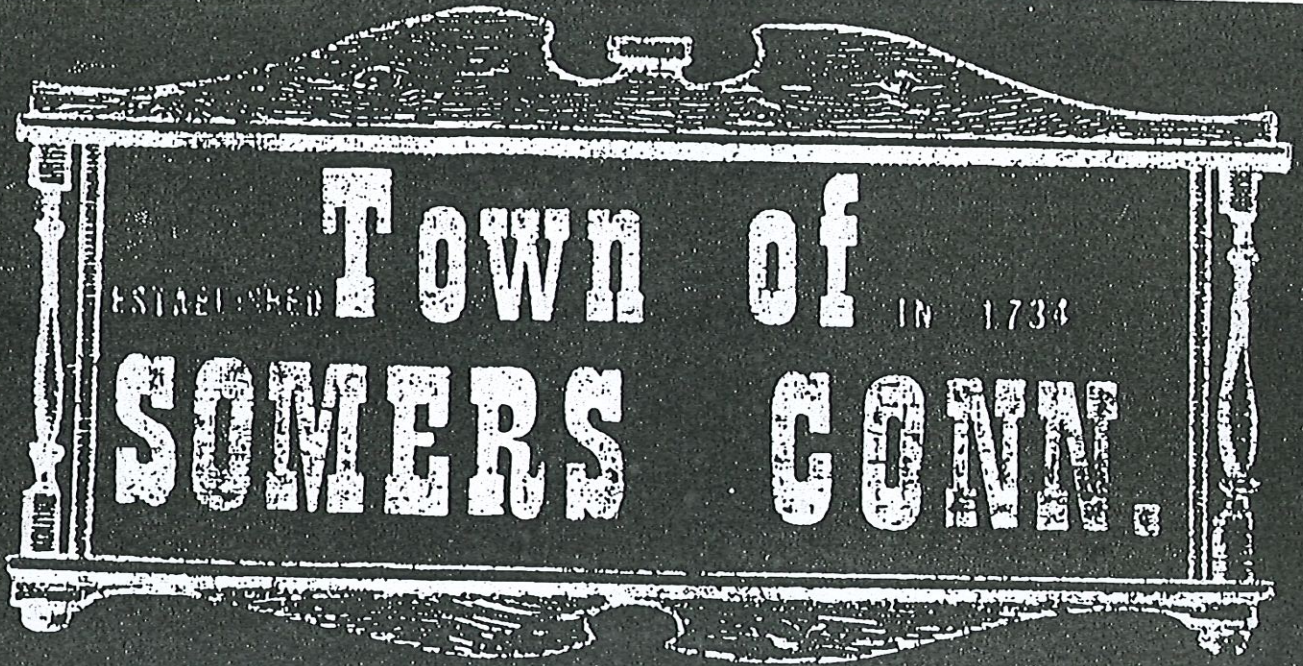


Exhibit D-5



Zoning Regulations

ZONING REGULATIONS

TOWN OF SOMERS

PREPARED BY:

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ZONING REGULATIONS

TOWN OF SOMERS

	PAGE NUMBER
SECTION 1. Purpose of the Regulations and Kinds of Districts	1
SECTION 2. Definitions	2 - 6
SECTION 3. General Provisions	7 - 8
SECTION 4. Sign Provisions	9 - 13
SECTION 5. Earth Products Removal	14 - 17
SECTION 6. Special Exceptions and Site Development Plan Requirements	18 - 21
SECTION 7. Zoning Classifications and Uses Permitted	22 - 27
SECTION 8. Height and Area Requirements	28 - 33
SECTION 9. Non-Conforming Lots, Non-Conforming Uses of Land, Non-Conforming Structures and Non- Conforming Uses of Structures and Premises	34 - 35
SECTION 10. Amendments	36
SECTION 11. Powers and Duties of the Zoning Board of Appeals	37
SECTION 12. Validity	37
SECTION 13. Date of Effect	37
SECTION 14. Violations and Penalties	37
SECTION 15. Fees	38
SECTION 16. Regulations Declared to be Minimum Regulations	39
SECTION 17. Administration and Enforcement	39

Section 1. PURPOSE OF THE REGULATIONS AND KINDS OF DISTRICTS

- A. For the purpose of promoting health, comfort, safety, and general welfare of the community; to regulate and restrict unsightly or detrimental developments tending to permanently destroy or severely alter the unique views and scenery; to prevent activity detrimental to the environment; to secure safety from fire, panic, and other danger; to provide adequate light and air; to prevent the destruction of the town's natural geology, resources, soils, wetlands and water courses; to conserve the value of buildings and encourage the most appropriate use of land throughout the town; to regulate and redistrict the location, the height, the number of stories, and size of buildings and other structures, the area of the lot which may be occupied, the size of yards and other open spaces, and the location and use of buildings, structures and land for trade, industry, residence or other purposes within the limits of such town, the Town of Somers is hereby divided into four (4) districts as follows:

1. Residence "A" Districts
2. Residence "A-1" Districts
3. Business Districts
4. Industrial Districts

as shown on the Zoning Map which accompanies any amendments, and all explanatory matter thereon is hereby declared to be part of this Regulation.

B. ZONE BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as abutting right-of-way lines of streets, highways or alleys, shall be construed as extending to the center line of such streets, highways or alleys;
2. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as following shore lines shall be construed to follow such center lines;
4. Boundaries indicated as parallel to, or extensions of, features in subsections (1) through (2) above shall be so construed. Distances not specifically indicated in the Zoning Map shall be determined by the scale of the map. In cases of uncertainty, the Zoning Commission shall determine the location of the boundary;
5. When major changes are made by the Zoning Commission, the Zoning Map or Zoning Regulations shall be updated.

Section 2. DEFINITIONS

Definitions - for the purpose of this regulation, certain terms or words herein shall be interpreted or defined as follows:

1. Words in the present tense include the future tense
2. The singular includes the plural
3. The word "person" includes a corporation as well as an individual
4. The word "lot" includes the word "plot" or "parcels"
5. The term "shall" is mandatory
6. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

ACCESSORY USE OR ACCESSORY STRUCTURE:

Any use of structure on the same lot with, and of a nature incidental and subordinate to the principal use or structure.

The following are not permitted as accessory uses unless otherwise specified in this regulations:

In Residential Zones - any structure or use for Commercial or Industrial purposes.

BARN:

A building where hay, tools, and equipment are kept and livestock other than horses may be sheltered.

BASEMENT:

A basement is that portion of a building which is partly or completely below grade, but having at least three (3) feet of its wall height below grade for at least one half ($\frac{1}{2}$) of its perimeter. The minimum height of said basement shall be seven (7) feet.

BUILDING:

Any structure for residential, commercial, industrial or accessory use having a roof supported by columns or walls and intended for shelter, housing, or enclosure of persons, animals or chattel. When used throughout these regulations, the word "building" shall also refer to any modification, addition, or alteration to an existing building.

BUILDING LINE, MINIMUM:

A line running parallel to the street at a distance from the right-of-way equal to the required front yard. No building is permitted between the minimum building line and right-of-way. Frontage shall be measured along the right-of-way.

COMMON OPEN SPACE:

Any parcel or parcels of land or an area of water, or a combination of land and water, designed and intended for the use of residents and/or the general public.

COMMERCIAL OR BUSINESS USE OR BUILDING:

A use, building, or structure where a service or product is sold to the public.

DWELLING:

A building or portion thereof designed primarily for residential occupancy; but not including hotels, motels, tourist homes.

DWELLING UNIT:

A single housekeeping unit.

EARTH PRODUCTS:

Top soil, loam, gravel, sand, clay and peat.

FAMILY OR FAMILY UNIT:

One or more persons related by blood, adoption, marriage, legal guardianship or authorization by the Child Protective Agency of the State Welfare Department or any similar or successor agency, living, sleeping, cooking and eating on the same premises as a single housekeeping unit under one head, exclusive of household servants. A number of persons, but not exceeding three, living and cooking together as a single housekeeping unit though not related by blood, adoption, or marriage shall be deemed to constitute a family unit.

FARM:

A tract of land containing five (5) acres or more with a minimum of three (3) used for agricultural purposes. A farm may include premises used for the keeping of livestock and other domestic animals when permitted by these regulations.

GARAGE, PRIVATE:

A detached or accessory building or a portion of a main building for the parking and storage only of automobile or registered commercial vehicles belonging to the occupants of the premises. The building cannot exceed 900 square feet or be used to store more than three registered motor vehicles.

GREENHOUSE:

A structure devoted to the production of plants and flowers including the seasonal retail sale of products raised exclusively on the site.

HABITABLE ROOM:

A room or enclosed floor space arranged for living, eating, and sleeping purposes (not including bathrooms, water closet compartments, laundries, pantries, foyers, hallways, and other accessory floor spaces).

HABITABLE ROOM, MINIMUM HEIGHT:

A clear height from finished floor to finished ceiling of not less than seven and one half (7 1/2) feet, except that in attics and top half-stories the height shall not be less than seven and one third (7 1/3) feet over not less than one third (1/3) the area of the floor when used for sleeping, study, or similar activity.

HABITABLE ROOM, MINIMUM SIZE:

A room with a minimum dimension of seven (7) feet and a minimum area of seventy (70) square feet, between enclosing walls or partitions, exclusive of closet and storage spaces.

HOTEL, MOTEL OR MOTOR COURT:

A building or group of buildings designated as a temporary abiding place for or more than fifteen persons or providing five or more sleeping rooms for which lodging is provided for compensation with or without meals.

LOT:

For Zoning purposes, as covered by this regulation, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open space as are herein required.

Such lot may consist of:

- (a) a single lot of record
- (b) a portion of a lot of record
- (c) a combination of complete lots of record, or portions of lots of record
- (d) a parcel of land described by metes and bounds

provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this regulation.

NON-CONFORMING BUILDING OR STRUCTURE:

Any building or structure which does not comply with all of the requirements of these regulations governing the district in which it is located.

NON-CONFIRMING USE:

A use of land, building, or premises which use does not comply with all of the requirements of this regulation governing the zoning district in which it is located as of the date of adoption of these regulations.

PASSIVE GEOTHERMAL DWELLING:

A dwelling specifically designed to use natural and architectural components to collect and store the heat of the earth's interior without using any external mechanical power.

PASSIVE SOLAR DWELLING:

A dwelling specifically designed to use natural and architectural components to collect and store solar energy without using any external mechanical power.

ENERGY EFFICIENT:

That type and quality of construction as envisioned by Connecticut General Statute Section 8-2, the Basic Building Code of the State of Connecticut and ASHRAE 90-75 with the determination of whether a proposed building is to be designated energy efficient to be made by the Somers Zoning Commission after consultation with the Somers Building Inspector.

ROOMINGHOUSE OR LODGING HOUSE:

Includes buildings in which separate sleeping rooms are rented providing sleeping accommodations for a total of 15 or less persons on either a transient or permanent basis with or without meals, but without separate cooking facilities for individual occupants.

SIGN:

Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency.

SPECIAL EXCEPTION:

A permit of the Zoning Commission permitting a use of premises subject to the requirements of this regulation for a specified time to be determined by the Commission.

STABLE:

A building in which horses are sheltered.

STREET LINE OR HIGHWAY LINE:

The boundary line of the right-of-way between that land owned by the Town or State and the private property in question.

STRUCTURE:

An assembly of materials forming a construction for occupancy or use including among others, buildings, stadiums, public assembly tents, reviewing stands, platforms, observation towers, water tanks, trestles, piers, wharves, open sheds, coal bins, shelters, fences and display signs.

YARD:

A required open space unoccupied and unobstructed by an building or portion of a building, other than a court.

YARD, FRONT:

An open space extending between side lot lines across the front of a lot facing on the street. In the case of corner lots, minimum front yard shall be required on both street frontages.

YARD, SIDE:

An open space extending from the rear line of the required front to the rear lot line.

YARD, REAR:

An open space extending across the rear of the lot between inner side yard lines.

SECTION 3 GENERAL PROVISIONS

A. ACCESSORY STRUCTURES:

Accessory uses and structures customarily incident to any use permitted herein, provided that such accessory uses shall not include any billboard or advertising sign, signboard, or poster except for small announcement signs. Such accessory buildings may be erected on a then vacant lot, if so placed as not to interfere with the eventual practicable and conforming location of a principal building. Private garages, under limitations hereinafter contained, are permitted accessory structures.

B. RESIDENTIAL DISTRICTS ADJACENT TO INDUSTRIAL DISTRICTS:

In addition to the side and rear yard requirements, there shall be a landscaped buffer strip of twenty-five (25) feet in industrial districts adjacent to residential dwellings. The landscaped buffer strip cannot be used for roads, parking, buildings or storage. A planting plan with plant list and sizes shall be a part of the site plan or shall be submitted as a separate map.

C. HEIGHT EXEMPTION:

The provision of this regulation governing height of buildings in all districts shall not apply to cupolas, bellfries, chimneys, flags, grain elevators, water towers, nor silos, elevator enclosures, water tanks, or scenery towers nor to churches, or town buildings.

D. CORNER VISIBILITY:

On a corner lot there shall be no building, structure, planting or high banks such as to obstruct traffic visibility within the triangular space bounded by the two intersecting street lines and a straight line connecting a point on each street line fifty (50) feet from the intersection.

E. MOVING BUILDINGS:

Buildings or structures, either partially built or built but not containing a foundation, shall not be re-assembled from one lot to another lot, unless all Zoning requirements are met.

F. MODIFICATION OF BUILDINGS:

No existing building or other structure shall hereafter be altered (a) to a greater height; (b) to have narrower or smaller rear yards, front yard, side yards or other open spaces; (c) to have less frontage, wherein said modification would render said building or other structure non-conforming within the specifications of this regulation.

* "G. Restrictions Adjacent to Water Courses or Inland Wetlands"

G.1.1 No septic system, tank, leach field, dry well, chemical waste disposal system, manure storage area, or any other pollution source (all hereinafter referred to as "system") shall be constructed or maintained in such a way that the closest point of any such system is nearer than one hundred fifty (150) feet to the nearest edge of the seasonal high water level of a water course or inland wetland. No system, at any distance from such water course or inland wetland, shall be constructed or maintained in such a manner so as to drain into any such water course or inland wetland.

G.1.2 The one hundred fifty (150) foot separation in Section G.1.1 may be reduced to one hundred (100) feet as to a septic tank and leaching system limited to disposal of only residential waste water subject to the provisions of the State of Connecticut Public Health Code and Basic Building Code and the following additional requirements:

A. A qualified professional engineer registered in the State of Connecticut shall submit to the Somers Sanitarian for his review and approval:

1. A plan for on-site sewage disposal demonstrating that the requested reduction in separation distance for the water course or inland wetland will not result in drainage reaching the water course or inland wetland, or that such drainage, if reaching the water course or inland wetland, will meet State Department of Environmental Protection regulations and standards for quality of discharge into the water course or inland wetland.

2. The plan referred to in Section G.1.2 (A) (1) shall also contain an erosion stabilization and sedimentation control plan, as required by the Somers Sanitarian, designed to protect the water course or inland wetland during construction and following development until permanent vegetation is established.

3. No building permit shall be issued on any premises wherein the separation distance is less than one hundred fifty (150) feet unless accompanied by a statement from the Somers Sanitarian that this section has been complied with.

G.2 No building used for the purpose of sheltering animals shall be constructed in such a way that the closest point to the nearest edge of the seasonal high water level of a water course or inland wetland is less than one hundred fifty (150) feet from the water course or inland wetland.

G.3.A. No other building shall be constructed in such a way that the closest point to the nearest edge of the seasonal high water level of a water course or inland wetland is less than fifty (50) feet from said water course or inland wetland.

G.3.B. An erosion stabilization and sedimentation control plan shall be submitted to the Somers Sanitarian for his review and approval where the building is within one hundred (100) feet of a water course or inland wetland. Erosion control measures shall be implemented and maintained until permanent vegetation cover is established.

G.4 For purposes of this section, a water course is defined as a river, stream, brook, waterway, lake, pond, marsh, swamp, bog or other body of water, natural or artificial, public or private, vernal or intermittent, which is contained within, flows through, or borders upon the Town of Somers or any portion thereof.

G.5 For the purpose of this section, inland wetland means land, including submerged land, which consists of any soil types designated as poorly drained, very poorly drained, alluvial, and flood plain.

G.6 In the event that the foregoing regulations contained in Sections G-1 through G-5 conflict with either the State of Connecticut Public Health Code or Basic Building Code, the stricter standard shall prevail.

* Amended May 5, 1986

SECTION 4 SIGN PROVISIONS

A. MEASUREMENT OF SIGN AREA:

- a. The area of a sign shall be considered to be that of the smallest rectangle or triangle which encompasses all lettering, working, design or symbols together with any background different from the balance of the wall on which it is located, if such background is designed as an integral part of, and obviously related to, the sign.
- b. The area of a sign which is designed to be seen from more than one side shall be considered to be that of the aggregate of the smallest rectangle or triangle which encompasses all lettering, working, designs, or symbols together with any background on one side of the sign. The maximum sign area as indicated in section entitled MAXIMUM AREA OF SIGN subsection 1, shall be applicable to each side of a sign seen from more than one side shall not be interpreted to be the square footage of the aggregate of both sides of said sign.
- c. The supports which affix a sign to the ground or to be a building shall not be included in the area of the sign unless such supports are obviously designed to be part of the sign as defined by these regulations: *additional signs may not be added to supports.

B. SIGN LOCATION:

- a. No sign shall project more than 18 inches from the face of a structure and not beyond any street line and it shall be a least 10 feet above the level of any walkway it may overhang.
- b. A sign permitted in any business or industrial district which is prohibited in any residential district shall be displayed only on a side of a structure of property facing upon a street which may legally provide access to the property.

C. HEIGHT OF SIGNS:

- a. Ground signs, including supports, shall not exceed a height of 7 feet in a residential district, or 30 feet in a business or industrial district, above the surface of the ground where located.
- b. No sign attached to a structure shall project more than 2 feet over the top of the exterior wall of such structure at the location of the sign, except that in an industrial district a sign may project up to 4 feet over the top of the exterior wall of such structure provided the sign is not within 200 feet of the boundary of a residential district.
- c. Where more than one sign is permitted on a building, such signs shall be of uniform height and shape.

D. ILLUMINATED AND MOVING SIGNS:

- a. A sign may be illuminated if illumination is confined to, or directed to, the surface of the sign. No flashing, rotating, or intermittent illumination shall be permitted except signs indicating the time and/or temperature by means of white, intermittent lighting, provided the longest dimensions of such a sign does not exceed five (5) feet.
- b. No sign or any part thereof shall be permitted to be mechanically rotated or moved except traditional signs of barber shops.
- c. The light sources shall be so designed and shielded that they cannot be seen from beyond the property lines on which said sign is located. No exterior neon signs shall be permitted.

E. NON-CONFORMITY OF SIGNS:

Signs existing at the time of the adoption of this regulation or any amendment thereto, which do not conform with the requirements of subsections 4-B (a), 4-C (a) and (b) and 4-D (a, b, & c) of this Regulation shall be made to conform with such requirements within five years from the date of adoption of this regulation. A sign constituting a non-conforming use shall be subject to the provisions in Section 9 of this Zoning Regulation.

F. SIGNS IN RESIDENTIAL DISTRICTS:

The following signs shall be permitted in one family residential districts and all other signs are expressly prohibited:

	<u>MAXIMUM SIGN AREA</u>	<u>MAX. NO. OF SIGNS</u>	<u>LOCATION</u>	<u>PERMIT REQ'D</u>
a. Signs giving name and address of the property and/or the occupant	1 sq. ft.	1 per lot	Back of Street Line	NO
b. Signs pertaining to a profession or occupation permitted as an accessory use of lot	2 sq. ft.	1 per lot	Back of Street Line	NO
c. Signs giving the name of a farm on a wall of an accessory building	No larger than 3 sq. ft. for every running foot of wall on which it is displayed	1 per farm	30 ft back of Street Line	YES
d. Signs pertaining to the sale, lease or rental of property on which they are located	6 sq. ft. per	2 per lot	Back of Street Line	NO
e. Signs pertaining to and during the construction or repair of property on which they are located	25 sq. ft. aggregate for all signs	2 per lot	15 ft. back of Street Line	YES
f. Signs on the premises offering lots and/or homes for sale within approved subdivisions. These signs shall not be displayed for more than 12 months	25 sq. ft. per sign	2 per sub-division	15 ft. back of Street Line	YES
g. Signs of civic and non-profit organizations on the premises for not more than 90 days within any 12 month period	25 sq. ft.	1 per property	15 ft back of Street Line	NO
h. Holiday decorations without commercial advertising	-----	-----	Back of Street Line	NO

	MAXIMUM SIGN AREA	MAX. NO. OF SIGNS	LOCATION	PERMIT REQ'D
i. Private directional signs	2 sq. ft.	-----	Back of Street Line	YES
j. Directional signs or traffic signs	6 sq. ft.	-----	-----	---
k. One sign near exit ramp of each major state highway near the town lines serving as a common director for civic, educational and religious organizations located in Somers. The sign area allotted to each such organization shall not exceed 6 sq. ft.	50 sq. ft.	1 per specified	Back of Street Line	YES

G. SIGNS IN BUSINESS AND INDUSTRIAL DISTRICTS:

The following signs are permitted in any business and industrial district and all other signs are expressly prohibited.

- a. Signs permitted in a residential district.
- b. Signs advertising the use of the land and building upon which displayed, and the sale of goods and services on the premises and the name and location of the proprietor as follows:

MAXIMUM AREA OF SIGN:

	LOCATION	PERMIT REQ'D
1. The total area of all signs for each unit of occupancy on the first floor of a building shall be computed as follows: The total combined sign area for each unit of occupancy on the first floor and permanent group signs shall not exceed 2 sq. ft. for each linear foot of exterior building wall. There may not be more than one ground sign for each street frontage of the property and the total sign area of such sign shall not exceed 36 sq. ft. for each 100 ft. or fraction thereof of street frontage. The maximum area of any one ground sign shall not exceed 50 sq. ft.	Back of Street Line	YES

2. Within 10 ft. of each entrance of a building one common sign may be provided allowing not more than one (1) sq. ft. of sign area for each unit of occupancy which is served by said entrance. The total area of each common sign shall not exceed 24 sq. ft.

LOCATION

Back of
Street Line

YES

3. There may not be more than one portable sign for each unit of occupancy on which unit of occupancy has frontage. The sign area of each movable sign shall not exceed 6 sq. ft. The sign shall be removed immediately if, in the opinion of the Zoning Enforcement Officer, it endangers pedestrian or vehicular movements and is not maintained in good condition of repair.
4. Temporary signs. Signs temporarily attached or temporarily painted on a window or door, announcing sales or special features are permitted, provided they do not exceed 25% of the area of said window or door. Temporary signs shall be removed immediately after the termination of such sale or special feature and in no case shall be permitted for a period longer than 30 days.

NO

NO

Back of
Street Line

5. Other outdoor advertising devices. Outdoor advertising devices including but not limited to plaques, banners, pennants, streamers are permitted for a period of not more than two weeks after the opening of a new business.

H. PERMITS:

Signs which specifically require a permit must be erected in accordance with a sign permit to be granted upon application to the Building Inspector, *and the Zoning Enforcement Officer and shall be maintained in good condition and repair.

SECTION 5 EARTH PRODUCTS REMOVAL:

- A. The Zoning Commission may issue a special exception for either new removal operations involving earth products or reviving former but discontinued operations except under the following situations:
1. The construction or alteration of a structure for which a building permit has been issued.
 2. The landscaping of an existing structure and normal agricultural operations.
 3. The construction of ponds for agricultural or conservation purposes, provided the material removed be left on the site.
 4. The operation of a sanitary landfill, certified by the Connecticut Department of Environmental Protection.
- B. In addition to the site development plan requirements under Section 6B, the site plan shall include the following:
1. Area to be excavated and proposed commencement and completion dates.
 2. Name of abutting owners.
 3. A detailed statement of the type of operation.
 4. Depth to top soil at various points.
 5. Proposed truck access to and from property, must be at least one hundred (100) feet from side and rear lot lines.
 6. Proposed truck access within the property.
 7. Existing and proposed drainage on the premises.
 8. Plans showing how runoff will be handled.
 9. Surrounding properties and streets.
 10. Existing contour lines of the premises and final contour lines resulting from the intended excavation and removal, shown on a map drawn to scale not more than 40 ft. to the inch and with contour intervals of 5 ft.
 11. Certification of the accuracy of the plans by a Registered Professional Engineer whose qualifications in the field of civil engineering are acceptable to the Zoning Commission.

- C. The Zoning Commission may grant permission for removal operations involving earth products for a limited time, not exceeding one year if it shall find that such excavation or removal will not result in the creation of any sharp declivities, pits, or depressions, soil erosion, or fertility problems, permanently depressed land values or create any drainage or sewerage problems or other conditions which would impair the use or reuse of the property in accordance with the Zoning Regulations, as amended, and that such excavation or removal will be in harmony with the general purpose or intent of the Somers Comprehensive Development Plan. The permission shall be granted only upon the following conditions:
1. That the premises shall be excavated and graded in conformity with the proposed contour plans as approved.
 2. During the period of excavation and removal, adequate barricades and adequate woven fences with middle post four (4) feet in height shall be erected for protection of vehicles and pedestrians.
 3. That no equipment other than for digging, leveling, loading and carting away excavated material shall be used and that no material shall be processed on the site, unless permission, in writing, is first obtained from the Zoning Commission.
 4. That there will be no sharp declivities, pits or depressions, and that at all stages of operation proper drainage will be provided to avoid stagnant water and to prevent interference with and contamination of the flow of existing bodies of water.
 5. That during and after the excavation or removal, the site shall be cleared of debris.
 6. That silt shall not be permitted to run off the site and settlement basins shall be used.
 7. That all arable soil shall be set aside and retained on the premises to be respread over the premises and appropriately seeded upon completion of part or entire operation.
 8. That no excavation or removal shall be made nearer to any property line than the distance of 100 feet or 100 feet from a streetline if the final grade is below the established elevation of the street. The measurements shall be taken at the top of the slope.
 9. That proper measures be decided by the Zoning Commission to minimize the dust problem on access roads to the excavation area, and to minimize the nuisance of noise and flying dust and rocks from the operation on the premises and from trucks hauling away the material. Such measures may include, if considered necessary by the Zoning Commission, limitation upon the practice of stockpiling excavated material.
 10. That loam shall not be sold or transported outside the Town boundary without the consent of the Zoning Commission after a public hearing.

11. That on completion of an approved excavation, the area shall be graded so that the gradients in the disturbed earth will not be steeper than a slope of 3 - 1 (horizontal-vertical) or whatever lesser slope is necessary to maintain stability under particular soil conditions, and this area shall be covered with not less than three (3) inches of top soil, and unless put into cultivation, it shall call for two (2) tons of lime per acre and 1,000 lbs. 10-10-10 fertilizer per acre. Vegetation will vary but a permanent grass mixture or trees planted not more than seven (7) feet on center which will grow on dry sites shall be required. Any variations from these requirements shall be referred to the Tolland County Soil Conservation District for recommendation.
 12. That a performance bond be submitted *by the property owner in form and surety acceptable to the Zoning Commission in an amount up to \$15,000.00 per acre worked, with a minimum of \$3,000.00 per acre worked, in order to insure the faithful performance and completion of the work pursuant to the condition of approval and that the bond expire three months after the yearly permit expires.
 13. Machines and trucks working in and to and from the pit area shall be properly muffled at all times.
- D. Yearly renewal of a permit issued may be granted by the Zoning Commission if an inspection discloses that the operation as carried on is in compliance with the conditions made part of this agreement. No reissuance of the permit shall be granted without an inspection of the earth removal area for compliance with and completion of the work under the previous permit. The issuance of the earth removal permit may be divided into project stages with approval required by the Zoning Enforcement Officer for the various stages of completion if deemed necessary or desirable by the Zoning Commission. Also, a fee of four hundred (400) dollars per year shall be levied upon the permittee to defray the expenses of monthly inspections and monthly reports. A permit shall not be renewed unless a site plan has been approved by the Zoning Commission.
 - E. Blasting for the removal of earth products is prohibited unless written approval is granted by the Zoning Commission.
 - F. At no time shall more than one undivided area, which area shall not exceed three (3) acres in size, be opened within the lot, it being the intent of these regulations that the remainder of the lot shall either be undisturbed land or shall have been restored pursuant to Subsection 11.
 - G. No operations shall commence earlier than 7:30 a.m. nor continue after 5:30 p.m. Monday through Friday. No operation shall take place on legal holidays and Sundays. Transportation of earth products will be allowed between the hours of 8:00 a.m. and 12:00 noon on Saturday. No processing of earth products shall take place on Saturday. Removal of earth products in cases of emergencies may be granted by special permission of the Zoning Commission.

- H. As a condition for granting a special exception, the Zoning Commission shall decide on the number of acres to be excavated and the depth of the operation.
- I. No permit issued in accordance with Section 5 of this regulation shall be transferable or assignable to any other person, corporation, or legal entity. Any alienation of title to the premises concerning which a permit has been issued, whether by sale, lease, gift, devise or other means, shall operate as a revocation of said permit and any subsequent owner, leasee or subleasee, must apply for a new permit before any removal operation may be conducted upon said premises.
- J. No permit shall be issued in accordance with the provisions of Section 5 of the regulations, to any subsequent owner, leasee, or subleasee of said premises unless the condition of the premises conforms to all of the requirements of Section 5, Subsection C, 1 through 12, at the time of application for such new permit.
- K. Failure to meet any requirement shall bar the issuing of a permit, regardless of whether such failure was caused by the applicant, any predecessor in title or any other person.

SECTION 6 SPECIAL EXCEPTIONS AND SITE DEVELOPMENT PLAN REQUIREMENTS

A. Special Exceptions General Considerations.

1. The Zoning Commission of the Town of Somers may, upon application, authorize the issuance of Special Exceptions where required for specific uses within these regulations. In authorizing the issuance of a Special Exception, the Commission shall fulfill the purpose of the Zoning Regulations as set forth in Section 1, shall take into consideration the public health, safety, and welfare and shall prescribe appropriate conditions and safeguards to insure the accomplishment of the following objectives:
 - a. That all structures, equipment or material shall be readily accessible for fire and police protection.
 - b. That the use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is to be situated, will not be detrimental to the orderly development of adjacent properties, will be in accordance with the Comprehensive Development Plan and the zoning classifications of such properties.
 - c. That, in addition to the above, in the case of any use located in, or directly adjacent to, a Residential District:
 1. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrians and vehicular traffic to and from and in the vicinity of the use will not be hazardous, or detrimental to, the character of the said Residential District or conflict with the traffic characteristics of the neighborhood.
 2. The location and height of buildings, the location, nature and height of wall and fences, and the nature and extent of landscaping on the site shall be such that use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

2. Zoning Commission Action:

The Zoning Commission shall, within sixty-five (65) days of receipt of an application or request for a special exception, hold a public hearing on such application or request. Notice of the time and place of such hearing shall be published in a newspaper having a substantial circulation in the municipality at least twice, at intervals of not less than two days, the first not more than fifteen (15) days, nor less than ten (10) days, and the last not less than two (2) days before the date of such hearing.

At such hearing any party may appear in person and may be represented by agent or by attorney. The Commission shall decide upon such application or request within sixty-five (65) days after the hearing. Whenever the Commission grants or denies a special exception, it shall state upon its records the reason for its decision. Notice of the decision of the Commission shall be published in a newspaper having a substantial circulation in the municipality and addressed by certified mail to the person who requested or applied for a special exception by its secretary or clerk, under his signature in any written, printed, typewritten or stamped form, within fifteen days after such decision has been rendered. Such exception shall become effective at such time as is fixed by the Commission, provided a copy thereof shall be filed in the office of the Town Clerk.

3. Special Exception Becomes Void:

Construction or operation shall commence within six (6) months within date of issuance of Special Exception or the Special Exception becomes void.

4. Filing With The Town Clerk:

Upon approval, site development plans requiring a special exception, shall be filed by the record owner at his expense at the office of the Town Clerk. No plan may be recorded or filed in the office of the Town Clerk until the approval of the Commission has been indicated therein by the Chairman's signature. Operations shall not commence until after the plans have been filed.

3. SITE DEVELOPMENT PLAN REQUIREMENTS:

1. Site Development Plans are required for applications indicated in Section 5; 7A - 6; 7C; 7D - 2 thru 8; 7E - 3 thru 11.
2. Site plan review by the Planning Commission in any advisory capacity is required. The Planning Commission shall have thirty-five (35) days to review and prepare comments and recommendations.
3. Site Development Plan requirements shall include a description of all proposed uses and four (4) copies of the site plan showing the subject parcel and adjacent properties within 100 feet of the lot lines of the subject parcel, location and dimensions of all proposed outdoor signs, plan of proposed uses within the structures, elevations, any any other such building plans and elevations as the Zoning Commission may require to assure compliance with objectives and standards of the district. Final Site Development Plans, submitted to the Commission for approval and subsequent recording, shall be clearly and legibly drawn on transparent cloth, or other equally suitable stable material, reproducible, at a scale: 1" = 40 feet, or smaller (but in no case shall any map exceed 24" x 36"). The site plan shall indicate the following except where in the opinion of the Commission modification of the site plan requirements will not impair the purpose and intent of the regulations:

- a. Title of development, date, north point, scale, name and address of record owner; and Registered Professional Engineer preparing the site development plan.
- b. Location and use of all existing and proposed structures and outdoor signs.
- c. Location of all uses not requiring structures.
- d. Location of roads, internal circulation, driveways, parking and loading areas, with the number of stalls provided therewith, and pedestrian walkways or other means of separation including cross sections and plans and profiles of all proposed roadways with appropriate dimensions.
- e. Existing and proposed utilities plans and profiles showing pipe sizes and slopes together with all catch basins and man hole locations.
- f. Location of buffer strips and screening, showing the type, size and species of shrubs, trees or other plantings.
- g. Where the applicant wishes to develop in stages, the site plan should show the entire plan but indicate initial developments and each additional development.
- h. In the case of uses requiring approval of any department of the State of Connecticut, prior approval of said department shall be submitted.
- i. The existing and proposed contours of the land.
- j. A description of the proposed method of sanitary waste disposal and if public sewers are available, plans and profiles showing pipe sizes and slopes which shall be subject to the approval of the Sewer Commission.
- k. The type and location of any exterior lighting, with the provision that lights and illuminated signs be properly shielded from the view of adjacent residential uses.
- l. Location of existing water courses, marshes, wooded areas, ledge out-crops, single trees with a diameter of 10 inches or more, measured three feet above the base of the trunk with an indication of whether they are not to be retained.
- m. Location and sources of potable water supply.

4. Bureau of Highways:

When a proposed road or storm drain joins with a truck line or state highway, the applicant shall obtain a permit for such connection from the Bureau of Highways, Connecticut Department of Transportation and shall present a copy of such permit to the Zoning Commission. The applicant shall have furnished the Bureau of Highways with a copy of the proposed Plan of Improvements, and said copy, with appropriate notations by the Bureau of Highways shall accompany the permit.

5. Performance Bond:

The record owner shall post a bond, approved as to the form and sureties, in an amount sufficient to cover the cost of construction of street improvements, drainage, sewer and water supply, landscaping and any other conditions required by the Zoning Commission before approval of the special exception shall be given. The performance bond shall not be released until the work bonded for has been completed to the satisfaction of the appropriate agencies.

6. Filing with Town Clerk:

Operations shall not commence until after the approved plans have been filed with the Town Clerk.

SECTION 7. ZONING CLASSIFICATIONS AND USES PERMITTED

A. Uses permitted in Residence "A" Districts:

The following uses only are permitted as right in Residence "A" districts subject to the restriction hereinafter prescribed.

1. Single family detached dwelling for one houeking unit only.
2. Churches and other places of worship, including parish houses and Sunday school buildings after a public hearing.
3. Above ground electrical power, telephone, or telegraph lines, pumping stations, except that every effort should be made to place telephone and electric lines underground and provided there is no service or storage yard, with consent of the Zoning Commission.
4. Gas, sewer, water mains, and storm drain systems.
5. Parking spaces including accessory garage space; however, commercial vehicles must be stored within a garage.
6. Federal, state and town buildings, uses and properties including mechanical sewerage facilities and water supply plants and towers, whose design shall be approved by the Zoning Commission may be permitted only as a Special Exception.
7. Farms, provided that the storage of fertilizer and manure shall be located at least 100 feet from any lot line. No new fur farm, no new commercial piggery and no new commercial poultry farm shall be started in the Town of Somers without the consent of the Zoning Commission, after public hearing.
8. One horse on a lot of no less than two (2) acres in area plus one abutting acre for each additional horse. Corrals to be at least ten (10) feet from property lines. Stables for horses to be sixty (60) feet from property lines.
9. Barns housing animals (other than horses) shall not be constructed within two hundred (200) feet of the three adjoining property lines or within one hundred (100) feet of the highway right-of-way line.
10. Town recreational buildings, playgrounds, parks and reservations.
11. Trucks, boats, buses, vacation trailers, and/or unregistered motor vehicles shall be allowed if stored so that they are not visible from the street.
12. Swimming pools and tennis courts, provided that they be at least fifteen (15) feet from property lines.
13. *Accessory uses and structures, as defined in Section 2 definitions.
14. *Driveways, provided they are at least ten feet (10') from the property side lines. * "Added January 22, 1986".

B. Uses Permitted in Residence "A-1" Districts:

The following uses only are permitted as right in Residence "A-1" districts subject to the restrictions hereinafter prescribed.

1. Any uses permitted in Residence "A" Districts.
2. Multiple dwelling units. (see Section 8A, Paragraph 5 for requirements)
3. Removal of earth products in accordance with Section 5.
4. Boat houses, loading docks, and structures accessory thereto which are not conducted for profit.
5. Accessory uses or buildings including:
 - a.) Non-commercial accessory radio or television receiving antennas (under fifty (50) feet.)
 - b.) *Parking for two commercial vehicles as long as commercial activity is not carried on from the premises.
6. Satellite communications earth stations (dishes) larger than four (4') feet in diameter may be placed within a residential lot area provided they meet the lot line, set-back requirements, and the permit requirements of any accessory building (see Section 8A, Paragraphs 1-1a-1b). Amended May 13, 1985.

C. Uses Permitted by Special EExceptions:

The following uses only are permitted by Special Exception in "A-1" Districts:

1. Rooming house or lodging house, provided that there be one off-street parking space per guest bedroom. The site plan should also be reviewed by the town health officer.
2. Camps, public or quasi-public, including day camps. The site plan shall be reviewed by the town health officer and each camping area shall be provided with a buffer strip of at least fifty (50') feet around its boundaries.
3. Conservatories for music or other arts.
4. Convalescent homes. The site plan shall also be reviewed by town health officer.
5. *Tailoring, hairdressing or manicuring, carried on by a resident occupant, with the assistance of not more than two (2) employees regularly engaged; provided that for each residence family, not more than twenty-five (25) percent of the total floor area of such residence is devoted to such use, and provided that there is no display of products or service visible from the street.
6. *Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or other professional persons, provided that only such office or studio: is established within the same building as that serving as the professional person's bone fide residence, does not occupy more than twenty-five (25%) percent of the total floor area of such residence; and, does not involve the employment of more than two other non-resident employees, or associates. *Amended January 22, 1986.

7. Commercial swimming pools, commercial beaches, golf courses, country clubs, or other similar civic, social, and ~~semi-public~~ recreational or educational uses.
8. Agricultural fairs. The site plan shall be reviewed by the town health officer.
9. Private aircraft landing areas for fixed wing and rotary aircraft, provided all plans are in accordance with State regulations.
10. Private colleges (not including business or trade schools), nursery or dancing schools, dormitories, or fraternity or sorority houses.
11. Radio studios.
12. Television studios.
13. Cemeteries adjacent to or in extension of existing cemeteries and new cemeteries, provided there be a twenty (20) foot buffer between the burial plots and the cemetery lot line.
14. Volunteer fire company stations.
15. Wireless transmitting and receiving structures, as principal uses or structures, provided that any exterior transmitting and receiving antenna greater than fifty (50) feet above grade level shall be considered a principal use or structure.
16. Antique and gift sales in a dwelling occupied as a residence.
17. Membership clubs, lodges, social, recreational and community center organizations, and grounds for games or sports, not including enterprises, a chief activity of which is carried on or is customarily carried on, primarily for gain, provided that the land on which such activity is located shall contain at least four hundred (400) square feet per member.
18. Non-profit institution and private museums. The site plan shall be reviewed by the town health officer.
19. Riding schools.

D. Uses Permitted in Business Districts:

- "1. *Uses permitted in in Section 7, Paragraph B-3 through Paragraph B-5 and Paragraph C-2 through Paragraph C-17". *Amended September 20, 1984.
2. In any business district, any use is permitted for which the primary function of any building structure or premises shall be display goods for sale at retail on the premises or to furnish a service. Storage is allowed provided, however, that the inventory is only that needed for the particular occupation.
3. Restaurants, taverns and eating places with indoor seating.

4. Commercial parking lot, available to the public for or as accommodations to clients or customers.
5. Funeral establishments.
6. Crematories only as a Special Exception and in accordance with Section 19-165 of the C.G.S. as amended.
7. Office buildings.
8. Automobile sales or storage and gasoline service stations:
 - a. No public garage, automobile repair shop, greasing station, storage battery service station, nor gasoline filling station, nor any of their appurtenances or accessory uses, shall be permitted within five hundred (500) feet of any public or private school, public library, church, playground, or institution for the sick, dependent, or for children under sixteen (16) year of age.
 - b. There shall be a buffer zone strip of at least 25 feet between any of the uses or buildings described in this subsection, and adjacent lots zoned for or in residential use. Said buffer zone shall be properly landscaped and planted with evergreen trees and/or shrubbery of no less than six (6) feet in height. Planting shall be accomplished in such a manner as to provide year-round screening.
 - c. Except for new or used auto sales operations, vehicles parked or stored on the premises for periods exceeding seven (7) days, and all damaged vehicles on the premises shall be housed within a fenced and obscured enclosure at least six (6) feet in height.
9. Any establishment requiring liquor control commission license shall not be closer than 750 feet from a church or public school or another establishment having a liquor control commission license.

*A liquor permit for wine or beer only to allow the sale of wine and beer, but no other alcoholic liquor except cider not exceeding 6% alcohol by volume for consumption on the premises. Such establishment shall not be closer than one hundred (100') feet from a church or public school. A special exception application shall be made for all beer and wine permits.

E. Uses permitted in industrial districts

1. Uses permitted in the business districts.
2. Any business or agricultural use permitted in the residence or business district.
3. Airports and accessory uses incidental to its operation
4. Drive-in theatres.
5. Warehouse, wholesale or storage.
6. Sale and underground storage of fuel; building materials.
7. Contractors storage yard.
8. Truck terminals and warehouses.

9. Uses where waste, discard or salvage materials are bought and sold, exchanged, baled, packed, disassembled or handled including house wrecking and used lumber, only as a Special Exception.
10. The manufacture, processing or assembly of goods.
11. Motor vehicle junk yards and motor vehicle junk business
12. The following shall not be permitted under any circumstances whatsoever:
 - a. Acetylene Gas, Ammonia, Cyanide Compound or Oxygen manufacture
 - b. Asphalt manufacture or refining
 - c. Blast furnaces, drop forging, foundries
 - d. Chlorine or Bleaching Powder manufacture
 - e. Creosote manufacture
 - f. Distillation of coal, refuse or bones, or wood
 - g. Explosives, fireworks or ammunition manufacture or storage
 - h. Fat rendering in the manufacture of tallow, grease and oils
 - i. Fertilizer manufacture, except in connection with the operation of a sewerage disposal plant.
 - j. Fumigation plants
 - k. Gas manufacture or storage
 - l. Glue or size manufacture from fish or animal offal
 - m. Gypsum, cement, plaster or paris manufacture
 - n. Incineration or reduction of or dumping of offal, garbage or refuse on a commercial basis (except where controlled by the Town)
 - o. Linoleum manufacture
 - p. Match manufacture
 - q. Paint and lacquer manufacture
 - r. Petroleum refining and the bulk storage of petroleum products
 - s. Plastic manufacture from crude or scrap material
 - t. Rubber, natural or synthetic, or Gutta-Percha manufacture, from crude or scrap material.

- u. Slaughter house
- v. Smelting of iron, copper, tin, zinc, picric, carbolic or hydrochloric acid manufacture
- w. Tannery
- x. Tar or asphalt roofing manufacture and tar products manufacture
- y. Tire recapping or retreading
- z. Any activity of an equal degree of obnoxiousness

SECTION 8. HEIGHT AND AREA REQUIREMENTS

A. Area Requirements

	<u>**</u> <u>Res "A"</u>	<u>***</u> <u>Res "A-1"</u>	<u>Business</u>	<u>Industrial</u>
Lot Area	40,000 Sq. ft.	40,000 Sq. ft.	20,000 Sq. ft.	60,000 Sq. ft.
Frontage (at min. building line -see Page 2)	175 ft.	175 ft.	75 ft.	200 ft.
Front Yard Depth (minimum)	50 ft.	50 ft.	25 ft.	35 ft.
Side Yard Width (minimum)	25 ft.	25 ft.	10 ft.	10 ft.
Rear yard depth (minimum)	40 ft.	40 ft.	10 ft.	10 ft.
Height	2 1/2 stories or 30 ft.	2 1/2 stories or 30 ft.	3 stories or 40 ft.	4 stories or 50 ft.
Finished Floor Area	See Foot- Note #3	See Foot Note #4	-----	-----
Building coverage	-----	-----	50%	25%

** See Footnotes 1, 2, and 3

*** See Footnotes 1, 2, 4 and 5

FOOTNOTES (SECTION 8A - Area Requirements)

1. Accessory Buildings:

Twenty-five (25) feet from any side or rear lot line, but fifty (50) feet, from any front lot line or any street line, only after following requirements are met:

- a. A permit secured from both Building and Zoning Departments
- b. Certification by the Building Official as to the safety and soundness of construction

1.A. Exception: School bus shelter may be located twenty (20) feet from street line, only after following requirements are met:

- a. A permit secured from both Building and Zoning Departments
- b. Certification by Building Official as to the safety and soundness of construction
- c. Verification that building to be used is at a school approved bus stop
- d. Permits will be issued only for the period of September to June, with restriction that the building be removed to adhere to the fifty (50) foot set-back rule by June 30.
- e. Should the property on which said school bus shelter is located be sold or transferred to a new owner, the use of the building will automatically cease. A new application must be made.
- f. A permit will be required for each school year at a charge of \$5.00.
- g. The building may not exceed twenty-four (24) square feet of floor area, nor seven (7) feet in ceiling height.

2. All residential buildings shall have full basements, except that:

- a. Any split level style dwelling shall have a basement area of at least one-half the first floor area of said dwelling, and
- b. By Special Exception, this requirement may not apply where a basement would substantially hinder or prevent the construction of proposed energy efficient passive solar or geothermal dwelling.

3. A single-story residence building shall have a ground floor area of not less than fifteen hundred fifty (1550) square feet. A two (2) story building shall have a ground floor area of not less than twelve hundred (1200) square feet, and such a building shall have a total floor area of not less than two thousand (2000) square feet. Floor area means finished floor area.

4. A single-story residence building shall have a ground floor area of not less than thirteen hundred (1300) square feet. A two (2) story building shall have a ground floor area of not less than one thousand (1000) square feet, and such a building shall have a total floor area of not less than sixteen hundred (1600) square feet. Floor area means finished floor area.

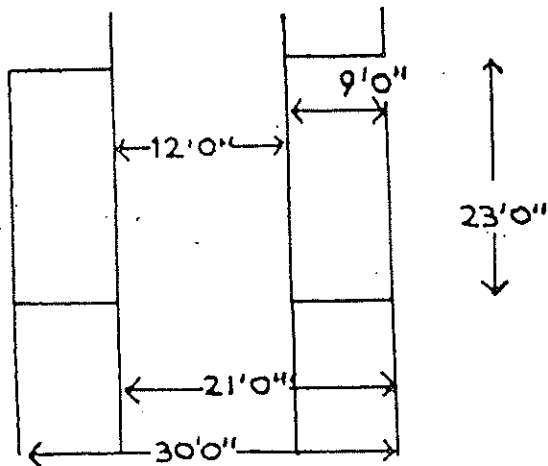
5. Any new multiple dwelling unit to be constructed or existing dwelling to be converted to a multiple dwelling shall have not less than (a) 1150 square feet of floor area per family unit; (b) 40,000 square feet of good drainage lot area per family unit; and (c) 175 feet of frontage per family unit. There shall be not more than two family units in each multiple dwelling.

Off-Street Parking:

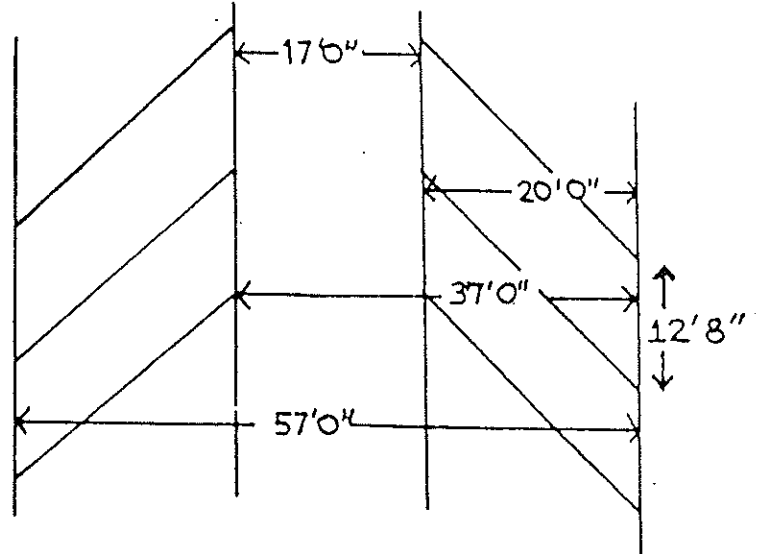
Off-street parking for storage or parking of passenger vehicles shall be provisions of this subsection as follows:

1. Parking areas shall be marked off into parking spaces with a minimum width of nine (9) feet and a minimum length of nineteen (19) feet except as provided in the following schedule for various design layouts.

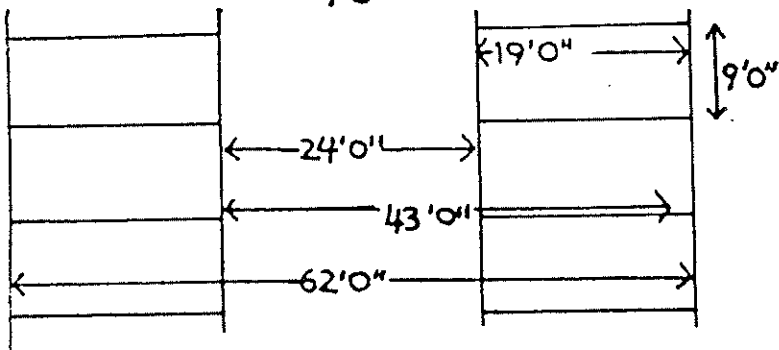
PARALLEL



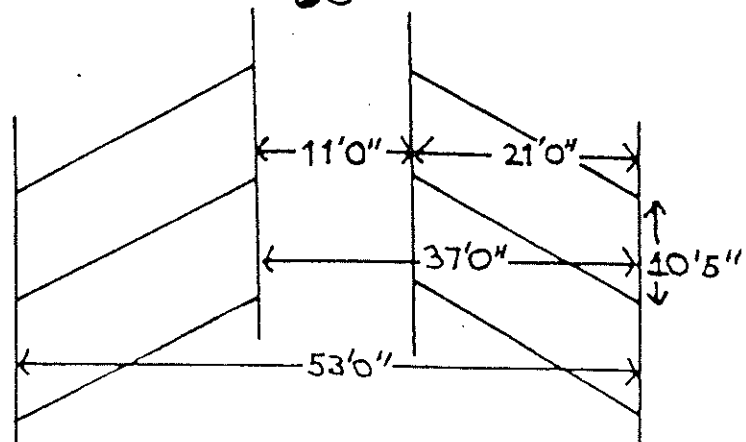
45°



90°



60°



2. Parking lots shall be enclosed by a curb and a screening strip consisting of five (5) foot high fence or a perennial hedge.
3. Off-street parking shall be adequately lighted without causing inconvenience to abutting property owners.
4. Parking lots shall have adequate ingress and egress to avoid traffic congestion.
5. Parking spaces shall be located at least fifteen (15) feet from the front property line.
6. Off-street parking shall be provided on the same lot as the building or principal use.
7. Parking spaces shall be provided in all zones for each new or expand in use in accordance with the following schedule:

<u>BUILDING TYPE</u>	<u>MINIMUM PARKING SPACES REQUIRED</u>	<u>FOR EACH</u>
Auditorium, Theatre	1	4 seats
Stadium, Convention Hall or similar place of public gathering	Up to 500 seats: 1 per 10 seats Over 500 seats: 1 per 5 seats	
Automotive Service Station	1	5000 sq. ft. of gross lot area (min. 3 spaces Required)
Bowling Alley	3	Lane
Business or Trade School Junior College, College or University	8	Classroom
Church	1	7 seats (note: Bench capacity is 1 seat for each 20 inches)
Drive-In Restaurant	5.5	1000 sq. ft. of gross lot area
Elementary or Middle School	2	Classroom (in addition to parking spaces required for auditorium)

<u>BUILDING TYPE</u>	<u>MINIMUM PARKING SPACES REQUIRED</u>	<u>FOR EACH</u>
Funeral Home	1	75 sq. ft. of assembly room space
Hospital or Convalescent Home	2	3 beds and 1 for each 3 employees
Hotel, Motel	1	Guest bedroom & 1 for each 3 employees (in addition to required parking for other uses)
Industrial, Wholesale or Distribution Establishment	1	3 employees
Medical Office Building	1	100 sq. ft. of gross floor area
Membership Club	1	100 sq. ft. of assembly room space
Office and Office Building	1	200 sq. ft. of gross floor area
Professional Office in a Residential Dwelling	1	100 sq. ft. of net floor space used by such office
Public Library, Gallery, Museum	1	200 sq. ft. of floor area accessible to the public
Research Institute or Laboratory	1	2 employees
Single Family Dwelling	1	Dwelling unit
Retail Store or Shop	1	150 sq. ft. of sales floor space
Senior High School	4	Classroom (in addition to parking spaces required for Auditorium)

<u>BUILDING TYPE</u>	<u>MINIMUM PARKING SPACES REQUIRED</u>	<u>FOR EACH</u>
Service Establishment	1	200 sq. ft. of gross floor space
Multiple-Family Dwelling	1	0 to 1 bedroom dwelling unit
	1 1/2	2 bedroom dwelling unit
	2	3 or more bedroom dwelling unit.
Multiple-Family Housing for the Elderly	1	5 dwelling units
Bank	3	300 sq. ft. of gross floor area
Restaurant, Cocktail Lounge	1	4 seats

SECTION 9 Non-Conforming Lots, Non-Conforming Uses of Land, Non-conforming Structures and Non-Conforming Uses of Structures and Premises

A. Non-Conforming Lots of Record and in Subdivision:

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this regulation, a single-family dwelling and customary accessory buildings may be erected on any single lot of record not having lost such status by virtue of Sec. 8-26c of the C.G.S. as amended at the effective date of adoption of amendments of this regulation. This provision shall apply even though such lot fails to meet the requirements for area or lot frontage, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or frontage, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals.

B. Non-Conforming Uses of Land:

Where, at the effective date of adoption or amendment of this regulation lawful use of land exists that is made no longer permissible under the terms of this regulation as enacted or amended such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this regulation.
2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this regulation.
3. If any such non-conforming use of land has been discontinued for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this regulation for the district in which such land is located.

C. Non-Conforming Structures:

Where a lawful structure containing a permitted use exists at the effective date of adoption or amendment of this regulation that could not be built under the terms of this regulation by reason of restrictions on area, lot coverage, height, yards, or their characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. The structure may be enlarged, altered, or rebuilt provided:
 - a. Such enlargement provided for a permitted use containing no more dwelling units than now exists;
 - b. Any additions, alterations, or accessory structures are constructed within the applicable yard and height requirements.

2. Should such structure be destroyed or damaged to the extent of not more than 50% of the assessed valuation, it may be repaired or replaced to an extent which does not increase the non-conformity. If such repair or replacement is not begun within one year, it shall not be reconstructed except in conformity with the provisions of this regulation.
3. Should such structure be moved, for any reason, for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

D. Non-Conforming Use of Structure:

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this regulation that would not be allowed in the district under the terms of this regulation, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No existing structure devoted to a use not permitted by this regulation in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered in a manner which increases the non-conformity except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the non-conforming use may not thereafter be resumed.
3. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for one year, the structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

E. Repair and Maintenance:

Nothing in this regulation shall be deemed to prevent the strengthening or restoring to a safe condition of any non-conforming building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

SECTION 10 AMENDMENTS:

- A. These regulations or the official Zoning Map may be amended or repealed as provided in these regulations either on the initiative of the Zoning Commission or by petition by a public agency or by a private owner of record. Every petition for such action shall be filed with the Zoning Commission which may act on it only after a Public Hearing.
- B. No petition for amendment or repeal, which has been rejected by the Zoning Commission or withdrawn by the petitioners shall be heard again within one (1) year from date of rejection or withdrawal. The Zoning Commission may grant a rehearing if it finds, on facts presented in writing, that a material change in the situation justifies this action in the interest of the public as well as the petitioner.
- C. In any petition for a change of zone, the Zoning Commission may require that the submission of plans showing proposals for the development of the land involved in the change including the location of buildings, streets, open spaces, and other such information as the Zoning Commission considers helpful in its decision. On the basis of such plans, the Commission may grant such change in zone subject to conditions which will protect the public interest and neighboring properties.

SECTION 11 POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS

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

1. To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the official charged with the enforcement of this regulation;
2. To determine and vary the application of the zoning regulations in harmony with their general purpose and intent and with due consideration to conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of such regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured;
3. To hear and decide on applications as required by State Statute.

SECTION 12 VALIDITY

If any section of this regulation shall be judged invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part declared invalid.

SECTION 13 DATE OF EFFECT

These regulations shall take effect on July 2, 1977 at 10:15 p.m. and the previous Zoning Ordinance dated July 11, 1960 and amendments are hereby repealed.

SECTION 14 VIOLATIONS AND PENALTIES

Whoever violates any provision of this regulation or is accessory to such violation shall be punished according to Chapter 124 of General Statutes, as amended.

*SECTION 15 FEES

Whenever the following fees are in variance with State Statutes, the fee schedule prescribed by State Statutes shall govern:

Variance	\$50.00
Special Exception	50.00
Sign Permit	3.00
Amendment to Zoning Regulation	60.00
Copy of Land Use Map	1.50
Copy of Zoning Regulations	5.00

*Revised February 19, 1985

SECTION 16 REGULATIONS DECLARED TO BE MINIMUM REGULATIONS

In their interpretation and application, the provisions of this regulation shall be held to be minimum regulations, adopted for the promotion of the public health, safety, morals or general welfare. Whenever the requirements of this regulation are in variance with the requirements of any other lawfully adopted rules, regulations, deed restrictions or covenants, the most restrictive or that imposing the higher standard shall govern.

SECTION 17 ADMINISTRATION AND ENFORCEMENT

An administrative official designated by the Zoning Commission of the Town of Somers shall administer and enforce this regulation. He may be provided with the assistance of such other persons as the Zoning Commission may direct.

If the administrative official shall find that any of the provisions of these regulations are being violated, he shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. He shall order the discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, structures, or of additions, alterations, or other structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this regulations (or by provisions of the Connecticut General Statutes) to ensure compliance with or prevent a violation of its provisions.