest and best uses of land within the purposes of these regulations.

#### **5.1.12.1 COMMERCIAL RECREATION**

A Commercial Recreation area, on a parcel of land containing not less than 20 acres of land devoted to one or more of the following uses, provided that the Commission shall find, in its judgment, that such special use:

- a) is consistent with the Plan of Development of Winchester;
- b) will cause no hazards to health, safety, and property from fire, accident, sanitary and drainage conditions, excessive traffic, noise, vibration, odor, or other nuisance;
- c) will not add undue traffic to local streets or storm drainage beyond their reasonable capacity;
- d) conforms to the proper standards of traffic access and egress and fire protection;  
and

e) All commercial recreation uses that exist at the time of this amendment, and otherwise meet all the requirements of Section 10 of the regulations, may continue. Notwithstanding the foregoing by July 15, 2009, all such commercial recreation uses must obtain a special permit under the terms of Section 5.1.12. et. Seq. In recognition of the legal nonconforming nature of such commercial recreation uses, the Commission may in their discretion waive portions of this regulation so as not to unreasonably interfere with the continuing legal nonconforming use of the

property. The Commission at its discretion may accept Special Permit Applications from existing camps which do not fulfill all the Site Plan requirements.  
*Amended 6/8/2009.*

#### **5.1.12.2** SITE PLAN REQUIREMENTS

Application for a Special Use for Commercial Recreation shall be accompanied by a Site Plan, showing the boundaries of the property and all roads and structures within 500 feet of the property, together with:

- a) proposed roads, parking areas, and any required drainage and sanitary facilities;
- b) location of proposed structures and the limits of areas of proposed activities, together with a specific list of the proposed use or uses, including daytime and nighttime activities;
- c) applicable information required to assure conformance to the design criteria;
- d) application fee of \$50.00;
- e) where the use of trailers is to be provided as an accessory to a Commercial Recreation use, the additional requirements of Section 11 (Trailers) of these regulations shall apply, except as modified by the Commission.

#### **5.1.12.3** DESIGN AND OPERATING CRITERIA

Design and operating criteria governing the location and construction of improvements, structures and facilities, shall include the following:

- a) A Special Use for Commercial Recreation may be granted only for a tract of land containing not less than 20 acres, located in Rural (RU) Districts.
- b) No structure, except a single family dwelling, and no recreational activity, except a golf course, shall be closer than 100 feet to the nearest public highway, nor closer than 250 feet to the nearest dwelling located under other ownership on the same side of the highway, except that, where public and private safety are protected, activities, such as horseback riding and snowmobiling trails, may be permitted closer than 100 feet to highways, as shown on the approved plan.
- c) Off-street parking: *\*This section has been relocated to Section 9.14.*
- d) **The volume of sound from music and public address systems shall be so controlled as to prevent objectionable noise off the premises.**  
*Amended 6/28/2010.*

- e) All planned group outdoor barbecue activities shall terminate at 10 p.m., and all other outdoor activities shall terminate at midnight, but this shall not prohibit the individual campers or families from outdoor cooking for a small group until a reasonable hour.
- f) Banquets, meetings, stage presentations and dancing shall be held inside a building, but this shall not prevent presentation outside a building of athletic exhibitions or contests requiring outdoor facilities.

#### **5.1.12.4** USES PERMITTED IN COMMERCIAL RECREATION

Uses permitted under a Special Use for Commercial Recreation shall include only the following permitted uses and any approved combination thereof;

- a) Outdoor athletic activities, including facilities for skating, skiing, snowmobiling, sledding, swimming, squash and tennis, but expressly prohibiting all other terrain vehicles, including motorcycles, minibikes and similar vehicles.
- b) A golf course of not less than nine (9) holes as a principal recreational use, and a par three (3) golf course of putting greens and driving range, as accessory to a major recreational facility, but expressly prohibiting miniature golf, putting greens and driving ranges as a principal use.
- c) Riding academy or hunt club as a principal use, and the keeping and boarding of horses for riding, instruction, and exhibition, as accessory to a major recreational facility.
- d) Outdoor picnic facilities, including barbecue pits and outdoor fireplaces, as an accessory use to a major recreational facility.
- e) Social and recreational facilities for dining and dancing, including banquets, meetings, receptions, assemblies and entertainment, provided such activities are accessory to and part of an indoor-outdoor recreational enterprise and are carried on inside a building.
- f) Motel, lodge or inn, furnishing lodging and/or meals to transients, as accessory to a recreational use, but not as a principal use, provided that no living accommodations that include cooking facilities shall be occupied by persons other than those employed on the premises for more than 30 days between October 1st and the next following May 15th.
- g) The rental of campsites as a part of a Commercial Recreation operation is permitted, subject to the following conditions:

- 1) Campsites may be occupied by a mobile home (an independent trailer containing built-in cooking and bathroom facilities), trailer, camp trailer, or tent, but not by any type of permanent building.
  - 2) Campsites may not be occupied between October 15th and the next following May 15th, except that between December 1st and the next following March 15th, a camper and family may occupy a campsite for not more than 14 days in any consecutive 30 day period.
  - 3) Campsites shall conform to the design criteria in Section 5.1.12.7 hereinafter, and campsites provided for trailer use shall further conform with the applicable requirements of Section 11 of these regulations.
- h) Activities similar to those listed above, that are commonly provided by such organizations as day camps, swimming and tennis clubs, other recreational enterprises, and that are listed in the application and on the site plan, may be approved by the Commission subject to such additional safeguards as the Commission may require.
- i) Except as provided above, residential use shall be limited to existing dwellings and new accommodations for persons employed on the premises only.
- j) Accessory uses and structures customarily incidental to a permitted use.
- k) One sign is permitted at the main entrance to the premises, containing not more than 20 square feet. External lighting only is permitted with the light sources shaded to prevent glare on any adjoining property. Animated, flashing and oscillating signs are not permitted. Notwithstanding other provisions of these regulations, directional signs not extending one square foot each in area may be permitted when approved by the Commission.

#### 5.1.12.5 APPROVAL BY THE COMMISSION

Approval by the Commission of a Special Use for Commercial Recreation shall be based solely on an approved site plan, filed with the Commission which shall clearly show the locations of structures, construction, improvements, outdoor lighting, and the limits of the open areas of outdoor activities, together with a list of the uses, and accessory uses included as a part of the Special Use.

- a) The applicant may submit, and the Commission may approve, minor amendments to an approved site plan, provided that any amendments that extend the limits or the number or kinds of activities or structures, or scope of lighting, shall not be approved until after a public hearing. The Commission may make a determination that minor camp improvements which meet the requirements of this section will only require a Building Permit. Amended 6/8/2009

- b) Any expansion of the number or kinds of activities or structures, or scope of lighting, will require submission of an amended plan, a public hearing, and Commission approval.
- c) Unless otherwise extended by the Commission, approval of a Special Use for Commercial Recreation shall become null and void two (2) years after approval, unless a substantial part of the facilities is in operation.

#### **5.1.12.6 BUILDING PERMIT**

No building permit shall be issued for construction except in accordance with the approved site plan for a Special Use for Commercial Recreation. No certificate of occupancy shall be issued until the protective requirements and public improvements shown on such site plan have been completed.

#### **5.1.12.7 CAMPSITE DESIGN CRITERIA**

The following requirements shall apply to the layout, construction, and operation of facilities permitted under Section **5.1.12.4** above.

Provision shall be made for furnishing adequate potable water, sanitary sewage disposal, and collection and disposal of garbage and waste materials in conformance with State and local ordinances. A 110-volt electric outlet shall be provided at each campsite in not less than 40% of the total number of campsites.

Approval of the plans by the Winchester Director of Health is required before approval of a special use, and certification by him of construction of sanitary facilities in accordance with the approved plans is required before issuance of a certificate of occupancy. State Board of Health and State Water Commission's approval is required where applicable.

- a) Potable water shall be furnished by a piped pressure system, with one outlet on each independent campsite, in not less than 40% of the total number of campsites, and one outlet for not more than 10 dependent campsites (tents and camp trailers).
- b) Sanitary sewage disposal shall be by a piped system, with one trapped connection on each independent campsite, and one connection to community toilet and waste facilities, which shall serve not more than 10 dependent campsites. No septic tank or drain field shall be connected to fewer than 20 campsites, nor be located on land allocated to individual campsites.
- c) Where required, a community toilet facility, to serve not more than 10 campsites, shall consist of shower stall, a lavatory, and a water closet, separated for each sex, suitable screened from campsites, and such facility shall be located not more than 250 feet from the farthest campsite served. Where, in the judgment of the



Commission, unusual conditions of topography, soils seepage, or other natural features, prevent strict adherence to the above standards, the Commission may approve combining toilet locations, or a greater distance between such facilities, so long as the safety and convenience of the campers are not jeopardized.

- d) Garbage and waste collection stations shall be located so as to serve not more than 10 campsites, and shall be substantially screened, or daily collections shall be made from insect-tight containers.
- e) The location, materials of construction, and storage of fuel, for outdoor cooking facilities of any kind, shall be subject to the approval of the Fire Marshal, and no outdoor cooking shall be allowed except for at approved locations. Subject to the above, open fireplaces and Coleman type stoves are permitted, if approved kind.
- f) Roads and driveways adequate for the purpose intended, and adequate provisions for storm drainage, shall be subject to the approval of the Commission. All roads shall provide free movement for fire equipment.
- g) Each campsite shall contain not less than 3,000 sq. ft. of area for the exclusive use the site occupants, provided that there shall be not more than 10 campsites per gross acre devoted to such sites exclusive of all public open spaces. This shall not prohibit campsites of less than 3,000 sq. ft. each in the case of a bona-fide group, camping in fields for a period not to exceed three (3) days.
- h) Except in the case of group camping noted in (g) above, each campsite shall have not less than twenty-five (25) feet frontage on an access driveway or way connecting ultimately to a public street, and an average width not less than fifty (50) feet, and a minimum depth of sixty (60) feet.
- i) Each campsite shall have an open yard, unoccupied except for trees, planting, or fencing, 10 feet wide, along each campsite boundary line, but this shall not prevent two families from using the adjoining yards on two-adjointing campsites for camping purposes.
- j) Campsites shall be so arranged that the natural plants and trees, terrain and scenic assets shall be preserved, that each campsite has access to a public way, but is visually private and protected from other campsite, and that emergency vehicles have proper and safe access to substantially all of the campsites.

#### 5.1.13 ROADSIDE-ORIENTED LIMITED RETAIL ENTERPRISES

5.1.13.1 A small retail enterprise, store, or shop, provided:



- a) The business is conducted in a residential dwelling occupied by only one family of the owner or operator of the establishment.
- b) Any structural alteration or additions, or new construction, shall be in the scale and character of the residential dwelling and the neighborhood.
- c) Adequate off-street parking shall be provided, not closer than 50 feet to the street right-of-way, nor closer than 50 feet to the nearest residential structure on property under other ownership.
- d) One (1) sign only, not to exceed six (6) square feet in area, is permitted in the front yard not closer than 20 feet to the street right-of-way line, with any lighting white only, steady and not moving or flashing, with the light source shaded from the street and from adjoining property lines.
- e) There shall be no outdoor display of merchandise or articles, except that an antique (non-automotive) vehicle may be displayed in connection with an antique shop.

Uses permitted may include an antique shop, gift shop, tea room, or use that the Commission shall find to be similar as traffic generate, extent of the enterprise, noise or odor generated, and compatibility of the use in the neighborhood. Any accessory uses shall be limited to those clearly defined in the application, and shall be made a part of the approval of the Special Use. Where applicable, in the judgment of the Commission, "Site Plan of Development" may be required to clarify approval in a specific application.

**5.2 REQUIRED (MINIMUM) LOT AREA, WIDTH, YARDS, COVERAGE, HEIGHT**  
**RURAL (RU) ZONES**

DIS- TRICT	MIN. LOT AREA (SQ. FT.)	MIN. LOT WIDTH (FEET)	MIN. LOT AREA PER FAM. UNIT (SQ. FT.)	MIN. FRONT YARD (FEET)	MIN. SIDE YARD (FEET)	MIN. REAR BLDG. YARD (FEET)	MAX. COV. (%)	HEIGHT (FEET)
RU-1	40,000	150	30,000	50	35	35	10	30
RU-2	30,000	125	20,000	50	30	35	10	30
RU-3	85,000	200	50,000	50	50	35	10	30

**SECTION 6 — COMMERCIAL DISTRICTS****6.1 USES PERMITTED IN CA DISTRICTS**

- 6.1.1 Any use lawfully existing on the effective date of these Regulations shall be considered a permitted use, but such existing uses not listed below in Section 6.1 shall not be expanded more than 25% of their present floor area.
- 6.1.2 A hotel without the limitations of Section 5.1.7, provided that the building is supplied with water from a public water supply and is connected to the municipal sewer system.
- 6.1.3 A restaurant without the limitations of Section 5.1.9.
- 6.1.4 A commercial greenhouse, without the limitations of Section 5.1.9.
- 6.1.5 Boarding and rooming houses.
- 6.1.6 Business or professional offices.
- 6.1.7 Financial institutions.
- 6.1.8 Undertakers establishments.
- 6.1.9 Cold storage locker plants having not over 400 individual lockers.
- 6.1.10 Washing machine rental establishments and laundries not using steam.
- 6.1.11 Theaters for indoor motion picture projection or dramatic or musical productions.
- 6.1.12 Research laboratories, provided that there is no manufacture or processing of material, except as incidental to research and experiment, and provided that no operation is carried on which results in objectionable noise, smell, smoke, or fumes noticeable off the premises.
- 6.1.13 Tourist cabin establishments, or motels, having not less than five units built on permanent foundations, with running water and inside flush toilets, provided that the lot area shall be not less than 2,000 square feet for each guest sleeping accommodation, but this paragraph shall not permit trailer camps.
- 6.1.14 A retail business or retail service occupation listed below, including the manufacturing or processing of materials only as incidental to a permitted retail occupation;
- Bakery, catering establishment, or confectionery store;
  - Barber shop or beauty parlor;
  - Book or stationery store;

Clothing, tailoring, dressmaking;  
Cleaning agency, including clothes pressing by hand, and incidental hand cleaning with non-flammable liquids;  
Laundering agency, washing machine rental establishment, and home laundry not using steam;  
Drugs, toilet articles, dry goods and notions;  
Florist shop, garden and farm supplies or equipment;  
Furniture, interior decorating, hardware, radios, electrical or household appliances;  
Gift, antique or art, or jewelry store;  
Groceries, fruits, vegetables or meats;  
Shoes and shoe repairing;  
Retail package stores for the sale of wine, beer, or spirituous liquors;

- 6.1.15 Motor vehicle service stations for the dispensing of fuel and lubricants and minor servicing only.
- 6.1.16 Public parking areas.
- 6.1.17 Accessory uses customarily incidental to a permitted use, including garages for the storage of vehicles used in connection with a permitted use only.
- 6.1.18 Special Permit Uses: Any use permitted by special permit in residence districts may, by special permit, be permitted in the CA District. Such uses shall meet the requirements of Section 4.1.14. *Adopted 3/27/89, Effective 4/1/89.*
- 6.1.19 The Commission may grant, after holding a public hearing, a special permit for the operation of certain types of commercial for-profit outdoor recreational businesses such as miniature golf courses, baseball batting cages, golf driving ranges, and other similar types of outdoor recreational businesses. In granting a special permit for the above-described activities, the Commission must find the proposed activity:
- Will not create traffic hazards or traffic volumes beyond the capacity of the existing road networks;
  - Will not have a depreciating effect on the neighborhood;
  - Will conform to all other applicable sections of these regulations;
  - Will be subject to such further conditions as deemed necessary by the Commission to protect the public health, safety, convenience, and property values.

Applications for the above-described activities must include a site plan of development which shall contain all of the information required in Section 6.3.2 of these regulations, subsections (a) through (d) inclusive. Approval by the Commission of the Site Plan of

Development must be obtained before a special permit is granted. *Adopted 5/29/90, Effective 6/8/90.*

**6.2 USES PERMITTED IN CB DISTRICTS**

- 6.2.1 Any use permitted in CA districts.
- 6.2.2 Wholesale trade carried on entirely within a building or enclosure not less than eight (8) feet high.
- 6.2.3 A newspaper or printing plant.
- 6.2.4 Assembly halls, dance halls, billiard and pool parlors, bowling alley, and similar places of public recreation operated as a business.
- 6.2.5 Storage warehouses, except cold storage.
- 6.2.6 Public garages, motor truck terminals and automobile or machinery repair shops, including welding and tire recapping, provided that all mechanical and repair operations are carried on in a building or within an enclosure not less than six (6) feet high.
- 6.2.7 Automobile trailer, and farm equipment sales rooms, outdoor sales area, provided that no goods are displayed in the front yard. Retail stores, gasoline stations, auto showrooms with a repair garage as an accessory use, business and professional offices.
- 6.2.8 Public utility structures, including storage yard or electrical substation but excluding electric generating or gas manufacturing plants.
- 6.2.9 Plants for the processing and distribution of milk and edible dairy products, and for the bottling or packaging of beverages, pharmaceutical or toilet preparations, perfumes, and similar products.
- 6.2.10 Retail lumber, fuel and building materials yards, storage and distribution of bottled gas, contractor's equipment storage, provided that all materials are kept in a building or within an enclosure not less than six (6) feet high, but excluding the bulk storage of cement and concrete mixing, and excluding tanks for petroleum products located above the ground.
- 6.2.11 Accessory uses customarily incidental to a permitted use.
- 6.2.12 Special Permit Uses as permitted in the CA District. *Adopted 1988, Amended & Adopted 3/27/89, Effective 4/1/89.*

**6.3 COMMERCIAL EXPANSION DISTRICTS CX**

6.3.1 Any lot, or contiguous group of lots, may be designated a CX District in accordance with the requirements of this Section. Premises in any CX districts shown on the Zoning Maps, and in any CX districts created under the provisions of Sections 6.3.5a through 6.3.5j hereafter, only after meeting all of the following requirements and under the following conditions:

- a) The Commission shall determine that such commercial expansion is necessary and desirable for the future development of the Town, and is in accordance with the Commission's development of the Town Plan.
- b) That such commercial expansion is subject to proper restriction to protect the public health, welfare and safety, and will not depreciate the character and value of adjoining properties.
- c) The required area and width, yards, building heights and lot coverage shall be as required for CB-2 districts.
- d) Parking and loading requirements of Section 9 hereafter shall apply.

6.3.2 The owner, owners, or agent thereof of any tract of land which meets the requirements of this Section may submit to the Commission a proposed plan of development showing all information required herein. Such plan of development shall include and show:

- a) Proper provision for vehicular traffic, control of entrance from and exit to highways, adequate parking and unloading facilities;
- b) Proper provision for pedestrian traffic, including sidewalks where required;
- c) The relation of proposed structures and facilities to the estimated future development of the district as a whole;
- d) Proper provision for water supply, and for the disposal of storm water and sanitary sewage, in accordance with the zoning and subdivision regulations of the Town of Winchester;
- e) Assurance to the Town, in a manner satisfactory to the Town's Attorney, that the developer will not less than 18 months after approval of the plan of development, erect and complete a commercial building or buildings, containing not less than 5,000 sq. ft. of floor space above the cellar.
- f) Provide an outline of the substantive provisions of all documents to be created to regulate and enforce the maintenance of common areas, including driveways,

walkways, parking lots, and landscaping. Included shall be provisions stating that maintenance of common areas will be the responsibility of the owners and provisions for enforcing that responsibility. *Amended and Adopted 5/8/89, Effective 5/16/89.*

- 6.3.3 Except for driveways giving access to public streets, all structures, driveways, and parking areas shall be not less than twenty-five (25) feet from the nearest property line abutting any residential zone.

6.3.4 In Commercial Expansion District CX, where any lot or part thereof adjoins a Residence Zone or Rural Zone, a landscaped strip fifteen (15) feet wide shall extend the length of such zone boundaries, seeded to grass and properly planted to trees and shrubs to insure a proper break between Commercial and Residence/Rural Zones. The Commission may waive the requirements for all or parts of such landscape strips where topography, permanent natural features, public land, or lack of residential development on adjacent properties accomplishes the separation of commercial and residential uses. Plans showing the work to be done, with assurance of completion and future maintenance satisfactory to the Town Attorney, shall be filed with the Commission before a permit is issued to use such lot or portion thereof for any use. Failure to maintain such strips shall constitute a violation of these regulations by the owner of such lot or portion thereof.

6.3.5 PERMITTED USES

- a) Any uses permitted in the zone district or districts of which the CX district formerly was a part;
- b) Retail stores, gasoline stations, auto showrooms with a repair garage as an accessory use, business and professional offices;
- c) A park, beach, or recreational use operated for profit that is permitted by the Zoning Regulations;
- d) A motel for the use of transients, only;
- e) Hotels, inn, or restaurant other than dining car or diner;
- f) Publishing, including newspaper and job printing;
- g) Shop for custom work, including repair and fabrication;
- h) Any fabrication, manufacturing, industrial, or research operation non-prohibited, and which will not constitute a public hazard or create obnoxious noise, vibrations, dust, fumes, odors, or smoke, provided not more than 50 persons are employed on one lot at any one time, and provided further, that buildings housing such uses shall be in

harmony with commercial buildings in the same CX district and such uses will not be detrimental to or depreciate the development character or value of adjoining property.

- i) Accessory uses and buildings customarily incidental to a permitted use.
- j) Notwithstanding the above, nothing in these regulations shall prohibit in a CX district the continuance or improvement of an existing residential use. The Building Inspector may issue a permit for the repair, alteration, or reconstruction of a residential dwelling provided there is no further encroachment into required yards, and provided further that there shall be no increase in the number of dwelling units on any lot.

6.3.6 When, in the opinion of the Commission, a plan of development for a CX district meets all of the requirements herein, the Commission will approve submission of the plan to a public hearing.

- a) Within 60 days after such approval, the Commission shall hold a public hearing, filing in the office of the Town Clerk the plan of development, and a copy of the amendment to zone boundaries, in accordance with Chapter 124 of the Connecticut General Statutes, Rev. of 1958, as amended;
- b) After a public hearing, should the Commission adopt a zone change establishing a Commercial Expansion District, the plan of development shall be recorded in the records of the Town Clerk's Office and shall also be included in the plan of development of the Town.

6.3.7 Special Permits: Special Permit Uses as permitted in the CA district.  
*Amended & Adopted 3/27/89, Effective 4/1/89.*

**6.4 REQUIRED LOT AREA, WIDTH, YARDS, COVERAGE, HEIGHT**  
**COMMERCIAL ZONES**

DISTRICT	MIN LOT AREA (SQ. FT.)	MIN. LOT WIDTH (FEET)	MIN. LOT AREA PER FAMILY UNIT (SQ. FEET)	FRONT SET- BACK (FEET)	SIDE SET- BACK (FEET)	REAR SET- BACK (FEET)	BLDG. COV. (%)	HEIGHT (FEET)
CA-1, CB-1	40,000	150	20,000	50	20	50	25	30
CA-2, CB-2	15,000	80	10,000	40	12	40	33-1/3	30
CA-3	6,000	50	3,600	25	10	30	50	30
CB-3	10,000	80	3,600	25	10	30	50	30
CX	40,000	200	9,000	50	15	30	25	30

**6.5 REDUCTIONS: MINIMUM FRONT YARD**

In CA-3 and CB-3 Districts, the minimum front yard may be reduced by the Commission where a majority of existing buildings of substantial character on the same side of the street, and in the same block as and within 200 feet of a proposed building, are located at a lesser distance from the street. *Adopted 7/22/91; Effective 8/25/91.*

**6.6 REDUCTION: MINIMUM SIDE YARD(S)**

In CA-2 and CB-2 Districts, upon agreement of the owners of two (2) adjacent lots duly recorded in the Land Records of the Town of Winchester, one minimum side yard only of each lot may be omitted, and buildings built on the common side lot line, provided that the party or other walls separating them are of fire wall construction conforming to the State Building Code for the use category. Except in case of a building on the side lot line, no side yard (in a CA-2 or CA-3 District) shall be less than twelve (12) feet.

**6.7 OMISSION OF MINIMUM SIDE YARD(S)**

In CA-3 and CB-3 Districts, one (1) side yard may be omitted, and if the rear yard of the lot has access by alley or other right-of-way not less than twelve (12) feet wide to a public street, both side yards may be omitted, provided that all party or other walls of buildings where built on the lot line are of fire wall construction conforming to the State Building Code for the use category.

- 6.7.1 No side yard shall be less than twelve (12) feet in width, except as permitted in Section 6.7 above.

**6.8 BUFFER**

A lot in any Commercial District, where adjacent to the boundary of a Residence, HL District or Rural District, shall have a strip not less than twelve (12) feet in width along such boundary, which strip shall be suitably landscaped and not used for parking or for any purpose prohibited in such Residence or Rural District.

**6.9 REDUCTION IN YARDS IN CX DISTRICT**

On an existing lot in a CX District where the average lot depth is less than 140 feet, the minimum front and rear yards may be reduced by fifty percent (50%) provided that no front yard so reduced shall be nearer to the street line than the front yard of an existing building on the next adjoining lot on each side.

**6.10 CX-1 ZONE****6.10.1 PURPOSE**

The CX-1 Zone is established in order to provide for limited retail and service type uses within areas substantially developed and used for residential purposes. It is the purpose of the CX-1 Zone to provide a review process, standards, and use restrictions which will permit commercial uses while protecting existing residential development.



**6.10.2 REVIEW AND APPROVAL PROCESS**

Uses are permitted within CX-1 Zone only by special permit and only after site plan approval has been granted. Use of the site shall be limited to that use granted under a special permit, and any change in use shall require a new special permit and site plan approval. The Commission may make a determination that the change in use is not a significant change and under such circumstances site plan review shall be the only approval required. In reviewing applications for a special permit, the Commission shall consider the Special Exception standards contained in Section 4.1.14, as well as the following:

- a) The proposed hours of operation will not cause disruption, through noise, lighting, or other activities of the surrounding residential area.
- b) The proposed use will not require the outside storage of any materials nor the outside display of any merchandise.

A plan of development meeting the requirements of Section 6.3.2, subsections (a) thru (d), shall be submitted with the applications for zone change and special permit. Such plan shall demonstrate compliance with this and other applicable sections of the Zoning Regulations.

**6.10.3 SPECIAL PERMIT USES**

Uses which may be considered for the granting of a special permit are expressly limited to those listed in Section 6.1.14 with the following exclusions: gift, antique or art, or jewelry stores.

**6.10.4 BUFFER AREAS**

In order to insure the protection of abutting residential areas, buffer areas meeting the requirements of Section 6.3.4 shall be provided.

**6.10.5 DRIVES AND PARKING AREAS**

Except for driveways giving access to public streets, all buildings, driveways and parking areas shall not be less than 12 feet from any property line abutting a residential zone.

**6.10.6 LOT AREA**

Lot Area requirements shall be those applicable to CA-2 and CB-2 as contained in Section 6.4.

**6.10.7 HEARING**

Public Hearings, in accordance with State statutes, shall be held to consider the establishment of the zone(s) and granting of the Special Permit. Site plan review shall not require a public hearing.

**6.10.8 SIGNS**

Signs shall be in accordance with Section 12.5 except that no roof signs shall be permitted, and only one sign per business shall be permitted.

**6.11 PROFESSIONAL OFFICE OVERLAY ZONE****6.11.1 INTENT**

The professional office (P.O.) overlay zone is intended to provide for alternate non-residential uses for existing residentially zoned structures. It is an overlay zone, the extent of which is shown on the Official Zoning Map of the Town of Winchester. Uses as of right and by special permit in the underlying zone shall continue to apply. Professional office use as herein defined shall be permitted only as a special permit use subject to all of the requirements of a special permit under the zoning **regulation**, and only in those areas within the P.O. overlay zone. *Adopted 3/13/89, Effective 3/19/89.*

**6.11.2 SPECIAL PERMIT USES**

Special Permit Uses within the P.O. Zone shall be as follows:

- a) Doctors, dentists, and other recognized medical professionals.
- b) Lawyers, architects, surveyors, planners and others who by specialized training or education provide services of a professional nature.
- c) Real estate agents and insurance.
- d) No retail uses are permitted within the P.O. Zone.

**6.11.3 PARKING REQUIREMENTS**

*\* This section has been relocated to Section 9.15.*

**6.11.4 LANDSCAPING**

As a condition of granting a special permit for the professional office use, the Commission may require buffers within any required (minimum) yard to protect abutting residential properties.

**6.11.5 SIGNS**

Signs shall be restricted to one (1) sign per building which sign is not to exceed twelve (12) square feet in size and shall meet all of the applicable requirements of Section 12. Additionally, no roof signs shall be permitted in conjunction with a special permit for Professional Office Use.

**SECTION 7 — INDUSTRIAL DISTRICTS****7.1 USES PERMITTED IN IA DISTRICTS**

- 7.1.1 Any use permitted in CB Districts, without limitation of enclosure of floor area, provided that no human habitation shall be permitted other than the dwelling of a proprietor or caretaker.
- 7.1.2 Laundries, cleaning and dyeing works, and carpet and rug cleaning.
- 7.1.3 Cold Storage plants.
- 7.1.4 The manufacture, compounding, processing, packaging or treatment of beverages, food, candy, cosmetics, dairy products, drugs, ice, perfume, pharmaceutical, soap, toilet supplies. No operation involving the rendering of fats, oils or viscera is permitted, unless:
- a) there is no danger to public health, or of steam pollution created on or off the premises; and
  - b) the waste products of such operation are properly processed to inhibit release of objectionable or noxious solids, liquids, and/or gases off the premises.
- 7.1.5 The manufacture, compounding, assembling or treatment of articles from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious metals or stones, rubber, shell, textiles, tobacco, wood, yarns.
- 7.1.5.1 The manufacture and fabrication of products from all kinds of metals, including the casting and sundering of special high performance alloys, provided such work shall cause no objectionable odors or fumes outside the IA District in which located.
- 7.1.6 The manufacture and assembling of sheet metal products, signs, and billboard.
- 7.1.7 The assembly of electrical appliances, instruments, products and devices including the manufacturing of small parts.
- 7.1.8 The manufacture of sporting goods, toys, musical instruments and novelties.
- 7.1.9 Saw and planing mills and woodworking shops.
- 7.1.10 Machine and blacksmith shops.
- 7.1.11 Manufacture and storage of chemicals or plastics, provided that no objectionable odor is noticeable outside the IA District in which located.

- 7.1.12 Foundries for nonferrous metals causing no objectionable odors or fumes noticeable outside the IA District in which located.
- 7.1.13 The manufacture of concrete blocks.
- 7.1.14 Airplane and helicopter landing fields.
- 7.1.15 Hotels, Motels, Inns, and conference centers, by Special Permit  
*Adopted 8/9/99 Effective 9/1/99*
- 7.1.16 Accessory uses customarily incidental to a permitted use.
- 7.1.17 Special Permits: Special Permit Uses as permitted in the CA District  
*Amended & Adopted 3/27/89, Effective 4/1/89*
- 7.1.18 Adult Oriented Establishments by Special Permit in the IA-1 Zone Only.  
*Adopted 3/27/00 Effective 4/17/00*

## **7.2 USES PERMITTED IN IB DISTRICTS**

- 7.2.1 Any permitted use in IA Districts.
- 7.2.2 Automobile wrecking, and junk and scrap metal handling, provided that all operations are carried on within an enclosure not less than eight (8) feet high.
- 7.2.3 Metal fabrication plants, boiler works, drop forges.
- 7.2.4 Blast furnaces, foundries for ferrous metals.
- 7.2.5 Manufacture of pulp and paper products.
- 7.2.6 Manufacture and treatment of rubber products.
- 7.2.7 Manufacture and storage of coal, natural and acetylene gas.
- 7.2.8 Asphalt manufacture, treatment and storage.
- 7.2.9 Manufacture of bricks, tile and terra cotta.
- 7.2.10 Bulk storage of cement and concrete mixing plants.
- 7.2.11 Bulk storage of petroleum products.
- 7.2.12 Accessory uses customarily incidental to permitted uses.

7.2.13 Special Permits: Special Permit Uses as permitted in the CA District.  
*Amended & Adopted 3/27/89, Effective 4/1/89.*

7.2.14 Uses permitted in IB Districts shall not include, among others, the following.

7.2.14.1 Garbage and refuse incineration or dumping of matter not originating on the premises, except by the Town of Winchester.

7.2.14.2 Distillation of bones, rendering of fat or reduction of animal matter.

7.2.14.3 Manufacture of glue.

7.2.14.4 Oil refining.

7.2.14.5 Stock yards, or feeding pens, or the slaughtering of animals.

**7.3 REQUIRED (MINIMUM) LOT AREA, WIDTH, YARDS, COVERAGE, HEIGHT**  
**INDUSTRIAL ZONES**

Amended 6/9/04

DISTRICT	MIN. LOT AREA (SQ. FT.)	MIN. LOT WIDTH (FEET)	MIN. FRONT YARD(a) (FEET)	MIN. SIDE YARD(a) (FEET)	MIN. REAR YARD(a) (FEET)	MAX. BLDG. COV. (%)	MAX. HEIGHT(b) (FEET)
IA-1, IB-1	80,000	200	50	50	50	25	70
IA-2, IB-2	40,000	150	50	25	50	25	70
IA-3	20,000	100	25	12	30	3 1/3	70
IB-3	20,000	100	10	12	30	50	70

**NOTES:**

(a) The front, side, and rear yards shall be increased one (1) foot for each one (1) foot of building height by which said building height extends 35 feet, but such additional setback shall apply only to that portion or wing of the building that exceeds 35 feet in height.

(b) The Zoning Board of Appeals, after a report from the Fire Marshal, may grant, as a special exception, a greater maximum height, provided there will be no hazard or danger to public safety.

**SECTION 8 — EXCAVATION OF EARTH MATERIALS***Adopted 7/22/91, Effective 8/25/91***8.1 GENERAL PROVISIONS**

8.1.1 These regulations shall be applied to promote the following purposes:

- a) To regulate and control the excavation and removal of soil, loam, sand, gravel, clay, rock or any other earth material from and the deposit of fill material on land in the Town of Winchester.
- b) To control and regulate all excavation and removal of earth materials and the deposit of fill so as to prevent the creation of any safety or health hazard, including but not limited to soil erosion, stagnant water, water pollution, excessive drainage runoff to adjoining or adjacent property and to preserve land values.

8.1.2 No excavation or removal of earth material from land or deposit of fill on land or premises shall be commenced or conducted except in accordance with and subject to these regulations.

8.1.3 For the purpose of this Section:

- a) "excavation" shall mean to severance from the earth's surface or removal from the ground of soil, loam, sand, gravel, clay, rock, topsoil or any other earth material.
- b) "topsoil" shall mean earth materials, including loam, which are arable and constitute the surface layer of earth material.

8.1.4 Permits under this Section of these regulations shall not be required for:

- a) the construction of a well, driveway, utility line, septic tank and leaching area, fence, approved subdivision street or the landscaping of premises when in conjunction with either
  - 1) a bona fide construction activity for a residential dwelling, which is completed within six (6) months; or
  - 2) a use permitted by the zoning regulations or subdivision regulations, and provided said construction does not result in the removal of more than 300 cubic yards of earth material from the premises;
- b) the movement of earth material from one part to another part of the same premises, when it is reasonably necessary for the purpose of farming or landscaping; or

- c) an excavation which is made solely for a foundation or cellar hole, provided that either
- 1) the excavation is in conjunction with a bona fide construction activity for a residential dwelling, which is completed within six (6) months; or
  - 2) no more than 300 cubic yards of earth material are removed from the premises, not including an amount equal to the volume of the building or other structure being constructed below grade.

## 8.2 EARTH EXCAVATION SPECIAL PERMIT

Except as provided in Section 8.1.4, all excavation and removal of earth materials shall be allowed only as an Earth Excavation Special Permit use.

## 8.3 APPLICATION REQUIREMENTS

In addition to the conditions set forth in Section 4.1.1, an application for an Earth Excavation Special Permit shall be made subject to the following information, documents, and plans:

- 8.3.1 A survey prepared by a Connecticut licensed land surveyor and/or a Connecticut licensed Professional Engineer, to be drawn at a scale of not less than 1" equals 40' and describing the following: location of existing and proposed streets, watercourses, wetlands, wells, and septic systems; the details on regrading and revegetation of the premises; the area for stockpiling topsoil and the proposed means of access.
- 8.3.2 The existing contours and elevations and the final contours and elevations at 2' intervals.
- 8.3.3 Soil data, including boring or test hole logs and locations to finished grades shown on the plan. Such data shall show soil types and ground water table elevations.
- 8.3.4 Provisions for proper surface and subsurface drainage during excavation and after completion.
- 8.3.5 The acreage or square footage of the actual area to be excavated and the volume of material to be removed in cubic yards. Where the applicant expects to continue excavation under a renewal permit, the total volume in cubic yards of all material expected to be excavated shall be provided.
- 8.3.6 An estimate of the number, type and capacity of trucks, and identification of other equipment to be used on the premises. Location of existing and proposed access to the premises and interior roads.
- 8.3.7 The location and type of existing structures.

- 8.3.8 Details of grading and erosion control during construction, and for final grading and planting of the premises to prevent erosion and otherwise stabilize and to restore the premises in accordance with the requirements of the Soil Erosion and Sedimentation Control Regulations.
- 8.3.9 Written authorization to the Commission for inspection of the premises at any reasonable time by the Zoning Enforcement Officer and/or any other duly authorized representative of the Commission.
- 8.3.10 The application shall contain full information regarding the standards and regulations plus other such information as the Commission may require.

**8.4 REGULATIONS CONCERNING CONDUCT OF OPERATION**

In considering any application, the Commission shall evaluate the effect on adjacent property, property values, the public health and safety and the potential future use of the premises, the specific purposes set forth in Section 8.1.1 and the general purposes of these regulations. The Commission may approve a plan only when it is satisfied that the purposes of these regulations will be met and that the following conditions will be complied with:

- 8.4.1 All operations shall be conducted on the premises only between the hours of 7:00 a.m. and 5:30 p.m., local time, Mondays through Saturdays, inclusive, except such days and hours of operation may be expanded by the Commission upon its finding of good cause. No operations are to take place on Sundays and those legal holidays set by the State of Connecticut, without the prior approval of the Commission.
- 8.4.2 No more than three (3) acres may be opened up and excavated at any one time without specific authorization from the Commission.
- 8.4.3 No stationary machinery shall be erected or maintained within 100 feet of any property line, permit area line or street line.
- 8.4.4 No excavation shall take place within 50 feet, or such lesser distance as the Commission may specify upon its finding of good cause, of any property or street line regardless of elevation, and no shrubbery, grass or trees shall be removed from said foot strip until restoration begins.
- 8.4.5 Where leveling off is the intent of the applicant and where doing so would improve the properties of both the applicant and the adjacent property owner(s), the applicant may, after formal application and approval by the Commission, excavate and grade within the 50-foot setback area.
- 8.4.6 Where there is a commercial earth excavation operation, either new or existing, adjacent to another such operation, either existing or formerly excavated, the Commission may require the owner(s)/operator(s) of the contiguous properties to "mine through," removing the



- materials within the 50-foot buffer strips and blending the contiguous property line into a common grade.
- 8.4.7 A Connecticut licensed surveyor shall stake all corners of the permit area. A secondary staking shall be required 45 feet inside the permit area, in a manner acceptable to the Commission, in order to maintain the 50-foot setback.
- 8.4.8 When the depth of the excavation exceeds 20 feet, the distance from the property line or street line shall be increased not less than 1 foot for each additional vertical foot of excavation.
- 8.4.9 When excavation and/or removal operations are completed, or if a permit has expired and/or has not been renewed, the excavated area shall be graded to within 25 feet of the permit line, adjacent property line and/or street lines, so that the slopes and disturbed areas shall be no steeper than 1:3 (vertical to horizontal). A layer of topsoil shall be spread over the excavated areas, excepting exposed rock surfaces, to a minimum depth of four (4) inches, in accordance with the approved final grading plan. The Commission may approve other such methods in writing. Restoration shall take place within one (1) year following the completion of work or the expiration/non-renewal of a permit. Said area shall be maintained in a stabilized condition for a period of one year before the final bond shall be released by the Commission.
- 8.4.10 No building except a field office or temporary shelter for machinery shall be erected on the premises without specific written authorization from the Commission. No screening, washing, crushing or other form of processing shall be conducted upon the premises unless such activities are expressly allowed by the Commission as part of an approved Earth Excavation Special Permit. Any office, temporary shelter, or machinery shall be removed from the premises within six (6) months after the completion, expiration or non-renewal of a Permit, subject to extension of such period by the Commission for good cause.  
*Amended & Adopted 4/10/95, Effective 5/1/95.*
- 8.4.11 At all stages of the operation, proper drainage shall be maintained to prevent the collection and stagnation of water and to prevent harmful effects upon surrounding properties or roads. Blocked drainage ditches or culverts, or erosion on any street or highway shall be immediately removed by the owner or operator of the premises. Should the Town be required to cause the removal of such material for the safety of the public or for any other reason, the cost of such work shall be paid by the owner and/or operator of the premises.
- 8.4.12 During the period of excavation and removal, the Commission may require that barricades, fences or grassed berm, up to six (6) feet in height, be erected, as deemed necessary by the Commission, for the protection of pedestrians and vehicles and to buffer adjacent properties from the operation.

- 8.4.13 Overhanging slopes are prohibited. Except for temporary conditions during excavation, all soil slopes shall not exceed 1:3 (vertical to horizontal) and all solid rock faces shall not exceed 3:7:1 (vertical to horizontal) unless steeper slopes are expressly allowed or flatter slopes are required by the Commission as part of an approved Earth Excavation Special Permit. *Amended & Adopted 4/10/95, Effective 5/1/95.*
- 8.4.14 During the period of excavation and removal, the owner and/or operator of the premises shall provide, at his own expense, such special police, flagman, barricades and fences for the protection of pedestrians and vehicles, as deemed necessary by the Commission or the Zoning Enforcement Officer to protect the public health, safety, convenience and property values.
- 8.4.15 Truck access to the excavation shall be so arranged and scheduled as to minimize danger to traffic and nuisance to surrounding properties. That portion of any access road within the area of operation shall be treated to minimize dust. The Commission may require a hard-surfaced road to ensure further control of dust.
- 8.4.16 Proper measures shall be taken to avoid noise and air pollution. Such measures may include limitations upon the stockpiling of excavated materials upon the premises.
- 8.4.17 The owner and/or operator shall be liable for the cost of repairing any damage to any public street or highway resulting from its operation.
- 8.4.18 The Commission may require other appropriate safeguards necessary to protect the public health, safety, convenience and property values.

## **8.5 PERMIT APPROVAL AND RENEWAL**

- 8.5.1 Permit approval may be granted in two stages by the Commission: Permit approval to the owner may be granted only after submission of all the required documents and requested information and the necessary public hearing. Permit approval to the operator may be granted only after his furnishing to the Commission evidence of proper bonding and insurance.
- 8.5.2 Before an Earth Excavation Special Permit is issued, the applicant or his operator shall, unless the Commission specifically waives this requirement in its Permit, post a performance bond in form and amount satisfactory to the Commission, with a bonding company licensed to do business in the State of Connecticut and acceptable to the Commission, as surety conditioned on the carrying out of all the above conditions and any other safeguards imposed, and providing that, in case of default, the surety company shall take any and all necessary steps to comply with said conditions. The Commission, as it deems fit, may require in addition to or in lieu of a surety bond, a cash bond, letter of credit, or a combination thereof acceptable to the Commission.

- 8.5.3 No permit shall be issued for a period exceeding one (1) year. Permits may be renewed for additional one-year periods upon application to the Commission and payment of a \$50.00 fee provided that the Commission finds that the permittee has fully complied with these regulations and the terms and conditions of the expiring Permit.
- 8.5.4 Updated contour maps may be required by the Commission prior to the renewal of the Permit.
- 8.5.5 The Commission, or the Zoning Enforcement Officer, may require an "As Is" Contour Map at any stage of the operation.
- 8.5.6 An "As Built" Contour Map, prepared by a surveyor licensed in the State of Connecticut, showing conformity with the requirements for restoration, may be required prior to the release of any bonds.
- 8.5.7 If the excavation is abandoned for one (1) year or more after the granting ~~of~~ renewal of a Permit, or if no substantial activity, as determined by the Commission, takes place within ~~one~~ (1) year after the granting or renewal of a Permit, the Permit may be revoked by the Commission. Prima facie evidence of activity shall be the excavation of 3,000 cubic yards of material per year.
- 8.6 **PLACEMENT OF FILL**  
Any person proposing the placement of 100 cubic yards or more of fill material upon a property, except in conjunction with a bona fide construction activity relating to a residential dwelling, including construction of ~~driveways, septic tanks and leaching fields~~ incidental thereto, which is completed within six months, shall notify the Zoning Enforcement Officer of such activity for approval. The Zoning Enforcement Officer shall review such proposal to ensure proper design of resultant grades and drainage and protection of adjacent properties. In the conduct of such review, the Zoning Enforcement Officer may require the provision of necessary maps ~~and~~ data.

**SECTION 9 — OFF STREET PARKING & LOADING**

**9.1 PURPOSE**

In order to alleviate concerns about, and prevent the shortage of on-street parking, new off-street parking and loading facilities shall be provided incidental to new structures, enlargements of existing structures or conversion to a new use which requires additional parking under this section.

The required number of parking spaces and loading berths described in this section shall be in proportion to the need for such facilities, created by the particular type of use. All off-street parking and loading areas shall be designed, maintained and operated in a manner which will ensure their usefulness, protect the public safety, and, where appropriate, insulate surrounding land uses from their impact.

**9.2 FACILITIES REQUIRED**

Parking and loading facilities off the street or highway right-of-way shall be provided to serve all buildings erected, moved, altered, or enlarged and all premises otherwise developed, after the adoption of these regulations. Such facilities shall be sufficient to accommodate the motor vehicles of all occupants, employees, customers and other persons normally visiting such building or premises at any one time. Appropriate aisle width and turn lanes, in relation to the angle of the parking rows, shall be provided. The safe and adequate location of access points (entry and exit) shall be provided. Adequate and appropriate illumination and directional signage for pedestrian and vehicular safety shall also be provided.

**9.3 EXISTING FACILITIES**

Off-street parking and loading facilities used for parking and loading on the effective date hereof shall not be reduced in capacity to less than the number of spaces prescribed by this section. No building or premises shall be enlarged or modified unless the parking and loading facilities comply with the requirements of this section.

**9.4 ADDITIONS OR CHANGES**

For additions or enlargements of any existing building or change of use that would increase the total number of parking and loading spaces required, the additional spaces shall be required only for such addition, enlargement or change and not for the entire building or use.

**9.5 LOCATION OF FACILITIES**

Required parking and loading facilities shall be provided on the same lot as the building or use which they serve. Upon the approval by the Planning & Zoning Commission, the required facilities may be located off-site, but not more than 300 feet from such building or use. The Planning & Zoning Commission may waive the 300 foot maximum distance requirement for employee parking, or for visitor parking when appropriate alternatives (i.e. valet parking, shuttle services, etc.) are provided.

Two or more parking or loading facilities on an adjoining lot, if designed for use as a single parking or loading area, may use the same means of access.

Prior to the approval of off-site or joint facilities, the Planning & Zoning Commission shall make the following findings:

- a) that the proposed location of the facilities and the prospective operation and maintenance of the facilities will fulfill the purposes **of this Section**;
- b) that the proposed location of the facilities will be as useful and convenient as facilities located on the site of the use; and
- c) that the proposed location of the facilities will not cause traffic congestion or an unsightly concentration of parked cars.

The Planning & Zoning Commission may require such legal instruments, as it deems necessary to ensure unified operation and control of off-site or joint facilities or to ensure the continuation of such facilities, including evidence of ownership, long-term lease, or easement.

#### 9.6 PARKING REQUIREMENT SCHEDULE

<b>USES</b>	<b>PARKING REQUIREMENT</b>
Residential	2 spaces/dwelling unit
Multiple-Family Dwelling	1-1/2 spaces/dwelling unit
General Retail	<50,000 sq. ft. of gross floor area: 1 space/each 300 sq. ft. of gross floor area
Shopping Center	>50,000 sq. ft. of gross floor area: 1 space/each 250 sq. ft. of gross floor area
Restaurant	1 space/each 4 seats, <i>plus</i> 1 space/employee (largest shift)
Fast Food Restaurant	1 space/each 2 seats, <i>plus</i> 1 space/employee (largest shift), <i>plus</i> two spaces for drive-thru window
Tavern or Cocktail Lounge	1 space/each 4 seats, <i>plus</i> 1 space/employee (largest shift)
Business, Professional or Financial Office	1 space/each 250 sq. ft. of gross floor area
Theater or Church	1 space/each 3 seats
School	1 space/each 4 seats in the auditorium, gymnasium or assembly area, (whichever holds more seats)
Hospital, Nursing or Convalescent Home, Congregate Residence	1 space/each 3 beds, <i>plus</i> 1 space/employee (largest shift)
Hotel, Motel	1 space/guest room, <i>plus</i> 1/2 space/employee (largest shift)
Bowling Lane	3 spaces/bowling lane, <i>plus</i> 1 space/employee (largest shift)
Funeral Home	1 space/each 3 seats
Gasoline/Service Station	3 spaces/service bay, <i>plus</i> 1 space/employee (largest shift)
Industrial	1 space/employee (largest shift), <i>plus</i> 5 guest spaces

The parking requirement for any use not specifically listed shall be as determined by the Planning & Zoning Commission.

#### 9.7 LOADING REQUIREMENT SCHEDULE

The following are the loading requirements for hospitals, institutions, hotels, retail or office establishments, wholesale buildings, industrial buildings or any other similar uses:

- a) One loading berth shall be provided for each 20,000 square feet of gross floor area, or fraction thereof, less than 60,000 square feet; and
- b) One loading berth shall be provided for each 40,000 square feet of gross floor area, or fraction thereof, in excess of 60,000 square feet.

The loading berth requirement, for facilities with a gross floor area of less than 20,000 square feet, shall be as determined by the Commission. The Commission shall give consideration to the alternate use of parking spaces, for loading purposes, if on a temporary basis only.

The loading requirement for any use not specifically listed above shall be as determined by the Planning & Zoning Commission.

**9.8 CONSTRUCTION & MAINTENANCE**

All off-street parking and loading facilities required by this section shall be constructed and maintained in accordance with the minimum standards for such facilities prescribed by this section. All facilities shall be maintained free of debris, accumulated snow or other materials preventing full use and occupancy of the facilities in accordance with the intent of this section, (except for temporary periods of short duration, in the event of heavy or unusual snowfall).

**9.9 REQUIRED AREA OF FACILITIES**

- a) **Parking:** Required parking and loading facilities shall contain not less than the minimum number of spaces set forth in Section 9.6, exclusive of driveways, ramps and turning areas necessary for access.

The minimum size of one parking space, to be maintained year-round, is 9' wide x 18' long. Spaces designated for handicapped parking shall meet the State of Connecticut Building Code requirements for ADA accessibility.

Subject to review and approval by the Planning & Zoning Commission, an exception to the required size of parking spaces shall be allowed for compact spaces in parking lots with more than 15 spaces. In this case, up to 25% of the total number of required parking spaces may be 8' wide x 16' long. All compact spaces shall be clearly identified as such.

- b) **Loading:** The minimum size of one loading berth, to be maintained year-round, is 12' wide x 25' long.

**9.10 SURFACING OF FACILITIES**

Required parking and loading facilities shall have adequate all-weather surfacing, capable of allowing free and safe movement of all vehicles customarily using the facility. Consideration should be given to permeable surfaces, such as grid pavers, to mitigate surface run-off and erosion.

**9.11 LANDSCAPE TREATMENT OF FACILITIES**

Where an off-street parking or loading facility is located adjacent to a street or right-of-way line, there shall be a landscaped strip between such street line and the balance of the lot, as required by the Planning & Zoning Commission. All facilities shall be suitably landscaped to

minimize noise, glare and other nuisance characteristics, as well as to improve the aesthetics of the site and surrounding area. Landscape placement shall take into consideration the location of overhead utilities.

All facilities shall be required to have painted lines, designating spaces in accordance with the site plan approved by the Planning & Zoning Commission. Painted lines shall be applied within one month of paving and shall be maintained so as to be visible. All facilities shall be designed to prevent the necessity of vehicles backing onto a public highway.

Parking facilities with more than ten (10) parking spaces, or as required by the Planning & Zoning Commission, shall have landscape treatments, as described below. All landscaped areas located between the maximum number of parking spaces shall be:

- a) A minimum of eight (8) feet wide, where parallel to the length of the car;
- b) A minimum of five (5) feet wide, where separating the ends of two opposing lines of cars; and
- c) Landscaped with a ground cover as required in Section 3.18.2, and with a minimum of 1-1/2" caliper deciduous trees or with a minimum of 6' tall evergreen trees or a combination thereof, located not more than 20 feet apart in the spaces between the ends of the cars.

**9.12 ADDITIONAL PARKING REQUIREMENTS FOR MULTIPLE DWELLINGS AND FOR CONGREGATE RESIDENCE DEVELOPMENT**

Off-street parking shall be provided, in accordance with this Section, in garages, carports, or parking lots, on the same lot. Parking spaces and access driveways shall be in accordance with the provisions below:

- a) Parking spaces and access driveways shall not be located less than twenty (20) feet from a dwelling unit wall with windows, or less than fifteen (15) feet from any other dwelling unit wall. Parking spaces for residents shall not be more than 200 feet from any building entrance of the intended user or resident. Parking spaces for visitors or employees shall not be more than 300 feet from any building entrance designed for visitors or employees;
- b) In general, not more than twenty (20) parking spaces shall be contained in any one (1) parking lot. However, any parking lot with more than twenty (20) parking spaces shall have two (2) driveways providing access to a public or private street;
- c) Parking facilities with more than ten (10) parking spaces shall have landscape treatments, as described in Section 3.18 and in Section 9.11.
- d) Parking facilities containing more than twenty (20) spaces shall be provided with landscaped islands. The landscaped islands shall be located within the overall perimeter of the parking lot, at the ratio of 50 sq. ft. of landscaped island per parking space and shall be landscaped in accordance with the provisions of Section 3.18 and Section 9.11;
- e) All parking facilities shall be screened from abutting lots as provided in Section 3.18.1, or as provided in Section 3.18.3.

- f) Parking spaces and access driveways shall not be located in any required yard, except to cross a yard to an entrance or exit. However, the Commission may allow parking within a side and/or rear yard only if, in its **judgment** the following conditions prevail:
- 1) That the setback from the property line to the parking facilities is greater than, or equal to, 50 % of the applicable yard requirement.
  - 2) That screening by natural vegetation, proposed landscaping, or an opaque solid wall or fencing (five to eight feet in height) will adequately buffer the abutting properties from noise and glare from lights.
  - 3) That provisions for adequate snow storage are provided in the immediate vicinity of the parking lot.
  - 4) That existing or potential development on abutting properties will not be adversely impacted by the proximity of parking facilities on the subject property.

**9.13 ADDITIONAL PARKING REQUIREMENTS FOR THE PLANNED DEVELOPMENT ZONE**

- a) Off-street parking shall be provided in accordance with Section 9.6 and as follows:
- 1) Parking may be provided beneath dwelling units, in separate parking garages, in open parking areas, or in a combination thereof.
  - 2) For permitted habitable supporting facility uses, a minimum of one space for each 200 sq. ft. of public ground floor area.
- b) Parking facilities shall be designed as an integral part of the site development design and arranged to prevent undue concentration of parking facilities.
- c) In general, not more than 20 parking spaces shall be contained in any one (1) parking lot. However, any parking lot with more than 20 parking spaces shall have two (2) driveways providing access to a public or private street.
- d) Parking facilities with more than ten (10) parking spaces shall have landscape treatments, as described in Section 3.18 and in Section 9.11.
- e) Parking spaces and access driveways shall not be located less than twenty (20) feet from a dwelling unit wall with windows, or less than fifteen (15) feet from any other dwelling unit wall. Parking spaces for residents shall not be more than 200 feet from any building entrance of the intended user or resident. Parking spaces for visitors or employees shall not be more than 300 feet from any building entrance designed for visitors or employees;
- f) Parking spaces and access driveways shall not be located in any minimum yard, except to cross a yard to an entrance or exit, but may be located between the building line and the building, provided the requirements in Section 3.18.1 are met.



- 9.14 **ADDITIONAL PARKING REQUIREMENTS FOR COMMERCIAL RECREATION**  
Off-street parking shall be provided for the cars of all patrons, employees, and persons using the facilities, together with the necessary access driveways to public roads. Surfacing shall be of a type appropriate for the proposed land uses, and shall be treated to inhibit dust. No parking area shall be located closer than 100 feet to a public highway, and where located closer than 100 feet to any other property line, shall be protected by a landscaped buffer strip not less than 40 feet wide.
- 9.15 **ADDITIONAL PARKING REQUIREMENTS FOR THE PROFESSIONAL OFFICE OVERLAY ZONE**  
One (1) space per each 100 square feet of net office space. After review of the specific use proposed, the Commission may waive up to 50% of this parking requirement, when the nature of the proposed office use warrants less parking.
- 9.16 **ADDITIONAL PARKING REQUIREMENTS FOR TRAILERS**  
Provision shall be made for two (2) parking spaces per trailer site, located off the traveled portion of the interior roads. Such parking space shall not be located in the front yard, nor less than 40 feet from the side or rear lot lines of the trailer park.

**SECTION 10 — NONCONFORMING BUILDINGS, STRUCTURES AND USES****10.1 INTENT**

Within the zoning districts established by these regulations or by amendments that may later be adopted, there exist lots, uses, and structures which existed at the time that these Regulations were adopted (June 11, 1956) or amended, but which would be prohibited, regulated, or restricted under the provisions of the regulations or future amendments. Such lots, uses, and structures are declared non-conforming by these Regulations.

It is the intent of these regulations:

- d)** To permit these non-conformities to continue until they are removed, but not to encourage their survival.
- d)** To prohibit the enlargement, expansion, or extension of non-conformities, if such a change would increase the non-conformity and to prohibit the use of non-conformities as grounds for adding other structures or uses prohibited elsewhere in the same district.

**10.2 CONTINUATION**

- d)** Non-conforming uses and structures that existed on the date these Regulations, or amendments to these Regulations, became effective, may continue, except as provided below in Paragraphs 3 and 4 below.
- b)** These regulations shall not require change in the plans, construction, or designated use of a structure, provided that:
  - d)** Commencement of the construction of a structure or commencement of a use predates the effective date of these Regulations or amendments to these Regulations.
  - d)** The required zoning and building permits for such structure and/or use predate the effective date of these Regulations, or amendments to these Regulations, by one year or less.
- b)** When a non-conforming use is intentionally discontinued or abandoned for a consecutive period of one-year (365 days), the land and/or structure which harbored the non-conforming use may thereafter be used only for conforming uses. At any time after the intentional discontinuation or abandonment begins but before the forfeiture of continuation rights, the Commission, by a 2/3 vote of those members present, may extend the period of discontinuation or abandonment by up to 182 days (to a total of 547 days) provided that applicable zoning and building permits have been issued.
- d)** A non-conforming structure that is destroyed or damaged by calamity (fire, explosion, wind, flood, accident, act of God, act of the public enemy, etc.) may be reconstructed,

restored, and/or altered, and a non-conforming use that is destroyed or damaged by calamity may resume, provided that:

- 1) A zoning permit is issued for the structure or use within 365 days from the date of the calamity.
- 2) Certificate of occupancy is issued for the structure within 548 days from the date of the calamity.

Note: Upon finding of extreme hardship or other severe extenuating circumstances, the Commission by 2/3 vote of those present, may extend the time periods described in items (a) and (b) above by up to 182 days each.

- 3) Neither the floor area nor the volume of a reconstructed, restored, or altered structure may be expanded beyond the floor area and volume of the structure that predated the calamity.
- 4) If a non-conforming use of land (not involving a structure) is resumed following a calamity, the area occupied by the non-conforming use must be no larger than, and in the same location as, the use immediately prior to the calamity.

### 10.3 NON-CONFORMING USES

- a) Non-conforming uses shall not be extended or expanded.
- b) No portion of a non-conforming use of land (not involving a structure) shall be moved from place to place on the land after the date these Regulations or amendments to these Regulations became effective.
- c) If a non-conforming use is changed to a use that is permitted by right or by special exception, the use shall never revert to one that is non-conforming.
- d) No existing non-conforming use shall be changed to another non-conforming use.

### 10.4 NON-CONFORMING STRUCTURES

- 1) A structure which contains a permitted use, but which is otherwise non-conforming, may be expanded, or altered, provided that:
  - 1) Only permitted uses shall be allowed to occupy the expanded or altered areas.
  - 2) In the case of residential structures, no additional family units are created as a result of the expansion or alteration.

- d) The expanded or altered section of the structure conforms to all applicable regulations.
- d) No dwelling (except for seasonal cottages or multi family dwellings) shall be erected, moved, or structurally altered unless the floor area devoted to living space exclusively for one family is not less than 1,000 sq. ft. minimum. A dwelling shall contain an additional 125 sq. ft. for each bedroom in excess of two. The first story of a dwelling with livable floor area on an upper floor shall be not less than 675 sq. ft. in area.

A seasonal cottage shall contain not less than 500 sq. ft. of floor area. Multiple dwelling floor areas are listed in other sections of these Regulations.

Living space may include customary rooms, closets, halls, kitchens, pantries and bathrooms, but shall be included only if it has a minimum head room of seven (7) feet. Where located above the first floor, living space shall be included only if accessible by a permanent stairway. Unfinished space above the first floor, designed for a use mentioned above, and otherwise complying with the provision of this paragraph, may be included as living space to the extent on one-third of the required area. Porches which are not fully enclosed and heated, basement rooms whose floor is entirely below the grade level, garages and other accessory structures shall not be included as living space.

- b) If a non-conforming structure is modified to become conforming the structure may never be remodified to become non-conforming.
- b) A non-conforming structure shall not be moved to any other location on a property unless the structure conforms to all applicable sections of these Regulations after it is moved.
- d) Ordinary repairs, remodeling, alteration, or safety improvements (required by building or life safety codes) made to non-conforming structures are permitted, provided that:
  - d) Applicable building permits are secured; and
  - d) Such work does not increase any existing non-conformities.

#### 10.5 NON-CONFORMING LOTS

- d) Providing that sewage disposal in accordance with applicable regulations, and a safe water supply can be provided without endangering the health and safety of adjoining residents, nothing in these regulations shall prevent the construction of permitted building, or the establishment of a permitted use on a lot containing less than the prescribed lot area or lot frontage which, at the time of adoption thereof or any pertinent amendments hereto:

- l) Was owned separately from any adjoining lot and recorded in the land records of the Town of Winchester, or
  - l) Was shown on a plan of subdivision, approved by the Commission and filed in the Town Clerk's Office with the Land Records of the Town of Winchester, in the manner prescribed by law.
  - l) Except as provided in Section 10.5(a)(2), where two or more non-conforming adjoining lots of record are in the same ownership on or after the effective date of these Regulations, then all such lots shall be combined as necessary toward meeting the lot area and width requirements of these Regulations. If all such adjoining lots when combined still do not meet the area and width requirements of these Regulations, such composite parcel shall be treated a lot under Section 10.5(a)(1) of these Regulations.
  - l) No dwelling for more than one family shall be constructed on a lot, existing or created under the conditions of Section 10.5(a) and 10.5(b) above, which contain less than 100% of the required "Minimum Lot Area per Family Unit" in the applicable zone.  
*Amended & Adopted 7/24/95, Effective August 8/8/95.*
- 10.6** A building containing a permitted use, but which does not conform to the requirements of these regulations regarding building height limits, floor area, area and width of lot, percentage of lot coverage, and required yards and parking facilities, may be enlarged or altered, provided:
- a) Such enlargement provides for a permitted use containing no more family dwelling units than now exist;
  - b) Any additions are constructed within the applicable yard requirements, or, with the approval of the Commission, are not nearer to the lot lines than the existing building.
- 10.7** Nothing in these regulations shall prevent the reconstruction within one (1) year of a building damaged by fire, explosion, accident, the act of God or of the public enemy, to its condition prior to such damage, or prevent the restoration of a wall or structural members.

**SECTION 11-TRAILERS****11.1 GENERAL PROVISIONS**

The use of trailers for human occupancy is permitted only under the following conditions, and in such zone or zones as the Commission may establish upon determination that such zone or zones are necessary and appropriate for the growth and development of the Town, and are consistent with the comprehensive plan of development of the Town.

- 11.1.1 A temporary permit, valid for one (1) year, may be issued for occupancy by the owner of the lot in a Rural Zone, HL Zone or in Residence R-1 and R-2 Zones, who has applied for a permit to build and has started construction or remodeling of a residential building on the same lot, provided that such trailer shall be connected to a permanent potable water supply and sewage disposal system.
- 11.1.2 In a Rural Zone, a permit, valid for one (1) year and renewable, may be issued for occupancy of two or more trailers in a trailer park where trailers and/or trailer sites are offered for rent or lease under the following conditions:
- a) The Commission shall hold a public hearing to determine whether such use will detract from the character of the neighborhood or depreciate the value of adjacent properties;
  - b) Provision is made for an adequate supply of potable water, with piped connections to each trailer;
  - c) Sewer lines serving each trailer are connected to the public sewer system, or to a treatment plant whose drainage fields are installed in soil rated Class C or better, based on State Sanitary Code Standards;
  - d) In the case of a trailer park containing more than 50 sites, provision shall be made for the storage of adequate water for fire protection;
  - e) Electric lines shall be installed with connections at each trailer site, and street lighting shall be installed and maintained according to the requirements of the Board of Selectmen.
- 11.1.3 Except for the requirements of a license, Sections 11.5.1 and 11.5.2 hereafter, the requirements of this Section shall not be deemed to apply to trailers or trailer parks lawfully existing on the effective date of these Regulations.
- 11.1.4 The Building Inspector, after issuance of a permit for a bona-fide construction operation, may issue a temporary permit for a trailer for use as a field office or storage of tools and equipment, located on the same premises as the construction operation, but such permit shall not include use as a real estate or sales office.

**11.2 DEFINITIONS**

For the purpose of these Regulations, certain words shall have the following meaning:

**TRAILER PARK:** A parcel of land, subdivided into "sites," for the purpose of leasing, but not for the sale, of sites and/or trailers and sites.

**SITE:** A parcel of land on which one occupied trailer may be legally maintained.

**TOWN:** Shall mean the Town of Winchester.

**11.3** No parcel of land shall be zoned for use as a trailer park which contains less than three (3) acres of land, nor with less than 250 feet of frontage on a town road or state highway. In computing the area of the lot for the permissible number of trailers, the street frontage multiplied by not more than 3-1/2 times such frontage shall be used regardless of any greater lot depth.

**11.3.1** Not more than one (1) driveway for each 250 feet of frontage shall give access from the lot to the street, and such driveway shall be not less than 150 feet from the nearest intersection on either side of said town or state highway. Such entrance driveway shall connect with an interior road system serving each site. Interior roads shall be not less than 35 feet wide, constructed in accordance with the appropriate requirements of the Subdivision Regulations of the Town. Dead end roads shall give access to not over 20 trailer sites.

**11.3.2** Each trailer site shall contain not less than 6,000 sq. ft., with its least dimension not less than 35 feet at the building line or an interior road. Yards required at each site shall be not less than: front yard at interior road—25 feet; and side yards 15 feet.

**11.3.3** *\*This section has been relocated to Section 9.16.*

**11.4** Application shall be made in writing to the Building Inspector and shall contain the following information:

**11.4.1** A map, drawn to scale, showing the boundaries of land to be used; names of adjoining property owners; approximate distances to nearest intersections; each site, with numbered designation; location of water supply, location and method of sewage disposal; proposed methods of garbage and refuse collection and disposal; location of access roads and parking spaces;

**11.4.2** Prior inspection of proposed sanitary facilities shall have been made by the local Health Officer, and his approval in writing shall accompany the application.

**11.4.3** Approval of the Commission is required for the location of any trailer before a building permit will be issued.

- 11.4.4 Upon completion of all the requirements of these regulations, and issuance of a certificate of occupancy, the licensee shall file with the Town Clerk a map showing all physical installations as built, together with a certificate from the Health Officer showing compliance with the sanitary requirements of these regulations, before a license will be issued.
- 11.5 The fee for application and license for the establishment of a new trailer site, a trailer park, or an existing trailer park, will be \$25 total for from one to five sites on any parcel of land, plus \$2.50 for each trailer in addition to five on the same parcel of land, payable to the Town, together with a filing fee of \$5.00, payable to the Town Clerk.
- 11.5.1 Such license shall be valid for one (1) year, unless revoked for failure to maintain the premises in accordance with these regulations. A new license for one (1) existing trailer and for renewal of an existing license shall be \$2.50 for each trailer. Such license shall be renewed each year one month before any trailer and/or site is reoccupied, not later than May 1st, after inspection and certification by the Health Officer and the Zoning Enforcement Officer that the requirements of these Regulations are being maintained.
- 11.5.2 Such license shall contain the name of property owner, the name of the licensee, the number of sites shown on the map on file with the Town Clerk, which are included in the license, the fee, and date of issue.
- 11.6 The licensee of a trailer park shall be responsible for the operation and the maintenance of the park in accordance with these regulations.
- 11.6.1 He shall provide for the collection of garbage from each site. He shall provide metal containers with covers for refuse and waste materials, and he shall dispose of all garbage and refuse in accordance with local ordinances.
- 11.6.2 He shall keep and maintain a register, written in the English language, available at all times to federal, state, and local authorities having jurisdiction. Such records shall be kept available for three (3) years, and shall contain for each site:
- a) Name of lessee of site or trailer;
  - b) The permanent or last known address of such lessee;
  - c) The name of each person customarily occupying the trailer;
  - d) State or registry and marker number of trailer and/or motor vehicle;
  - e) Date of entry and exit from the site or trailer.



11.7 Any person who violates any provision of these Regulations shall be subject to the penalties provided by Chapter 124 of the Connecticut General Statutes (Rev. 1958) as now in force, or as hereafter amended, and which shall be enforced by the Zoning Enforcement Officer.  
*Amended & Adopted 2/13/90, Effective 2/19/1990.*

11.8 Any permit issued under this section shall be valid for five years. Any regulated activity approved by the agency shall be completed within one year from the time such activity is commenced providing the agency may establish a specific time period within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the agency may extend

a) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or

b) the time period within which an activity, once commenced, is required to be completed under this section.

*Amended & Adopted 10/19/94, Effective 10/29/94*

**SECTION 12 — SIGN REGULATIONS***Adopted April 15, 1985***12.1 PURPOSE**

The purpose of the Sign Regulations is to set forth guidelines for residential, commercial, industrial, and other advertising signs in order to:

- b)** encourage business activity
- b)** preserve and enhance property values
- b)** protect against traffic distractions and hazards
- b)** recognize that the general welfare of the Town includes the attractiveness and character of an area and the aesthetics of signs

**12.2 DEFINITIONS**

**SIGN:** A sign is any object, device, display, or structure, natural or man-made, that is used for identification or that is used to attract attention to any use, product, device, place, person, organization, business, or activity.

**DETACHED SIGN:** A sign supported by one or more permanent supports, placed in or affixed to the ground. No detached sign, or any part thereof, including supports and lights, shall exceed the heights allowed in Section 12.6.1.3. A detached sign shall be located entirely within the property lines of the lot.

**ROOF SIGN:** A sign mounted on, against, or directly above the roof of a building, or on top of or above the parapet of a building or structure.

**WALL SIGN:** A sign attached to the exterior wall of a structure in such a manner that the wall becomes the support for, or forms the background surface of the sign and does not project more than 18 inches from the structure.

**PROJECTING SIGN:** A sign which is wholly or partly dependent upon a building for support and which projects more than 18 inches from the building.

**MARQUEE OR CANOPY SIGN:** A sign attached to the vertical face of a building marquee or canopy.

**DEVELOPMENT IDENTIFICATION SIGN:** A detached sign which displays the name of and/or residents within a residential development or the name of and list of tenants within commercial, governmental, or industrial development.

**TEMPORARY SIGN:** An advertising sign, displayed on a premises for a period not exceeding 30 days.

**RESIDENTIAL SIGN:** A wall or detached sign, at a residential premises, which announces the name of the occupant and or the name of the premises.

**OFF-PREMISES SIGN:** A sign located on property that is different from the property containing the advertised use.

**SIGNS OF DISTINCTION:** A sign which is of architectural, artistic, or historical significance, and which, in the opinion of the Commission, provides no direct advertisement to the present occupant or use of the premises.

**SANDWICH BOARD SIGN:** A two-sided, portable sign that is typically in view during the operating hours of a use, and removed from view during off hours.

### 12.3 **EXEMPTIONS**

*The following signs and/or displays are exempt from regulation under this section:*

- d)** Campaign Signs.
- e)** Lighting or displays in celebration of legal or commonly-recognized holidays.
- e)** Street signs and traffic control signs installed and maintained by the Municipality or State.
- e)** Flags and insignia of a government or governmental agency.
- e)** Temporary banners, flags, or insignia of political, educational, charitable, philanthropic, and civic organizations. (Note: such temporary signage, if located within a public highway corridor may require permits or approvals from the applicable highway department).
- d)** All permanent signs require a building permit.
- e)** Signs for Municipal or State schools.
- f)** Signage and graphic displays within Municipal, State, or Federal parks or recreation areas.
- i)** Traffic control signs within a residential, commercial, or industrial development.
- i)** Restaurant drive-through menu boards, provided that no advertisements on the board are visible or distinguishable from a public highway.

- k) Bulletin boards of less than eight square feet on property of government or religious buildings.
- l) Temporary signs at commercial uses, attached to a window, that announce sales or special features, provided that they are not in place for more than 30 days and that they are not internally illuminated.
- m) One temporary real estate sales sign per premises, not exceeding six square feet in area, except that two such signs are allowed on a corner lot or on a property with frontage in access of 500 feet.
- n) On temporary project-identification sign, not exceeding 32 square feet in area, explaining the funding source and other appurtenant project information for government-sponsored construction projects. Such signs may be located on private property or within a public highway corridor if sanctioned by the applicable highway department. Such signs must be removed within 30 days of the completion of a project.
- o) One temporary sign, no larger than six square feet on one side, advertising the contractor or contractors working on a privately-sponsored construction project, provided that such sign is removed within 30 days after issuance of a certificate of occupancy.
- p) Signs of distinction, as determined by the Commission on an individual basis.
- q) No-trespassing signs.
- r) Temporary signs that announce yard sales, family gatherings, etc.
- s) Signs mounted on a barn or silo that advertise the name of a farm.

#### 12.4 **PROHIBITED SIGNS**

*The following signs are prohibited in all zoning districts:*

- a) Rotating, moving, or animated signs, or any signs that change electronically, unless specifically authorized by the Commission.
- b) Any sign that appears to change with vantage point.
- c) Any sign that could be mistaken for or confused with a traffic control sign, signal, or device.
- d) Signs that are painted, posted, or otherwise attached to any rock, tree, or smokestack.
- e) Billboards.

- f** The outline of property lines, roof lines, doorways, windows, or sales areas by exterior illuminated tubing or strings of light, unless specifically authorized by the Commission.
- g** Signs painted directly on roofs.
- h** Signs that are constructed into a roof, smokestack, or walls by means of alternating building-material types, colors, or patterns.
- i** Internally-illuminated or neon signs in Residence or Rural zoning districts, except for such signs that are included as part of an approved Special Permit.
- j** All signs not specifically permitted by this section, unless approved by the Commission on an individual basis.

### 12.5 SIGNS PERMITTED BY TYPE AND ZONING DISTRICT

<u>Sign Type</u>	<u>Residential Districts</u>	<u>Rural Districts</u>	<u>Commercial Districts</u>	<u>Industrial Districts</u>
Detached Sign	SE, SP, ZP	SE, SP, ZP	SP, ZP	SP, ZP
Roof Sign	NP	NP	ZP	ZP
Wall Sign	ZP	ZP	ZP	ZP
Projecting Sign	NP	SE	SE	SE
Marquee/Canopy Sign	NP	NP	ZP	ZP
Development Identification Sign	SE, SP, ZP	SE, SP, ZP	SE, SP, ZP	SE, SP, ZP
Temporary Sign	ZP	ZP	ZP	ZP
Residential Sign	ZP	ZP	ZP	ZP
Off-Premises Sign	SE, SP, ZP	SE, SP, ZP	SE, SP, ZP	SE, SP, ZP
Signs of Distinction	NPR	NPR	NPR	NPR
Sandwich Board Sign	NP	ZP	ZP	ZP

NP = Not Permitted SP = Site Plan Approval Required ZP = Zoning Permit Required

SE = Special Exception Approval Required NPR = No Permit Required

Note: A building permit is also required for any sign larger than six square feet in area.

### 12.6 SIGN STANDARDS:

#### 12.6.1 COMPUTING THE MAXIMUM AREA AND HEIGHT OF ALLOWED SIGNS.

##### 12.6.1.1. GENERAL REQUIREMENTS

- d** The area of a sign shall be the smallest geometric shape to encompass the extreme limits of the form.

- b) The area of a sign's backdrop shall be the area of the sign, where the backdrop distinguishes the sign from its background.
- c) The area of all sides of a multi-sided sign shall be used in computing a sign's area.
- d) The area encompassed by a sign's support or framework shall not be used in computing the area of a sign, unless the Commission finds that the support or framework is, in some way, being used for advertisement, or is otherwise out of scale or character with the neighborhood.

12.6.1.2. MAXIMUM AGGREGATE SIGN AREA:

- d) A maximum aggregate sign area of six square feet is allowed for residential signs in any district, and signs advertising a permitted (or legally non-conforming) home occupation, home-based professional office, or home-based business office in a Residence or Rural District.
- e) For permitted (or legally non-conforming) non-residential uses in Residence and Rural districts, a maximum aggregate sign area of 20 square feet is allowed.
- f) In situations where there is no building for a commercial use (e.g. open-air flea market, commercial parking lot, etc.), the maximum aggregate sign area shall be 48 square feet, with no single side of a multi-sided sign having more than 24 square feet in area. If the property fronts on one street, then one free standing sign is allowed. If the property has principal entrances on two or more streets, then one free standing sign is allowed near each principal entrance, provided that the sum of the areas of all sides of these signs does not exceed 48 square feet.
- g) The maximum aggregate sign area for a given property or structure may be distributed in any proportion, among the various types of allowed signs, provided that the maximum allowable area of a detached sign is not exceeded.
- h) In mixed-use or multi-tenant buildings, the total allowed sign area for said building shall be pro-rated on an equitable basis by the landlord, subject to final approval by the Commission. For example, total allowed sign area may be pro-rated based on gross floor area of each unit, number of units, or the available facade area.
- i) For permitted (or legally non-conforming) commercial and industrial uses in any district, the maximum aggregate sign area shall be the greater of the two following calculations:

**Option 1:**

Two square feet of sign area per linear foot of gross building length on a street. (In the case of a building that faces more than one street, only the longest side of the building that faces a street may be used in the calculation. In the case where a building is skewed to a street, only the gross length of that face which is most parallel to the street may be used in the calculation).

**OR**

**Option 2:**

Two square feet of sign area per linear foot of gross building length that most directly faces a usable adjacent parking lot. In cases where patrons of a commercial or industrial use are not allowed to use an adjacent off-site lot, Option 2 may not be used.

In situations where a commercial or industrial use has no on-site parking between the building and a street, but has usable adjacent on-site or off-site parking in the rear or sides, the aggregate sign area, as calculated in Option 1, may be distributed in areas visible from a street or streets, and up to 15% of the aggregate sign area, as calculated in Option 2, may be distributed in areas that face the adjacent parking lot(s).

**12.6.1.3. MAXIMUM HEIGHT OF SIGNS**

- a)** Residential wall signs in any district shall not be installed above the roof line of a building or extend past the corners of a building.
- b)** For approval of commercial or industrial signs in any district, the maximum height of signs (in feet) shall be as follows:

<u>Type of Sign</u>	<u>Residence Districts</u>	<u>Rural Districts</u>	<u>Commercial Districts</u>	<u>Industrial Districts</u>
Detached	12	12	12	12
Roof	(a)	(a)	(a)	(a)
Wall	(b)	(b)	(b)	(b)
Projecting	(b) (c)	(b) (c)	(b) (c)	(b) (c)
Marquee/Canopy	(b) (c)	(b) (c)	(b) (c)	(b) (c)
Temporary	12	12	12	12
Off-Premises	8	8	8	8
Residential	8	8	8	8

*Table Footnotes:*

- (a) *A roof sign may not extend beyond the peak of a gable or gambrel roof or the highest elevation of a mansard roof, except that a roof sign may be located within a cupola. Roof signs mounted on top of a flat or mildly pitched roof is not allowed. Roof signs shall not extend horizontally beyond the vertical projection of a roof's dripline.*
- (b) *Wall signs shall not extend above the roofline of a building, nor shall they overhang the corners of a building.*
- (c) *Projecting and marquee/canopy signs shall not extend above the roofline of a structure, and shall have adequate clearance for pedestrian and/or vehicular traffic.*

**12.6.1.4. MAXIMUM TOTAL AREA AND HEIGHT OF DEVELOPMENT IDENTIFICATION SIGNS**

- d)** The maximums are allowed for a development identification signage does not count toward the maximum aggregate sign area allowed for a given property.
- e)** The following is a table of maximum total area and maximum heights for development identification signs:

Type of Development Identification Sign	Maximum Total Area (Square Feet) (any one side)	Maximum Total Area (Square Feet) (total; both sides)	Maximum Height (Feet)
Residential Development	24	48	6
Office Building or Complex	24	48	12
Commercial Park	24	48	12
Shopping Center	32	64	20
Industrial Park	24	48	8

**12.6.2 ILLUMINATION**

- d)** For externally illuminated signs, the light source shall be shielded to prevent glare from encroaching onto adjacent properties, sidewalks, and streets.
- e)** The area of illuminated window signs shall be included in the computation for total aggregate sign area.
- f)** The Commission shall have the authority to set hours of illumination for signs on premises that abut Residence and Rural districts.



### 12.6.3 GENERAL RESTRICTIONS

- a) Permanent signs for commercial and industrial uses shall advertise only the name of the business and general information about the type of business within a premise. These signs shall not advertise any specific products or services available within the premises.
- b) Traffic control signs within a commercial or industrial site shall not contain any advertisements.

### 12.6.4 SPECIFIC SIGNS

#### 12.6.4.1 DETACHED SIGNS:

- a) For approved or legally non-conforming commercial and industrial uses, one detached sign, with an area not exceeding 24 square feet on the largest side, is allowed per site.
- b) A detached sign shall be located no closer than six feet to a street line.
- c) A detached sign located outside of the front yard shall not be located within any rear or side yard.
- d) A detached sign located near sidewalks or parking lots shall have sufficient horizontal and vertical clearance for pedestrian and vehicular traffic.
- e) A detached sign shall not be located in an area that could interfere with vehicular sightlines.
- f) The materials, design, and location of a detached sign shall be in harmony with the architecture of the building and the character of the site and area.
- g) The major elements of the detached sign shall be constructed of materials specifically approved by the Commission.
- h) The detached sign shall be located in a landscaped area.
- i) The design and construction of the detached sign shall be in accordance with applicable building codes.
- j) The Commission may modify area and height requirements for detached signs where such modification will encourage excellence in the design and attractiveness of the sign or improve pedestrian or vehicular safety.

**12.6.4.2 ROOF SIGNS:**

- b)** A roof sign shall not extend beyond the peak of a **gable** or **hambrel** roof or the highest elevation of a mansard roof, except that a roof sign may be located within the limits of a cupola.
- b)** Roof signs mounted on top of a flat or mildly-pitched roof is not allowed.
- b)** Roof signs shall not extend horizontally beyond the vertical projection of a roof's dripline.

**12.6.4.3 WALL SIGNS:**

- b)** Wall signs shall not extend above the roofline of a building.
- b)** A wall sign shall not extend horizontally beyond the outer edges of the wall to which it is attached.
- b)** A wall sign shall be installed parallel to the wall to which it is attached.
- b)** A wall sign shall project no more than 18 inches from the wall to which it is attached.

**12.6.4.4 PROJECTING SIGNS:**

- a)** A projecting sign shall extend no further than six feet out from the wall to which it is attached.
- b)** A projecting sign shall have sufficient horizontal and vertical clearance for pedestrian and vehicular traffic.
- b)** A projecting sign shall not be located in a position that could interfere with vehicular sightlines.
- b)** A projecting sign shall not extend into a side or rear yard.
- b)** A projecting sign may extend into a front yard, but shall not extend over a street line, unless a permit for such encroachment is secured from the appropriate highway department.

**12.6.4.5 MARQUEE AND CANOPY SIGNS:**

- a)** A marquee or canopy sign shall extend no further than six feet out from the wall to which it is attached.
- b)** A marquee or canopy sign shall have sufficient horizontal and vertical clearance for pedestrian and vehicular traffic.
- c)** A marquee or canopy sign shall not be located in a position that could interfere with vehicular sightlines.
- d)** A marquee or canopy sign shall not extend into a side or rear yard.
- e)** A sign may be mounted on a marquee or canopy, but shall not extend horizontally beyond the ends of such marquee or canopy.
- f)** A marquee or canopy sign may extend into a front yard, but shall not extend over a street line, unless a permit for such encroachment is secured from the appropriate highway department.

**12.6.4.6 RESIDENTIAL SIGNS:**

- a)** No more than two residential signs are allowed on any one property.
- b)** A residential sign may be mounted on a building, in any location below the roofline.
- c)** A residential sign may be constructed as a detached sign, provided that:
  - 1)** The sign is located at least six feet from a street line.
  - 2)** The sign, if located behind the front yard setback line, is not located in a side or rear yard.
  - 3)** The sign shall have sufficient horizontal and vertical clearance for pedestrian and vehicular traffic.
  - 4)** The sign shall not be located in a position that could interfere with vehicular traffic.
  - 5)** The sign shall not be internally-illuminated.

**12.6.4.7 TEMPORARY SIGNS:**

- a** Temporary signs are allowed, by zoning permit, provided that:
  - 1** The signs are located outside of a public highway corridor.
  - 2** The signs are used for advertising purposes for a period not exceeding 30 days.
  - 3** The permittee is not allowed to apply for a new set of temporary signage for a period of 60 days after the last permit for temporary signage expires.
  - 4** The signs do not constitute a public nuisance or distraction to vehicular traffic, in the opinion of the Commission.
  - 5** The signs shall not be located in a position that could interfere with vehicular sightlines or otherwise jeopardize pedestrian or vehicular safety.

**12.6.4.8 OFF-PREMISES SIGNS:**

- a** Only one off-premises sign is allowed for a commercial or industrial building.
- b** The off-premises sign may be located only on a property that lies adjacent to and on the same street as the access drive serving the advertised use.
- c** An off-premises sign shall not be located within a public highway corridor.
- d** An off-premises sign may be mounted on another building, subject to approval of the Commission.
- e** The owner of the property on which the sign is located must provide the Commission with a written, notarized authorization (including any conditions placed upon the owner of the sign), before a Special Exception or the sign may be granted.
- f** An off-premises sign may be constructed as a detached sign, provided that:
  - 1** The sign is located at least six feet from a street line.
  - 2** The sign, if located behind a front yard setback line, is not located in a side or rear yard.
  - 3** The sign, if located behind a front yard setback line, is not located in a side or rear yard.

- a) The sign shall have sufficient horizontal and vertical clearance for pedestrian and vehicular traffic.
- b) The sign shall not be located in a position that could interfere with vehicular sightlines.
- d) The design of any illumination, whether internal or external, shall be approved by the Commission.

12.6.4.9 DEVELOPMENT IDENTIFICATION SIGNS:

- a) One development identification sign is allowed per principal entrance to a site.
- b) The area of a development identification sign does not count toward the maximum allowed area of signage for a given use.
- c) If there is more than one principal entrance to the site, then the total area allowed for development identification signage may be divided up, in any proportion, among the various entrances.
- d) The sign shall identify only the name of the facility. No commercial advertising or names of individual tenants are allowed on such signs.
- e) No development identification signs are allowed at curbcuts that serve solely as exits or at curbcuts where traffic is allowed to enter from only one direction.
- f) Development identification signs for residential developments shall not be internally illuminated.
- g) Development identification signs shall not be located within a public highway corridor.
- h) Any allowed freestanding sign for the development may be incorporated into the framework of the development identification sign, subject to approval by the Commission.
- i) The Commission may modify area and height requirements for development identification signs where such modification will encourage excellence in the design and attractiveness of the sign or improve pedestrian or vehicular safety.
- j) Development identification signs may be constructed as a detached sign, provided that:

- 1) The sign is located at least six feet from a street line.
- 2) The sign, if located behind the front yard setback line, is not located in a side or rear yard.
- 3) The sign shall have sufficient horizontal and vertical clearance for pedestrian and vehicular traffic.
- 4) The sign shall not be located in a position that could interfere with vehicular sightlines.
- 5) The illumination source (if any) does not cause undue glare on to private property or nearby streets.
- 6) The materials, design, and location of the sign shall be in harmony with the architecture of the buildings within the development and the character of the site and area.
- 7) The major elements of the sign shall be constructed of materials specifically approved by the Commission.
- 8) The sign shall be located in a landscaped area.
- 9) The design and construction of the sign shall be in accordance with applicable building codes.

#### 12.6.4.10 SANDWICH BOARD SIGNS:

- a) One sandwich board sign is permitted per premises. At multi-use premises, one sandwich board sign is allowed per use.
- b) The sandwich board sign may advertise daily specials, sales, bill of fare, or articles for sale within a premise.
- c) The sandwich board sign must be stored away from view during off-hours of the use.
- d) The sandwich board sign must be appropriately secured against movement from wind.
- e) The maximum area of any one side of a sandwich board sign shall be 12 square feet and the maximum total area of all sides of such a sign shall be 24 square feet.

- i** The area of a sandwich board sign shall not count toward the maximum allowed area of signage for a premises or use.
- j** The sandwich board sign shall not be placed in a location that obstructs or otherwise compromises pedestrian or vehicular traffic.
- h** The Zoning Enforcement Officer shall have full authority to require the relocation or removal of a sandwich board sign which, in the opinion of the Zoning Enforcement Officer, does not conform to these standards.

#### 12.7 NON-CONFORMING SIGNS:

12.7.1 Non-conforming signs, legally existing as of the effective date of this section, may be continued, provided that these non-conforming signs shall not be:

- i** enlarged.
- b** illuminated, if not previously illuminated.
- s** altered to create any additional non-conformities.

12.7.2 The property owner shall remove all non-conforming signs within 60 days after a given use ceases activity. This paragraph does not apply to seasonal or part-time uses during normal shutdowns.

#### 12.8 MAINTENANCE, COMPLIANCE, AND REMOVAL

- 12.8.1 All signs, supports, braces, guys, and anchors shall be kept in good working order and in a safe condition.
- 12.8.2 The property owner is responsible for keeping signs (including illumination sources) in good working order and in a safe condition.
- 12.8.3 Unsightly, damaged, or deteriorated signs or signs that are in danger of falling shall be repaired or removed within 30 days following written notice to the sign's owner from the zoning or building official.
- 12.8.4 Any sign pertaining to a business or use no longer conducted on the premises shall be completely removed by the property owner within 30 days after the activity ceases. This paragraph does not apply to signs of distinction.
- 12.8.5 Any sign(s), which replace non-conforming signs, shall comply with this section.

#### 12.9 PERMIT PROCEDURES:

- 12.9.1 Applications for permits are available at the Building and Zoning Office in the Town Hall during normal office hours.
- 12.9.2 All signs larger than six square feet in area (on the largest side) require a building permit from the Building Official and a zoning permit from the Zoning Enforcement Officer.
- 12.9.3 The Zoning Enforcement Officer shall not approve any zoning permits for signs requiring site plans or special exception approval until:
- a) The Commission has approved applications for the same, and
  - b) Any appeal periods required by local or State statute have expired without appeal.
- 12.9.4 In considering an application for the approval of any signage, the Commission, Zoning Enforcement Officer, may require any or all of the following information:
- a) A site plan, prepared to Class A-2 precision, showing the accurate planimetric location of all existing and proposed detached or development-identification signs, and any other existing or proposed site features that land-use officials deem necessary for proper consideration and approval of the application, and/or
  - b) Scaled elevation drawings of existing and proposed buildings, showing location, dimensions, and area of all existing and proposed signage on the building(s), and/or
  - c) Plans and specifications of existing and proposed signs, including dimensions, area, minimum and maximum heights above finished grade, message and design, materials, colors, method of construction, and method of illumination.
- 12.9.5 For all signs that require special exception approval, the Commission shall hold a public hearing, in accordance with local and state statute, as part of the approval process. At least seven days before the hearing, the applicant must notify, by certified mail (return-receipt not required), all land-owners within 300 feet of the subject property of the time, date, place, and purpose of the hearing. The applicant must submit the original certified mail receipts to the Commission at the commencement of the hearing.



**SECTION 13 — ZONING BOARD OF APPEALS***Amended and Adopted 7/22/91, Effective 8/25/91***13.1 MEMBERSHIP AND RECORDS**

The Zoning Board of Appeals shall consist of five (5) regular members and three (3) alternate members chosen and for terms as provided by the Charter of the Town of Winchester. All members of the Board shall be electors of the Town of Winchester and shall not be members of the Commission. Said Board, by vote of its regular members only, shall elect a chairman from its membership and shall appoint a secretary, who shall keep minutes of its proceedings showing the vote of every member upon each question, or, if absent or failing to vote, indicating such fact. Each rule and regulation, and each amendment or repeal thereof, and each order, requirement or decision of the Board shall immediately be filed in the office of the Board, and shall be a public record. Before acting on any matter under the provisions of these regulations, the Board shall hold a public hearing, as required by Chapter 124 of the Connecticut General Statutes (Rev. 1958), as amended.

**13.2 MEETINGS**

All meetings of said Board shall be held at the call of the chairman, and at such other times as said Board may determine, and shall be open to the public. The chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses.

**13.3 POWERS AND DUTIES**

The Zoning Board of Appeals shall have the following powers and duties:

- 13.3.1 To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the Zoning Enforcement Officer or any other official charged with the enforcement of these regulations;
- 13.3.2 To hear and decide all matters, including special exceptions, upon which it is required to pass by the specific terms of these regulations; and
- 13.3.3 To determine and vary the application of provisions of these regulations in harmony with their general purpose and intent, and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land, where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of these regulations would result in exceptional difficulty or unusual hardship, so that justice will be done, and the public safety and welfare preserved.

**13.4 PROCEDURE**

All appeals and applications made to said Board shall be submitted on forms prescribed by said Board and with supporting plans, materials, and other information required by said Board. Applications shall be accompanied by the appropriate fee as established by said Board.

Any action required by the appellant as a result of decisions or orders made by said Board must be taken within the time affixed by said board.

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 months after a decision by said Board or by a court on an earlier such application.

**SECTION 14— PERFORMANCE STANDARDS****14.0 GENERAL PROVISIONS**

For the purpose of promoting the general welfare, and protecting the public health and safety, and providing adequate light and clean air and water, the following performance standards shall apply to all commercial and industrial uses of land:

- 14.1 No new use shall be permitted, and no existing use shall be changed, except in conformance with these regulations.
- a) The use shall be carried on in such a manner and with such precautions against fire and explosion hazards as to produce no serious exposure hazard to adjacent property, and the storage of all flammable or explosive materials shall be in a manner approved by the Fire Marshal.
  - b) All commercial and industrial uses and processes shall comply with the emission standards established by the Clean Air Commission (State of Connecticut).
  - c) All commercial and industrial uses shall comply with the regulations governing the discharge of water, substances, and materials into the ground or into streams of the Water Resources Commission and the Department of Health (State of Connecticut).
  - d) The sound intensity level of any individual operation or plan (other than motor vehicles or other transportation facilities) shall not exceed the decibel level in the designated octave bank shown on the following table:

<u>OCTAVE BAND</u>	<u>MAXIMUM PERMITTED SOUND LEVEL DECIBELS</u>	
	At Residence and Rural Zone Boundaries	At Business Zone Boundaries
Frequency, Cycles Per Second		
0 to 75	72	75
75 to 150	67	70
150 to 300	59	63
300 to 600	52	57
600 to 1,200	46	52
1,200 to 2,400	40	45
2,400 to 4,800	34	40
above 4,800	32	38

- e) Commercial or industrial interior or exterior lighting shall not produce discomfort glare on public highways or neighboring property, or conflict with any traffic signals.
- f) Vibration noticeable off the lot shall not exceed the standards developed by the U.S. Bureau of Mines, Bulletin #442, or any revision thereof.

**SECTION 15 — SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS****15.0 GENERAL PROVISION**

The Commission hereby establishes these Soil Erosion and Sedimentation Control Regulations and designates the Enforcement Officer for their implementation. Any application to the Commission wherein the activity requires the submission of a Soil Erosion and Sediment Control Plan to the Enforcement Officer shall contain therein a certification that an application for certification, in form approved by the Enforcement Officer, and such Plan have been submitted to the Enforcement Officer. A Soil Erosion and Sediment Control Plan shall include measures to minimize soil erosion and sedimentation resulting from land development and measures for controlling erosion and sediment which equal or exceed those contained in "Connecticut Guidelines for Soil Erosion and Sediment Control," January 1985, as amended. The Commission may require any applicant to submit a copy of the Soil Erosion and Sediment Control Plan, certified by the Enforcement Officer, to the Commission. The Enforcement Officer shall send a report to the Commission setting forth its actions taken with respect to any Soil Erosion and Sediment Control Plan submitted to it pursuant to these regulations.

**15.1 DEFINITIONS**

As used in these Soil Erosion and Sedimentation Control Regulations, the following terms shall have the following meanings:

**CERTIFICATION:** A signed, written approval by the Enforcement Officer, designated agent of the Winchester Planning & Zoning Commission, or the Litchfield County Soil & Water Conservation District that a soil erosion and sediment control plan complies with the applicable requirements of these regulations.

**COUNTY SOIL & WATER CONSERVATION DISTRICT:** The Litchfield County Soil & Water Conservation District established under subsection (a) of Section 22a-315 of the General Statutes.

**DEVELOPMENT:** Any construction or grading activities to improved or unimproved real estate, including, without limitation, paving and logging operations.

**DISTURBED AREA:** An area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

**ENFORCEMENT OFFICER:** Refer to Section **1 Definitions**.

**EROSION:** The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

**GRADING:** Any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

**INSPECTION:** The periodic review of sediment and erosion control measures shown on the certified plan.

**SEDIMENT:** Solid material, either mineral or organic, that is in suspension, is transported, or has been removed from its site of origin by erosion.

**SOIL:** Any unconsolidated mineral or organic material of any origin.

**SOIL EROSION AND SEDIMENT CONTROL PLAN:** A scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.

## 15.2 ACTIVITIES REQUIRING A SOIL EROSION AND SEDIMENT CONTROL PLAN

A soil erosion and sediment control plan shall be submitted with any application for development when the disturbed area of such development is cumulatively more than one-half acre, or within the Highland Lake (HL) District, is cumulatively more than 4,000 square feet.

### 15.2.1 EXEMPTIONS

A single family dwelling (i.e. one family dwelling) that is not part of a subdivision of land shall be exempt from these Soil Erosion and Sedimentation Control Regulations.

## 15.3 EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS

**15.3.1** 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 storm water runoff and the proposed site based on the best available technology. Such principles, methods and practices necessary for certification are found in the "Connecticut Guidelines for Soil Erosion & Sediment Control" (1985) as amended. Alternative principles, methods and practices may be used with prior approval of the Enforcement Officer.

**15.3.2** Said plan shall contain, but not be limited to:

- a)** A narrative describing:
  - 1)** The development:
  - 2)** A schedule for grading and construction activities including start and completion dates; sequence of grading and construction activities; sequence for installation

and/or application of soil erosion and sediment control measures; and sequence for final stabilization of the project site;

3) the design criteria for proposed soil erosion and sediment control measures and storm water management facilities;

4) the construction details for proposed soil erosion and sediment control measures and storm water management facilities.

5) the installation and/or application procedures for proposed soil erosion and sediment control measures and storm water management facilities.

6) the operations and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities.

5) A site plan map at 1" = 100' or larger scale to show:

1) The location of the proposed development and adjacent properties;

2) The existing and proposed topography including soil types, wetlands, watercourses, and water bodies;

3) The existing structures on the project site, if any;

4) The proposed area alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines;

5) The location of and design detail for all proposed soil erosion and sediment control measures and storm water management facilities;

6) The sequence of grading and construction activities;

7) The sequence of installation and/or application of soil erosion and sediment control measures;

8) The sequence of final stabilization of the development site.

9) Any other information deemed necessary or appropriate by the applicant or the Enforcement Officer in order to review and certify the proposed soil erosion and sediment control plan.

6) Such plan shall be prepared by a Professional Engineer registered in the State of Connecticut unless a waiver is granted by the Enforcement Officer. Such engineer shall

certify that the plans as prepared comply with the requirements and objectives of these regulations.

- a) Any other information deemed necessary and appropriate by the Enforcement Officer.

#### **15.4** MINIMUM ACCEPTABLE STANDARDS

**15.4.1** 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 "Connecticut Guidelines for Soil Erosion and Sediment Control" 1985, 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.

**15.4.2** The minimum standards for individual soil erosion and sediment control measures are those contained in the "Connecticut Guidelines for Soil Erosion and Sediment Control," 1985, as amended. The Enforcement Officer may adopt additional guidelines to assist applicants, but in the event of any conflict, the "Connecticut Guidelines for Soil Erosion and Sediment Control," 1985, as amended, shall control. The Enforcement Officer may grant exceptions to the guidelines when requested by an applicant if technically sound reasons are presented.

**15.4.3** The appropriate method from Chapter 9 of the "Connecticut Guidelines for Soil Erosion and Sediment Control," 1985, as amended, shall be used in determining peak flow rates and volumes of runoff unless an alternative method is approved by the Enforcement Officer.

#### **15.5** ISSUANCE OR DENIAL OF CERTIFICATION

**15.5.1** The Enforcement Officer shall either certify that the soil erosion and sediment control plan, as filed or subject to conditions set forth by the Enforcement Officer in its certification, complies with the requirements and objectivities of the Soil Erosion and Sedimentation Control Regulations or deny certification when the plan does not comply with such regulations. The Enforcement Officer shall send a report to the Commission of its actions within seven (7) days of its certification or denial of certification of any plan.

**15.5.2** Nothing in these Regulations shall be construed as extending the time limits for the approval of any application under Chapter 124, 124A, or 126 of the General Statutes.

**15.5.3** The Enforcement Officer may, prior to certification, forward a copy of the soil erosion and sediment control plan to the County Soil & Water Conservation District or other review agency or consultant, for its or their review and comment, provided that any such review shall be completed within thirty (30) days of the Enforcement Officer's referral of such plan for review and comment.



**15.5.4** The Enforcement Officer may, as a condition to its certification of any soil erosion and sediment control plan, require that the applicant deliver to the Town a cash bond or performance bond or other financial assurance acceptable to the Enforcement Officer, in an amount equal to the estimated cost of measures required to implement, perform and maintain the requirements of the certified plan. If so required, site **development** shall not commence until such bond or financial assurances have been delivered to the Town.

**15.6** CONDITIONS RELATING TO SOIL EROSION AND SEDIMENT CONTROL

**15.6.1** 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.

**15.6.2** Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.

**15.6.3** All control measures and facilities shall be maintained in effective condition to ensure the compliance of the certified plan.

**15.7** INSPECTION

**15.7.1** The Enforcement Officer 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.

**15.7.2** Where field conditions so indicate, the Enforcement Officer may require corrective or alternate means of soil erosion and sediment control measures not shown on the certified plan.

**15.7.3** Inspections shall be made by the Enforcement Officer or Zoning Enforcement Officer, acting as its agent, during the development to insure compliance with the certified plan and that control measures and facilities are properly performed, installed and maintained. These soil and erosion control regulations may be enforced by the Enforcement Officer or by the Zoning Enforcement Officer, acting as its agent.

**SECTION 16 — PERMITS, CERTIFICATES AND ENFORCEMENT PROVISIONS**

*Amended and Adopted 7/22/91, Effective 8/25/91.*

**16.1 GENERAL REQUIREMENTS**

The Zoning Enforcement Officer (ZEO) of the Town of Winchester, or if none, such other person as may be designated by the Commission as the Zoning Enforcement Officer (ZEO), shall be the administrative official charged with the enforcement of this ordinance and these regulations. No building permit, zoning permit, certificate of occupancy or certificate of zoning compliance may be issued except in conformity with all applicable provisions of these zoning regulations and other applicable laws, regulations and ordinances of the Town of Winchester and the State of Connecticut, except to the extent the same may be modified by legal process or law.

**16.2 PERMITS, BUILDING AND ZONING**

No land shall be used and no building or structure shall be used, erected, moved, enlarged, or structurally altered at a cost exceeding One Hundred Dollars (\$100.00), and no permanent sign exceeding four (4) square feet in area shall be constructed, erected or maintained, unless and **until a Zoning Permit** has been issued by the Zoning Enforcement Officer and a Building Permit **issued, when required, by the Building Official**. Applications for a Building Permit and Zoning Permit shall be made by the owner or his agent on forms approved by the Commission and shall be accompanied by the applicable fee for each, payable to the Town of Winchester, as established from time to time by the Commission or other governmental body having authority to establish such fees.

**16.2.1 BUILDING PERMIT**

A Building Permit is a document issued and certified by the building official that the proposed construction is in conformance with the State **Building Code and, if applicable, the State Fire Code**. No Building Permit shall be issued unless and until a Zoning Permit has been duly issued, if required by these **regulations**.

**16.2.2 ZONING PERMIT**

A Zoning Permit is a document issued and certified by the Zoning Enforcement Officer that the proposed use and construction is in conformance with the zoning ordinance and all regulations promulgated thereunder. A Zoning Permit is not required for repairs or alterations to existing buildings or structures, provided that such work does not increase the floor area of any building or structure and does not change the use thereof. An application for a Zoning Permit shall **include:**

a) **A copy of a plot plan of the lot, drawn to scale, and showing property lines, open spaces, structure and building areas and the location of the lot with reference to all abutting properties and streets; and**

b) **A copy of the application for the Building Permit**

c) A set of dimensional plans of floors and elevations of the building or structure, and specifications to indicate the kind, size, and quality of the proposed construction. Such plans may be waived by the Zoning Enforcement Officer when the proposed work is of a minor nature.

The Zoning Enforcement Officer may require that the plot plan required by subsection (a) be prepared by a Connecticut licensed surveyor or engineer, and meet with all or a portion of the requirements for a subdivision plan under the Town of Winchester Subdivision Regulations.

#### 16.2.3 EXPIRATION

A Zoning Permit shall each become void unless construction is commenced within six (6) months from the date of its issuance, unless such time shall have been extended in writing by the Zoning Enforcement Officer.

### 16.3 CERTIFICATES, ZONING COMPLIANCE AND OCCUPANCY

No land, building, structure, permanent sign exceeding four (4) square feet in area, or lot, the use or area of construction of which has been changed, extended, moved, enlarged, or structurally altered, shall be occupied or used, in whole or in part, until both a Certificate of Occupancy shall have been issued by the Building Official and a Certificate of Zoning Compliance shall have been issued by the Zoning Enforcement Officer. Prior to any Certificate of Occupancy being issued by the Building Official, an applicant must apply for and obtain a Certificate of Zoning Compliance. In the event of a valid non-conforming use, building, lot or structure, the Certificate of Occupancy and Certificate of Zoning Compliance shall so indicate.

When a proposed change, extension, enlargement or alteration of land, structure, building or lot do not require under these regulations a Building Permit or Zoning Permit, a Certificate of Zoning Compliance and Certificate of Occupancy shall be applied for and obtained prior to any such proposed change, extension, enlargement or alteration being commenced.

#### 16.3.1 CERTIFICATE OF OCCUPANCY

A Certificate of Occupancy is a document issued by the Building Official certifying that a Certificate of Zoning Compliance has been issued by the Zoning Enforcement Officer and that the as-built condition is in conformance with the Building Permit, if required, and in compliance with the State building code and, if applicable, the State fire safety code.

#### 16.3.2 CERTIFICATE OF ZONING COMPLIANCE

A Certificate of Zoning Compliance is a document issued by the Zoning Enforcement Officer, certifying that such land, building, structure, sign or lot is in compliance with the

Zoning Permit, if required, and in conformance with these zoning regulations or is a valid non-conforming structure or use under these regulations.

#### 16.3.3 DEFINITIONS

Wherever in these regulations reference is made to Town Building Code, Building Code, Basic Building Code, or State building code, the same shall mean the State Building Code adopted pursuant to Chapter 541 of the Connecticut General Statutes (Rev. 1958), as amended, and any amendments thereto, as well as any regulations, rules, orders, directives and interpretations promulgated thereunder. Wherever in these regulations reference is made to State Fire Safety Code, the life safety code or fire code, the same shall mean the State Fire Code adopted pursuant to Chapter 541 of the Connecticut General Statutes (Rev. 1958), as amended, and any amendments thereto, as well as any regulations, rules, orders, directives and interpretations promulgated thereunder. The term, "Building Official" as used in these regulations shall mean the local building official appointed, qualified and licensed pursuant to Connecticut General Statutes (Rev. 1958) Sections 29-260 through 29-262, as amended.

#### 16.4 RECORDS

The Building Official shall keep a record of all issued Building Permits and Certificates of Occupancy, together with all applications and supporting documentation therefor. Such records shall be maintained in the office of the Building Official and shall be available for public inspection and copying at reasonable cost. The Zoning Enforcement Officer shall keep a record of all issued Zoning Permits and Certificates of Zoning Compliance, together with all supporting documentation therefor. Such records shall be maintained in the office of the Zoning Enforcement Officer and shall be available for public inspection and copying at reasonable cost. The Building Official and Zoning Enforcement Officer may integrate such records, in which event such records shall then be jointly maintained by and be the responsibility of the Building Official and Zoning Enforcement Officer and shall be maintained in the office of either.

#### 16.5 ENFORCEMENT

##### 16.5.1 ZONING ENFORCEMENT OFFICER

These Regulations shall be enforced by the Zoning Enforcement Officer (ZEO), acting as agent for and under the supervision of the Commission. The Zoning Enforcement Officer will work closely with the Commission and keep it fully informed of all enforcement actions and will keep and maintain records (including a daily log) of all enforcement actions. The Zoning Enforcement Officer (ZEO) is hereby authorized to cause any land, building, structure, sign, lot or use to be inspected and/or issue orders in writing to remedy any condition found to exist which is in violation of these regulations. Copies of any orders issued by the Zoning Enforcement Officer shall be sent contemporaneously to the Commission. The Zoning Enforcement Officer shall furnish reports to the Commission of enforcement activities at the Commission's regular meetings or at such times and in such manner as the Commission may require.

**16.5.2 ENFORCEMENT ACTIONS**

The Commission, the Zoning Enforcement Officer, or any other official having jurisdiction, in addition to other remedies, may institute an action or proceeding to prevent the unlawful erection, alteration, reconstruction, maintenance, or use of any land, building, structure, sign or lot and/or to correct or abate any unlawful act or to prevent the illegal occupation of any land, building, structure or lot or any illegal act or violation of these Regulations.

**16.5.3 FINES AND REMEDIES**

Any person, firm, association, corporation or other legal entity violating any of the provisions of these regulations shall be subject to a fine in an amount not to exceed twenty dollars (\$20.00) for each such offense, and for each and every day that such offense continues; provided, however, that the Commission may exercise any and all of the remedies and sanctions, including without limitation imposition of fines in the same or greater amount, for violation of these regulations as are prescribed by Section 8.12 of the Connecticut General Statutes (Rev. 1958), as amended.

**SECTION 17-AMENDMENTS**

*Amended and Adopted 7/22/91, Effective 8/25/91*

**17.1 PROCEDURES**

Amendment of these Regulations, including the Official Zoning Map, may be petitioned for by an application for zone change filed by any person or persons, or may be initiated by the Commission. Amendments may be made after notice and hearing in accordance with Section 8-3 of the Connecticut General Statutes (Rev. 1958), as amended, and Section 3.19 of these Regulations. An amendment of these Regulations, including the Official Zoning Map, shall be effective on the first business day following both the filing of a copy of such amendment in the office of the Town Clerk and publication of a notice of the Commission's decision in a newspaper having a substantial circulation in the Town; or on such later date as the Commission shall have established as the effective date for such amendment.

Before the Commission approves any amendment to these Regulations, the Commission shall determine that the proposed amendment will not hinder the attainment of the purposes of these regulations, and that the public health, safety, welfare and property values will not be adversely affected.

**17.2 APPLICATIONS**

Applications for zone change shall be on a form approved by the Commission, accompanied by the filing fee established by the Commission, and shall be accompanied by six sets of a plan accurately drawn to a scale of 1" = 100' on a sheet 24" x 36". Such plan shall include a location map and shall show the existing and proposed zoning designations and the location of buildings, streets, driveways and other facilities on the subject land and adjoining properties within 500 feet.

Before the Commission approves a zone change, the Commission shall determine that the proposed zone change will be in conformance with the comprehensive plan and the purposes of these regulations, and that the uses permitted in the proposed zone will not adversely affect the public health, safety, welfare and property values.

**17.3 PROTESTS**

If a protest is filed at such hearing with the Commission against a proposed zone change, signed by the owners of 20% or more of the area of lots included in such a proposed change, or of the lots within five hundred (500) feet in all directions of the property included in the proposed change, such change shall not be adopted except by a vote of two-thirds (2/3) of all the members of the Commission.

**17.4 MULTIPLE PETITIONS**

The Commission is not required to hear any petition or petitions relating to the same zone change(s) or substantially the same zone change(s) more than once in a period of twelve (12) months.

**SECTION 18 — VALIDITY***Amended and Adopted 7/22/91, Effective 8/25/91*

The invalidity of any word, clause, sentence, paragraph, subsection, section, part or provision of these Regulations shall not affect the validity of any other word, clause, sentence, paragraph, subsection, section, part or provision which can be given effect without such invalid part or parts. The invalidity of these Regulations with respect to any particular activity shall not invalidate these Regulations with respect to other activities.



**SECTION 19-WIRELESS COMMUNICATION FACILITIES***Amended and Adopted 2/23/98, Effective 3/18/98***19.1 STATEMENT OF PURPOSE**

This regulation establishes standards and requirements and permitting procedures for wireless communication facilities that are subject to local zoning regulation in Connecticut. Its purpose is to regulate the placement of antennas, towers, and their regulated wireless communication facilities to protect the health, safety and welfare of the Town, and

- a) to provide for locations consistent with the Town Plan and the purposes of these Regulations,
- b) to minimize adverse visual effects through proper design, siting and screening,
- c) to avoid potential damage to adjacent properties,
- d) to provide for orderly removal of abandoned facilities.

**19.2 DEFINITIONS**

**ANTENNA:** The surface from which wireless radio signals are sent and received by a personal wireless service facility.

**CAMOUFLAGED:** A wireless communication facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure is considered "camouflaged."

**CARRIER:** A company that provides wireless services.

**CO-LOCATION:** The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

**COMMISSION:** The Planning and Zoning Commission of the Town of Winchester.

**ELEVATION:** The elevation at grade or ground level may be given in many ways, usually Above Mean Sea Level (AMSL). The height of a wireless service facility is often given in Above Ground Level (AGL). AGL is a measurement of height from the natural grade of a site to the highest point of a structure. The total elevation of the wireless service facility is AGL plus AMSL.

**ENVIRONMENTAL ASSESSMENT (EA):** An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a wireless communication facility is placed in certain designated areas.



**EQUIPMENT SHELTER:** An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

**FALL ZONE:** The area on the ground within a prescribed radius from the base of a wireless communication facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

**GUYED TOWER:** a monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

**LATTICE TOWER:** A type of mount that is self-supporting with multiple legs and crossbracing of structural steel

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

**MONOPOLE TOWER:** The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

**MOUNT:** The structure or surface upon which antennas are mounted, including the following four types of mounts:

- a) Roof-mounted. Mounted on the roof of a building.
- b) Side-mounted. Mounted on the side of a building
- c) Ground-mounted tower. Mounted on the ground.
- d) Structure-mounted. Mounted on a structure other than a building.

**OMNIDIRECTIONAL (WHIP) ANTENNA:** A thin rod that beams and receives a signal in all directions.

**PANEL ANTENNA:** A flat surface antenna usually developed in multiples.

**RADIOFREQUENCY (RF) ENGINEER:** An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.

*Note: When RF engineers are certified or licensed, they are known as Professional Engineers.*

**RADIOFREQUENCY RADIATION (RF):** The emissions from wireless communication facilities.

**REGULATED FACILITY, SERVICE AND/OR SITE:** All facilities including mounts, towers and antennas and the site(s) these facilities are located on relating to personal communication services and any other wireless telecommunication service subject to local zoning regulation.

**SECURITY BARRIER:** A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

**SEPARATION:** The distance between one carrier's array of antennas and another carrier's array.

### 19.3 USE REGULATIONS

#### 19.3.1 EXEMPTIONS

The following shall be exempt from this regulation.

- 19.3.1.1 Repair and maintenance of towers and antennas.
- 19.3.1.2 Antenna used solely for residential television and radio reception.
- 19.3.1.3 Satellite antenna measuring 2 meters or less in diameter and located in commercial districts, and satellite antenna measuring 1 meter or less in diameter regardless of location. *(Note: this requirement is established pursuant to a FCC ruling preempting local regulation of satellite antennas.)*

#### 19.3.2 PERMITTED USES

The following Regulated Facilities located on existing structures or co-located shall be Permitted Uses in all districts. All such uses in any such District shall be subject to Site Plan approval.

##### 19.3.2.1 CAMOUFLAGED

A regulated facility which is completely camouflaged and not recognizable as part of a wireless facility such as within a flagpole, steeple, chimney, or similar structure.

##### 19.3.2.2 EXISTING STRUCTURE

A regulated facility on an existing structure (whether or not it is conforming in terms of height) including but not limited to a guyed, lattice, or monopole tower, fire tower or water tower, provided it does not increase the height of the existing structure.

##### 19.3.2.3 UTILITY STRUCTURES

An antenna(s) located on an electric transmission and distribution tower, telephone pole and similar existing utility structure. The installation may increase the height of the existing structure by no more than twenty feet, except in designated historic districts (or other historic or scenic areas of the town as shown on a map on file in the

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Planning and Zoning Office) or within 150 feet of the paved portion of a Town road or State highway proposed for or designated as a scenic road or highway.

19.3.2.4. BUILDING (ROOF OR SIDE) MOUNTS

Provided it does not project either above the building or the height limit of the zoning district by more than 10 feet.

19.3.2.5 BUILDING (ROOF OR SIDE) MOUNTS

May locate on a building or structure legally non-conforming with respect to height, provided it does not project above the existing building or structure height, or more than 10 feet above the height limit of the zoning district.

19.3.3 SPECIAL PERMIT (OR EXEMPTION) USE

The following co-located Regulated Facilities and ground-mounted towers shall be Special Permit Uses in all districts.

19.3.3.1 Regulated Facilities located on existing structures or co-located that do not qualify as a Permitted Use as set forth in 3.2 above.

19.3.3.2 All Ground Mounted Towers.

19.4 GENERAL STANDARDS AND REQUIREMENTS FOR PERMITTED AND SPECIAL EXCEPTION USES

19.4.1 LOCATION

Wherever feasible, Regulated Facilities shall be located on existing structures, including but limited to buildings, water towers, existing telecommunications facilities, utility poles and towers provided the installation preserves the character and integrity of those structures.

19.4.1.1 Applicants are urged to consider use of existing telephone and electric utility structures as sites for Regulated Facilities.

19.4.1.2 The following zoning districts are considered preferred locations for new free-standing towers:

- 1) Commercial, and 2) Industrial.

The following zoning districts are the least preferred locations for free standing towers:

- 1) Residence, and 2) Rural.

19.4.1.3 SITE JUSTIFICATION FOR GROUND MOUNTED TOWER

An application for a ground mounted tower shall include a detailed site justification report which:

- a) Provides written documentation of all regulated facility sites in the Town and any facility sites outside of the Town that are within five (5) miles of the proposed site, in which it has a legal interest, whether by ownership, leasehold or otherwise. From each such Regulated Facility site, it shall demonstrate with written documentation that these facility sites are not already providing, or do not have the potential by adjusting the site to provide, adequate coverage and/or adequate capacity to the Town.
- b) Demonstrates that the proposed location (which includes both tower positions and antenna height) is superior to other potential locations for the proposed uses.
- c) Documents that signal strength service objectives are consistent with accepted engineering practice for all proposed uses of the tower.
- d) Includes complete and accurate propagation plots in relation to scaled elevation drawings addressing all facilities to be installed on the tower.
- e) Demonstrates that for each proposed use of the tower the proposed height is the minimum necessary to provide adequate coverage as defined in Federal guidelines and accepted engineering practice.
- f) Demonstrates that the tower can accommodate both the applicant's antennas and at least two other carriers' antennas and a municipal antenna if the tower is over one hundred feet high.

#### 19.4.2 VISIBILITY - CAMOUFLAGE AND COLOR

The Commission shall apply the following standards and requirements to minimize the visual impact of proposed regulated facilities.

##### 19.4.2.1 REQUIREMENTS FOR EXISTING BUILDINGS OR STRUCTURES

- a) ROOF MOUNT: Where a roof mount extends above the roof the applicant shall demonstrate every effort has been made to conceal the mount within or behind existing architectural features to limit visibility from public streets.
- b) SIDE MOUNT: Side mounts shall blend with the existing architecture and, if over 5 square feet, shall be painted or shielded with material consistent with the design features and materials of the building.
- c) Mounts and antennas located on an historic structure shall be fully removable without diminishing the historic quality of the structure.

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- d) Regulated Facilities in an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

**19.4.2.2 REQUIREMENTS FOR PROPOSED GROUND MOUNTED TOWERS**

Proposed ground mounted towers shall provide a vegetated buffer of sufficient height and a depth of not less than 50' to screen the facility to the extent feasible. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. Where it is not feasible to fully buffer a facility, the applicant shall submit a landscape plan prepared by a Connecticut Licensed Landscape Architect. The landscape plan shall recommend the type of tree and plant materials and depth of buffer appropriate to the site, design, height and location of the facility. The Commission may require reasonable modifications to the landscape plan where it determines such are necessary to minimize the visual impact of the facility on the neighborhood and community character.

**19.4.2.3 SCENIC ROADS AND AREAS**

- a) The Commission may approve a ground mounted tower located in an open area visible from a public road, recreational area, or residential development only where it has been demonstrated by the applicant to the satisfaction of the Commission that the proposed service cannot be reasonably provided in a location on an existing structure or a co-location.
- b) A regulated facility located within 300 feet of a Town or State designated scenic road shall not exceed the height of vegetation at the proposed location.

**19.4.2.4 TREE COVER AND SIGHT LINE INFORMATION**

Where the Commission determines that tree cover and/or sight line information, including view points (points from which view is taken) and visible points (points being viewed), are necessary to determine compliance with the standards in this section it shall require the following:

- a) Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
- b) **SIGHT LINES AND PHOTOGRAPHS** A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the Regulated Facility. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.

Existing (before) condition photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet.

Proposed (after) condition photographs. Each of the existing condition photographs shall have the proposed regulated facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.

c) SIGHT ELEVATIONS:

Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius round the proposed regulated facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

- 1) Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
- 2) SECURITY BARRIER:  
If the security barrier will block views of the regulated facility, the barrier drawing shall be cut away to show the view behind the barrier.
- 3) Any and all structures on the subject property.
- 4) Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
- 5) Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contour above mean sea level.

19.4.4 ENVIRONMENTAL AND SAFETY STANDARDS

- a) No hazardous waste shall be discharged on the site of any Regulated Facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- b) Ground-mounted equipment for regulated service facilities shall not generate noise in excess of 45 db at the property line.
- c) Roof-mounted or side-mounted equipment for Regulated Facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.
- d) RADIOFREQUENCY RADIATION (RFR) STANDARDS AND REQUIREMENTS  
The applicant shall provide documentation that all equipment proposed for a Regulated Facility is authorized according to FCC Guidelines for Evaluating the Environmental Effects of Radio frequency Radiation (FCC Guidelines) or its successor publication.

19.5 ADDITIONAL STANDARDS AND REQUIREMENTS FOR GROUND MOUNTED TOWER SPECIAL EXCEPTION USES

a) FEASIBLE ALTERNATIVE

Where a ground mounted tower is proposed, the applicant shall have the burden of proving that there are no feasible existing structures or co-location sites upon which to locate.

b) LOT SIZE

All ground mounted towers and their equipment shelters shall require a lot of not less than required for the district zone in which the site is located. In addition the following setbacks shall be required.

c) SETBACK

In order to ensure public safety, the fall zone shall not include or encompass any property line, road, habitable dwelling, business or institutional use, or public recreational area or any other structure.

In its consideration of the visual and safety impacts of a proposed ground mounted tower, the Commission may reduce the required setback area (as required above) by not more than 50% or allow the setback to be measured into a neighboring property where:

- a) a monopole tower is proposed,
- b) such reduction permits a tower site plan with better camouflage and overall design than alternative sites,
- c) the setback area within a neighboring property is not developed and will be subject to a legally binding agreement preventing development during the time the tower is in place.

19.6 APPLICATION FILING REQUIREMENTS

The following shall be included with an application for a Special permit or Site Plan Application for all Regulated Facilities. The Commission may not require one or more of the following for a Permitted Use Site Plan application.

19.6.1 GENERAL FILING REQUIREMENTS

- a) Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.
- b) Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the Regulated Facility.
- c) A licensed carrier shall either be an applicant or a co-applicant and shall provide documentation of qualifications as a "licensed carrier."
- d) Original signatures for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant will be represented by an agent, an original

signature authorizing the agent to represent the applicant and/or co-applicant is required. Photo reproductions of signatures will not be accepted.

#### 19.6.2 LOCATION FILING REQUIREMENTS

- a) Identify the subject property by including the Town as well as the name of the locality, name of the nearest road or roads, and street address, if any.
- b) Tax map and parcel number of subject property.
- c) Zoning district designation for the subject parcel (submit copy of Town Zoning Map with parcel identified).
- d) A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
- e) A Town-wide map showing the other existing non-residential wireless service facilities in the Town and outside the Town within three miles of its boundary.
- f) The proposed locations of all existing and future wireless service facilities in the Town on a Town-wide map for this carrier.

#### 19.6.3 SITE PLAN REQUIREMENTS

The following Site Plan requirements shall be in addition to the requirements of Sections 4 and 5 of these Regulations regarding Site Plan. Where the requirements of this section are more restrictive than that of Section 4 and 5, these requirements shall apply. For a permitted Use, the Commission may determine that the information specified under subsections 7 and 8 is not needed to determine compliance with this regulation. A one-inch-equals 40 feet vicinity plan shall be submitted showing the following:

- a) Property lines for the subject property.
- b) Property lines of all properties adjacent to the subject property within 300 feet.
- c) Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
- d) Proposed location of antenna, mount and equipment shelter(s).
- e) Proposed security barrier, indicating type and extent as well as point of controlled entry.
- f) Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the regulated facility.
- g) Distances, at-grade, from the proposed regulated facility to each building on the vicinity plan.



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- h) Contours at each two feet AMSL (see definition section) for the subject property and adjacent properties within 300 feet.
- i) All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
- j) Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.
- k) Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" sub-section below.

**19.6.4 DESIGN FILING REQUIREMENTS**

- a) Equipment brochures for the proposed Regulated Facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- b) Materials of the proposed Regulated Facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- c) Colors of the proposed Regulated Facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- d) Dimensions of the Regulated Facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- e) Appearance shown by at least two photographic superimpositions of the Regulated Facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth. The Commission may determine that this information is not needed for a Permitted Use.
- f) Landscape plan prepared by a Connecticut licensed landscape architect including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- g) Within 21 days of filing an application for a Special Permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of a ground mounted tower. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least 15 days, but not more than 21 days, prior to the test.

- h) If lighting of the site is proposed, the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

#### **19.6.3** NOISE FILING REQUIREMENTS

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed Regulated Facilities, measured in decibels LDN (logarithmic scale, accounting for greater sensitivity at night), for the following:

- a) Existing or ambient: the measurements of existing noise.
- b) Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.

Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Regulation.

#### **19.6.4** RADIOFREQUENCY RADIATION (RFR) FILING REQUIREMENTS

The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed Regulated Facility, for the following situations:

- a) Existing or ambient: the measurements of existing RFR.
- b) Existing plus proposed facilities: maximum estimate of RFR from the proposed Regulated Facility plus the existing RFR environment.
- c) Certification, signed by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio Frequency Radiation Standards subsection of this Regulation.

#### **19.6.7** FEDERAL ENVIRONMENTAL FILING REQUIREMENTS

- a) The National Environmental Policy Act (NEPA) applies to all applications for wireless communication facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CFR Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any wireless communication facility proposed in or involving any of the following:
  - 1) Wilderness areas.
  - 2) Wildlife preserves.
  - 3) Endangered species habitat.
  - 4) Historical site.
  - 5) Indian religious site.

- 6) Floodplain.
  - 7) Wetlands.
  - 8) High intensity white lights in residential neighborhoods.
  - 9) Excessive radiofrequency radiation exposure.
- b) At the time of application filing, an Environmental Assessment that meets FCC requirements shall be submitted to the Commission for each Regulated Facility site that requires such an environmental assessment to be submitted to the FCC.
  - c) For all Special Permit uses the applicant shall identify and assess the impact of the proposed facility on areas recommended for conservation as presented in the Town Plan and State Plan of Conservation and Development.
  - d) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the facility that are considered hazardous by the federal, state or local government.

#### 19.7 CO-LOCATION

19.7.1 Licensed carriers shall share facilities and sites where feasible and appropriate, thereby reducing the number of facilities that are stand-alone. All applicants for a Special Permit for a Regulated Facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

- a) A survey of all existing structures that may be feasible sites for co-locating wireless service facilities;
- b) Contact with all the other licensed telecommunication facility carriers operating in the service area of the proposed facility; and
- c) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

19.7.2 In the event that co-location is found to be not feasible, a written statement of the reasons for the unfeasibility shall be submitted to the Commission. The Commission may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant as provided in the Town Ordinance on Land Use Fees. The Town may deny a Special Permit to an applicant that has not demonstrated a good faith effort to provide for co-location.

19.7.3 If the applicant does intend to co-locate or to permit co-location, the Commission shall request drawings and studies which show the ultimate appearance and operation of the Regulated Facility at full build-out.

- 19.7.4 If the Commission approves co-location for a Regulated Facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Special Permit shall require a new Special Permit.

Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

#### 19.8 MODIFICATIONS

A modification of a Regulated Facility may require a Special Permit application where the following events apply.

- a) The applicant and/or co-applicant wants to alter the terms of the Special Permit by changing the Regulated Facility in one or more of the following ways:
  - 1) Change in the number of facilities permitted on the site
  - 2) Change in technology used for the Regulated Facility.
- b) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

#### 19.9 MONITORING AND MAINTENANCE

19.9.1 After the Regulated Facility is operational, and where required by the Commission, the applicant shall submit, within 90 days of beginning operations, and at annual intervals from the date of issuance of the Special Permit, existing measurements of RFR from the facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Standards section of this Regulation.

19.9.2 After the Regulated Facility is operational, and where required by the Commission, the applicant shall submit, within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special permit, existing measurements of noise from the Regulated Facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Regulation.

19.9.3 The applicant and co-applicant shall maintain the Regulated Facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

#### 19.10 ABANDONMENT OR DISCONTINUATION OF USE

19.10.1 At such time that a licensed carrier plans to abandon or discontinue operation of a Regulated Facility, such carrier will notify the Commission by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the

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event that a licensed carrier fails to give such notice, the Regulated Facility shall be considered abandoned upon such discontinuation of operations.

- 19.10.2 Upon abandonment or discontinuation of use, the carrier shall physically remove the facility within 90 days from the date of abandonment or discontinuation of use. "Physically removed" shall include, but not be limited to:
- a) Removal of antennas, mount, equipment shelters from the subject property.
  - b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - c) Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- 19.10.3 If a carrier fails to remove a Regulated Facility in accordance with this section of this Regulation, the Town shall have the authority to enter the subject property and physically remove the facility. The Commission may require the applicant to post a bond at the time of construction to cover costs for the removal of the Regulated Facility in the event the Town must remove the facility.

19.11 RECONSTRUCTION OR REPLACEMENT OF EXISTING TOWERS AND MONOPOLES

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this regulation may be reconstructed, altered, extended or replaced on the same site by Special Permit, provided that the Commission finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Commission shall consider whether the proposed reconstruction, alteration, extension, or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts.

19.12 TERM OF SPECIAL PERMIT

A Special Permit issued for any ground mounted tower over fifty (50) feet in height shall be valid for fifteen (15) years. At the end of that time period, the regulated facility shall be removed by the carrier or a new Special Permit shall be required.

*Commentary: Many of the carriers are now seeking to build tall installations in order to get the maximum coverage in the first phase of developing their systems. As the networks are developed further over the coming years, the need for these higher facilities will diminish. The carriers will need more lower sites, spaced more closely together to manage the growing demand for wireless services. Thus, it makes sense to set a time limit on the validity of the special permit for the higher structures. This gives the towns the ability to have these structures removed if they are no longer needed in the future.*

**SECTION 20 - REGULATION OF ADULT-ORIENTED ESTABLISHMENTS***Adopted 3/27/00 Effective 4/17/00***20.0 Purpose and Intent**

- d)** It is the purpose of this regulation to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Winchester, which, because of their character and nature, are recognized as having potentially serious and objectionable operational characteristics which have been proven to adversely affect neighborhood children, and community and improvement efforts, particularly when several of such uses are concentrated in one area. Special regulation of such uses is necessary to ensure that these objectionable operational characteristics will not contribute to the blighting or downgrading of the community or surrounding neighborhoods.
- e)** The primary purpose of these Regulations is to regulate the density of sexually oriented businesses as defined herein; minimize adverse community and neighborhood impacts and; to assure that any adverse impact will not contribute to the degradation of the surrounding neighborhoods.

**20.1 Definitions**

For the purpose of this regulation, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

**ADULT-ORIENTED ESTABLISHMENT:** shall include, without limitation, "adult bookstores", "adult motion picture theaters", "adult mini-motion picture theaters" and commercial establishments containing one or more "adult amusement machines." "Adult oriented establishment" further means any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or any premises wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without limitation, any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.

**ADULT BOOKSTORE:** means an establishment having any portion of its stock and trade in books, films, video cassettes, or magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined below, provided that this definition shall not apply to any establishment in which such materials constitute less than ten (10%) percent of the value of the inventory of said establishment and in which the display of such materials does not permit the viewing of "specified sexual activities" or "specified anatomical areas" within the establishment.

**ADULT AMUSEMENT MACHINE:** includes any amusement machine that is regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities and specified anatomical areas, as defined below, for observation by patrons therein.

**ADULT ENTERTAINMENT:** means any exhibition of any adult-oriented motion pictures, live performance, display or dance of any type, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers, which has as a significant or substantial portion of such performance or any actual or simulated performance of "specified sexual activities" or exhibition and viewing of "specified anatomical areas"

**ADULT MOTION PICTURE THEATER:** means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities" or "specified anatomical areas", as defined below, for observation by patrons therein.

**ADULT MINI-MOTION PICTURE THEATER:** means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined below, for observation by patrons therein.

**EMPLOYEE:** means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an "adult-oriented establishment".

**ENTERTAINER:** means any person who provides entertainment within an "adult-oriented establishment", as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

**MINOR:** shall be deemed to refer to a person under the age of eighteen (18) years;

**OPERATOR:** means any person, or any proprietor, shareholder, general partner or limited partner who holds any of share or partnership interest of any business, which is operating, conducting, owning or maintaining an "adult-oriented establishment".

**SPECIFIED SEXUAL ACTIVITIES:** means:

- a) Human genitals in a state of sexual stimulation or arousal;
- b) Acts of human masturbation, sexual intercourse, or sodomy; or
- c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

**SPECIFIED ANATOMICAL AREAS:** means:

- a) Less than completely and opaquely covered;
  - 1) human genitals, pubic region;
  - 2) buttocks;
  - 3) female breasts below a point immediately above the top of the and areola;



- b) Human male genitals in a discernibly turgid state even if completely covered.

**SEXUAL ACTIVITIES:** as used in this Regulation, is not intended to include any medical publications or films or bona fide educational publication or films, nor does it include any art or photography publications which denote at least 25 percent of the lineage of each issue to articles and advertisements dealing with subjects or art or photograph. Nor does this definition apply to any news periodical which reports or describes current events and which, from time to time, publishes photographs of nude or semi-nude persons in connection with the dissemination of the news. Nor does this definition apply to publications or films which describe and report different cultures and which, from time to time, publish or show photographs or depictions of nude or semi-nude persons when describing cultures in which nudity or semi-nudity is indigenous to the population.

**ZONING ENFORCEMENT OFFICER:** means one or more employees of the Commission, who shall hereby be authorized to inspect premises regulated under this regulation and to take the required actions authorized by this regulation in case of violations being found on such premises, and to require corrections of unsatisfactory conditions found on said premises;

## 20.2 REQUIREMENTS FOR ADULT-ORIENTED ESTABLISHMENTS

- a) All adult oriented establishments shall be restricted to the IA-1 Zone
- b) All adult oriented establishments shall require Special Permit and Site Plan approval from the Winchester Planning and Zoning Commission
- c) Every "adult-oriented establishment" shall display a sign outside each entrance bearing the words, "Adult-Oriented Establishment – *Persons Under 18 Not Admitted*" in letters six (6) inches high.
- d) No "adult-oriented establishment" shall be conducted in such a manner that permits the observation of any material depicting specified sexual activities or specified anatomical areas, from the outside of the building that houses the "adult-oriented establishment".
- e) Every adult-oriented establishment doing business in the Town on or after the effective date this Section 20 shall be well lighted at all times and be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be clearly visible from the common areas of the premises. Visibility into such booths, cubicles, rooms or stalls shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install enclosed booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of providing for the secluded viewing of adult-oriented motion pictures, or other types of adult-oriented entertainment.
- f) All adult-oriented establishments shall be open to inspection at all reasonable times by the Zoning Enforcement Officer, or such other person(s) as the Planning and Zoning Commission may designate.



**20.3 MINIMUM DISTANCES**

- a)** Adult-oriented establishments shall be located no less than 1,500 feet from any of the following uses, if existing at the time when the adult-oriented establishment is established: any public or private school, any day care center, nursery school, hospital church, cemetery or similar use; any public park or playground; any residential zone.
- b)** Measurements of distances shall be from any portion of the building housing an adult oriented establishment to any portion of the parcel land containing such land uses or being residentially zoned. The separating distance required by this Section shall be determined as of the date that any adult-oriented establishment commences to operate in accordance with this Regulation.

**20.4 MINIMUM DISTANCES FROM OTHER ADULT-ORIENTED ESTABLISHMENTS**

No adult-oriented establishments shall be permitted in any portion of a building that is less than 1,500 feet from the closest property line on which the adult-oriented establishment is located to the closest property of another adult oriented establishment.

**20.5 EXEMPTIONS FOR PRE-EXISTING USES**

The provisions of the preceding Sections 4 and 5 shall not be deemed to prohibit any use pre-existing the enactment of this Regulation. Any pre-existing use, which shall be discontinued for a period of thirty (30) days, shall thereafter conform of Sections 4 and 5.

**20.6 REGISTRATION**

- a)** All adult oriented establishments shall be registered with the Zoning Enforcement Officer.
- b)** It shall be a violation of the Winchester Zoning Regulations for the owner or person(s) in control of any property to establish or operate or to permit any other individual to establish or operate a regulated adult oriented establishment without having received a Certificate of Zoning Compliance.
- c)** Any lawful and pre-existing adult oriented establishment in operation prior to the "effective date" of this Section 20 shall be registered with the Zoning Enforcement Officer within thirty days of the effective date.
- d)** It shall be the responsibility of the owner(s) or operator(s) having management or control of a building or premise which contains an adult oriented establishment to furnish and maintain, on a yearly basis, the following information to the Zoning Enforcement Officer:
  - 1)** Street address of building or premise
  - 2)** Owner(s), trustees(if applicable) and operator (s) names
  - 3)** Address of owner(s) , trustees(if applicable) and operator (s)
  - 4)** Trade name of the adult oriented establishment

- 5 Initiation date of the adult oriented establishment
- 6 Copy of the lease or rental agreement (if applicable)

20.7 **SAVINGS CLAUSE**

Should any Court of competent jurisdiction declare any section, clause or provision of this Regulation to be unconstitutional, such decision shall affect only such section, clause or provisions so declared unconstitutional, and shall not affect any other section, clause or provision of this Regulation.