

Chapter 214

ZONING

[HISTORY: Adopted 3-19-1990 by the Zoning Commission of the Town of Somers. Amendments noted where applicable.]

GENERAL REFERENCES

Flood and Erosion Control Board — See Ch. 29.
Town property — See Ch. 51.
Building construction — See Ch. 88.
Inland wetlands and watercourses — See Ch. 211.
Subdivision of land — See Ch. 213.

ARTICLE I General Provisions

§ 214-1. Statutory authority; purpose; construal of provisions.

- A. These Zoning Regulations for the Town of Somers are and have been adopted in accordance with and for the purposes set forth in Chapter 124 of the Connecticut General Statutes¹ and more specifically for the following purposes:
- (1) To protect and promote the public health, safety, welfare, convenience and property values.
 - (2) To lessen congestion in the streets.
 - (3) To secure safety from fire, panic, flood, environmental damage and other dangers.
 - (4) To provide adequate light, air and water.
 - (5) To prevent overcrowding of land.
 - (6) To avoid undue concentration of population.
 - (7) To facilitate adequate provisions for transportation, water, sewerage, schools, parks and other public requirements.
 - (8) To preserve and protect the unique character of the Town of Somers.
 - (9) To protect sites and features of historic and archaeological significance.
 - (10) To conserve and protect existing and potential surface water and groundwater drinking supplies and other valuable natural resources.
 - (11) To prevent unnecessary soil erosion and sedimentation.
 - (12) To provide adequate housing opportunities for all citizens of Somers consistent with

1. Editor's Note: See Connecticut General Statutes Section 8-1 et seq.

soil types, terrain, infrastructure capacity and the rural character of the Town.²

§ 214-2. Comprehensive Zoning Plan.

These Zoning Regulations established hereunder, including the Official Zoning Map, are in accordance with and are hereby declared to embody the Comprehensive Zoning Plan of the Town of Somers.

ARTICLE II
Word Usage; Definitions

§ 214-3. Word usage.

For the purpose of these Zoning Regulations, the following terms, phrases, words and their derivations shall have the meanings given therein. When not inconsistent with the context, words used in the present tense include the future, and the singular includes the plural. The word "shall" is always mandatory and not merely directory, and the word "may" is permissive. In case of any difference of meaning or implication between the text of these regulations and any caption, illustration, summary, table or illustrative table, the text shall control. The terms "used" and "occupied" include the meanings "intended, arranged or designed to be used (or occupied)."

§ 214-4. Definitions.

For the purposes of these regulations, the terms, phrases and words listed below have the meanings thereafter stated:

ACCESSORY BUILDING OR STRUCTURE ô A supplemental building or structure, the use of which is subordinate or incidental to that of the principal building or structure and which is located on the same lot or a contiguous lot under the same ownership.

ACCESSORY USE ô A use of land, or of all or a portion of a building or structure, which is subordinate or incidental to the principal use of the land, building or structure and which is located on the same lot as the principal use or on a contiguous lot under the same ownership.

ADJOIN or ADJOINING ô Lots or parcels of land which either have a common boundary or which are separated only by a street or other existing or proposed public or private right-of-way.

AGRICULTURAL BUILDINGS AND STRUCTURES ô Buildings or structures used in connection with agriculture, including shelter for livestock and storage for farm machinery, equipment and supplies.

AGRICULTURE ô The cultivation of land, including planting and harvesting of crops, tillage, horticulture and forestry, and the raising and management of livestock.

AQUIFER ô A geological formation, such as bedrock, sand and gravel or glacial till, capable of yielding usable amounts of groundwater.

AREA OF SPECIAL FLOOD HAZARD ô The land in the floodplain within a community

2. Editor's Note: Former Subsection B, regarding times and locations for interpretations of these regulations, was repealed 4-16-2001, effective 5-12-2001.

subject to one-percent or greater chance of flooding in any given year.

BARN ô A building where hay, tools and equipment are kept and livestock may be sheltered.

BASE FLOOD ô The flood having a one-percent chance of being equaled or exceeded in any given year, commonly called the "one-hundred-year flood." [Amended 7-24-2006, effective 7-27-2006]

BASE FLOOD ELEVATION (BFE) ô The elevation of the crest of the base flood or one-hundred-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas. [Added 7-24-2006, effective 7-27-2006]

BASEMENT or CELLAR ô A portion of a building partially or completely below finished grade, but having at least three feet of its wall height below grade plane for at least one-half (1/2) of its perimeter. The minimum height of said "basement" shall be seven feet, eight inches. For the purposes of the National Flood Insurance Program only, a "basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

BED-AND-BREAKFAST ô A dwelling, part of which is occupied by the owner of the building as a permanent residence, in which rooms and breakfast meals only are provided on a daily basis to transients for compensation.

BOARDINGHOUSE ô A dwelling, part of which is occupied by the owner of the building as his permanent residence, in which rooms and meals are offered or provided for compensation to no more than three persons. [Amended 6-17-1991]

BUFFER AREA ô A strip or strips of land densely planted (or having equal natural growth) with shrubs and/or trees at least four feet high at time of planting, of a type that will form year-round dense screening. Such area must be without buildings, structures, parking or other accessory uses, except that a public road right-of-way may pass through a buffer as close to 90° as possible.

BUILDABLE AREA ô The area of a lot excluding inland-wetlands, watercourses, one-hundred-year floodplain or slopes in excess of 25%. [Amended 4-7-2014, effective 4-24-2014]

BUILDING ô Any structure having a roof, supported by columns or walls, and intended for the shelter, housing or enclosure of persons, animals or materials. The word "building" shall also refer to any modification, addition or alteration to an existing building.

BUILDING COVERAGE ô See "lot coverage."

BUILDING HEIGHT ô The vertical distance from the mean level of ground (finished grade) to the highest point of the roof.

BUILDING LINE ô 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 Somers and recorded in the land records of the Town of Somers.

BUILDING PERMIT ô A permit which must be obtained from the Building Official before construction starts.

BUILDING, PRINCIPAL ô A building in which is conducted the primary or principal use of

the lot on which said building is situated.

CERTIFICATE OF OCCUPANCY/USE ô A certificate granting the right to occupy or use a building, structure or land and attesting to the applicant's having met all the requirements of these regulations and other applicable laws. Such certificate may be issued only after a final inspection by the Building Official.

CLUB ô An organization catering exclusively to members and their guests, provided that the purpose of the club is not conducted primarily for gain and that no commercial activities are conducted except as required generally for the membership and purposes of the club.

COMMISSION ô The Zoning Commission of the Town of Somers.

CONDITIONS ô Necessary requirements or stipulations to ensure compliance with the objectives of these Zoning Regulations.

CONVALESCENT HOME ô A home for the aged, or any establishment, other than hospitals, where three or more persons suffering from, afflicted with or convalescing from any infirmity, disease or ailment are habitually kept, boarded or housed for remuneration, but not including a "group home."

CORRAL ô A fenced enclosure for containing livestock.

DEVELOPMENT ô Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or permanent storage of materials.

DRIVE-THRU ESTABLISHMENT ô A business establishment so developed that its retail and service character is dependent upon or includes providing a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle at a service window. [Added 4-7-2014, effective 4-24-2014]

- A. **Type A** ô A food service establishment that serves patrons packaged food or drinks while in the motor vehicle, or else intended to permit consumption on premises or in the motor vehicle of packaged food or beverages obtained by the patron from such business establishment.
- B. **Type B** ô Establishments such as banks, pharmacies, dry cleaners, and similar non-food or beverage service type businesses.

DWELLING ô A building designed and used exclusively as living quarters for not more than two families. The terms "dwelling," "attached dwelling," "detached dwelling" and "dwelling unit" shall not be deemed to include a hotel, motel, inn, boarding- or rooming house, convalescent or nursing home, mobile home trailer, tourist home or tent. In the case of buildings having two or more portions divided by party walls forming a complete separation above the basement, each such portion shall be considered to be a separate dwelling.

DWELLING UNIT ô One or more rooms in a building which are arranged, designed, used or intended for use by one or more persons living together and maintaining a common household and which include lawful cooking space and lawful sanitary facilities reserved for the occupants thereof. [Amended 7-11-1994]

EARTH REMOVAL ∅ Removal of any kind of soil or earth matter, including topsoil, sand, gravel, clay, rock or similar material, or combinations thereof.

ENERGY EFFICIENT ∅ That type and quality of construction as envisioned by Connecticut General Statutes 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.

FAMILY ∅ One or more persons related by blood, adoption, marriage or legal guardianship living, sleeping, cooking and eating on the same premises as a single housekeeping unit under one head of household, including domestic 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 also be deemed to constitute a family unit.

FARM ∅ A tract of land containing five acres or more, with a minimum of three acres used principally for agricultural purposes. A "farm" may include premises used for the raising and keeping of livestock and other domestic animals when permitted by these regulations.

FARM WORKERS' HOUSING [Added 10-15-2001, effective 11-2-2001; amended 6-30-2003, effective 8-1-2003] ∅ A building or dormitory to house farm workers at an active farm, provided:

- A. Such farm employs at least six workers at any given time during the year, including seasonal or otherwise.
- B. The number of workers housed shall not exceed two workers per cultivated acre. Applicable acreage must be within the Town of Somers and owned by the applicant.
- C. Adequate documentation shall be submitted in order to determine that the above criteria are met and maintained before construction or use of any such facility.

FLOOD INSURANCE RATE MAP (FIRM) ∅ The official map of the Town of Somers on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zones applicable to a community. [Amended 7-24-2006, effective 7-27-2006]

FLOOD INSURANCE STUDY (FIS) ∅ The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations. [Added 7-24-2006, effective 7-27-2006]

FLOOD-PRONE AREA ∅ Any area which is designated as a special flood hazard area or a Zone A on the FIRM.

FLOODWAY ∅ The channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. For the purposes of these regulations, the term "regulatory floodway" is synonymous in meaning with the phrase "floodway." [Amended 7-24-2006, effective 7-27-2006]

FLOOR AREA ∅ The floor area for dwelling units shall be measured by the outside dimensions of the walls enclosing the dwelling unit, but it shall not include porches, breezeways, basements,

garages, uninhabitable or unfinished attic space or any common areas serving several dwelling units. Party walls serving two dwelling units shall be equally divided between the dwelling units for the purpose of determining the floor area. Only that portion of the floor area which is finished for living purposes shall be counted in meeting the above requirements. Second-floor areas may be left unfinished but shall not be included in calculating floor area.

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

FRONTAGE ô See "lot frontage."

FUNCTIONALLY DEPENDENT FACILITY ô A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

GARAGE, PRIVATE ô A building or part thereof accessory to a primary building, providing for the storage of motor vehicles and personal property belonging to the occupants of the premises and in which no occupation or business for profit is carried on.

GOLF CENTER ô A recreational facility, including, but not limited to, more than one of the following uses: golf driving range, golf putting green, golf sand trap, miniature golf. Golf centers may include non-golf related uses as otherwise permitted under these regulations. [Added 4-20-1998, effective 4-27-1998]

GOLF COURSE ô A par-three or regulation golf course containing nine or more holes, designed by a professional golf course architect, and expressly excluding miniature golf courses.

GRADE, FINISHED ô The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

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

GROSS FLOOR AREA ô The sum of the horizontal area of all floors of a building, measured by exterior dimensions.

GROUNDWATER ô All water beneath the surface of the ground found in the pore spaces between particles of soil. The "maximum groundwater level" is defined as the level to which the water table rises for a duration of one month or longer during the wettest season of the year.

GROUP CARE FACILITY ô A supervised residence facility which houses persons who are aged, disabled or in need of rehabilitation but are not acutely ill and are provided services to meet their needs. It does not include an institution as defined in Section 19a-490 of the Connecticut General Statutes and required to be licensed pursuant to the provisions of Sections 19a-490 through 19a-503 of the Connecticut General Statutes.

HAZARDOUS MATERIAL OR WASTE ô Any substance or combination of substances which, because of quantity, concentration or physical, chemical or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health if disposed of

into or on any land or water in the Town of Somers. "Hazardous material or waste" includes, but is not limited to, the following:

- A. Any chemical, substance or material identified as a "hazardous waste" in Connecticut General Statutes Section 22a-448 or any regulations promulgated pursuant to Connecticut General Statutes Sections 22a-448 through 22a-457.³
- B. Any chemical, substance or material identified as a "hazardous chemical" in Connecticut General Statutes Section 29-336 or any regulations promulgated under Connecticut General Statutes Sections 29-336 through 29-341.
- C. Any chemical, substance or material identified as a "hazardous waste" in 42 U.S.C. § 6903 or in any regulations (including but not limited to 40 CFR 261) promulgated under the Federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.), as amended.

HOME FOR THE AGED ô An establishment, other than a hospital, which furnishes food, shelter, laundry and other nonmedical services to three or more persons over the age of 60 years for remuneration.

HOME OCCUPATION

- A. Customary home occupation for gain carried on entirely within the dwelling by residents thereof and requiring only customary home equipment, provided that:
 - (1) The use is clearly incidental and secondary to the use of the building for dwelling purposes.
 - (2) The use does not change the residential character of the dwelling in any visible manner.
 - (3) The use does not create objectionable noise, odor, vibrations or unsightly conditions noticeable off the premises.
 - (4) The use does not create interference with radio and television reception in the vicinity.
 - (5) The use does not create a health or safety hazard.
 - (6) No more than one nonresident is employed for that purpose.
 - (7) No trading in merchandise is carried on.
 - (8) No personal physical service of any kind is performed.
 - (9) No external or internal alterations or construction features not customarily found in a home are required.
 - (10) No more than one commercial-type vehicle shall be used in connection with the home occupation.

3. Editor's Note: Sections 22a-455 through 22a-457 of the Connecticut General Statutes were repealed by P.A. 87-125.

(11) Not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

B. Tearrooms, antique shops, barbershops and beauty shops shall not be permitted as "home occupations."

HOTEL, INN, MOTEL or MOTOR COURT ô A building or group of buildings designated as a temporary abiding place for more than 15 persons or providing five or more sleeping rooms in which lodging is provided for compensation with or without meals.

JUNK ô Any worn-out, cast-off or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered "junk."

JUNKYARD ô A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded materials or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or discarded solid materials, including garbage, scrap metal, junk and refuse materials, including inert matter and landscape refuse.

KENNEL ô One pack or collection of dogs kept under one ownership on a single premises bred for show, sports or sale. [Amended 6-30-2003, effective 8-1-2003]

KENNEL, COMMERCIAL ô A kennel maintained as a business for boarding or grooming dogs or cats, including, but not limited to, a veterinary hospital which boards or grooms dogs or cats for nonmedical purposes. [Added 6-30-2003, effective 8-1-2003]

LIVESTOCK ô Includes such domestic animals as horses, cows, goats and sheep.

LOT ô A plot or parcel of land which was created before the adoption of zoning regulations in the Town of Somers or which, when created, was of at least sufficient size to meet the then-existing minimum zoning requirements for use, coverage and area, all parts of which are in the same ownership, occupied or capable of being occupied by one principal or primary building and the accessory buildings or uses customarily incidental to it, including such yards, other open spaces and buffer areas as are required by these regulations.

LOT AREA ô The actual area, in square feet, enclosed by boundaries of the lot.

LOT, CORNER ô A lot having two adjoining sides facing a street or streets so that the interior angle of the intersection is not more than 120°. "Corner lots" shall be considered as having two front yards, two side yards and no rear yard, and frontage requirements must be met along both street lines.

LOT COVERAGE ô The part or percentage of the total lot area occupied by buildings, surface structures and parking lots.

LOT DEPTH ô The mean horizontal distance from the front lot line to the rear lot line.

LOT FRONTAGE ô The footage required of a lot along a Town-approved or state-approved road between lot side lines measured along the street line.

LOT LINE ô The established division line between lots, or between a lot and a street or other proposed or dedicated public right-of-way.

LOT LINE, FRONT ô All lines dividing the lot from the street or streets.

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

LOT LINE, SIDE ô Any lot line which is not a front lot line or a rear lot line, as defined herein, extending from a street and dividing separate lots.

LOT OF RECORD ô A lot which is part of a subdivision recorded in the office of the Town Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded prior to the adoption of Chapter 213, Subdivision of Land.

MANUFACTURED HOME ô For the purposes of the National Flood Insurance Program, a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For purposes of these regulations, the term includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION ô A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. [Added 7-24-2006, effective 7-27-2006]

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

MOBILE HOME ô See "trailer."

MOBILE OFFICE ô Similar to a mobile home except that such vehicle is not intended for dwelling purposes.

NEW CONSTRUCTION ô Structures for which the start of construction commenced on or after the effective date, February 17, 1982, of the floodplain management regulation adopted by the Town of Somers and includes any subsequent improvements to such structures. [Added 7-24-2006, effective 7-27-2006]

NONCONFORMING BUILDING ô A building which does not conform to all of the applicable requirements of these regulations and which is legally and actually in existence on the effective date of these regulations or any amendments thereof.

NONCONFORMING LOT ô A lot which does not conform to all of the applicable requirements of these regulations but which, when created, conformed to all then-existing zoning requirements.

NONCONFORMING USE ô A use of any land, building or structure which does not conform to all of the applicable requirements of these regulations but which, when commenced, conformed to all then-existing zoning requirements.

NURSING HOME ô See "convalescent home."

OPEN SPACE ô Undeveloped land.

OWNER OF RECORD ô The owner whose name is recorded in the street books in the office of the Assessor at the time when any required mailing lists and notices are prepared.

PARK ô An area of land and/or water, primarily in its natural state, except for man-made recreation facilities or other improvements related to the purposes hereafter stated, and dedicated and used for nonprofit recreation, scenic, leisure, conservation, historic or ornamental purposes. A "park," as used herein, does not include an amusement park or any type of park with mechanical rides, games, arcades or the like, for profit or gain, either directly or indirectly.

PARKING AREA ô An open space used for parking motor vehicles exclusively, in which no gasoline or motor vehicle accessories are sold or no other business is conducted.

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

PERSON ô Any legal entity, including but not limited to a natural person, partnership, corporation, organization, association or syndicate.

PLANNING COMMISSION ô The Planning Commission of the Town of Somers.

RECREATIONAL VEHICLE ô Any motorized vehicle which can be registered for highway use and which is capable of being occupied, with sleeping and/or cooking accommodations, on a temporary basis and may or may not contain sanitary facilities. For purposes of the National Flood Insurance Program, a vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [Amended 7-24-2006, effective 7-27-2006]

RESTAURANT ô Space in a suitable and permanent building kept, used, maintained, advertised and held out to the public to be a place where hot meals are regularly served.

ROOM, HABITABLE ô A room or enclosed floor space arranged for living, eating or sleeping purposes, with a minimum dimension of seven feet and a minimum area of 70 square feet, and in compliance with the building and fire codes.

ROOMING HOUSE ô A dwelling, part of which is occupied by the owner of the building as his permanent residence, in which rooms are offered or provided for compensation to no more than three persons. [Amended 6-3-1991, effective 6-17-1991]

SCREENING ô Natural or man-made materials used to prevent a structure or land use from

being visible from a road or from nearby property.

SEPTAGE ô Domestic wastes which are pumped from septic tanks.

SEPTAGE LAGOON ô A shallow pond holding septage.

SIGN ô Any device for visual communication used to announce, advertise, identify or attract attention to any object, project, place, person, activity, institution, organization or business. The term "sign" includes any structure or natural object, such as a tree or rock, which is utilized as a visual communication device. For the purposes of these regulations, the term "sign" shall also include interior signs, if located on a window or within three feet from a window and if obviously intended for viewing from the exterior, but shall not include the flag, pennant, badge or insignia of any government or governmental agency; or signs directing or guiding traffic and parking on private property but bearing no advertising matter; or official traffic signs; or notices required by law. Merchandise or facsimile merchandise shall not be considered a "sign."

SIGN, GROUND ô Any sign affixed to the ground by its own support and/or foundation.

SIGN, PORTABLE ô Any sign used or intended to be used in different locations.

SITE DEVELOPMENT PLAN ô That part of a certified plan for development which clearly defines all buildings, parking areas, driveways, walkways, utilities and proper water drainage, and including all other items required by the Commission as per these regulations.

SOIL SCIENTIST, CERTIFIED ô An individual duly qualified in accordance with standards set by the Office of Personnel Management (formerly the United States Civil Service Commission) and who maintains an office in the State of Connecticut or who demonstrates familiarity with Connecticut inland wetlands classifications to the satisfaction of the Commission.

SPECIAL USE ô A use of property that would not be appropriate generally or without restriction throughout the zoning district but which may be allowed by the Zoning Commission in accordance with procedures established by statute, upon determination that all requirements and standards set forth in these Zoning Regulations are met and that the Commission finds that such specific use, structure(s) and required facilities are in harmony with the neighborhood and the Town as a whole.

STABLE ô A building in which horses are sheltered.

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

STORAGE TRAILER ô A vehicle without means of propulsion which can be used for hauling or storing of materials or goods and is capable of being readily moved by a tractor or other vehicle.

STORY ô That portion of a building, other than a cellar or a mezzanine, included between the surface of any floor and the surface of the next floor above or, if there is no floor above, then the space between the floor and the next ceiling above.

STREET ô Includes streets, avenues, boulevards, roads, lanes, highways, places and other thoroughfares, including all land dedicated as a public right-of-way, which afford a principal means of access to abutting property and which are dedicated and accepted by the Town or the state.

STREET LINE or **HIGHWAY LINE** ô The line separating the street right-of-way from adjoining property and, if not established, at least 25 feet off the center line of the existing traveled way, or such other width as established by the Selectmen.

STRUCTURE ô Anything constructed, erected or assembled which requires a location on or within the ground or attachment to something having a location on the ground. The term "structure" includes, but is not limited to, buildings, manufactured homes, paved areas, storage tanks, signs, walls, retaining or otherwise, swimming pools, fences and other man-made utilities and infrastructures, excluding a public utility pole or a flagpole.

SUBSTANTIAL DAMAGE ô Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. [Added 7-24-2006, effective 7-27-2006]

SUBSTANTIAL IMPROVEMENT ô Any combination of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure should be the appraised value of the structure prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions.

TAVERN/INN ô A structure designated for combined use as a restaurant and inn and containing sleeping rooms offered for compensation.

TOWN ô The Town of Somers, Tolland County, in the State of Connecticut.

TRAILER ô Any vehicle or similar movable structure which is or can be used for sleeping, living or working quarters and which is, has been or can be mounted on wheels, whether or not resting upon a temporary or permanent foundation. The term "trailer" expressly excludes manufactured homes having as their narrowest dimension 22 feet or more and built in accordance with federal manufactured home construction and safety standards. As used in these regulations, the term includes, but is not limited to, park trailers, travel trailers, camper trailers and mobile homes.

UNIT OF OCCUPANCY ô Any structure, or part thereof, that is intended to be or is used to house one family, business, industry or corporate entity for the purpose of carrying out the business appurtenant thereto.

USE, PRINCIPAL ô The primary purpose for which land, water or a building or structure is designed, arranged or intended or for which it is or may be occupied or maintained.

VARIANCE ô A relaxation of the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of these regulations would result in unnecessary and undue hardship.

VIOLATION ô The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. [Added 7-24-2006, effective 7-27-2006]

WAITING POSITION ô A space in line of approach nine feet wide by 20 feet long.

WATERCOURSE ô Any rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and other bodies of water, natural or artificial, public or private, vernal or intermittent, which are contained within, flow through or border upon the Town or any portion thereof, not regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.

- A. BOGS ô Usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage and highly acidic conditions.
- B. MARSHES ô Areas with soils that exhibit aquic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.
- C. SWAMPS ô Areas with soils that exhibit aquic moisture regimes and are dominated by wetland trees and shrubs. Red maple is the most characteristic tree of the wooded swamps, with black gum and black ash as frequent associates. A conspicuous shrubby understory of highbush blueberry, spicebush, sweet pepperbush, clammy azalea and other wetland shrubs may be present, and a rich diversity of wildflowers, such as marsh-marigold, skunk-cabbage, jewelweed, violets and cardinal flower, may also be present. Shrub swamps represent another swamp type, where alders, willows, buttonbush and other shrubs can form relatively pure or mixed stands. Occasionally trees may be associated to a shrub swamp. However, a high water table often favors certain shrubs, such as buttonbush, over trees. In swamps, the underlying deposits are often relatively shallow and usually highly organic. Swamps may develop through the gradual invasion of marshes by woody species or directly, as in poorly drained depressions.
- D. For further information, see *Inland Wetland Plants of Connecticut*, Niering, W.A. and R. H. Goodwin, The Connecticut Arboretum, Connecticut College, New London, CT, May 1973.

WATER TABLE ô The level in the ground below which all voids and pore spaces are filled with groundwater.

WETLAND or INLAND WETLAND ô Any land, including submerged land, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, as amended, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as may be amended from time to time, of the Soil Conservation Service of the United States Department of Agriculture (USDA). Such areas may include filled, graded or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

YARD ô An open space or undeveloped area on the same lot with a building or structure which lies between said building or structure and the nearest lot line and which is unoccupied, except as may be specifically authorized in these regulations. In measuring a yard, as hereafter provided, the line of structure shall be deemed to mean a line parallel to the nearest lot line, drawn from a point of a structure nearest to such lot line.

YARD, FRONT ô A yard extending across the full width of the lot and lying between the front lot line and the nearest line of any building or structure.

YARD, REAR ô A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of any building or structure.

YARD, SIDE ô A yard between the side line of a lot and the nearest line of the building or structure and extending from the front yard to the rear yard or, in the absence of either such yards, to the front or rear lot line, as the case may be.

ZONE ô One of the different districts into which the Town of Somers has been divided for the purposes set forth in § 214-1 of these regulations.

ZONING PERMIT ô A permit issued by the Zoning Enforcement Officer, upon application, certifying that a proposed land use or any extension or alteration thereof conforms to requirements of these Zoning Regulations. A zoning permit is required prior to the issuance of a building permit.

ARTICLE III General Regulations

§ 214-5. Applicability; conformity with regulations required; prohibited uses. [Amended 6-3-1991, effective 6-17-1991]

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly provided that no land, building, structure or premises, or part thereof, shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with all of the regulations herein prescribed for the zone in which it is located. Uses that are not expressly permitted are prohibited.

§ 214-6. Substandard lots.

A. The lot frontage and lot area requirements of these regulations or amendments thereto shall not prevent construction of a permitted building or establishment of a permitted use on a lot that was owned separately from any adjoining land prior to December 12, 1953, as

evidenced by deed recorded in the Somers land records, or was lawfully established in conformance with the lot frontage and lot area requirements of these Zoning Regulations that were in existence at the time the lot was established or was shown on a plan of subdivision or resubdivision approved by the Planning Commission after December 12, 1953, provided that such lot has its frontage on a street and that sanitary sewage disposal and a potable water supply can be assured without hazard to public health, and provided, further, that any deviation from current side or rear yard requirements shall require a variance from the Zoning Board of Appeals.

- B. In no case of division or combination shall any residual lot or parcel be created which does not meet the zoning requirements.

§ 214-7. Change of use.

No change shall be made in the use of any building, structure or land unless the Commission or its authorized agent, upon proper application, issues a permit for such change in accordance with these regulations.

§ 214-8. Lot frontage.

No building or zoning permit shall be issued for any building, structure or land use unless the lot for which the permit is sought has the required frontage on either a Town-approved or state-approved street or street under construction which shall have been approved by the Planning Commission and complies with the frontage requirements stated in Article XVII of these regulations. Corner lots shall be considered as having two front yards, two side yards and no rear yard, and frontage requirements must be met along all street lines.

§ 214-9. Height regulations.

The height limitations of these regulations shall not apply to church spires, belfries and domes not used for human occupancy, nor to chimneys, skylights, water tanks, bulkheads, solar panels, silos, scenery towers, antennas, air-conditioning equipment, ventilating equipment, elevator structures and similar features usually carried above the roof level, except as may be specifically modified by other provisions of these regulations or other regulations. Such features, however, must be an integral part of the primary structure, must occupy in the aggregate no more than 10% of the building area, must not be used for human occupancy and may be erected only to such height as is reasonable and necessary to accomplish the purpose that they are intended to serve.

§ 214-10. Maximum number of buildings per lot.

In all residential zones only one principal building or structure shall be placed on a lot. In nonresidential zones, the Commission may approve a plan for more than one principal building or structure on a lot (but not more than one principal residential building) if the buildings or structures and land otherwise comply with all other requirements of the zone in which they are located. In the case of public, commercial or industrial buildings or structures, but not in the case of multiple dwellings, a group of buildings under the same ownership may be considered as occupying the same lot.

§ 214-11. Frontage of lot used for residential purposes; yards and open space.

- A. No lot shall be occupied for residential purposes unless it has the required frontage in the applicable zone on a Town-approved or state-approved street.
- B. No yard or other open space on a lot shall be considered as a yard or other open space on any other lot.

§ 214-12. Drainage.

No structure shall be used, erected or expanded and no land shall be graded or hard-surfaced unless provisions have been made and approved by the Somers Town Engineer or his agent for the proper disposal of drainage water, particularly from parking areas and driveways, from areas contiguous to property lines and from low areas which tend to collect drainage water. Said disposal shall not increase peak runoff onto nearby properties or public roadways, except as permitted by law. Disposal of driveway surface water onto a Town roadway is prohibited. Cellar or groundwater interceptor drains shall not be permitted to drain onto public roadways and shall be disposed of in a manner approved by the Building Inspector.

§ 214-13. Building restoration.

Nothing in these regulations shall prevent the strengthening or restoring to a safe condition of any part of a building or structure declared unsafe by the Building Official or where required by any lawful order.

§ 214-14. Building lines.

No structure (with the exception of an appropriate driveway) or accessory building shall be erected or altered, except in accordance with these regulations, on any lot nearer to the street than the building line.

§ 214-15. Corner lots; visibility at intersections.

The minimum street frontage for the district in which such lot is located shall be met on all streets on any corner lot. No obstruction, such as vehicles, machinery, materials, signs, hedges, trees, shrubs or other growth, shall be created, established or erected which interferes with a clear view of drivers of vehicles on a curve or at any street intersection and which endangers the safety of those traveling upon such streets. The Commission or its authorized agent may order the removal of any object which unreasonably obstructs the clear view of drivers or which otherwise endangers the safety of those traveling on a street. For minimum vision clearance, no structure or other object shall be created, established or erected to a height exceeding three feet above the street grade for a distance of at least 50 feet back from two intersecting street lines on local roads. A greater distance may be required upon higher volume roads.

§ 214-16. Obstructions in yards; reduction of yards for solar access.

- A. No structures or projections from structures shall be permitted in any required yard, except as follows:
 - (1) Minor projections of structures, such as window or door frames and sills, belt courses,

cornices or other architectural features, may project not more than one foot into any required yard.

- (2) Major projections of structures in A and A-1 Zones, such as chimneys, bay windows not longer than 25% of the wall from which they project, eaves, roofs over doorways, hatchways, steps, areaways and fire escapes, may project not more than five feet into any required yard.
- B. The yard requirements of these regulations shall not be deemed to prohibit any necessary retaining walls nor any fence, wall or other required barrier to contain noise or provide screening. However, in any residence zone, no wall or fence shall exceed eight feet in height, measured above the natural grade.
- C. Where it can be demonstrated that solar access, protection or control of the south facing wall of a dwelling will be hindered by the required minimum distance between the structure and the lot line, said yard may be reduced by the Zoning Commission not more than 10 feet in order to accommodate passive solar facilities for homes that are one year old or older.
- D. No structure shall be erected between the building line and the street line, except:
- (1) A wall or fence not over three feet in height and not more than one-half (1/2) solid, excluding stone walls and agricultural fences taller than three feet in height.
 - (2) Signs as specified in Article X of these Zoning Regulations.
 - (3) As in Subsection C above.
 - (4) An appropriate driveway.

§ 214-17. Outdoor lighting.

Any outdoor lighting for illumination of signs, spotlighting or floodlighting shall be so shielded that the light source cannot be seen from adjoining properties or the street or produce an objectionable visual disturbance to obstruct scenic views. There shall be no spillover of light beyond the property line exceeding one-half (1/2) footcandle. The lighting of any outdoor recreation facilities shall be subject to the approval of the Zoning Commission.

§ 214-18. Topsoil.

The removal or destruction of topsoil of more than 20 cubic yards on any lot shall not be permitted except in connection with construction, regrading or landscaping work. After completion of such work the topsoil shall be replaced and seeded according to accepted landscaping practices and the Connecticut Guidelines for Soil Erosion and Sediment Control.

§ 214-19. Storage of recreational vehicles, boats and trailers.

A recreational vehicle, boat and/or trailer may be stored by its owner in the rear or side yard of a lot occupied by his permanent residence, but no unit may be used for sleeping, living, cooking or for carrying on a business in any district except as provided elsewhere in these regulations. Screening shall be provided for such unit, when stored, to substantially reduce the visibility of

the unit from the street and from nearby properties.

§ 214-20. Sewers and water.

All lots shall provide for an adequate potable water supply and for proper sewage disposal for the users intended. Where a private water system and/or sewage disposal system are planned, a statement of the systems to be used shall be filed with the application for a zoning permit and the system(s) installed shall have the written approval of the Somers Sanitarian before a certificate of occupancy may be issued.

§ 214-21. Driveways.

Driveways are permitted in front yards, and entrances to a street shall be so located as to provide maximum visibility and safety to the general public. No obstructions will be permitted near a driveway which interfere with visibility of those using such driveway or those passing by. The location of any driveway serving a home occupation shall be subject to review and approval of the Zoning Commission. Residential driveways shall be located no nearer than 10 feet to a side lot line and meet the requirements of Chapter 104, Driveways.

§ 214-22. Streets.

All streets, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting such streets. Where the center line of a street serves as a zone boundary, the zoning of such street shall be deemed the same as that of abutting property up to such center line, unless otherwise specifically designated.

**ARTICLE IV
Zoning Districts**

§ 214-23. Division of Town into zones.

For the purpose of these regulations, the Town of Somers is hereby divided into the following zones:

Residential A (A)
Residential A-1 (A-1)
Business (B)
Industrial (I)

§ 214-24. Zoning Map.

The boundaries of the zones established hereunder are indicated on the map entitled "Zoning Map, Town of Somers," dated 1967, revised 1974, 1978, 1983, 1988 and 1989, and on file in the office of the Somers Town Clerk. The Zoning Map and any amendments thereto are hereby made a part of these regulations.

§ 214-25. Zoning district boundaries.

Unless otherwise indicated on the Zoning Map, the zone boundary lines are the center lines of

streets; or the middle of the channels of waterways; or the center lines of utility rights-of-way; or the boundary lines of state forests and/or reservations. Where a zone boundary is shown parallel to a street, such boundary shall be interpreted as running parallel to the nearest street line and at such a distance measured from the street line therefrom as indicated on the Zoning Map. In case of uncertainty as to the location of any zone boundary line, the determination thereof shall be made by the Commission.

§ 214-26. Lot in more than one district.

In the case of a lot of record lying in more than one district, the provision of the less restrictive district may be applied for a distance of not more than 25 feet into a more restrictive district, provided that such lot has frontage on a street in the less restrictive district and said twenty-five-foot strip shall be utilized as a buffer.

**ARTICLE V
Nonconforming Uses**

§ 214-27. Continuance.

Any nonconforming use, including nonconforming buildings, structures and lots, lawfully existing as of the effective date of these regulations or any amendment thereof shall be permitted to continue notwithstanding any other provision of these regulations or any amendment thereof.

§ 214-28. Change of use.

No use which conforms to these regulations may be changed to a nonconforming use. A nonconforming use may be changed only to a conforming use. Whenever a nonconforming use has been changed to a conforming use, it shall not thereafter be changed to a use which does not conform to these regulations.

§ 214-29. Extension or enlargement.

No nonconforming use shall be extended or enlarged inside or outside any building or structure except as otherwise provided herein. No extension or enlargement of any nonconforming building or structure shall be made which increases the nonconformity of such building or structure, except that a nonconforming building or structure containing a permitted use may be extended or enlarged within the applicable yard requirements or within a line which is not nearer to the lot lines than the existing building, provided that such extension or enlargement provides for a permitted use containing no more dwelling units than the existing building. The extension or enlargement of any building within a special flood hazard area shall meet the Flood Damage Prevention Regulations.⁴

§ 214-30. Moving.

No such nonconforming use shall be moved in whole or in part to any other portion of the property occupied by such use at the effective date of adoption or amendment of these regulations.

4. Editor's Note: See Art. XV, Flood Damage Prevention.

§ 214-31. Alterations and repairs.

A building or structure containing a nonconforming use may be altered or improved, but not extended or enlarged, and may be repaired or reconstructed as made necessary by wear and tear or deterioration. The alteration or repair of any building within a special flood hazard area shall meet the Flood Damage Prevention Regulations.⁵

§ 214-32. Restoration.

Any building or structure which is in conformance with these regulations but which contains a nonconforming use and which has been destroyed or damaged by fire, explosion, act of God or public enemy may be restored to the same dimensions, floor area and cubic volume existing immediately prior to such damage or destruction, provided that such restoration is commenced within six months after such damage or destruction.

- A. Any nonconforming building or structure which has been destroyed or damaged by fire, explosion, act of God or public enemy and which has thereby been reduced more than 50% in fair market value may be restored or rebuilt only in accordance with these regulations.
- B. A building or structure suffering such damage or destruction but retaining 50% or more of its fair market value may be restored or rebuilt to the same dimensions, floor area, cubic volume, density, bulk and/or site location as existed immediately prior to the damage or destruction only if such restoration or repair is commenced within six months after such damage or destruction; otherwise, such restoration or repair must comply with these regulations.
- C. The restoration or repair of any building or structure within a special flood hazard area must comply with Article XV of these regulations.

§ 214-33. Discontinuance or abandonment. [Amended 6-15-1998, effective 7-1-1998]

Any nonconforming use which has been voluntarily abandoned or discontinued shall thereafter conform to the provisions of these regulations. In determining whether a nonconforming use has been voluntarily abandoned or discontinued, the Commission shall examine various factors, including the length of the period of nonuse and the intent of the property owner.

§ 214-34. Illegal use.

Nothing in these regulations shall be interpreted as authorization for or approval of the continuation of any use of land, building, structure or premises which, when commenced or first established, was in violation of the zoning regulations then in effect and which has never subsequently been legally validated by any amendment to such regulations or by any provision of state law.

§ 214-35. Unsafe buildings.

Nothing in these regulations shall prevent the strengthening or restoring to a safe condition of

5. Editor's Note: See Art. XV, Flood Damage Prevention.

any portion of a building or structure declared unsafe by a proper authority.

§ 214-36. Effect of adoption or amendment of regulations.

- A. Nothing in these regulations, or any amendment thereof, or in any subsequent change in zoning classification shall be deemed to require any alteration in the plans, construction or designated use of a building, structure or premises for which a zoning permit and building permit have been issued before the effective date of the relevant regulations, amendment or change in zoning classification and substantial construction has been commenced, provided that the entire building or structure is completed within two years from such effective date. If any of the foregoing provisions are not complied with, such zoning permit shall become null and void.
- B. Nothing in these regulations, or any amendment thereof, or in any subsequent change in zoning classification shall be deemed to require any change in the plans, construction or designated use of a building, structure or premises for which a special permit or variance has been issued prior to the effective date of the relevant regulations, amendment or change in zoning classification, provided that a building permit is obtained from the Building Official within one year from such effective date, substantial construction is commenced within one year of the date of issuance of such building permit and the entire building or structure is completed according to the approved plans within two years from the date of issuance of the building permit. If any of the foregoing provisions are not complied with, such special permit or variance shall become null and void.
- C. Notwithstanding the foregoing provisions, no improvements or proposed improvements shown on a site plan for residential property which has been approved prior to the effective date of a change in these Zoning Regulations or zoning classification and filed or recorded with the Somers Town Clerk shall be required to conform to such change.

§ 214-37. Nonconforming lots of record and in subdivisions.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of these regulations, 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 Section 8-26c of the Connecticut General Statutes, as amended, at the effective date of adoption of amendments of these regulations. 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.

ARTICLE VI
Accessory Uses

§ 214-38. Use; location; height regulations.

- A. Accessory structures customarily incidental to any use permitted herein are allowed, provided that such accessory structures shall not include any advertising signs, signboards

or posters, except for small announcement signs or a farm name as provided under §§ 214-57 and 214-58.

- B. An accessory building, including those attached to a main building by means of a breezeway or a roofed passageway or other connection, shall not be used for residential purposes, except as specifically provided elsewhere in these regulations.
- C. A barn, stable or garage may be erected to the same height limits as the main building.
- D. Accessory buildings on a residential lot may include private garages in which not more than one space may be occupied by a commercial vehicle.
- E. Greenhouses as accessory buildings are limited to one structure, not exceeding 200 square feet in area on a residential lot. More than one greenhouse as an accessory use may be allowed on a farm without restriction as to size.
- F. Accessory buildings for commercial or industrial uses shall observe the same yard and height requirements as a main building.
- G. Accessory buildings that are less than 10 feet in height may be located only in the rear half of any lot, but not nearer than 75 feet to any street and not less than 25 feet from the side or rear lines of said lot.
- H. Accessory buildings to farming use and buildings housing farm animals are not permitted less than 100 feet from a street line. Buildings housing farm animals shall be not less than 200 feet from side or rear lot lines. Other farm buildings shall be not less than 100 feet from side or rear lot lines.
- I. Stables for horses shall be at least 100 feet from property lines. Corrals shall be at least 10 feet from property lines.
- J. Accessory buildings to a proposed main building may be erected on a then-vacant residential lot, if so placed as to not interfere with the eventual practicable and conforming location of the principal building.

§ 214-38.1. Drive-thru establishment. [Added 4-7-2014, effective 4-24-2014]

- A. A Type A drive-thru establishment is allowed by special use permit and subject to the following:
 - (1) A single property may have only one such establishment that shall occupy no greater than 25% of the total ground floor area of all buildings on the property.
 - (2) The serving window shall not be located closer, measured horizontally, than 1,500 feet from the serving window of a Type A drive-thru establishment on another property.
 - (3) No said use will be permitted within 450 feet of a residential zone measured horizontally from the Type A serving window to the nearest point of the residential property.
 - (4) The serving window shall be located at the rear or side of the building arranged to

harmonize with the character of the surrounding area.

- (5) There shall be only one serving window served by one vehicular service lane. Unless otherwise required by the Commission, the vehicular service queue lane shall be not less than 200 feet in length (measured from behind the vehicle at the service window) and located so as to not obstruct access to parking spaces, sidewalks and pedestrian access to the building.
- (6) Hours of operation shall be limited to between 5:00 a.m. to 11:00 p.m. unless waived or further limited by the Commission.
- (7) No outside audio system is permitted except for a central service ordering menu board.
- (8) Said use shall not create visibility problems for motorists or pedestrians and shall be located in such a manner as to not restrict access by emergency services to any portion of the building.
- (9) Outdoor seating limited to not more than 20 seats may be permitted as an accessory use. Outdoor seating areas are to be separated from traveled areas by walls, fences or landscaping.
- (10) Trash receptacles are to be located for the convenience of the patrons and are to be shown on the proposed site plan.
- (11) One menu sign board not exceeding 24 square feet may be permitted in addition to signage allowed in § 214-58 subject to the requirements of Section VII.

B. A Type B drive-thru establishment is allowed by special use permit.

§ 214-39. Professional offices, home occupations and bed-and-breakfast establishments.

The Commission, as a special use, may permit a professional office, home occupation or bed-and-breakfast facility as an accessory use to a residence in an A-1 Zone. The following shall apply as applicable:

- A. Said accessory uses are restricted to the residential owner.
- B. A certified site plan shall be submitted in accordance with § 214-101 of these regulations.
- C. Adequate off-street parking shall be provided on the premises.
- D. Professionals and a bed-and-breakfast establishment may have one nonresident employee, except that a medical doctor or dentist may have two nonresident employees.
- E. Office use and home occupations shall not occupy more than 25% of the total floor area of a residence.
- F. The Commission shall establish reasonable requirements in respect to screening, time limits, hours of use and other factors which control such special use.

**ARTICLE VII
Performance and Environmental Standards**

§ 214-40. Purpose; penalties for offenses.

- A. In accordance with the purposes described in § 214-1 of these regulations, and more specifically to promote and protect the public health, safety and welfare by minimizing noise, glare, odors, heat and vibrations and by minimizing the discharge of toxic substances and other pollutants into the air, surface water, soil and groundwater, the following performance and environmental standards are hereby established to apply to all buildings, structures and uses in all zones within the Town of Somers.
- B. No permit shall be issued for a building, structure or use under these regulations if the Commission determines that such building, structure or use would not comply with these standards.
- C. If the Commission determines that any building, structure or use established after the effective date of these regulations is or has been in violation of these standards, the Commission may issue any order or seek any remedy or penalty provided by state or municipal law for the violation of zoning regulations.

§ 214-41. General standards.

- A. No treated or untreated sewage, hazardous or industrial materials or wastes or other waste or refuse shall be discharged into any watercourse or wetlands. All methods of sewage and waste treatment and disposal shall comply with regulations of the State of Connecticut and the Town of Somers for maximum protection of groundwater. No effluent shall contain acids, oils, dust, toxic metals, corrosive or other toxic substances, grease or phosphates, in solution or suspension, which would create odors or which would discolor, poison or otherwise pollute a watercourse, wetlands or groundwater.
- B. No operation or activity shall be carried on which would produce heat perceptible from any property line of the lot on which the operation is located.
- C. No vibration shall be transmitted outside the property where it originates.
- D. No mining, extracting, filling or soil-stripping operations shall be allowed except as provided in Article XII.
- E. No construction, excavation or other use of land shall be allowed which is unreasonably or unnecessarily destructive to sites having historical or archaeological significance.

§ 214-42. Noise.

- A. Definitions. The following definitions are applicable to the noise standards set forth in this section:

BACKGROUND NOISE ô Noise which exists at a point as a result of the combination of distant sources, individually indistinguishable.

CONSTRUCTION ô The assembly, erection, substantial repair, alteration, demolition or site preparation for or of public or private rights-of-way, buildings or other structures, utilities or property.

DAYTIME HOURS ô The hours between 7:00 a.m. and 9:00 p.m., Monday through Saturday, and the hours between 9:00 a.m. and 9:00 p.m. on Sunday.

DECIBEL ô A unit of measurement of the sound level.

EMERGENCY ô Any occurrence or set of circumstances which involves actual or imminent physical trauma or property damage and which demands immediate action.

EMITTER ô The zone from which the sound is created or sent, or the person or thing creating the sound.

EXCESSIVE NOISE ô Any sound, the intensity of which exceeds the standards set forth in Subsection B of this section.

IMPULSE NOISE ô A sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

MOBILE SOURCE ô Nonstationary sources of sound, including but not limited to moving aircraft, automobiles, trucks and boats.

MOTOR VEHICLE ô A vehicle as defined in Subdivision (30) of Section 14-1, Connecticut General Statutes, as amended.⁶

NIGHTTIME HOURS ô All hours not listed as being daytime hours.

RECEPTOR ô The zone in which sound is received, or the person or thing receiving the sound.

SOUND ô A transmission of energy through solid, liquid or gaseous media in the form of vibrations which cause alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including but not limited to an auditory response when impinging on the ear.

SOUND LEVEL ô A frequency-weighted sound-pressure level as measured with a sound-level meter using the A-weighting network. The level so read is designated "dBA."

SOUND-LEVEL METER ô An instrument used to measure sound levels. A "sound-level meter" shall conform, at a minimum, to the American National Standards Institute's Operational Specifications for Sound-Level Meters S1.4-1971 (Type S2A).

SOUND-PRESSURE LEVEL ô A number equal to 20 times the logarithm to the base 10 of the ratio of the pressure of a sound to the reference pressure of twenty microneutons (0.00002 newton) per square meter. The number is expressed in decibels (dB).

B. Standards. No sound shall be emitted beyond the boundaries of the lot or parcel on which such sound originates which exceeds the sound levels specified below:

⁶. Editor's Note: The reference to Section 14-1(30) of the Connecticut General Statutes should be to Section 14-1(a)(90).

Emitter	Industrial	Commercial and Retail		Receptor Residential and All Other Zones	
		Trade	Daytime Hours	Night time Hours	
Industrial	70 dBA	66 dBA	61 dBA	51 dBA	
Commercial and retail trade	62 dBA	62 dBA	55 dBA	45 dBA	
Residential and all other zones	62 dBA	55 dBA	55 dBA	45 dBA	

C. High background noise levels and impulse noise.

- (1) In those individual cases where the background noise caused by sources not subject to these regulations exceeds the standards contained herein, a source shall be considered to cause excessive noise only if the sound emitted by such source exceeds the background noise levels by five dBA, provided that no source subject to the provisions of these regulations shall emit sound in excess of 80 dBA at any time; and provided that this section does not decrease the permissible levels of other sections of these regulations.
- (2) No impulse noise shall be caused or allowed in excess of 80 dB peak sound-pressure level during nighttime hours in any residential zone.
- (3) The emission of impulse noise shall not be caused or allowed in excess of 100 dB peak sound-pressure level at any time in any zone.

D. Exclusions. These standards shall not apply to unamplified sounds emitted by or related to the human voice, natural phenomena or wild or domestic animals; bells or chimes from a clock in any building or from a school or church; a public emergency sound signal; and sounds created by farming equipment or farming activity, any emergency and snow removal.

E. Exemptions. The following shall be exempt from the provisions of this section, subject to the conditions noted:

- (1) Noise created by the operation of property maintenance equipment during daytime hours.
- (2) Noise generated by any construction equipment operated during daytime hours.
- (3) Noise created by any recreational activities which are sanctioned by the Town, including but not limited to parades, sporting events, concerts, fireworks displays and local public celebrations.
- (4) Noise created by blasting, provided that the blasting is conducted between 8:00 a.m.

and 5:00 p.m. local time and provided that a permit for such blasting has been obtained from appropriate state authorities and the Zoning Commission.

- (5) Noise created by refuse and solid waste collection and disposal, provided that such activity is conducted between 8:00 a.m. and 6:00 p.m.
 - (6) Noise created by a fire alarm or intrusion alarm.
 - (7) Noise created by public facility maintenance during daytime hours and snowplowing whenever necessary.
 - (8) Noise created by church bells.
- F. Noise level measurement procedures. For the purpose of determining sound levels as set forth in these standards, the following guidelines shall be applicable:
- (1) A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation.
 - (2) Instruments used to determine sound-level measurements shall be sound-level meters as defined under Subsection A.
 - (3) The following steps shall be taken when preparing to take sound-level measurements:
 - (a) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.
 - (b) Measurements to determine compliance with these standards shall be taken at a point that is located about one foot beyond the boundary line of the lot or parcel on which the sound is emitted and within the lot or parcel on which the sound is received.

§ 214-43. Sites of historical and archaeological significance.

- A. If during the course of any construction, excavation, removal or filling activities any sites or materials are discovered which appear to have been made, used or handled by persons, or which otherwise suggest the past use or habitation of the site, and which may reasonably be suspected of having historical or archaeological significance, such discovery shall be immediately reported to the Commission. The Commission may order a suspension of all or any portion of the activities for a period not to exceed four months for the purpose of allowing further investigation of any such discovery.
- B. If within such four-month period the Commission determines that the site has historical or archaeological significance, the Commission may revoke any existing permit or site plan pertaining to the property. If the Commission does revoke any permit or site plan pursuant to this section, it shall, within 10 days after revocation, issue an amended permit and, if a site plan was involved, approve a modified site plan which will allow the work specified in the original permit and/or site plan to proceed subject only to such restrictions or conditions as the Commission may reasonably deem necessary to protect the historical or archaeological value of the site.

ARTICLE VIII
Prohibited Uses

§ 214-44. Prohibited uses. ⁷

The following buildings, structures and uses are prohibited in all zoning districts:

- A. The production, use, storage or disposal of hazardous materials or wastes, except as these regulations may specifically allow. The use or storage of reasonable amounts of such materials as determined by the Commission, when clearly incidental to the principal use of a building, structure or land shall be exempt from this regulation.
- B. The following uses involving commercial processing or incineration of animal and vegetable products: breweries and distilleries; slaughterhouses; stockyards; fat rendering; soap manufacturing; glue manufacturing; tanneries; paper manufacturing; wool scouring and cleaning; cotton textile sizing, scouring, bleaching, dyeing and similar operations; paint and varnish manufacturing; and creosote and creosote products manufacturing.
- C. Facilities for metal heat treatment, annealing, descaling or plating processes.
- D. Dry-cleaning establishments.
- E. Furniture stripping establishments.
- F. Commercial laboratories and commercial photographic developing and processing.
- G. Trailer parks.
- H. Junkyards.
- I. Racetracks, animal and vehicular.
- J. Amusement parks.
- K. Drop forges.
- L. Nuclear power plants.

ARTICLE IX
Screening and Landscaping Standards

§ 214-45. Purpose.

The following standards are intended to enhance the appearance and natural beauty of the Town and to protect and increase property values through preservation of existing vegetation and planting of new screening and landscaping material. Specifically, these standards are intended to reduce excessive heat, glare and accumulation of dust, to provide privacy from noise and visual intrusion, and to prevent the erosion of soil, excessive runoff of drainage water and the consequent depletion of the groundwater table and the pollution of water bodies.

§ 214-46. Definitions.

7. Editor's Note: See also § 214-97.

As used in this article, the following terms shall have the meanings indicated:

COMPLETE VISUAL SCREENING ô A type of screening which affords a year-round effect and through which the screened object is obscured.

EFFECT ô The visual impression desired from screening and landscaping.

GROUND COVER ô A medium used in a confined area to check or prohibit the growth of undesirable plant materials. "Ground cover" may consist of plants such as Pachysandra and Myrtle or materials such as white gravel, brick or stone paving, in combination with live planting materials.

HEDGE ô A hedge shall provide complete visual screening and consist of evergreens at least four feet in height at the time of planting and it shall be maintained at a height of at least six feet.

LANDSCAPED or **LANDSCAPING** ô An area shall be at least covered with grass or ground cover. Any additional planting is either specifically required by the regulations or left to the discretion of the property owner.

LARGE TREES ô Deciduous shade trees such as Sugar Maple, Pin Oak, London Plane or Linden and conifers such as White Pine, Austrian Pine or Canadian Hemlock. All of the required large trees shall be at least two and one-half (2 1/2) to three inches in caliper at the time of planting.

PARTIAL VISUAL SCREENING ô A type of screening through which the screened object is partially visible.

SCREENING FENCE or **SCREENING WALL** ô Devices for complete visual screening. They shall be at least six feet in height and a maximum of eight feet in height and three-fourths (3/4) solid.

§ 214-47. General screening standards.

- A. Landscaping, trees and screening plants required by these Zoning Regulations shall be planted and in a growing condition according to accepted horticultural practices and they shall be maintained in a healthy growing condition. Any landscaping, trees and screening plants which are in a condition that does not fulfill the intent of these regulations shall be replaced by the property owner during the next planting season for the particular plant material.
- B. A screening fence or wall required by these regulations shall be maintained by the property owner in good condition throughout the period of use of the property.
- C. All landscaping, trees and screening material adjacent to parking areas, loading areas or driveways shall be properly protected by barriers, curbs or other means from damage by vehicles.
- D. To the extent that existing healthy trees, if properly located, are preserved, they shall be fully credited against the requirements of these Zoning Regulations. The Commission may determine which trees shall be preserved as part of the site plan.
- E. Structures in nonresidential districts shall be suitably landscaped.

§ 214-48. Screening specifications.

The following are considered as prototypes. In order to comply with the stated desired effect, the number and spacing of required trees and the width of the screening strip may be varied.

- A. Type A Screening. The desired effect is partial visual screening. The width of the screening strip may be varied; however, it shall be at least five feet. Plant material shall consist of large trees spaced about 20 feet on center or a mixture of both. Where a continuous landscaped screening strip is impractical, the trees may be located in islands at least 20 square feet in area.
- B. Type B Screening. The desired effect is partial visual screening between zoning districts of different classification. Plant material shall be the same as specified for Type A Screening except that one-half (1/2) of the trees shall be evergreens and double the number of trees are required.
- C. Type C Screening. The desired effect is complete visual screening of parking and loading areas. The screening material shall consist of a hedge, screening fence, screening wall, or a combination thereof. The screening strip shall be at least five feet wide for a fence or wall and landscaped and at least 10 feet for a hedge, unless a greater width is required elsewhere in these Zoning Regulations.
- D. Type D Screening. The desired effect is separation and partial visual screening without creation of visual obstructions for traffic. The screening material shall consist of planting materials with low growth habits interspread with flowering trees about 20 feet on center and deciduous shade trees spaced 40 feet on center. Said strip shall not be less than 10 feet in width within the property line.

§ 214-49. Modifications.

The Zoning Commission may consider and approve such modification in the above standards where the Commission makes a finding that equivalent or superior screening will be provided in a specific case.

ARTICLE X
Signs

§ 214-50. Measurement of sign area.

The area of a sign shall be considered to be that of the entire communication device, exclusive of the supports, unless such supports are also used to advertise.

§ 214-51. Location.

- A. All nonresidential signs must be located on the same lot as the business location.
- B. A sign shall project not more than 18 inches from the face of a structure and not more than 12 inches into any street and it shall be at least 10 feet above the level of any walkway it may overhang.
- C. Signs shall be located only along or in back of (as these regulations may permit) the street

line of the street providing access to the property.

- D. Each unit of occupancy above the first floor may only display a sign on the inside of each window serving said unit of occupancy, provided that the combined area of such signs shall not exceed six square feet.
- E. Excluding public safety signs and other municipal informational signs, no sign shall be erected within, or overhang, public rights-of-way. [Added 12-2-2013, effective 12-20-2013]

§ 214-52. Height regulations.

- A. Ground signs, including supports, shall not exceed a height of six feet in a residential district, or 15 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 two 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 six feet over the top of the exterior wall of such structure, provided that the sign is not within 500 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.

§ 214-53. Temporary signs.

- A. Political signs. Signs pertaining to candidates, political parties or political issues in a national, state or municipal election for a period of 60 days prior to said election shall be allowed subject to the following:
 - (1) No political signs shall be allowed on government property.
 - (2) All political signs shall be removed within five days after the election.
 - (3) Political signs are exempt from the temporary sign permit process. [Added 12-2-2013, effective 12-20-2013]
- B. Special event signs for noncommercial or civic events. [Amended 12-2-2013, effective 12-20-2013]
 - (1) One sign not exceeding 32 square feet in total sign area at the site of the event may be posted, provided that the sign is posted no sooner than 30 days prior to the event and removed within five days of the event.
 - (2) Off-premises temporary signs not exceeding 12 square feet in total sign area announcing special events shall be permitted only for a period of 30 days prior to, and including the duration of, the activities which the sign describes, and such sign shall be removed within five days after completion of such activity which said sign describes.
 - (3) Off-premises temporary signs shall be limited to 15 off-premises locations, and a zoning permit for such signs shall be filed with the Town of Somers Zoning Enforcement Officer on an application form approved by the Zoning Commission.

- C. Signs temporarily attached or temporarily painted on a door, window or wall announcing sales or special features are permitted, provided that they do not exceed 25% of the area of said door, window or wall. Temporary signs shall be removed immediately after the termination of such sale or special feature and shall be permitted for a period of not over 30 days.

§ 214-54. Illuminated and moving signs.

- A. A sign may be illuminated if illumination is confined to or directed to the surface of the sign only. No flashing, rotating or intermittent illumination shall be permitted except signs indicating time and/or temperature by means of white, intermittent lighting, provided that the longest dimension of such a sign does not exceed five feet.
- B. All light sources of signs shall be so designed and shielded that they cannot be seen from beyond the property lines on which such sign is located. No neon signs visible from the exterior of the building shall be permitted.
- C. No sign or any part thereof shall be mechanically rotated or moved except traditional signs of barber shops, provided that the longest dimension of such sign does not exceed three feet.
- D. No floodlights of the magnitude typically used as search lights or airport beacons shall be permitted.
- E. No sign or lighting shall be higher than the surrounding tree line so as to obstruct or interfere with a scenic view from afar.
- F. Internally lit signs are not permitted.

§ 214-55. Nonconforming signs; modifications.

Signs existing at the time of the adoption of these regulations must be maintained in their existing size, shape and illumination and cannot be structurally altered, enlarged, expanded or moved, and no lights may be added thereto, except as such changes may keep or bring the signs into conformance with these regulations.

§ 214-56. Approval; maintenance; discontinuance of tenancy.

- A. All signs under these regulations shall require the approval of the Zoning Enforcement Officer unless otherwise noted and shall meet all requirements of the Building Code and these Zoning Regulations.
- B. All signs shall be properly maintained and shall not be allowed to fall into disrepair. Failure to maintain signs shall be considered a violation of these regulations.
- C. Upon discontinuance of tenancy it shall be the responsibility of the property owner to eliminate signs pertaining to a removed use, business or proprietor within 30 days of such discontinuance.

§ 214-57. Residential districts.

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

Signs in Residential Districts

Type of Sign	Maximum Sign Area (square feet)	Maximum Number of Signs	Location (see also § 214-51 of these regulations)	Permit Required
a. Signs giving name and address of the property and/or the occupant	1	1 per lot	Back of street line	No
b. Signs pertaining to a profession or occupation permitted as an accessory use of the lot	4	1 per lot	Back of street line	Yes
c. Signs giving the name of the farm on a wall of an accessory building	No larger than 3 for every running foot of wall where displayed	1 per farm	30 feet back of street line	Yes
d. Signs in connection with special use permits authorized by Zoning Commission [Amended 11-1-1999, effective 11-18-1999]	15	1 per lot	15 feet back of street line	Yes
e. Signs pertaining to the sale, lease or rental of property on which they are located	6 per sign	2 per lot	Back of street line	No
f. Signs pertaining to and during the construction or repair of property on which they are located	25 aggregate	2 per lot	15 feet back of street line	Yes
g. 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 per sign	2 per subdivision	15 feet back of street line	Yes
h. Signs of civic and nonprofit organizations on the premises	25	1 per lot	15 feet back of street line	Yes

for not more than 90 days
within any 12-month period

i. Holiday decorations without commercial advertising	----	----	Back of street line	No
j. Private directional signs	2	----	Back of street line	No
k. Directional signs or traffic signs	6	----	Within street line; police approval required	No
l. 1 sign on each major highway near the Town line serving as a common directory for civic, educational and religious organizations located in Somers; the erection of signs under this subsection shall be subject to Zoning Commission approval	50; 6 per sign	1 per locale	Within street line; approval of Highway Department having jurisdiction required	Yes
m. Temporary signs (see § 214-53A and B)	----	----	----	Yes

§ 214-58. Business and industrial districts.

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

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

Signs in Business and Industrial Districts

Maximum Area of Sign	Location (see also § 214-51 of these regulations)	Permit Required
1. The total permitted exterior sign area on any premises shall be computed as follows: the total combined sign area for each unit of occupancy on the first floor and permanent ground signs shall not exceed 2 square feet for each linear front foot of exterior building wall.	Back of street line	Yes
2. 1 detached double-faced sign may be erected on each lot or on each 200 linear feet of building frontage, whichever is the	20 feet back of street line	Yes

more restrictive. Such signs shall not exceed 20 square feet in total area per lot per sign face. A detached sign shall not exceed 15 feet in height nor be within 20 feet of a side lot line.

- | | | |
|---|---------------------|-----|
| 3. Within 10 feet of each entrance of a building, 1 common sign may be provided allowing not more than 1 square foot 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 square feet. | Back of street line | Yes |
| 4. Each unit of occupancy above the first floor may only display a sign on the inside of each window serving said unit of occupancy, provided that the combined area of such signs shall not exceed 6 square feet. | ---- | No |
| 5. 1 portable sign may be placed on a business property during business hours only. The total display area of such movable sign shall not exceed 6 square feet. Lighted portable signs are not permitted except by government agencies in conjunction with road construction or maintenance. The Zoning Enforcement Officer may require the immediate removal of any sign which endangers pedestrian or vehicular movement. | Back of street line | No |
| 6. Temporary signs (see § 214-53) | ---- | Yes |
| 7. Other outdoor advertising devices. Outdoor advertising devices, including but not limited to plaques, banners, pennants and streamers, are permitted for a period of not more than 2 weeks after the opening of a new business. | Back of street line | No |

ARTICLE XI
Off-Street Parking and Loading

§ 214-59. Adequate spaces to be provided; access for emergency vehicles.

- A. All buildings, structures and uses of land shall be provided with a sufficient number of off-street motor vehicle parking spaces to meet the needs of persons who may reasonably be expected to use such buildings or structures or to make such uses of land. Sufficient provisions must also be made for access to the buildings, structures or uses by emergency vehicles, such as police, fire and medical vehicles.
- B. For all nonresidential uses in business and industrial districts there shall be provided adequate space in suitable locations for the loading and unloading of goods and materials. In determining the adequacy and suitability of such space, the Commission shall be guided by the nature and intensity of the use, the volume of traffic expected to use such space and the location of buildings and structures in relation to the street.

§ 214-60. Unregistered motor vehicles.

Parking or storage of more than two unregistered motor vehicles shall not be permitted on any residential property except within a building. Vehicles used on a farm are exempted, but such vehicles shall not be kept in front of any building or front building line. Unregistered motor vehicles may not be stored on residential property for purposes of private sale, except that storage for one such sale may be allowed every six months, provided that prior notification is given to the Zoning Enforcement Officer of the dates of such storage and further provided that such storage shall not exceed a period of 30 consecutive days. The six-month period described above shall commence on the last day of the most recent allowed storage of a vehicle for sale.

§ 214-61. Parking and loading plan.

Applications for building and/or zoning permits shall be accompanied by a certified plot plan, drawn to scale, showing the location, size and arrangement of off-street parking and loading facilities required by these regulations, the means of access to said facilities from the public street and any separate egress from such facilities. Such parking plan shall also show proposed screening, landscaping, lighting, drainage and other improvements. The parking plan shall be submitted to the Zoning Commission for review and approval as complying with these Zoning Regulations, including adequate relationship of entrances and exits to the flow of traffic on the public streets, safeguarding of pedestrians in the public way and in the parking facility itself and adequacy of vehicular and pedestrian circulation. The parking plan shall be approved before a building or zoning permit is issued. The Commission or its designated agent may waive the requirements of this section in accordance with § 214-101E.

§ 214-62. Location of facilities.

The parking and loading facilities which are required by these regulations shall be provided on the same lot or premises with the structure or land use they are to serve. This requirement shall not apply to the temporary use of land for special events authorized or sponsored by the Town of Somers.

§ 214-63. Design specifications.

- A. Parking and loading facilities shall be designed to provide for safe circulation of vehicular and pedestrian traffic within the parking area and in relation to adjacent streets. Where trucks are to be admitted to parking lots, suitable turning and maneuvering geometry shall be provided as recommended by the Trucking Institute and American Association of State Highway and Transportation Officials (AASHTO).
- B. Parking and loading facilities shall be laid out so that vehicles shall enter and leave the public street or right-of-way only at the approved entrances and exits. Parking emptying onto a state road also requires a state permit.
- C. All parking spaces in parking areas of more than 25 cars and all loading spaces shall be so located that vehicles entering or leaving such spaces do not block any entrance drive to the parking facility within 20 feet of any street line.
- D. Any area of 100 square feet or more in a parking lot which is not required for a parking

space, loading space, aisle, driveway or walkway shall be landscaped. In every parking area at least one tree shall be provided for each 10 parking spaces provided in said parking area. The trees shall be distributed over the entire parking lot.

- E. Provisions shall be made to prevent vehicles from overhanging any walkway and from damaging trees or other landscaping materials, however, use of concrete wheel stops shall be prohibited in the direct path of pedestrians. If a parking lot abuts a street line, a landscaped strip at least 10 feet wide shall be provided on the interior side of the property line to prevent encroachment on the street or any sidewalk. A sidewalk within the right-of-way may be required by the Commission if, in its opinion, circumstances warrant such facility.
- F. Dimensions of parking spaces and aisles shall be at least as follows:
 - (1) Width of space: nine feet, or 10 feet if adjacent to wall or column.
 - (2) Length of space: 20 feet.
 - (3) Width of aisle:

Width of Aisle	Two-Way One-Way	
	(feet)	(feet)
Space angle 80° or greater to aisle	24	24
Space angle 70° to 79° to aisle	20	19
Space angle 60° to 69° to aisle	20	18
Space angle 40° to 59° to aisle	20	13
Space angle 39° or less to aisle	20	12

§ 214-64. Off-street parking requirements. [Amended 4-7-2014, effective 4-24-2014]

The following schedule of parking requirements shall apply (singularly for a single use and in combinations for more than one use):

Use	Spaces Required
a. Dwelling	2 per dwelling unit
b. Dwelling with medical or dental office	2 per dwelling unit, 1 per employee, plus 4
c. Dwelling with professional office	2 per dwelling unit, 1 per employee, plus 2
d. Dwelling with home occupation	2 per dwelling unit, plus 1
e. Housing for the elderly	2 per 3 dwelling units

- f. Roadside stands, residence zone Minimum of 4 zone
- g. Theater, assembly hall or auditorium having fixed seats and restaurants 1 per 3 seats
- h. Churches and other places of public assembly or recreation 1 per 6 legal occupants
- i. Lodging facilities 1 per guest sleeping room, plus office, restaurant and dwelling requirement where applicable
- j. Meeting or conference rooms 1 per 3 persons/design capacity
- k. Convalescent or nursing home 2 per 3 beds and 1 per 3 employees
- l. Business offices and banks 1 per 200 square feet of building floor area, excluding basement storage, utility areas, stairs and halls
- m. Retail and personal service stores 1 per 150 square feet of gross floor area, excluding utility and storage areas
- n. Physician/dentist office, clinics 1 per doctor, 1 per employee and 2 per examining room
- o. Industrial uses, including wholesale and storage 2 per 3 employees employed or intended to be employed on the largest shift when the capacity of building is in full use
- p. Senior high school 4 per classroom, plus parking required for auditorium
- q. Type B drive-thru At least 5 waiting positions between the street line and said window for cars approaching and at least 1 waiting position for cars leaving said window. Waiting spaces shall not block other circulatory aisles, obstruct visibility for entrances or exits or cross pedestrian walks or paths
- r. Type A drive-thru The vehicular service queue lane shall be not less than 200 feet in length [See § 214-38.1A(5).]

§ 214-65. Off-street loading space requirements.

Loading spaces shall be not less than 10 feet wide, 25 feet long and 14 feet high. All building areas are gross floor areas.

Use Classification and Building Size	Number of Spaces
a. Retail store buildings (square feet):	
2,000 to 4,999	1/2
5,000 to 24,999	1
25,000 to 50,000	2
Each additional over 50,000	1 additional
b. Office, institution, theater and public assembly building (square feet):	
5,000 to 24,999	1/2
25,000 to 100,000	1
Each additional over 100,000	1 additional
c. Industrial and warehousing buildings (square feet):	
0 to 49,999	1
50,000 to 100,000	2
Each additional over 100,000	1 additional

**ARTICLE XII
Earth Removal and Filling**

§ 214-66. Purpose.

The purposes of this article are to preserve a cover crop on the land, to prevent erosion and to control any excavation or filling operations that may create a safety or health hazard to the public or the nearby property owners or be detrimental to the immediate neighborhood or to the Town of Somers.

§ 214-67. Special use permit required.

No excavation or removal of sand, gravel, clay, soil, humus, quarry-stone, rock or other earth materials and no filling of land shall be allowed in any zone without a special use permit, except as hereafter provided.

§ 214-68. Exemptions.

A special use permit shall not be required for the necessary and incidental excavation or removal of 1,000 cubic yards or less of material on or from a lot or parcel, or for any filling activity, only if such activity occurs in connection with one of the following:

- A. A bona fide construction or alteration of a structure for which a zoning permit or special use permit has been issued and the amount of material to be removed or filled has been

approved by the Commission. Topsoil or loam may only be removed to the extent necessary to allow permitted building or other construction activities. Such topsoil or loam shall be retained on the property and shall be respread on the property following the completion of construction activities. Such topsoil and loam shall then be reseeded or otherwise stabilized to prevent erosion. Topsoil or loam may be removed from the property only if the applicant demonstrates to the Zoning Commission that such materials cannot be practically reused on the property.

- B. The landscaping of a lot having one or more existing structures.
- C. Normal agricultural operations.
- D. The construction of ponds for agricultural or conservation purposes, provided that the material removed is left on the site, that the excavation or construction does not affect any watercourse or wetlands drainage or flow and will not cause soil erosion or sedimentation problems and that any other state or municipal permits required for such activity have been issued.
- E. A bonded or otherwise secured subdivision approved by the Planning Commission.

§ 214-69. Site plan requirements.

In addition to any other requirements for site plans under these regulations, the site plan for an excavation, removal or filling activity shall include the following information:

- A. Location of area to be excavated or filled and proposed commencement and completion dates.
- B. A detailed statement of the nature, extent, timing and purpose of the operation.
- C. Depth of existing topsoil at various locations.
- D. Depths to water table before and after the operation.
- E. Proposed truck routes. Access and egress to and from the property must be at least 100 feet from side and rear lot lines.
- F. Proposed truck circulation within the property.
- G. Existing and proposed drainage on the premises.
- H. Proposed measures for control of runoff, soil erosion and sedimentation.
- I. Existing topographic contour lines on the premises and proposed final contour lines resulting from the intended excavation, removal or filling, shown on a map, drawn to scale of not more than 40 feet to the inch, and with contour intervals of no greater than five feet. Contour lines must be shown for all areas within, and within 100 feet of, the site of the proposed excavation, removal or filling.
- J. All existing buildings or structures on the site and any buildings, structures or uses being applied for.
- K. Surrounding properties and streets.

§ 214-70. Issuance and renewal of special use permit.

- A. The Zoning Commission may issue or renew a special use permit for excavation, removal or filling operations involving earth products and shall establish an expiration date for any special use permit issued pursuant to this article which shall not exceed one year from the date of issuance. This special use permit shall be filed in accordance with § 214-102H(6) of these regulations prior to commencement of any operations.
- B. The Zoning Commission may renew a special use permit if it determines that the operation, as carried on, is in compliance with these regulations and with any and all conditions set forth in the permit. No special use permit shall be renewed until the Commission or its authorized agent has inspected the work under the previous permit. A project may be divided into stages and approval shall be required by the Commission before each stage is undertaken if deemed necessary or desirable by the Zoning Commission. [Amended 4-16-2001, effective 5-12-2001]
- C. No special use permit shall be issued or renewed pursuant to this article unless the following conditions are met:
 - (1) The activity shall not result in the creation of any sharp declivities, pits or depressions, soil erosion, soil fertility problems or permanently depressed land values, or create any drainage or sewage problems or other conditions which would impair the use or reuse of the property or neighboring property in accordance with these Zoning Regulations or which would create a nuisance.
 - (2) The activity shall be in harmony with the general purpose and intent of these regulations and shall not have an adverse affect on any existing or potential surface water or groundwater supplies.
 - (3) The premises shall be excavated and graded in conformity with the proposed plans as approved.
 - (4) During the period of excavation and removal, adequate barricades and/or woven fences with middle posts, four feet in height, shall be erected for protection of vehicles and pedestrians.
 - (5) No heavy equipment other than for digging, leveling, loading and carting excavated material shall be used on the site, and no material shall be processed on the site, unless permission, in writing, is first obtained from the Zoning Commission.
 - (6) At all stages of operation, proper drainage will be provided to avoid the occurrence of stagnant water and to prevent interference with and contamination of surface water and groundwater.
 - (7) During and after the excavation, removal or filling, the site shall be cleared of debris.
 - (8) Silt and sediment shall not be permitted to run off the site and settlement basins shall be used to control sedimentation.
 - (9) All arable soil from any excavation or fill area shall be set aside and retained on the premises, and shall be respread over the affected area and permanently seeded upon completion of the entire operation or any part thereof.

- (10) Unless a plan for removal is coordinated with the owner of an adjacent tract and approved by the Commission, no activity involving or related to the removal of earth materials or the filling of land shall be conducted nearer than 100 feet from any property line. If the final grade of any excavated or filled area will be below the established elevation of a street, no activity involving or related to the removal of earth materials or the filling of land shall be conducted nearer than 100 feet from such street line. Such prohibited activities include, but are not limited to, excavation, removal, stockpiling and clearing. Measurement shall be made from the property line or street line, as appropriate, to the nearest point of such removal, filling or other activity. [Amended 6-15-1998, effective 7-1-1998]
- (a) In areas in which the natural vegetation within any such one-hundred-foot buffer area is not, in the opinion of the Commission, sufficient to provide screening of adjacent properties or streets from dust, noise, erosion, drainage or other potential problems arising from the activity, the Commission may require that suitable plantings or other screening be provided by the applicant.
- (b) Notwithstanding the foregoing provisions, the Commission may allow any buffer area to be crossed by a driveway or other accessway not to exceed 28 feet in width and as close to 90° through the buffer area as possible if such access is necessary to allow the conduct of the proposed activity, or if it would be more reasonable and prudent than any alternative access. The length, cost, location and other characteristics of any alternative access may be considered by the Commission in determining whether such access would be more reasonable or prudent.
- (11) Earth products removal operations shall not be permitted to excavate to a depth any closer than five feet above the site's high-water table.
- (12) Proper measures shall be taken to minimize the generation of dust on access roads or driveways, and to minimize the nuisance of noise, flying dust and rocks, both on and off the premises, including any nuisance created by trucks hauling away or delivering material. If considered necessary by the Zoning Commission, a limitation may be placed upon the stockpiling of excavated or fill material. Local streets shall be kept clean by the permittee of the bank at all times.
- (13) Upon completion of an approved operation, the final grades in any area excavated or filled shall not be steeper than three to one (3:1), horizontal to vertical, or whatever lesser slope is necessary to maintain stability under particular soil conditions, and this area shall be covered with not less than six inches of topsoil, and, unless put under cultivation, it shall be treated with two tons of lime per acre, 1,000 pounds of 10-10-10 fertilizer per acre and permanently seeded. A permanent grass mixture and/or trees spaced apart not more than seven feet on center shall be planted on the restabilized area. These plans shall be referred to the Tolland County Soil Conservation District for recommendations.
- (14) Machines and trucks working in, to and from the pit area shall be properly muffled and covered at all times.

- (15) All trucks shall be required to take the shortest distance to a state road.
- (16) Topsoil or loam shall not be removed from any property except in accordance with § 214-68.
- (17) The site will be subject to continuously conform to the State of Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.

§ 214-71. Blasting; operation standards and hours.

- A. Blasting for the removal of earth products shall not be permitted unless written approval is granted by the Zoning Commission and any other local or state agency having jurisdiction over blasting operations. An applicant for any activities involving blasting shall be required to show that the blasting will not cause a nuisance or damage to nearby property.
- B. At no time shall more than one undivided area, which area shall not exceed three acres in size, be opened within the lot, it being the intent of these regulations that the remainder of the lot either shall be undisturbed land or shall have been restored or stabilized in accordance with § 214-70C(13). Boundary stakes shall be maintained at all times for the purpose of inspection for compliance.
- C. No excavation or filling shall be permitted within 50 feet of a wetland or watercourse unless the applicant demonstrates that such excavation or filling will not adversely affect the water quality of such wetlands or watercourse or cause erosion of or sedimentation into such wetland or watercourse. The applicant should be aware that a permit from the Somers Conservation Commission may be required in such cases.
- D. No activity connected with any excavation, removal or filling operation may be undertaken on any Sunday or any legal holiday; or earlier than 7:30 a.m. nor continue after 5:30 p.m. Monday through Friday; or earlier than 8:00 a.m. nor continue after 12:00 noon on Saturday. No processing of earth products shall take place on Saturdays. Processing of earth products in cases of emergencies may be granted by special permission of the Zoning Commission.
- E. As a condition for granting a special use permit, the Zoning Commission shall decide on the total number of acres to be excavated and the depth of the operation.
- F. Filling operations shall be carried on in such a manner as to prevent the breeding or harboring of insects, rats or other vermin, and to prevent the transport of fill or excavated material, or any waste or debris, off the premises by wind, water or other causes.
- G. No crushing or separating operations shall be permitted unless, after a public hearing is held, written approval is granted by the Zoning Commission.
- H. 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.

§ 214-72. Performance security. [Amended 6-16-1997, effective 7-1-1997]

The applicant shall file with the Commission a detailed estimate of the cost of the work to be performed a part of the special use permit to be reviewed and approved by the Commission. The

estimate shall include, but not be limited to, all excavation, removal and filling, as well as all sedimentation and erosion control measures to be installed and continuously maintained, and all work necessary to completely restore the ban as required by these Zoning Regulations.

- A. As a condition of the special use permit, the applicant shall post security in the amount equal to the cost estimated by the applicant and approved by the Commission, plus a contingency of 20% of that amount. Minimum bonding of \$10,000 per site will be required. Such security shall be in the form of a continuous surety bond, irrevocable letter of credit, cash or passbook acceptable to the Commission.
- B. In order to ensure the faithful performance and completion of the work pursuant to the conditions of the special use permit approval, any security provided under this section shall be filed with the Town Planner in a sum and form satisfactory to the Town Engineer, Town Attorney and the Commission and shall be in force until canceled by the Commission. Such security may be canceled only with the approval of the Zoning Commission and only if notice of such proposed cancellation is provided to the Commission at least 30 days in advance of such proposed cancellation.
- C. Prior to any transfer of deed involving an active gravel bank or prior to the complete restoration of a gravel bank, the present owner, responsible for the restoration of the gravel bank, must show proof that new security, satisfactory to the Commission, is in force before the present security is released, and must also be in compliance with § 214-74 of these regulations.

§ 214-73. Fees; permit renewal; abandonment.

A fee of \$600 per year shall be levied upon the permittee to defray the expenses of inspections and monthly reports. No permit shall be renewed unless an updated, certified engineered site plan has been approved by the Zoning Commission and is in compliance with § 214-70 of these regulations. Cessation of operations for a six-month period shall be considered as abandonment and a permit shall terminate and the security in place shall be forfeited.

§ 214-74. Transfer of permit.

No special use permit issued in accordance with this article 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, lessee or sublessee must apply for a new permit before any excavation, removal or filling operations may be conducted upon said premises. No such permit shall be issued unless all conditions stated in these regulations, and in any previous permits, have been met.

§ 214-75. Revocation of permit.

If it appears to the Commission or its authorized agent at any time after the issuance of a special use permit under the provisions of this article and prior to the completion of the work thereunder, that any of the work is not in accordance with these regulations or the terms of the special use permit, the Commission or its authorized agent may serve a notice on the violator stating the nature of the violation and giving not more than 30 days for the violation to be corrected. If the

violation is not corrected within the time specified in the notice, the Commission or its authorized agent may revoke the permit and take such other action as it or he may reasonably deem necessary to bring the work into compliance with these regulations and the terms of the special use permit, including but not limited to calling the performance bond. These provisions are in addition to, and not in lieu of, the provisions of § 214-108 of these regulations.

§ 214-76. Existing operations.

Existing excavation, removal or filling operations may continue as nonconforming uses until the expiration of their yearly permit, but the operator must file with the Commission a statement setting forth the area included in the operation and the nature, extent and purpose of the operation now being carried on. After such a statement is filed with and approved by the Commission, any extension, change or renewal of the operation shall be considered a new operation and shall require compliance with these regulations.

**ARTICLE XIII
Groundwater Protection**

§ 214-77. Purpose.

Approximately 60% of the land in the Town of Somers consists of stratified drift sediments capable of yielding large amounts of water. The various subregional drainage basins discharge centrally into this sediment requiring uniform controls throughout the Town in order to ensure an adequate supply of safe drinking water.

§ 214-78. Hazardous waste contingency plan.

Any commercial or industrial application which uses or generates any hazardous materials shall furnish a hazardous waste contingency plan to the Somers Water Pollution Control Authority and the Somers Fire Marshal for their review and approval, in addition to any other requirements found elsewhere in these regulations. This plan shall include, but is not limited to, the following:

- A. A general description of the facilities with a site plan and floor plan showing the inside and outside locations of any hazardous materials.
- B. The amount and composition of any hazardous materials that will be handled, stored, generated, treated and/or disposed of on the property.
- C. Provisions for treatment, storage and/or disposal of any hazardous materials.
- D. Provisions for containment and emergency procedures in the event of a sudden or non-sudden discharge of hazardous materials, fire or explosion.
- E. Distance to nearest public water supply wells or AA streams (tributary to public water supply).

§ 214-79. Storage of potential water contaminants.

- A. Commercial underground tanks and storage systems shall be designed, constructed and installed in accordance with the standards of the State Building and Fire Codes, National Fire Prevention Association (NFPA 30), American Society For Testing Materials,

Connecticut Regulations For Control of Nonresidential Underground Storage And Handling of Oil and Petroleum Liquids and the Department of Environmental Protection.

- B. The burial of fuel tanks intended for residential fuel oils or other petroleum products shall be discouraged. Where possible, fuel tanks shall be located in basements, garages or in approved structures aboveground. Where extenuating circumstances exist (buildings on slab construction, replacement of existing underground tanks, larger than normal tank installation with limited placement possibilities) which create the need for an underground storage tank, new and replacement domestic underground fuel oil or other petroleum product storage tanks shall be designed, constructed and installed in accordance with the standards of the State Building and Fire Codes, National Fire Prevention Association (NFPA 30), American Society For Testing Materials, Connecticut Regulations For Control of Nonresidential Underground Storage And Handling of Oil and Petroleum Liquids and the Department of Environmental Protection.
- C. New and enlarged sites for the accommodation or storage of chemical fertilizers, pesticides, salt and herbicides shall:
 - (1) Have a roof which shall prevent precipitation from coming into contact with these materials.
 - (2) Have a liquidtight floor with no drains.
 - (3) Be located so that the surface water runoff drains away from the storage area.
- D. Plans for new and enlarged manure storage sites shall be submitted for review to the Department of Environmental Protection and the United States Department of Agriculture no later than the day of submission of any application for a zoning permit for such site.
- E. Any aboveground storage tank shall be on an impervious, structurally diked area to contain any leaks or spills, with no drains, and shall be suitably covered to prevent precipitation accumulation.
- F. Any of the facilities described above shall be shown on a plot plan filed with the Town Fire Marshal and Sanitarian.

§ 214-80. Inspection of new and existing uses.

The Town Sanitarian, the Building Inspector, the Fire Marshal and/or the Zoning Enforcement Officer, as the case may be, shall check all nonresidential facilities at least once a year at random, including but not limited to:

- A. Metal plating, industrial manufacturing and printing operations.
- B. Gasoline stations, auto body shops and small engine repair shops.
- C. Aboveground and below-ground fuel or chemical storage facilities.
- D. Chemical fertilizer, pesticide, salt and herbicide storage facilities.
- E. Junkyards and landfill operations.
- F. Commercial animal farms.

G. Town operated and controlled septage lagoons.

§ 214-81. Corrective action.

Should the Town Sanitarian, Building Inspector or Fire Marshal upon inspection determine that a facility is not in compliance with this article, said official shall immediately notify the Zoning Enforcement Officer. He/she shall notify, in writing, the owner of said facility of such noncompliance and the reasons for the same. The owner shall have 15 days from the date of said notification to cure such noncompliance. If not corrected within said period, the certificate of occupancy for the property shall be revoked. Upon revocation of said certificate of occupancy, the Zoning Enforcement Officer shall notify the owner of said facility and undertake appropriate enforcement action with the concurrence of the Zoning Commission.

ARTICLE XIV
Inland Wetlands and Watercourses

§ 214-82. (Reserved) ⁸

§ 214-83. (Reserved) ⁹

ARTICLE XV
Flood Damage Prevention

§ 214-84. Areas of special flood hazard. [Amended 7-24-2006, effective 7-27-2006]

- A. This article shall apply to all areas of special flood hazard within the jurisdiction of the Town of Somers. The areas of special flood hazard, identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) or Flood Insurance Rate Map (FIRM), dated August 16, 2006, or any subsequent adoption thereto, with accompanying floodway maps, or the Somers, Connecticut Floodplain Management Study For Gillette Brook, Gulf Stream, Abbey Brook, and Thrasher and Schanade Brooks and other supporting data, and any revisions thereto, are adopted by reference and declared to be a part of this article. Since mapping is legally adopted by reference into this article, it must take precedence when more restrictive, until such time as a map amendment is obtained.
- B. Specific standards. In all areas of special flood hazard where base flood elevation data has been provided, as set forth in § 214-84 or as determined in § 214-86D, the following provisions, in addition to those in Subsection A, are required:
- (1) Permit procedures. An application for any building, structure or use in a special flood hazard area shall be made to the Town Sanitarian as part of the zoning permit application process.
 - (2) Water supply and sanitary sewage systems. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the

⁸. Editor's Note: Former § 214-82, Purpose, was repealed 7-13-1998, effective 7-25-1998. See now Ch. 211, Inland Wetlands and Watercourses.

⁹. Editor's Note: Former § 214-83, Restrictions on adjacent areas; soil erosion and sediment control, was repealed 6-15-1998, effective 7-1-1998. See now Ch. 211, Inland Wetlands and Watercourses.

system. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the system into floodwaters. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

- (3) In A-Zones where base flood elevations have been determined, but before a floodway is designated, no development, including fill, shall be permitted which would increase base flood elevations more than one foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.
- (4) Floodways. In areas where floodways have been designated or determined, encroachments, including fill, new construction, substantial improvements, and other developments, shall be prohibited unless certification (with supporting technical data, hydrologic and hydraulic analyses performed in accordance with standard engineering practice) by a registered professional engineer licensed to practice in the State of Connecticut is provided demonstrating that encroachments shall not result in any (0.00) increase in flood levels during the occurrence of the base flood discharge. When utilizing data other than that provided by the Federal Emergency Management Agency, the following standard applies: select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designated to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any one point.
- (5) Compensatory storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of floodwater at each elevation, up to and including the one-hundred-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.
- (6) Equal conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the Town of Somers, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

C. Abrogation and greater restrictions. This regulation is not intended to repeal, abrogate or

impair any existing easements, covenants, or deed restrictions. However, where this regulation and another ordinance, regulation, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

- D. Interpretation. In the interpretation and application of this regulation, all provisions shall be:
- (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
- E. Warning and disclaimer of liability. The degree of flood protection required by this regulation is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration and research. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This regulation does not imply or guarantee that land outside the special flood hazard area or uses permitted in such areas will be free from flooding and flood damages. This regulation shall not create liability on the part of the Town of Somers or by any officer or employee thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made thereunder. The Town of Somers, its officers and employees shall assume no liability for another person's reliance on any maps, data or information provided by the Town of Somers.

§ 214-85. Provisions for flood hazard reduction.

New construction or substantial improvements of residential structures, nonresidential structures and manufactured homes shall be prohibited except for restorations as in § 214-32 of these regulations. All restorations which are substantial improvements in special flood hazard areas must meet the following provisions:

- A. General standards. In all areas of special flood hazard where base flood elevation data has not been provided (Zone A), the following provisions are required:
- (1) All restorations which are substantial improvements shall be:
 - (a) Anchored to prevent flotation, collapse or lateral movement of the structure.
 - (b) Constructed with materials and utility equipment resistant to flood damage.
 - (c) Constructed by methods and practices that minimize flood damage.
 - (d) Constructed with electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (2) Manufactured homes. All manufactured homes within Zone A on the Town's FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but

are not limited to, use of over-the-top or frame ties to ground anchors.

- B. Specific standards. In all areas of special flood hazard where base flood elevation data has been provided, as set forth in § 214-84 or as determined in § 214-86D, the following provisions, in addition to those in Subsection A, are required:
- (1) Residential structures. Residential structures shall have the lowest floor, including basement, elevated to or above the base flood elevation.
 - (2) Nonresidential structures. Commercial, industrial or nonresidential structures located in a special flood hazard area shall have the lowest floor, including basement, elevated to or above the level of the base flood elevation.
 - (3) Floodproofing. Nonresidential structures located in all A Zones may be floodproofed in lieu of being elevated, provided that, together with all attendant utilities and sanitary facilities, the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall review and/or develop structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this subsection.
 - (4) Elevated buildings. Elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic flow of floodwaters in both directions.
 - (5) Manufactured homes. Manufactured homes to be newly placed, substantially improved, or repaired as a result of substantial damage shall have the lowest floor elevated to or above the base flood elevation. They shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored. Elevation construction standards include piling foundations placed no more than 10 feet apart, and reinforcement is provided for piers more than six feet above ground level. This standard applies to any manufactured home outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing park which a manufactured home has incurred substantial

damage as a result of a flood. [Amended 7-24-2006, effective 7-27-2006]

- (6) Recreational vehicles. Recreational vehicles placed on sites within a SFHA shall either: [Added 7-24-2006, effective 7-27-2006]
 - (a) Be on the site for fewer than 180 consecutive days; and
 - (b) Be fully licensed and ready for highway use; or
 - (c) Meet all the elevation and anchoring requirements of §§ 214-85A(2) and 214-85B(5).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

§ 214-86. Powers and duties of Town Sanitarian.

A. Duties of the Town Sanitarian shall include, but not be limited to:

- (1) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- (2) Advise permittee that additional federal or state permits may be required. Notify abutting communities and the Department of Environmental Protection, Water Resources Unit, prior to any alteration or relocation of a watercourse. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (3) Record the elevation (in relation to mean sea level) of the lowest floor, including basement, or floodproofing level of substantially improved restorations. When floodproofing is utilized for a particular structure, the Town Sanitarian shall obtain certification from a registered professional engineer or architect at the applicant's expense.
- (4) When base flood elevation data or floodway data have not been provided, obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this article.
- (5) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard, make the necessary interpretation.

B. All records pertaining to the provisions of this article shall be maintained in the office of the Town Sanitarian.

ARTICLE XVA

Somersville Center Overlay District (SCOD) ¹⁰
[Added 7-23-2007, effective 7-26-2007]

10. Editor's Note: Former Art. XVA, Ridgeline and Hillside District, added 11-1-1997, was repealed 6-30-2003, effective 8-1-2003.

§ 214-86.1. Statement of purpose.

The intent of the overlay district is to enhance Somersville's primary commercial center into a mixed-use Town center. The SCOD will provide for the community's neighborhood commercial needs, improve the quality of life and support multi-modal transportation options.

§ 214-86.2. District boundaries.

The SCOD boundaries contain properties zoned for commercial use located with frontage on both sides of Main Street/Route 190 (Main Street), between Maple Street/Shaker Road to the west and School Street/Hall Hill Road to the east, and north along Hall Hill Road for existing commercial zoned properties.

§ 214-86.3. Historical context.

This section of Somersville developed as a mill-housing district to support the Somersville Manufacturing Company (the Mill), which was founded by the Keeney family in 1879. But recent development trends, the closing of the Mill and increased traffic along Main Street have transformed it into a commercial district.

§ 214-86.4. Objectives.

The objectives of the Somersville Center Overlay District are:

- A. To provide a mix of land uses and promote development that is compatible with the community's existing residential and neighborhood commercial character.
- B. To provide a range of housing options, such as senior housing and multifamily dwelling units.
- C. To provide a safe, well-connected and high-quality pedestrian environment.
- D. To accommodate nonvehicular transportation options, such as bicycle lanes along Main Street.
- E. To provide roadway improvements and access management to support efficient vehicular traffic movement.
- F. To provide uniform and aesthetically attractive signage that supports the development character.
- G. To provide uniform and attractive site landscaping.
- H. To provide adequate and convenient on-street and off-street parking that does not detract from the Main Street character, and to encourage cooperation between landowners to enhance the character through collaborative parking areas and vehicle entrances.

§ 214-86.5. Eligible uses.

- A. Land uses within the SCOD are intended to encourage a mixed-use character and should be compatible with surrounding development. The Somers Plan of Conservation and Development (POCD), adopted in October 2004, recommended that land uses should be

designed to meet residents' shopping needs, expand the local tourist economy, enhance the local economy and provide a variety of housing alternatives.

B. The following land uses apply to all new development within the SCOD area:

- (1) Prohibited uses: Uses described in § 214-44, Prohibited Uses, and § 214-97, Prohibited uses, shall not be allowed within the Somersville Center Overlay District.
- (2) Allowed uses:
 - (a) Mixed-uses are encouraged within the SCOD area. The Town of Somers staff and the Design Advisory Review Board established by the Town will review the mix of uses and densities for all new development. Preliminary submission to the land use staff and Design Advisory Review Board is required. Final submission for the development will be evaluated in accordance with § 214-101, Site plan approval.
 - [1] Commercial uses are required at the first floor level and retail uses are encouraged.
 - [2] Commercial or residential uses are allowed on the second and third floor levels.
 - [3] Lot assembly, or the merging of lots to create a unified parcel will be encouraged for providing a mix of land uses.
 - (b) Land uses currently allowed within the Business Zone shall be allowed in the Somersville COD with the following exceptions:

Modifications to the Schedule of Permitted Uses Editor's Note: The Schedule of Permitted Uses is included in § 214-98B.

Primary Uses	District Business (B)
2. Multifamily dwelling, 2 units maximum per lot	P
4. Farms, utility lines	N
7. Removal of earth products	N
11. Commercial swimming, golf or country club	N
15. Cemetery	N
19. Retail, personal services, bank or office (less than 5,000 square feet per use)	P
20. Restaurant (less than 9,000 square feet)	P
21. Underground storage of fuel	N
22. Motor vehicle sales, service, gasoline sales	N

34.	Conversion of industrial buildings to residential uses	P
	Tattoo parlors	N
	Adult establishments	N

NOTES:

Designations under Business:

P: Permitted use as of right subject to the issuance of a zoning permit and/or building permit.

N: Prohibited in that particular zoning district.

§ 214-86.6. Site layout.

Development within the SCOD area will undergo a special design review by the Town of Somers staff and a Design Advisory Review Board (DARB) established by the Town. The following site layout design criteria will be evaluated for consistency with the intent of the SCOD:

- A. Height restrictions: New development is restricted to no higher than three stories and a maximum building height of 35 feet. For this regulation, building height is measured at the finished street grade to the highest point of the roof.
- B. Setbacks for buildings:
 - (1) A maximum front setback of 15 feet and a minimum front setback of four feet shall be allowed for buildings along Main Street.
 - (2) A minimum side setback of 10 feet shall be allowed for all new development.
 - (3) A minimum rear setback of 30 feet shall be allowed for all new development.
 - (4) Maximum lot coverage of 60% will be allowed for new development.
 - (5) A maximum distance of 20 feet and minimum distance of 10 feet will be allowed between adjoining buildings within the same lot.
- C. Landscape and outdoor uses:
 - (1) The area between the building facade and property line should be adequately landscaped using small shrubs, flower baskets or plantings. Indigenous and/or ornamental, disease-resistant plants are encouraged.
 - (2) Active uses, such as outdoor seating and displays will be encouraged in the area between the building facade and property line, with the intent of incorporating this area into the walkable streetscape planned along Main Street.
- D. Building character.
 - (1) Building facades should be appropriately proportioned to be consistent with the area's

architectural character.

- (2) Promote architecture that is based on Shaker-styled architecture. (See Appendix A.11)
- (3) Vertical elements, such as columns and vertical siding patterns, are encouraged on linear buildings.
- (4) Entrance porches or canopies consistent with the building style and surrounding character are encouraged. Porches and canopies shall be allowed within the front setback area, up to a distance of two feet from the property line.
- (5) Large windows with grille and transom are encouraged at the first floor level. Windows should be utilized for displays.

E. Parking and access.

- (1) Access is restricted to a maximum of one driveway per development from Main Street if no access is currently available.
- (2) Shared driveway access and common parking areas with the adjoining business is encouraged.
- (3) Increased coverage of up to 70% shall be permitted with shared driveway and common parking areas.
- (4) Driveways should be clearly marked using permitted signage.
- (5) Parking requirements follow existing zoning guidelines as described in § 214-64, Off-street parking requirements, of the Somers Zoning Code.
- (6) Parking is prohibited in the area between the front of the building and property line fronting Main Street. All parking should be located at the rear or side of the building.
- (7) Shared parking facilities between office, retail and residential uses are encouraged.
- (8) Shared spaces shall be counted as great as 1.5 spaces for each parcel pending review by the Zoning Commission.
- (9) The Commission may consider overlapping/complementary parking spaces for uses that can demonstrate that uses occur at off-setting time periods.
- (10) On-street parking provided by the developer/owner shall be counted as 1.5 spaces towards the overall parking count for the proposed use.
- (11) The Town of Somers staff and the Design Advisory Review Board (DARB) will consider reduced parking requirements as part of the evaluation process.
- (12) On-street parking on Main Street is encouraged to support retail uses at the first floor level. On-street parking provided by the developer shall be considered towards overall parking requirements for the project.

F. Environmental considerations.

- (1) Ensure the maintenance and effective stormwater drainage system throughout the neighborhood.
- (2) Effective storm drainage systems or best management practices (BMPs) may include vegetated swales, rain gardens, or other methodologies to improve water quality and encourage infiltration.
- (3) Encourage the appropriate public agencies to examine and to resolve drainage problems that occur along Main Street, and as it relates to the rear of the parcels, which ultimately releases into Somersville Mill Pond, recognizing that the stormwater discharged ultimately releases into the Long Island Sound.
- (4) Encourage low-impact drainage solutions, utilizing innovative stormwater management solutions. These may include pervious pavements, rain gardens, bio-filtration swales, etc.

§ 214-86.7. Signage.

- A. Signage shall meet Article X, Signs, of the current Town zoning regulations.
- B. Signage should be designed to reinforce the Somersville COD's character and unique features.
- C. Signs should effectively identify commercial/residential spaces and should be located to benefit both motorists and pedestrians.
- D. They should add interest to the street level environment.
- E. Awning signs, perpendicular wall-mounted signs, and window signs are encouraged.
- F. Signage shall not be located within the roadway right-of-way.
- G. Illumination shall be accommodated with down lighting fixtures, such as goose neck fixtures.
- H. Signage shall be low to ground, blended with the landscape.
- I. Neon signs are not permitted.
- J. Internally illuminated signs are not permitted.

§ 214-86.8. Main street design.

- A. Recommendations for roadway and streetscape improvements to Main Street are currently underway. The cross section for the improved Main Street will include:
 - (1) Eleven-foot-wide travel lanes (one lane in each direction).
 - (2) Four-foot-wide bicycle lanes (one lane in each direction).
 - (3) Eight-foot- to eighteen-feet- (depending on parking area) wide landscape area/furniture zone (as approved by Town)/tree planting area (both sides of Main

Street).

- (4) Six-foot wide paved sidewalks (both sides of Main Street).
- (5) Four-foot wide outdoor seating and landscape area (both sides of Main Street).

B. The landscape treatment will include decorative lighting, plantings, banners, and trees.

§ 214-86.9. Application procedure.

The approval process shall follow the site plan approval process, in accordance with § 214-101, including:

- A. Review and approval of architectural drawings of any proposed buildings, structures, or exterior renovations.
- B. Review by the Town's Design Advisory Review Board.

**ARTICLE XVI
Special Uses**

§ 214-87. Alcoholic beverages.

After a public hearing, the Zoning Commission may grant a special use permit for the use of property for the sale of alcoholic beverages, subject to State Liquor Commission control and restrictions under this section.

- A. No building or premises shall be used for the purpose of sale or exchange of alcoholic liquors at retail if the main entrance to that part of the building subject to licensing is within 750 feet of a church or public school or another establishment having a liquor control permit. Notwithstanding the foregoing provision, an establishment allowing only on-premises consumption of beer, wine and cider not exceeding six percent liquor by volume may be located less than 750 feet but not less than 100 feet from a church or public school.
- B. Grocery stores with beer and wine permits shall be considered or regarded as a package store outlet.
- C. Except as limited above, the bottling and wholesale sale and storage of alcoholic liquors is permitted in the Industrial District, without limitation of distance from any liquor outlet.
- D. In residential districts, the sale of alcoholic liquors for consumption on the premises is permitted, subject to Subsection A above, only by special use permit issued by the Zoning Commission as follows:
 - (1) A club under a club permit.
 - (2) At a public golf course or golf center under a restaurant permit, a restaurant permit for beer only, a restaurant permit for beer and wine only or a cafe permit, as defined in the Connecticut General Statutes. [Amended 4-20-1998, effective 4-27-1998]

§ 214-88. Greenhouses.

After a public hearing, a special use permit may be granted for greenhouse operations or expansions which are proposed as the principal use of farm property. Prior to issuance of a special use permit, the Commission shall make findings that the plan of the proposed land use as approved will be:

- A. In harmony with the actual or permitted development of nearby properties and immediate neighborhood.
- B. For agricultural purposes with any on-premises sales limited to products raised on the premises.
- C. Adequately buffered from nearby residential properties and appropriately located on the property to protect the residential character of the area.

§ 214-89. Horses and ponies.

- A. For commercial purposes. The Commission, as a special use, may permit the keeping of horses and ponies for breeding, boarding and/or instruction for commercial purposes.
 - (1) The premises shall not be less than 10 acres in area.
 - (2) The use may be conducted only by the resident of the premises as an accessory use.
 - (3) Buildings housing horses or ponies and areas of concentrated storage of waste shall be not less than 200 feet from any street line and not less than 200 feet from side and rear lot lines. [Amended 7-13-1998, effective 7-25-1998]
 - (4) A single dwelling for a full-time caretaker or watchman may be allowed on the premises, but shall be limited to three rooms, including a kitchen. Said dwelling shall not be freestanding and shall be an integral part of a building housing horses or horse facilities.
 - (5) In considering such special use, the Commission shall weigh the agricultural and rural, as well as the residential, character and potential of the area, and shall find that the granting of such land use shall result in an appropriate use of the land and will not have a detrimental effect on the value or enjoyment of existing residential or other uses in the area.
- B. For pleasure.
 - (1) The lot shall contain not less than two acres for one horse and one additional acre for each additional horse. The provisions of Subsection A(1) shall apply for more than three horses.
 - (2) Buildings housing horses and areas of concentrated storage of waste shall be not less than 100 feet from any street line and not less than 100 feet from side and rear lot lines. [Amended 7-13-1998, effective 7-25-1998]

§ 214-90. Restaurants.

Alcoholic drink may not be served in any restaurant, except as an adjunct to the primary function of serving food and operating under a restaurant liquor permit as provided in Section 30-22a of

the Connecticut General Statutes, as amended. Such service of alcoholic drink shall comply with all Liquor Control Commission regulations appertaining thereto. All establishments serving food and nonalcoholic drink must be housed in an enclosed structure and must provide seats for their customers either at a counter or at separate tables.

§ 214-91. Permanent public uses.

The Commission may permit the following uses in any zone if it finds such use to be essential to the public convenience and welfare:

- A. Firehouses.
- B. Libraries.
- C. Cemeteries.
- D. Churches open to the public.
- E. Town parks and playgrounds.
- F. Public utility lines, substations and buildings, provided that:
 - (1) The location, construction and right-of-way of any transmission line shall be such as to prevent hazard to the public and surrounding property.
 - (2) Gas booster stations shall be located on a site at least one acre in area and having no dimension less than 100 feet.
 - (3) A utility substation shall be located on a lot at least 10,000 square feet in area. There shall be suitable fencing to protect the public and landscaping to effectively screen the substation from surrounding property. Yard setbacks of the district in which the substation is located shall be met. In addition, there shall be adequate off-street parking areas providing at least two parking spaces.
 - (4) Minor structures, such as hydrants, telephone or light poles or similar equipment, shall not be subject to these regulations.

§ 214-92. Temporary uses.

- A. Any church, school, civic association, volunteer fire department or other nonprofit organization may hold a fair, carnival, circus, athletic meet, sporting event or similar event on its own premises for a period not exceeding seven days if the profits are to be used for civic, religious or philanthropic purposes.
- B. School bus shelters may be located 20 feet from the street line subject to the following:
 - (1) Approval of Building Inspector and Zoning Enforcement Officer.
 - (2) Certification of construction by the Building Inspector.
 - (3) Verification of use for a school approved bus stop.
 - (4) Building to be in place only from September to June.

- (5) Permits to be issued to current owner only. Permit is automatically void upon transfer of title.
 - (6) A permit is required for each school year.
 - (7) The shelter may not exceed 24 square feet in floor area, nor seven feet in ceiling height.
- C. The Commission may issue a special use permit for up to one year, which may be renewed by the Zoning Commission or its agent after a public hearing for the limited use of trailers or mobile homes for the following purposes: [Amended 6-30-2003, effective 8-1-2003]
- (1) Mobile homes used as an office to service a construction project, which may include facilities for a watchman, for up to one year.
 - (2) Temporary uses other than for residential purposes which in the judgment of the Commission warrant such special use permit.

§ 214-93. Temporary commercial uses.

- A. The Commission may issue a special use permit for auctions, food festivals, music jamborees and flea markets, provided that:
- (1) The activities are an accessory and secondary use to an existing commercial use in an A-1, B or I Zone.
 - (2) The proposed activities shall be conducted on property situated adjacent to a state highway.
 - (3) Said permit shall be valid up to three years or any other shorter time period approved by the Commission. A minimum written notification of 45 days to the Zoning Commission or its agent shall be given if there is no prescheduled date for an approved event(s). Written notification to the Zoning Commission or its agent shall be given no later than 45 days prior to the holding of an approved event if such event has been approved without prescheduled dates. The special use permit may be renewed annually after a public hearing is held by the Commission. The fee for renewal shall be equal to the special use permit fee. [Amended 4-3-2006, effective 4-6-2006; 4-7-2014, effective 4-24-2014]
- B. Prior to issuance of a special use permit, the Commission shall make findings that the plan of the proposed land use as approved will be:
- (1) In harmony with the actual or permitted development of nearby properties and immediate neighborhood.
 - (2) Adequately buffered from nearby residential properties and appropriately located on the property to protect the character of the area.
 - (3) In accordance with §§ 214-102 and 214-103 of these regulations. The Commission shall consider conditions of the permit, including but not limited to parking, hours of operation, type and size of signs and length of permit. The applicant is responsible for police and traffic control if required for his/her event.

- C. The granting of a permit under this section does not supersede the conditions set forth herein or other permits which may be necessary. All required permits must be obtained and conditions met prior to the commencement of any event. Any permit for any event which threatens the health, safety or welfare of the community may be revoked by the Zoning Commission or its agent in accordance with § 214-108 of these regulations. [Amended 8-10-1993]

§ 214-93.1. Adult-oriented establishments. [Added 2-16-1999, effective 3-1-1999]

All adult-oriented establishments, as that term is defined in Chapter 72 of the Town of Somers Code, as may be amended from time to time, shall be subject to the following regulations:

- A. The lot on which such establishment is located shall be a minimum of 1,000 feet from any lot that is zoned for residential uses or any lot that contains other adult-oriented establishments or any lot containing an existing residential use or from any building or premises used for the purpose of a hotel, motel, public schools (or a duly authorized school other than a public school, conducted for the instruction of children under 18 years of age and giving instruction at least eight days a week for eight or more months a year), a church, charitable institution (whether supported by public or private funds), hospital, convalescent home, cemetery, library, museum, child day-care center, park or recreation facility, public playground, municipal fire or police station or municipal Town Hall. The required minimum distance shall be determined by measuring along a radius from the property of the use in question to the nearest property line of any protected use.
- B. Adult-oriented establishments are permitted only in the Business Zoning District and shall be subject to the special permit and site plan review provisions of Article XVII of the Somers Zoning Code. The following specific site plan criteria shall apply to any adult-oriented establishment:
- (1) No exterior sign shall contain any photographic or artistic representation of specified anatomical areas.
 - (2) All building openings, entries, windows, doors, etc., shall be located, covered or screened in such a manner as to prevent view into the interior of the building from any public right-of-way or adjacent property.
 - (3) No adult use shall be established in any building of which any part is used for residential purposes.
 - (4) No residential use shall be established in any building of which any part is used as an adult use establishment.
 - (5) Stairways, sloping or rising paths and building entrances and exits shall be illuminated. Spotlight-type fixtures attached to the building should be avoided.
 - (6) Adequate lighting shall be provided on a site to ensure the safe movement of persons and vehicles and for security purposes.
 - (7) All lighting shall be shielded to prevent direct glare and/or light trespass onto adjoining properties. All building lighting for security or aesthetics shall be full cut-off or shielded type, not allowing for any upward distribution of light. Flood

lighting is prohibited. All nonessential lighting shall be turned off after business hours, leaving only the necessary lighting for site security. Nonessential lighting includes display, aesthetic, parking and sign lighting. The use of motion detection lighting for security is preferred over a constant light source.

- (8) Parking. One parking space for every 100 square feet of gross floor area devoted to the adult-oriented establishment shall be provided.

§ 214-93.2. Outdoor wood-burning furnaces. [Added 7-14-2008, effective 7-17-2008]

As allowed by special use permit in § 214-102, and regulated by CGS § 22a-174k, outdoor wood-burning furnaces (OWBF) must operate only on wood that has not been chemically treated; must be located not less than 200 feet from the nearest residence not being served by the unit; and must have a chimney that is more than the height of the roof peaks of residences located within 500 feet of the OWBF, provided the chimney height is not more than 55 feet. Prior to the installation of an OWBF, the applicant shall submit to the Somers Zoning Official a map drawn by a licensed land surveyor showing vertical and horizontal measurements to all residences within the five-hundred-foot radius required by law in order to demonstrate compliance with CGS § 22a-174k. The Zoning Commission can waive the requirement of a professionally drawn survey if the applicant can demonstrate that the OWBF will be located at least 500 feet from any of their property lines. Operation of any OWBF shall be prohibited from April 15 to October 15. The Commission may extend the operational use of an OWBF if an applicant can demonstrate the OWBF use is for an agricultural operation or for farm use.

ARTICLE XVII

Minimum Requirements in Zoning Districts

§ 214-94. Residential districts.

A. Purpose of residential districts.

- (1) The predominant character of the Town as it exists and as planned is residential, which is provided for by two districts which vary only as to permitted uses and dwelling size to meet the needs and desires of the Town's residents, and also to recognize the prevailing character of existing residential and agricultural areas which fit into the Comprehensive Zoning Plan. Said districts are designated "Residence A" and "Residence A-1."
- (2) These districts are intended to provide areas for those residents who desire individual dwelling structures surrounded by open space which can be landscaped and developed with facilities for outdoor family living while at the same time preserving those areas which are capable of supporting agricultural pursuits and those areas which are recognized as being incapable of urban development because of natural physical factors.
- (3) In keeping with these purposes it is intended that nonresidential uses in such districts be limited to those which are primarily necessary or desirable to serve the residents of these districts and are compatible with residential uses when located in their midst.

B. Residential basement requirements. All residential buildings shall have full basements with

a ceiling height in compliance with the State Building Code and these regulations, except that:

- (1) Any split-level style or raised ranch dwelling shall have a basement area of at least one-half (1/2) the first floor area of said dwelling.
- (2) By special use permit, this requirement may not apply where a basement would substantially hinder or prevent the construction of proposed energy efficient passive solar or geothermal dwellings.
- (3) Additions to an existing residential building need not have a basement, provided that the original building has the required minimum floor area. Such additions shall not exceed 50% of the original floor area.

§ 214-95. Business District.

The Business District in these regulations is established in order to provide areas for convenience goods and services and commercial uses which are considered necessary to serve the residents and businesses of the Town.

§ 214-96. Industrial District.

This district permits a variety of uses allowed in other districts and provides for a number of uses that would not be desirable in residential or business areas. In addition, certain types of uses that are incompatible and/or undesirable are prohibited, or would be prohibited due to physical capabilities of the land.

§ 214-97. Prohibited uses. ¹²

The following buildings, structures and uses are prohibited in all zoning districts:

- A. Abattoir, meat packing, distillation of bones, offal or dead animals, rendering or dumping.
- B. Blast furnaces or smelting of copper, iron, lead, tin or zinc, drop forging or foundries.
- C. Coal or petroleum distillation or derivation of by-products.
- D. Manufacture of cement, lime, gypsum, plaster of Paris, creosote, chlorine or carbolic, hydrochloric, nitric, picric or sulfuric acid.
- E. Manufacture, storage or disposal of hazardous materials and wastes.
- F. Manufacture or storage of explosives or nuclear products or their development or assembly.
- G. Fertilizer manufacture, except in connection with the operation of a sewage disposal plant.
- H. Refining and recovery of products from fish or animal refuse.
- I. Plastics or rubber manufacture or paint or lacquer.

12. Editor's Note: See also § 214-44.

- J. Petroleum gas manufacture and storage by other than a public utility, except that the storage for distributing purposes and the distribution of liquefied petroleum gas may be permitted by the Zoning Commission as a special use and provided that the standards established by the National Board of Fire Underwriters, NBFU pamphlet 58 and 59, and applicable state laws, including revisions, are complied with. Nothing shall prevent the storage for use on the premises of liquefied petroleum gas when installed and used in accordance with applicable Connecticut state laws.
- K. Junkyards, motor vehicle salvage and processing.
- L. Leather tanning.
- M. Dry-cleaning establishments and similar uses using chemicals.
- N. Hazardous waste dumps.
- O. Private septage lagoons.
- P. Photographic processing.
- Q. Furniture stripping.
- R. Fiberglass manufacture.
- S. Electroplating.
- T. Smelting.
- U. Metalfinishing and heat treating.
- V. Burial of stumps.
- W. Similar uses to the above Subsections A through K which are dangerous by reason of fire or explosion or injurious, noxious or detrimental to the neighborhood because of emission of dust, fumes, odor, smoke, wastes, noise, vibrations.
- X. Organizations in which compensation is charged for the privilege of hunting wild game on private property. [Added 6-3-1991, effective 6-17-1991]
- Y. Commercial kennels. [Added 6-30-2003, effective 8-1-2003]

§ 214-98. Area, yard and bulk regulations; permitted uses and accessory uses.

- A. Standards for districts. The following standards shall apply to all buildings, structures and uses in each applicable district:

Standards for Districts

	Single-family Residence		Two-family Residence	Business	Industrial
	A	A-1	A-1		
Lot area (square feet)	40,000	40,000	80,000	40,000	60,000
Contiguous buildable area (square feet)	40,000	40,000	80,000	40,000	60,000
Lot frontage (feet)	175	175	300	75	200
Minimum front yard (feet)	50	50	50	25	35
Minimum side yard (feet)					
Primary building	25	25	25	10	20
Accessory building	25	25	25		
Parking area	10	10	10		
Minimum rear yard (feet)					
Primary building	40	40	40	30	40
Accessory building	25	25	25		
Parking area	10	10	10		
Maximum height (feet)					
Primary building	35	35	35	35	40
Accessory building	20	20	20		
Maximum height (stories)					
Primary building	2 1/2	2 1/2	2 1/2	2	2
Accessory building	2	2	2		
Maximum lot coverage (percent) [Amended 11-1-1999, effective 11-18-1999]	25	25	25	60	60
Minimum floor area (square feet)					
1-story structure	1,550	1,200	1,150 per unit		
2-story structure					

Ground floor	1,200	850	1,150 per unit
Total floor area	2,000	1,500	

B. Schedule of Permitted Uses.

Schedule of Permitted Uses

Primary Uses	Districts			
	A	A-1	B	I
1. Single-family detached dwelling, 1 per lot	P	P	N	N
2. Multifamily dwelling, 2 units maximum per lot	N	P	N	N
3. Place of worship or religious institution	SU	SU	SU	SU
4. Farms, utility lines	P	P	P	P
5. Governmental uses, power transmission and substations	SU	SU	SU	SU
6. Fur farm, commercial piggery or poultry farm	N	N	N	N
7. Removal of earth products	N	SU	SU	SU
8. Public or quasi-public camp ¹	N	SU	SU	SU
9. Conservatory for music or other arts	N	SU	SU	N
10. Convalescent or nursing home or home for aged	N	SU	SU	N
11. Commercial swimming, golf or country club	N	SU	SU	N
12. Private landing strip	N	N	N	N
13. Public or private school (not including business or trade schools), nursery, dancing school or riding school	N	SU	SU	SU
14. Radio and television studio	N	N	SU	SU
15. Cemetery ²	N	SU	SU	SU
16. Wireless transmitting and receiving ³	N	SU	SU	SU
17. Membership club, outdoor recreation ⁴	N	SU	SU	SU
18. Nonprofit institution or private museum	N	SU	SU	SU
19. Retail, personal service, bank or office	N	N	SP	SP
20. Restaurant, tavern, eating place (indoor seating), commercial parking	N	N	SP	SP
21. Underground storage of fuel ⁵	N	N	SP	SP
22. Gasoline sales [Amended 7-26-2004, effective 7-29-2004]	N	N	SP	N
23. Funeral home	N	N	SP	N

24. Warehousing, wholesaling, building material sale, contractor's yard, truck terminal	N	N	N	SP
25. Industrial or manufacturing use, provided that such use does not emit dust, odor, gas, fumes, noise, glare or vibration beyond the property lines in which it is located	N	N	N	SP
26. Autobody repair and painting	N	N	N	SP
27. Commercial horse farm	N	SU	N	SU
28. Animal hospital	N	N	SU	SU
29. Hotel or motel	N	N	SP	N
30. Greenhouse operations and nurseries	N	SU	SU	SU
31. Industrial research and service	N	N	SU	SP
32. Printing	N	SU	SU	SU
33. Liquor store	N	N	SU	SU
34. Conversion of industrial buildings to residential uses [Added 12-3-1990, effective 12-12-1990]	N	N	N	SU
35. Age-restricted housing [Added 1-21-2003, effective 2-1-2003] Motor vehicle sales, service	N	SU	SU	N
36. [Added 7-26-2004, effective 7-29-2004] Outdoor wood-burning furnaces	N	N	SP	SP
37. [Added 7-14-2008, effective 7-17-2008]	SU	SU	SU	SU

NOTES:

¹ Camping areas shall have a minimum boundary buffer of 50 feet.

² A twenty-foot buffer strip shall be provided between burial plots and cemetery lot lines.
[Amended 7-13-1998, effective 7-25-1998]

³ Please see Article XXII of this chapter.
[Added 9-8-1998, effective 10-1-1998]

⁴ Property shall contain 400 square feet of land per member.

⁵ Shall be in accordance with Section 22a-449 of the Connecticut General Statutes, as amended.

C. Schedule of Permitted Accessory Uses.

Schedule of Permitted Accessory Uses

Permitted Accessory Uses	Districts			
	A	A-1	B	I
1. Boarders or roomers (not more than 3)	N	P	N	N
2. Private garage for motor vehicles, not to include more than 1 commercial vehicle of maximum capacity of 10,000 pounds gross vehicle weight ¹	X	X	X	X
3. Building for storing and/or processing of agricultural products produced on the premises	X	X	X	X
4. Roadside stand for sale of agricultural produce	N	X	P	X
5. Building for storage and repair on a farm of any number of motor vehicles and equipment for operation of such farm	X	X	X	X
6. Off-street parking and loading	X	X	X	X
7. Noncommercial swimming pool and tennis court	P	P	X	X
8. Noncommercial greenhouse, storage shed or boathouse	X	X	X	X
9. Signs as specified in Article X	X	X	X	X
10. Horses and ponies for pleasure only (§ 214-89B)	X	X	X	X
11. Livestock and poultry not raised commercially	X	X	X	X
12. Building housing animals in accordance with § 214-89B [Amended 7-13-1998, effective 7-25-1998]	X	X	X	X
Concentration of wastes shall be stored at the point farthest from existing houses under separate ownership and shall not exceed 2 cubic yards in bulk				
13. Satellite receivers and antennas ²	X	X	X	X
14. Recreational vehicle, boat or trailer	X	X	X	X
15. Accessory uses and structures in accordance with § 214-4, Article VI, §§ 214-92 and 214-93 and this section	X	X	X	X
16. Professional office and home occupation	N	SU	N	N
17. Bed-and-breakfast	N	SU	N	N
18. Dwelling unit [Added 7-11-1994, effective 7-11-1994]	N	N	SU	N
19. Kennels [Added 6-30-2003, effective 8-1-2003]	X	X	X	X
20. Farm workers' housing [Added 10-15-2001, effective 11-2-2001]	P	P	P	P

21. Mobile homes for emergency housing or storage for up to 6 months necessitated by natural disaster or equally similar occurrence [Added 6-30-2003, effective 8-1-2003]	X X X X
Drive-thru, Type A	
22. [Added 4-7-2014, effective 4-24-2014]	N N SU N
Drive-thru, Type B	
23. [Added 4-7-2014, effective 4-24-2014]	N N SU N

NOTES:

¹ No restrictions in Business or Industrial Zone.

² Satellite receivers in excess of four feet in diameter shall meet accessory building requirements.

D. Explanation of tables.

- (1) Any use marked "SU" in the preceding tables is a permitted use subject to the issuance of a zoning permit and/or building permit and subject to § 214-102, Special use permit, which is subject to a public hearing.
- (2) Any use marked "SP" in the preceding tables is a permitted use subject to the issuance of a zoning permit and/or building permit and subject to § 214-101, Zoning permit and site plan approval.
- (3) Any use marked "P" in the preceding tables is a permitted use as of right subject to the issuance of a zoning permit and/or building permit.
- (4) Any use marked "X" is a permitted accessory use subject to the same permits and review procedures as the main use to which it is an accessory.
- (5) Any use marked "N" is prohibited in that particular zoning district.
- (6) Any use marked "SU1" in the preceding tables is a permitted use subject to the issuance of a zoning permit and/or building permit and subject to § 214-103, Conversion of mill buildings to residential uses, which is subject to a public hearing. [Amended 12-3-1990, effective 12-12-1990]

§ 214-99. Buffers and screening.

A. Screening in nonresidential districts adjoining residential districts.

- (1) Front yard:
 - (a) Buildings: building line, including Type B screening.
 - (b) Parking areas: 10 feet plus Type D screening.
 - (c) Loading areas: in side or rear yards only.
- (2) Side and rear yards:

- (a) Buildings: side and rear yards of the building(s) shall have a width of at least the height of said building(s), but not less than 25 feet, including Type B screening.
 - (b) Parking areas: Type C screening.
 - (c) Loading areas: Type C screening.
- B. Screening in nonresidential districts not adjoining residential districts.
- (1) Front yard:
 - (a) Buildings: building line, including Type A screening.
 - (b) Parking areas: 10 feet plus Type D screening.
 - (c) Loading areas: in side or rear yards only.
 - (2) Side and rear yards:
 - (a) Buildings: all yards shall be accessible for fire-fighting purposes and shall include Type A screening.
 - (b) Loading areas: where visible from a street, loading areas shall be screened by Type C screening.
- C. Additional requirements for industrial uses adjoining existing residential uses. There shall be a landscaped buffer strip of 25 feet in industrial districts adjacent to residential dwellings which may be part of the side or rear yard. The landscaped buffer strip, consisting of Type C screening, shall not be used for internal roads, parking, buildings or storage, with the exception of a Town road (see "buffer area" definition). A planting plan is required as part of the site plan submission. [Amended 6-30-2003, effective 8-1-2003]

ARTICLE XVIII
Administration and Enforcement

§ 214-100. Powers and duties of Zoning Commission; enforcement agent. [Amended 4-16-2001, effective 5-12-2001]

The provisions of these regulations shall be administered by the Somers Zoning Commission as provided herein. These regulations shall be enforced by the Zoning Enforcement Officer as designated by the Zoning Commission. In the event that the Commission has not appointed or is otherwise without a Zoning Enforcement Officer, the Commission shall appoint, on a temporary basis, an agent to enforce these regulations.

§ 214-101. Zoning permit and site plan approval.

- A. Permits required. No land use shall be established or changed and no building or structure shall be used, erected, constructed, moved, enlarged or altered, in whole or in part, until a zoning permit has been issued by the Commission. This requirement shall be in addition to the requirement of obtaining any necessary special use permit. [Amended 4-16-2001, effective 5-12-2001]

- B. Applications. Applications for zoning permits shall be filed with the Commission or its authorized agent on a form provided by the Commission. If the applicant is not the owner of the property on which the activity is proposed, the relationship of the applicant to the owner shall be described on the application form. The application shall contain a written statement by the owner of the property or his/her authorized agent giving consent for the Commission or its agent to inspect the property. One copy of each application shall be submitted, accompanied by three copies of a Class A-2 certified site plan in ink at a scale of one inch equals no more than 20 feet and showing: [Amended 12-5-1994, effective 1-1-1995]
- (1) The direction of true North.
 - (2) The actual shape and dimensions of the lot to be used; provided, however, that if the lot is substantially larger than the area to be developed, the Commission may allow the applicant to submit a site plan showing the lot in an inset map at a different scale from the scale of the remainder of the site plan.
 - (3) The exact size and location on the lot of existing and proposed buildings, structures and parking and loading areas, including access thereto, parking barriers and walkways. Surface treatments to be specified.
 - (4) The location of any required setback or yard lines.
 - (5) A computation of lot coverage.
 - (6) The names of all owners of record of any land abutting the lot to which the zoning permit would apply.
 - (7) The location and name of any Town or state street, road or highway which passes through or adjoins the lot or, if no such street, road or highway passes through or adjoins the lot, the entire route of vehicular access to the lot from such a street, road or highway.
 - (8) The locations and numbers of any utility poles within 100 feet of the lot or, if there are no such utility poles, the location and number of the utility pole nearest to the lot.
 - (9) The location of any existing or proposed driveway. (A driveway permit is required before any driveway may be constructed or altered.)
 - (10) The location of any existing or proposed water supply (either by well or public water supply) and sewage disposal facilities (including primary and reserve leaching areas) showing precise minimum distances among the wells, sewage disposal facilities, buildings, structures, driveways and parking areas.
 - (11) The location of all watercourses, wetland boundaries, areas subject to flooding during the one-hundred-year flood and floodplain areas (as shown on the most recent Flood Insurance Rate Map prepared by the Federal Emergency Management Agency), ledge outcrops and large trees on the lot.
 - (12) The existing and proposed contours at two-foot intervals or less, if any change in grading is proposed.

- (13) The type, size and location of all proposed or existing signs.
- (14) The nature and location of any required and/or proposed screening, landscaping, buffer areas and any existing or proposed fences or walls.
- (15) Where a proposal will disturb more than 1/2 acre, an erosion and sedimentation control plan in accordance with Chapter 161, Soil Erosion and Sediment Control, and state guidelines shall accompany the zoning permit application.
- (16) In the case of uses requiring approvals from other agencies, such approvals must be received before a zoning permit will be issued.
- (17) Such additional information as required by the Commission or its designated agent, where it is necessary to determine that the requirements of these Zoning Regulations are met.
- (18) Two certified copies of dimensional plans of floors and elevations of any proposed or existing structure, and specifications to indicate the size, kind and quality of the proposed construction.

C. Additional application requirements. All site plans, except those for single-family dwellings, are required to be referred by the Somers Zoning Commission to the Somers Planning Commission. The Planning Commission shall have 35 days in which to review and submit comments and recommendations in an advisory capacity. Approval shall be assumed if no comments are received from the Planning Commission. Application may also need to be made to the Conservation Commission either prior to or simultaneously with any application for any permit for a parcel of land containing wetland soils or watercourses. The Commission or its designated agent may require the applicant to submit additional information if it finds that such information is necessary or would be helpful in determining whether the proposed building, structure or use conforms to these regulations. Such additional information may include, but is not limited to, the following:

- (1) Name and address of owner-of-record and builder, scale of drawing, date of preparation or revision, and if a lot is in a subdivision, a reference to the original subdivision plan.
- (2) A key map at a scale of not more than one inch equals 1,000 feet to assist in locating the property.
- (3) Percolation tests and deep test pit data, if applicable. Said soil tests shall be approved by the Town Sanitarian.
- (4) Existing and proposed (finished grade) contour lines at an interval of two feet over the entire site plan or the minimum area of the site prescribed by the Commission.
- (5) The nature and amount of any hazardous materials or wastes to be produced, used, stored or disposed of on the lot, and the manner in which such production, use, storage or disposal will be carried out as required by these regulations.
- (6) The nature of existing land uses on abutting properties.
- (7) The location of natural features, including but not limited to rock outcroppings, slopes

- in excess of 20%, soil types, forested areas and vegetation types.
- (8) The location and a description of any measures to be used to prevent soil erosion and sedimentation.
 - (9) The location and a description of any proposed surface or subsurface drainage improvements, facilities or structures.
 - (10) The location of soil test pits and test borings, if any, and a description of the soils encountered in such pits or borings.
 - (11) The location of any existing or proposed exterior lighting or signs.
 - (12) The location of any existing or proposed underground storage tanks.
- D. When an application, petition, request or plan is filed concerning any project on any site which is within the watershed of the water company, as defined in Section 16-1 of the Connecticut General Statutes, the applicant shall provide written notice of such, including a copy of the application and a full set of plans, to the water company by certified mail, return receipt requested, which shall be mailed within seven days of the date of the application.
- E. Waiver of certain requirements for applications. The Commission or its designated agent may waive any of the requirements in Subsection B if, and only if, the following conditions exist or are met:
- (1) The proposed activity will not require the use of wells or sewage disposal facilities.
 - (2) The Commission or its designated agent determines that the requirements sought to be waived are not reasonably necessary to a proper disposition of the application.
- F. Procedure. [Amended 4-16-2001, effective 5-12-2001]
- (1) Whenever the approval of a site plan is the only requirement to be met or remaining to be met under these regulations for a proposed building, use or structure, the Commission shall render a decision on any application for approval of such site plan within 65 days after the receipt of a complete application. Decisions shall be made on any application for a zoning permit not requiring either a site plan approval or special use permit within 65 days after the receipt of a complete application. The applicant may consent to one or more extensions of any such period, provided that the total period of any such extension or extensions shall not exceed one further sixty-five-day period. No site plan will be accepted unless it is accompanied by the proper application forms or unless those forms have been previously been filed with the Commission.
 - (2) The Commission may either deny or approve the zoning permit application as submitted, and may either deny the site plan as submitted, modify and approve the site plan or approve the site plan as submitted. A decision to deny or modify a site plan shall set forth the reasons for such denial or modification. Written notice of any decision shall be mailed or delivered to the applicant. The failure of the Commission to act on any request for a waiver within such time shall be deemed to be a denial of the request.

(3) Public hearings are not required for site plan applications. However, the Commission may hold a public hearing on any site plan application when it has determined that it is in the public interest to do so. When a public hearing is held, the public notice requirements of these regulations shall apply. Notwithstanding that a public hearing is held on a site plan application, the time limit for making a decision on site plans as set forth in the applicable general statutes shall apply. [Added 4-7-2014, effective 4-24-2014]

G. Performance security. The Commission may, as a condition of approval of any site plan, require security in the form of surety, irrevocable letter of credit or passbook, and in an amount satisfactory to it, securing that any modifications of such site plan are made. The security shall not be released until the work secured is completed to the satisfaction of the Zoning Commission.

§ 214-102. Special use permit.

A. Statement of purpose. The purpose of the special use permit regulations is to provide a comprehensive review of the proposed plan for the layout of the building(s), structure(s), sign(s) or use(s) in relationship to the topographical, geological and other natural features of the land and of the impact of the use(s) upon the environment, health, safety, welfare and convenience of the members of the community. It is intended to ensure that the design and layout of the site and the proposed use(s) will constitute suitable and appropriate development in character with the neighborhood and will not result in a decrease in property values or a detriment to the present and potential use of the area in which it is to be located. Special use permit procedures are also intended to assure that proposed buildings, structures and uses will provide for the maintenance of air, surface water and groundwater quality and will not be detrimental to existing sources of potable water or other natural or historic resources. [Amended 11-1-1999, effective 12-3-1999]

B. When required. A special use permit must be issued by the Commission before any person may establish or change any land use or use, erect, construct, move, enlarge or alter any building or structure, in whole or in part, if the use, structure or building resulting from such activity is listed as a specially permitted use under Article XVII of these regulations for the zone in which it would be located.

C. Applications. Applications for special use permits shall be filed with the Commission or its authorized agent on a form provided by the Commission. One copy of each application shall be submitted, accompanied by three copies of a site plan in ink at a scale of one inch equals no more than 20 feet and showing: [Amended 12-5-1994, effective 1-1-1995]

(1) All the information specified for a site plan under § 214-101B and C of these regulations.

(2) A traffic report indicating existing traffic conditions at normal and peak travel times for, at a minimum, any road abutting or passing through the lot affected by the application and any road within three miles of such lot, and also indicating the projected impact of the proposed use on such traffic conditions.

(3) The schedule for any construction or other development activities, including but not

limited to erection of or other work on any buildings or structures, grading, removal of vegetation, landscaping and drainage improvements.

D. Additional application requirements. The Commission or its designated agent may require the applicant to submit additional information if it finds that such information is necessary or would be helpful in determining whether the proposed buildings, structures or uses conforms to these regulations.

(1) Such additional information may include, but is not limited to, the following:

- (a) Chemical analyses of existing surface water and groundwater.
- (b) Hydrological analyses of runoff and peak flow, both before and after development.
- (c) Analyses of local air quality, both before and after development.
- (d) Depths to seasonal high groundwater levels and bedrock.
- (e) Analyses of wildlife habitats on and near the site and the impact of the proposed use on such habitats.
- (f) A description of vegetation types, including any rare or endangered species, on the lot to be used under the application.
- (g) A list of other federal, state or municipal permits or licenses which the applicant will need to implement the uses applied for and the status of any applications for such permits or licenses.
- (h) Architectural drawings of any proposed buildings or structures.
- (i) Traffic reports to determine the impact and safety of the proposal on the existing area.

(2) The Zoning Commission may refer any application to the Eastern Connecticut Environmental Review Team (ERT) for an environmental impact review.

E. Criteria for evaluation. In deciding upon any application for a special use permit, the Commission shall consider the following criteria in addition to the other applicable criteria set forth in other sections of these regulations:

- (1) The size and intensity of the proposed use and the impact of such use on neighboring property.
- (2) The potential for creation of a nuisance to neighboring properties, whether by noise, air or water pollution, offensive odors, smoke, dust, vibrations or other effects of the proposed use.
- (3) The convenience and safety of vehicular and pedestrian movement on the site, and the impact of the proposed uses on existing local traffic conditions.
- (4) Accessibility of emergency vehicles, e.g., police, fire and emergency transportation vehicles.

- (5) The adequacy of proposed methods for disposal of wastes, particularly with regards to any materials that could cause an adverse effect on groundwater or wetlands.
- (6) The potential for, and the adequacy of measures for the prevention of, surface water and groundwater pollution, soil erosion and sedimentation, increased runoff and changes in groundwater levels.
- (7) Measures for dealing with runoff and surface pollutants from driveway and parking areas.
- (8) The compatibility of the design, layout and operation of the proposed buildings, structures or uses with nearby properties and the impacts on the enjoyment, usefulness and value of nearby property.
- (9) The degree of population concentration and building density resulting from the proposed uses and the availability and adequacy of existing fire and police protection, transportation, water, sewage facilities, schools or other public facilities to meet the needs of the uses.
- (10) The impact of the proposed uses on existing or potential local water supplies and recharge areas.
- (11) The existence and protection of important natural and historic resources.
- (12) The impact of the proposed uses on wildlife and plant habitats.

F. Conditions.

- (1) The Commission may place on any special use permit whatever conditions the Commission may reasonably deem necessary to assure that any proposed building, structure or use will:
 - (a) Conform to the standards and limitations set forth in these regulations, including but not limited to the performance and environmental standards in Article VII.
 - (b) Protect the rights of individuals and the health, safety, welfare and convenience of local residents and the community.
 - (c) Protect local property values.
 - (d) Meet the specific standards set forth in Subsection G of this section.
- (2) The conditions may relate to, without limitation, the architectural and spatial design and layout of buildings, structures and uses; provisions for lighting, parking, loading, surface and subsurface drainage, sanitary facilities, waste disposal, vehicle and pedestrian circulation, landscaping, screening and protection of the environment and of natural and historic resources; construction or other development schedules; and hours of operation of the proposed building, structure or use.
- (3) The Commission may also condition the issuance of any special use permit on the posting of a bond or other security, in an amount and with surety satisfactory to the Commission, to secure the performance of all conditions and the completion of all improvements required under such special use permit.

G. Standards for special use permits. All buildings, structures and uses for which a special use permit is required under these regulations must meet the applicable standards set forth throughout these regulations, including but not limited to the performance and environmental standards set forth in Article VII and, in addition, the following standards:

- (1) Preservation of landscape. The landscape shall be preserved in its natural state insofar as practicable by minimizing grading and the removal of vegetation and soil. Where vegetative cover does not exist or has been removed, new plantings may be required. Finished site contours shall depart only minimally from the character of the natural site and the surrounding properties.
- (2) Relation of buildings to environment. The proposed project or development shall be related harmoniously to the terrain and to the use, scale and siting of existing buildings in the vicinity of the site. All buildings and other structures shall be sited to minimize disruption of the topography. Strict attention shall be given to the proper functional, visual and spatial relationships of all structures, buildings, landscaped elements and paved areas.
- (3) Buffer areas. All buffered and/or screened areas, including setback areas (landscaped and usable), shall be so designed as to be consistent and compatible with residential uses.
- (4) Circulation. With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives and parking, special attention shall be given to location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community or public facilities and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.
- (5) Surface water drainage. Special attention shall be given to proper surface drainage so that surface waters will not adversely affect neighboring properties or public storm drainage facilities, will not obstruct the flow of vehicular or pedestrian traffic and will not create standing water in paved or pedestrian areas. All surface water drained from roofs, streets, parking lots and other site features shall be disposed of in a safe and efficient manner which will not create problems of water runoff or erosion on the site, or on neighboring sites, or pollution of surface water or groundwater. Insofar as possible, natural drainage courses and swales shall be properly stabilized and drainage-impounding areas shall be utilized to dispose of water on the site through natural percolation to a degree equivalent to that prior to development. Also, appropriate erosion control measures shall be employed, including slope stabilization measures and the seeding of exposed areas to replace vegetative cover.
- (6) Groundwater recharge and quality preservation. Groundwater recharge shall be maximized and groundwater quality shall be protected. Various techniques may be required to maximize recharge, such as perforated drainpipes, pervious pavement, reduction of structure area or reduction of lot coverage. Where groundwater elevations are close to the surface, extra site grading precautions may be required to maintain the protective function of the overburden.

- (7) Utilities. The placement of electric, telephone or other utility lines and equipment shall be underground where possible, so located as to provide no adverse impact on groundwater levels, and coordinated with other utilities.
- (8) Other site features. Exposed storage or utility areas, exposed machinery installations and service areas shall be designed with screen plantings, fencing or other screening methods to be compatible with the environment and the surrounding properties.
- (9) Safety. All open and enclosed spaces shall be designed to facilitate evacuation and to maximize accessibility by fire, police and other emergency personnel and equipment.
- (10) Neighboring properties. The proposed uses shall not adversely affect the enjoyment, usefulness and value of properties in the general vicinity thereof or cause undue concentration of population or structures.
- (11) Natural and historical resources. The proposed uses shall not unreasonable destroy, damage or threaten locally significant natural or historical resources.

H. Special use permit procedure.

- (1) Public hearing. Within 65 days after its receipt of an application for a special use permit, the Commission shall commence a public hearing on the application. For the purposes of this section, the day of receipt of an application shall be deemed to be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission of the application to the Commission or its authorized agent, or 35 days after such submission, whichever is sooner. The hearing may be continued one or more times, but it must be concluded no later than 30 days after the date of commencement.
- (2) Notice of public hearing. Notice of the time and place of the commencement of the public hearing shall be published at least twice in the form of a legal advertisement in a newspaper having a substantial circulation in the Town of Somers, at intervals of not less than two days, the first notice to be published not more than 15 days nor less than 10 days and the last not less than two days before the date of commencement of the hearing.
- (3) Decision. Within 65 days after the completion of the public hearing, the Commission shall either: approve the special use permit and the site plan as submitted; approve the special use permit and site plan with conditions or modifications, as provided under these regulations; or deny the special use permit and site plan. The Commission shall state the reasons for its decision on its records. Notice of the decision shall be published in the form of a legal advertisement in a newspaper having a substantial circulation in the Town of Somers and addressed by certified mail to the applicant, under the signature of the clerk or secretary of the Commission in any written, typewritten or stamped form, within 15 days after the decision has been rendered.
- (4) Extensions of time. The applicant may consent to extension of the time periods for commencing a public hearing after the receipt of an application, concluding a public hearing, and rendering the decision. The total extension of any such period shall be no longer than the original period as specified in these regulations.

- (5) Final site plan. Any site plan approved by the Commission without modifications or conditions shall become the final site plan. If the Commission approves a site plan with modifications or conditions, a final site plan which incorporates such modifications or conditions must be submitted to the Commission by the applicant within 65 days of the date of approval. For good cause shown, the Commission may extend the time for filing the final site plan. If a final site plan is not filed within such sixty-five-day period or within any period of extension, the approval of the site plan and application for a zoning permit shall be void.
 - (6) Filing and recording of special use permits. Any special use permit issued under these regulations shall not become effective until copies of the permit are filed in the office of the Somers Town Clerk and recorded in the Somers land records. The copy of the special use permit to be filed and recorded in the Somers land records shall be certified by the Commission and shall contain a description of the premises to which it relates, specify the nature of the special use permit, state the regulation under which the special use permit is issued and state the names of all owners of record of the premises. The applicant or record owner shall be responsible for filing and recording the special use permit and shall pay all filing and recording fees.
- I. Reapplication. No special use permit shall be granted to any applicant for a building, structure or use if a previous application by the applicant, or by a different applicant on behalf of the same party in interest, for substantially the same building, structure or use on the same property has previously been denied by the Commission on its merits with one year prior to the submission of the new application to the Commission.

§ 214-103. Conversion of mill buildings to residential uses. [Added 12-3-1990, effective 12-12-1990]

- A. Statement of purpose. These regulations acknowledge that there exist in the Town of Somers in certain industrial districts historic mill buildings which have outlived their usefulness as industrial properties. These regulations also acknowledge that the adaptive reuse of these historic structures is in the best interests of the Town of Somers and that development of these properties for multifamily residential uses shall be allowed subject to the provisions stated herein.
- (1) The adaptive reuse of these properties shall allow development of historic mill buildings for multifamily residential uses which will:
 - (a) Protect, preserve and enhance the unique historical and architectural qualities of the historic mill structures.
 - (b) Allow multifamily development while preserving the value of the historic mill buildings and encourage the most appropriate use of these structures with reasonable consideration as to the character of the neighborhood.
 - (c) Help to provide a mix of housing types to meet different residential housing requirements in the Town.
 - (d) Allow safe access and movement of pedestrians and vehicles.
 - (e) Stabilize, improve and protect property values, strengthen the local economy

and protect the public health, safety and welfare.

- (2) Notwithstanding anything in these regulations to the contrary, the conversion of historic mill buildings to multifamily residential uses shall not be allowed except by special use permit as provided in this section.

B. Application procedure.

- (1) Prior to the approval of a special use permit, the applicant shall file an application in accordance with § 214-102C of these regulations. The Commission may also require additional application requirements as set forth in § 214-102D of these regulations. Thirdly, the Commission shall require the following Town boards and commissions to review any application and site plan proposed under this section:
 - (a) Somers Planning Commission.
 - (b) Somers Water Pollution Control Authority.
 - (c) Somers Conservation Commission.
- (2) These Commissions shall review said application within 50 days and report their findings to the Zoning Commission. The applicant may consent to one or more extensions, not exceeding 50 days total, to the Commission.
- (3) The Zoning Commission shall hold a public hearing on all applications under this section in accordance with § 214-102H and shall render its decision on said application as set forth in that subsection. If the Zoning Commission receives a negative report from any of the aforementioned commissions, then a two-thirds (2/3) majority vote shall be required for approval.

C. Criteria and use.

- (1) Prior to the approval of a special use permit under this section, the applicant must show that the special use permit shall comply with the following criteria:
 - (a) The greater part of a mill structure within the Town of Somers shall be at least 50 years old in order to qualify as historic.
 - (b) The proposed use shall be compatible with the character of the neighborhood.
 - (c) The proposed use shall allow the land and structures thereon to retain the historic qualities which allow the Town to maintain a significant reference to the past.
 - (d) The proposed use shall not create or aggravate a traffic hazard.
 - (e) This special use permit shall apply to only those historic structures as herein defined containing 10,000 square feet or more of usable space.
- (2) In addition to these criteria, the Commission shall consider those evaluation criteria set forth in § 214-102E of these regulations.
- (3) In addition to complying with the standards set forth in this section, the applicant must also submit a site plan for approval in accordance with § 214-101 of these

regulations.

D. Accessory and complimentary uses.

- (1) Accessory uses shall be permitted, including but not limited to radio and television antennas; signs; maintenance and elevator buildings; and vehicle parking areas and parking structures for residents, customers, visitors and employees of the uses conducted and for which the parking use is appurtenant.
- (2) Accessory uses as set forth in § 214-98C, Numbers 2, 6, 7, 8, 9, 13, 14 and 16 if, in the discretion of the Commission, the use is compatible with the multifamily residential use allowed in this section in the same historic mill building.

E. Building rehabilitation criteria.

- (1) Designs for exterior building rehabilitation shall recommend appropriate material, colors, etc., intended to maintain or restore the integrity of the original architectural character of a given structure.
- (2) The removal or alteration of any historical material or distinctive architectural features should be avoided when possible.
- (3) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
- (4) Modifications and additions to existing properties shall not be discouraged when such modifications and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color and material of the structure and character of the property, neighborhood or environment.

F. Site development criteria.

- (1) Schedule of area, height and yards.
 - (a) Height, area and yard requirements shall be as set forth in § 214-98 of these Zoning Regulations for industrial use, except that as to buildings and sites in existence at the time of adoption of this section of the regulations, height, area and yard requirements shall be as they exist on said sites as of said date of adoption.
 - (b) Existing principal and accessory buildings shall not be increased in height except to allow accessory building utilities, including but not limited to radio and television antennas, air conditioning, ventilation, solar heating and/or elevator systems.
- (2) Residential unit minimum floor areas shall be 650 feet for one-bedroom units, and for each bedroom in excess of one, an additional 150 feet shall be added.
- (3) Vehicle parking. There shall be provided on the building site, one and one-half (1 1/2) vehicle parking spaces for each residential unit. Parking for accessory uses shall be provided in accordance with the requirement of the off-street parking provision of Article XI of these Zoning Regulations.

- (4) Potable water supply. Whether on-site or an extension of, or connection to, an existing public system, the supply shall be subject to the review and approval of the Town Sanitarian, the Town Water Pollution Control Authority (WPCA), the State of Connecticut Department of Health Services (DOHS) and/or the State of Connecticut Department of Public Utility Control (DPUC).
- (5) Sewage disposal. Whether on-site or an extension of, or connection to, an existing public system, the disposal system shall be subject to the review and approval of the Town Sanitarian, the Town Water Pollution Control Authority (WPCA), the State of Connecticut Department of Health Services (DOHS) and/or the State of Connecticut Department of Environmental Protection (DEP).
- (6) Flood prevention.
 - (a) Existing principal and accessory buildings and utilities shall be designed and constructed to:
 - [1] Protect human life and health.
 - [2] Minimize loss of public and private property.
 - [3] Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the Town.
 - [4] Ensure that potential home buyers are notified that property is in a flood area, by providing certifications on all site plans and surveys to be filed.
 - (b) All special use permit applications made under this section shall be subject to review by the State of Connecticut Department of Environmental Protection (DEP) and/or the United States Army Corp of Engineers, where applicable.
- (7) Affordable housing requirements.
 - (a) The Commission shall require that up to 10% of the dwelling units must be affordable housing units for a period of at least 30 years.
 - (b) "Affordable housing units" shall be defined as set forth in Section 8-39a of the Connecticut General Statutes.
 - (c) The affordable housing units referred to above shall be noted on the approved site plan. The size and workmanship of the affordable housing units must be equivalent to the rest of the proposed development.
 - (d) An appropriate deed restriction in each unit so identified shall be prepared by the applicant which shall require that such units be sold or rented at or below prices which will preserve the units as affordable housing as defined in Subsection F(7)(b) above, for at least 30 years after the initial occupation of the proposed development.
 - (e) Eligibility determinations shall be certified by the appropriate local authority as designated by the Selectmen.
- (8) Signs. The placement of signs on the property subject to an application under this

section shall be in accordance with Article X of these regulations. The following signs shall be permitted: those enumerated in § 214-57, Letters a, d, e, i, j and k. No other signs shall be permitted.

- (9) Landscaping. The property shall be suitably landscaped pursuant to the standards set forth in Article IX of these regulations.
- (10) Standards for approval. The Commission shall determine that the special use permit shall meet the standards set forth in Article VII and § 214-102G of these regulations.
- (11) Conditions.
 - (a) The Commission may place on any special use permit under this section whatever conditions the Commission may deem necessary to assure that any proposed building, structure or use will:
 - [1] Conform to the standards and limitations set forth in these regulations, including but not limited to the performance and environmental standards in Article VII.
 - [2] Protect the rights of individuals and the health, safety, welfare and convenience of local residents and the community.
 - [3] Protect local property values.
 - [4] Meet the specific standards set forth in § 214-102G of these regulations.
 - (b) The conditions may relate to, within limitation, the architectural and spatial design and layout of buildings, structures and uses; provisions for lighting, parking, loading, surface and subsurface drainage, sanitary facilities, waste disposal, vehicle and pedestrian circulation, landscaping, screening and protection of the environment and of natural and historic resources; construction or other development schedules; and hours of operation of the proposed building, structure or use.
 - (c) The Commission may also condition the issuance of any special use permit on the posting of a bond or other security, in an amount and with surety satisfactory to the Commission, to secure the performance of all conditions and the completion of all improvements required under such special use permit.

§ 214-104. Certificate of occupancy/use.

- A. No permanent certificate of occupancy/use shall be issued for a building, structure or use subject to these regulations until the Zoning Enforcement Officer certifies in writing that the building, structure or use is in conformity with these regulations and with any required zoning permit, special use permit and/or final site plan or is a valid nonconforming use under these regulations. Before issuing such certificate of zoning compliance, the Zoning Enforcement Officer may require a written certification from an architect and/or an engineer properly licensed by the State of Connecticut that the building, structure or use as developed or established fully conforms to the provisions of any zoning permit, special use permit or final site plan. [Amended 4-16-2001, effective 5-12-2001]

- B. No permanent certificate of occupancy/use shall be issued until all documents required under the zoning permit or special use permit which grant easements or other rights to the Town of Somers have been recorded in the Somers land records and/or filed with the appropriate agencies and proof thereof has been submitted to the Commission.

§ 214-105. Expiration of zoning permit and special use permit.

- A. A zoning permit or special use permit shall expire one year following its issuance if the construction, development or other activity allowed under such permit has not been actually commenced. A zoning permit or special use permit shall expire two years following its issuance if the construction or development allowed thereunder has not been completed. The Commission, upon written request and for good cause shown, may extend either or both of these periods one or more times, but the total period of such extension or extensions shall not exceed one additional year. Site preparation alone shall not be deemed to be the actual commencement of the construction, development or activity under this section.
- B. A special use permit shall also expire upon the abandonment of the building, structure or use allowed by such special use permit or if the building or structure has ceased to be used in accordance with such special use permit or if the use allowed by such special use permit has ceased for a continuous period of one year. [Amended 6-30-2003, effective 8-1-2003]

§ 214-106. Amendment of zoning permit, special use permit and site plan.

Following the issuance of a zoning permit or special use permit or the approval of a final site plan by the Commission, no changes or alterations may be made in such permit or site plan except by approval of the Commission upon written applications as provided in this section.

- A. Minor amendments. If the Commission determines that the requested change or alteration is minor, it may issue an amended permit or approve an amended final site plan without the need for further procedures under § 214-101, 214-102 or 214-103 of these regulations. For the purposes of this section, minor changes or alterations shall not include any change or alteration which would result in an increase or decrease in the dimensions of any building or a change in the location of any building on a lot.
- B. Other amendments. If the Commission determines that the requested change or alteration is not minor, it shall direct the applicant to file a new application under § 214-101, 214-102 or 214-103 of these regulations, whichever is appropriate, and shall follow the procedures specified under such section for making a decision on such application.

§ 214-107. Fees. [Amended 4-7-2014, effective 4-24-2014]

- A. The fees set forth below shall be paid by the applicant upon submitting any application for a zoning variance, special use permit or site plan approval. No application shall be accepted by the Commission until the appropriate fees are paid. Checks covering any required fees shall be made payable to the Town of Somers. (All permit fees are subject to a \$60 surcharge to the State of Connecticut.)
 - (1) Site plan: \$125.

- (2) Special use permit: \$300.
 - (3) Zoning Map amendment: \$300.
 - (4) Regulation amendment: \$300.
 - (5) Renewal of special use permit: \$300.
 - (6) Building permit: as established by the Building Code.
 - (7) Zoning review for building permit*: \$45
 - (8) Zoning Board of Appeals: \$300 (additional \$100 for secondary applications).
- B. The Zoning Commission and the Zoning Board of Appeals may waive any of the established fees; however, any waiver shall be accompanied by a statement of reason.

§ 214-108. Enforcement; penalties for offenses. [Amended 4-16-2001, effective 5-12-2001]

- A. The Zoning Enforcement Officer designated by the Zoning Commission shall enforce these regulations. Said officer may be provided with the assistance of such other persons as the Zoning Commission directs.
- B. If any building or structure has been erected, constructed, altered, converted or maintained or any building, structure or land has been used in violation of any provision of these regulations or of Chapter 124 of the Connecticut General Statutes,¹³ the Zoning Enforcement Officer or other official acting in the capacity of the Zoning Enforcement Officer may take any action or seek any remedy or penalty provided under Section 8-12 of the Connecticut General Statutes, as it may be amended from time to time.

ARTICLE XIX
Zoning Board of Appeals

§ 214-109. Authority to vary regulations.

The Zoning Board of Appeals, in specific cases, after public notice, hearing and subject to proper safeguards, may determine and vary the application of these regulations herein prescribed in such manner as shall, in the interests of public welfare and in fairness to individuals, best carry out the general purpose and intent hereof.

§ 214-110. Powers and duties.

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

- A. To hear and decide appeals where it is alleged that there is an error in any order, requirements or decision made by the official charged with the enforcement of these regulations.
- B. To hear and decide all matters upon which it is required to pass by these Zoning Regulations.

13. Editor's Note: See Connecticut General Statutes Section 8-1 et seq.

- C. To determine and vary any requirement of these Zoning Regulations in harmony with their general purposes and intent so that substantial justice may be done. This authority shall be exercised solely in instances where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of these regulations, and shall maintain the security of public health, safety and welfare.

§ 214-111. Variances. [Amended 6-30-2003, effective 8-1-2003]

A variance can be authorized by the Zoning Board of Appeals only for height, area and yard requirements. No variance shall be permitted for the establishment or expansion of any use which is not otherwise permitted in the zone; nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. Monetary hardship cannot be grounds for a variance.

- A. No variance in the strict application of any of the requirements of these Zoning Regulations shall be granted unless the Zoning Board of Appeals shall find that:
 - (1) There are conditions especially affecting the land or structure for which variance is sought, which conditions are peculiar to such land or structure and not to the personal or financial circumstances of the appellant, and which conditions are not affecting generally the area in which such land or structure is situated, and have not resulted from any act of the appellant subsequent to the enactment of the requirement appealed from. Minor infractions in the location or height of a structure or the dimension or area of a lot, caused by human error, may be considered sufficient cause for an affirmative finding of this subsection, unless, in the opinion of the Board of Appeals, such infractions can be repaired without impairing the use of land or structure.
 - (2) The aforesaid conditions are such that the strict application of the requirements of these Zoning Regulations would deprive the appellant of reasonable use of land or structure and that the variance, as granted by the Board, is the minimum variance that will accomplish this purpose.
 - (3) The granting of the variance would not permit the property to be used for a purpose that is denied to the occupants of other properties in the same zoning districts.
 - (4) The granting of the variance will be in harmony with the general purpose and intent of these Zoning Regulations and will not be detrimental to public health, safety, convenience, welfare and property values.
- B. The records of the Board of Appeals shall include specific reasons for each of the findings above to be made before a variance may be granted. The Board of Appeals shall attach such conditions and safeguards as are necessary to ensure continued compliance with the terms of the variance.
- C. Variances shall not be issued within any designated floodway.
- D. In passing upon applications for specific situation variances in a floodplain, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of these regulations, and:

- (1) The danger that materials may be swept onto other lands to the injury of others.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services provided by the proposed facility to the community.
- (5) The necessity of the facility to waterfront location, in the case of a functionally dependent facility.
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for that area.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

§ 214-112. Appeals. [Amended 4-16-2001, effective 5-12-2001]

Any person or any officer, department, board or bureau of the Town of Somers, aggrieved by any action of the Zoning Enforcement Officer, may appeal such action to the Zoning Board of Appeals in accordance with Section 8-7 of the Connecticut General Statutes, as amended. The Board of Appeals shall hold a public hearing on all matters it is requested to decide in accordance with requirements set forth in Section 8-7 of the Connecticut Statutes, as amended.

ARTICLE XX
Amendment of Regulations

§ 214-113. Petition for amendment; public hearing.

Petitions for a change in these Zoning Regulations or boundaries of zoning districts may be made to the Commission on the form provided by it. The petitioned amendment shall be acted upon by the Commission after a public hearing in accordance with the provisions of Chapter 124 of the Connecticut General Statutes, as amended.¹⁴

§ 214-114. Application for amendment.

14. Editor's Note: See Connecticut General Statutes Section 8-1 et seq.

Applications for a change in these Zoning Regulations or the Zoning Map shall be filed with the Commission on a form provided by it. For a change in the regulations, the application form shall be accompanied by the exact wording of the change applied for, including reference to the appropriate section numbers, and by the exact wording of any parts to be deleted. For a change in a zoning district boundary line, the application shall be accompanied by two prints of the Zoning Map indicating in color the area for which the change is proposed, the proposed boundary line and the proposed zoning district designation.

ARTICLE XXI

Severability; Effective Date; Repealer

§ 214-115. Severability.

If any section, paragraph, subdivision, clause or provision of these regulations shall be adjudged invalid or unconstitutional for any reason, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of these regulations shall be deemed to be and shall continue to be valid and effective.

§ 214-116. Effective date; repealer.

The effective date of these Zoning Regulations is March 22, 1990. All zoning regulations in force prior to March 22, 1990, are hereby repealed.

ARTICLE XXII

Wireless Telecommunications Facilities [Added 9-8-1998, effective 10-1-1998]

§ 214-117. Purpose.

- A. Recent advances in wireless communications technology have resulted in a new generation of telecommunications services. These new services transmit electromagnetic waves of such frequency and power that will likely require antenna locations. These antennas may be located on buildings, water towers and other similar structures but will also frequently be located on new or enlarged towers. This requires that the Town of Somers regulate these wireless communications system facilities in a different manner than conventional television and radio transmission towers which are able to transmit their signals at much greater distances.
- B. A number of providers of wireless communications services have recently been licensed by the Federal Communications Commission, and additional providers are expected to be licensed in the near future. These firms are expected to pursue antenna sites within the Town of Somers and these efforts are expected to include requests to construct new communications towers.
- C. The intent of this proposed regulation is to provide for the establishment and or expansion of wireless telecommunications services within the Town of Somers while protecting neighborhoods and minimizing the adverse visual and operational effects of wireless telecommunications facilities through careful design, siting and screening. More specifically, this regulation has been developed in order to:

- (1) Maximize the use of existing and approved towers and other structures to accommodate new antennas and transmitters in order to reduce the number of communications towers needed to serve the community.
- (2) Encourage providers to collocate their facilities on a single tower or structure.
- (3) Site facilities below visually prominent ridge lines.
- (4) Minimize the location of facilities in visually sensitive areas.
- (5) Encourage creative design measures to camouflage facilities.
- (6) Protect historic and residential areas from potential adverse impacts of communications towers.
- (7) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

§ 214-118. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ANTENNA ô A device used to receive or transmit electromagnetic waves. Examples include, but are not limited to, whip antennas, panel antennas and dish antennas.

COLLOCATION ô Locating wireless communication facilities from more than one provider on a single site.

HEIGHT OF TOWER ô The vertical distance measured in feet from the average existing level of the ground surrounding the tower and within 10 feet thereof to the topmost point of the tower, including any antenna or other appurtenances. The existing elevation shall mean the actual or approved elevations of the property at the time of application.

TOWER ô A structure that is intended to support equipment used to receive and/or transmit electromagnetic waves. Design examples of towers include: self supporting lattice, guyed and monopole.

WIRELESS TELECOMMUNICATIONS SERVICES ô Licensed wireless telecommunications services including, but not limited to, cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

WIRELESS TELECOMMUNICATIONS SITE ô A facility operated by a licensed wireless telecommunications service provider which consists of the equipment and structures involved in receiving or transmitting electromagnetic waves associated with wireless telecommunications services.

§ 214-119. Location preferences.

The location for siting the equipment involved in receiving or transmitting electromagnetic waves associated with wireless telecommunications services are listed in below in order of preference:

- A. On existing or approved towers.
- B. On existing structures, such as buildings, water towers and utility poles.
- C. On new towers less than 60 feet in height located in commercial or industrial zones.
- D. On new towers less than 60 feet in height located in residential zones.
- E. On new towers 60 feet or greater in height located in commercial and industrial zones.
- F. On new towers 60 feet or greater in height located in residential zones.

§ 214-120. Use subject to special use permit regulations.

All applications to develop a wireless telecommunications site pursuant to this article shall be subject to the special use permit provisions of § 214-102 of these regulations. All special use permit application procedures, hearing and notice requirements shall also apply.

§ 214-121. Site plan requirements.

- A. All proposals to develop a wireless telecommunications site as a special use permit shall be subject to the site plan requirements listed in § 214-101 of these regulations.
- B. In addition, the following information shall be submitted:
 - (1) A plan showing where and how the proposed antenna will be affixed to a particular building or structure.
 - (2) Details of all proposed antenna and mounting equipment, including size and color.
 - (3) Elevations of all proposed shielding and details of materials, including color.
 - (4) An elevation of all proposed equipment buildings or boxes; details of all proposed fencing including color.
 - (5) A design drawing including cross section and elevation of all proposed towers; a description of the tower's capacity, including the number and type of antennas it can accommodate, as well as the proposed location of all mounting positions for collocated antennas and the minimum separation distances between antennas. Where a monopole is proposed, the design shall illustrate how the tower will collapse upon itself without encroaching upon any adjoining property line.
 - (6) A report from a licensed engineer indicating that the proposed wireless telecommunications site will comply with the emission standards found in § 214-123N of this article. Such report shall also certify that the installation of such site will not interfere with public safety communications.
 - (7) An analysis of the fall zone for the proposed tower prepared by a licensed engineer.
 - (8) Proof that either the applicant or the coapplicant holds a bona fide license from the Federal Communications Commission (FCC) to provide the telecommunications service that the proposed tower is designed to support.

- (9) A report or letter from the Federal Aviation Administration that the proposed tower complies with FAA requirements.
- (10) A map depicting the extent of the provider's planned coverage within the Town of Somers and the service area of the proposed wireless telecommunications site.
- (11) A map indicating the search radius for the proposed wireless telecommunications site.
- C. Upon request of the Commission, the applicant shall provide a simulation of the proposed wireless telecommunications site in order to help the Commission ascertain the visual impacts associated with such proposal.
- D. The applicant shall provide a view shed analysis showing all areas from which the tower would be visible.

§ 214-122. Height and area requirements.

- A. Lot size. Wireless telecommunications sites containing a freestanding tower shall have a minimum lot size equal to that required by the current Zoning Regulations at the time of application.
- B. Height.
 - (1) The maximum height of a tower proposed under this regulation shall be 200 feet, including the antenna and all other appurtenances. The height of a tower mounted on a building shall be measured from the average level of the ground along all walls of the building to the tallest point on the tower, including the antenna and all other appurtenances.
 - (2) The maximum height of any rooftop-mounted equipment building or box shall be 15 feet above the roof surface.
- C. Setbacks.
 - (1) Freestanding monopole towers shall comply with the following minimum property line setbacks:
 - (a) Front yard or yard along a street: a distance equal to 3/4 the height of the tower or the setback required for the underlying zone, whichever is greater.
 - (b) Side or rear yards in residential zones: 50 feet for towers less than 60 feet in height and 100 feet for towers equal to or greater than 60 feet.
 - (c) Side or rear yards in nonresidential zones: 25 feet for towers less than 60 feet in height and 50 feet for towers equal to or greater than 60 feet. However, where a side or rear lot line is contiguous to a residential zone, the setback for that particular yard shall be as required for such a tower in a residential zone.
 - (2) All other towers in residential zones shall be located a minimum distance from any property line equal to 125 percent of the proposed tower height or 200 feet, whichever is greater.
 - (3) All other towers in nonresidential zones shall be located a minimum distance from

any property line of at least 100 feet or a distance equal to the height of the tower, whichever is greater.

- (4) All equipment buildings/boxes or equipment areas which are each 50 square feet or greater in area shall comply with the minimum property line setbacks for a principal building in the underlying zone.
- (5) All equipment building/boxes or equipment area which are each less than 50 square feet in area shall comply with the following minimum property line setbacks:
 - (a) Front yard or yard along a street. Same as for a principal building in the underlying zone.
 - (b) Rear and side yards: 20 feet.

§ 214-123. General requirements.

- A. No wireless telecommunications site shall be located within 500 feet of a public or private playground or school.
- B. No wireless telecommunications site shall be located within 200 feet of an existing residence or proposed residence with a valid building permit.
- C. No tower exceeding 60 feet in height shall be located within 1,000 feet of an historic district.
- D. No lights shall be mounted on proposed towers unless otherwise required by the FAA. All strobe lighting shall be avoided if possible.
- E. Towers not requiring special FAA painting or markings shall be painted a noncontrasting blue, gray or black.
- F. Towers may not be used to exhibit any signage or other advertising.
- G. Any proposed tower shall be designed in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional comparable antenna if the tower is over 50 feet in height. The Commission may require the tower to be of such design as to allow for future rearrangement of antennas upon the tower and to accommodate antennas mounted at varying heights.
- H. All towers shall be a monopole design unless otherwise approved by the Commission. A monopole tower shall be designed to collapse upon itself.
- I. The Commission may require that monopoles be of such design and treated with an architectural material so that it is camouflaged to resemble a woody tree with a single trunk and branches on its upper part.
- J. Each tower site must be served by a driveway meeting the Zoning Regulations and

Driveway Ordinance¹⁵ of the Town with parking for at least one vehicle.

- K. Antennas or equipment buildings/boxes mounted to or on buildings or structures shall to the greatest degree possible blend with the color and design of such building.
- L. No proposed wireless telecommunications site shall be designed, located or operated so as to interfere with public safety communications.
- M. All applications for wireless telecommunications sites within the Flood Protection Zone shall comply with the standards found in Article XV of these regulations.
- N. The design of all wireless telecommunications sites shall comply with the standards promulgated by the FCC for non-ionizing electromagnetic emissions. In the absence of such standards, sites shall comply with standards set by the Institute of Electrical and Electronics Engineers for safe human exposure to radio frequency electromagnetic fields.
- O. All utilities proposed to serve a wireless telecommunications site shall be installed underground unless otherwise approved by the Commission.
- P. All generators installed in conjunction with any wireless telecommunications site shall comply with all state and local noise regulations.

§ 214-124. Factors upon which special use permit decisions shall be based.

In passing upon applications for wireless telecommunications sites, the Commission, in addition to the standards found in Section § 214-102, shall also find:

- A. In the case where a wireless telecommunications site is proposed to be located on or within 1,000 feet of a property designated on the National Historic Register or within an approved historic district, that such proposal will preserve the historic and/or architectural character of the landscape or any structure.
- B. In the case where an application for the proposed location of a wireless telecommunications site is not a preference location as listed in § 214-119A through C, that the applicant has adequately described the efforts and measures taken to pursue those preferences and why a higher documentation should evaluate the following factors:
 - (1) The planned equipment would cause unacceptable interference with the operation of other existing or planned equipment on an existing or approved tower, as documented by a qualified licensed engineer, and that the interference cannot be prevented or eliminated at a reasonable cost.
 - (2) The planned equipment cannot be accommodated on existing or approved towers due to structural deficiencies, as documented by a qualified licensed engineer, and that such deficiencies cannot be eliminated at a reasonable cost.
 - (3) The existing or planned equipment on an existing or approved tower would cause unacceptable interference with the equipment proposed by the applicant, as documented by a qualified licensed engineer, and that the interference cannot be

15. Editor's Note: See Ch. 104, Driveways.

prevented or eliminated as a reasonable cost.

- (4) Any restriction or limitation imposed by the FCC.
- C. Abandonment. A wireless telecommunications site not in use for 12 consecutive months shall be removed by the service facility owner. This removal shall occur within 90 days of the end of such twelve-month period. Upon removal, the site shall be restored to its previous appearance and, where appropriate, revegetated to blend with the surrounding area. An appropriate bond shall be submitted as surety.
- D. Expiration of permit. The approval of an application for special use permit shall be void and of no effect unless construction of the project commences within one year and is completed within two years from the date of the approval granted by the Commission. For purposes of this regulation, the term "construction" shall be defined as the installation of a permanent building foundation. The Commission may grant up to two six-month extensions of this period upon written request by the applicant. The Commission shall not approve any extension unless the development plan is brought into conformance with any relevant Zoning Regulations which have been amended subsequent to the original approval and, if the applicant fails to provide adequate evidence, that construction is able to begin within the extended time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing. Any appeals of such special use permit, site plan, inland wetlands or subdivision approval shall extend the aforementioned one-year period the length of such appeal. The Commission may, as a condition of approval of a special use permit, establish a time period such special use permit shall remain in effect.

ARTICLE XXIII
Age-Restricted Housing (ARH)
[Added 1-21-2003, effective 2-1-2003]

§ 214-125. Purpose.

It is the purpose of this article to allow for greater variety and flexibility in the development of housing types and to facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner while at the same time conserving important natural site features and permanently preserving open space, while at the same time providing for the housing needs of residents over the age of 55 as permitted under the Federal Fair Housing Act, 42 U.S.C. Section 3601 et seq. and Connecticut General Statutes § 46a-64b et seq.

§ 214-126. Procedure.

After a public hearing, the Planning Commission may grant a special use permit for the development of age-restricted housing (ARH) units.

§ 214-127. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AGE-RESTRICTED HOUSING (ARH) ô A development comprised of dwelling units for elderly occupants age 55 and older, who are able to maintain an independent lifestyle without the

help of additional support services, in detached, semi-detached, or attached, one- or one-and-a-half-story structures or any combination thereof.

OCCUPANCY ô No more than three residents may occupy a dwelling unit.

- A. All units shall be occupied by:
 - (1) At least one person who is 55 years of age or older.
 - (2) A spouse of an occupant pursuant to Subsection A(1) above.
 - (3) An occupant pursuant to Subsection A(2) above who survives his or her spouse.
 - (4) An occupant pursuant to Subsection A(2) above whose spouse has entered into a long-term care facility.
- B. In Subsection A(3) and (4) above, remaining spouses who remarry or cohabit are must meet all occupancy requirements.
- C. One child 21 years of age or older may reside with his or her parent(s).

§ 214-128. Application.

- A. The applicant shall submit a written application on the prescribed form containing all the information required hereafter, including the following materials:
 - (1) A development statement listing the development team, setting forth the development concept, including, in tabular form, the number of units, type, size (number of bedrooms, amount of living space, gross floor area), ground coverage and summary showing the area of residential development and common open space as percentage of the total area.
 - (2) A development site plan of the entire tract in accordance with the requirements of this section and §§ 214-101 and 214-102 and meeting, to the extent applicable, the requirements set forth for a definitive plan in the Somers Subdivision Regulations.¹⁶
 - (3) An architectural rendering of the site plans and typical structures, including floor plans and elevations.
 - (4) A traffic study of the area as it may be affected by the proposed development, including present and anticipated traffic counts, flow patterns, and capacity analysis of present and proposed intersections and entrances serving the development.
 - (5) An engineering report regarding the adequacy of sewage disposal, water supply and stormwater drainage as the proposed design relates to existing utilities to the Town.
 - (6) A copy of the sewage disposal plans and application to the State Department of Health or Department of Environmental Protection.
- B. Said application shall contain sufficient information so that the Planning Commission can determine the applicability of said application for the following items:

16. Editor's Note: See Ch. 213, Subdivision of Land.

- (1) Consistency with the Somers Town Plan of Conservation and Development;
 - (2) Preservation and protection of the character of the Town and especially the immediate neighborhood, giving due consideration to such features as public safety, including traffic control and traffic impact upon surrounding roads; development of adequate recreational facilities for the use of the residents of said proposal; adequate fire protection; public health, including sewerage disposal, drainage and water supply; and the compatibility of the size, location, architecture, and landscaping of said project with the adjacent neighborhood and the Town;
 - (3) Minimizing potential adverse environmental impacts upon the Town;
 - (4) The application is likely to result in a financially stable, soundly and attractively constructed and well managed and maintained project; and
 - (5) Conformity to the specific provisions of the design guidelines of this section.
- C. Said permit shall not be issued unless the Planning Commission affirmatively determines that each of the above listed criteria is met by said applicant.
- D. The ARH applicant shall pay an application fee which is computed as the total of the following which are applicable to such application: [Added 10-3-2005, effective 10-6-2005]
- (1) Base application fee: \$200.
 - (2) Eighty-five dollars for every 100 feet, or any part thereof, of new roadway proposed to be constructed as part of the ARH project and intended to be deeded to the Town as public right-of-way.
 - (3) Fifty-five dollars for every 100 feet, or any part thereof, of existing or previously approved public rights-of-way for Town or state roadways abutted by the boundaries of the land contained in the proposed ARH project.
 - (4) The following will be added according to unit count:
 - (a) For each of the first 25 units: \$100.
 - (b) For each of the 26th through 50th units: \$75.
 - (c) For each new unit over the 50th lot to be created by the ARH project filed with the Planning Commission: \$50.
 - (5) Applicable State of Connecticut fee pursuant to Section 22a-27j of the Connecticut General State Statutes.
 - (6) Fifty dollars per building for sedimentation and erosion control measures review.
 - (7) All applicable fees must be paid in full at the time the ARH application is filed with the Planning Commission.

§ 214-129. Use regulations.

The following uses shall be permitted in an ARH:

- A. Up to a story-and-one-half one-family detached dwellings = one unit;
- B. Up to a story-and-one-half two-family detached dwellings = two units;
- C. Up to a story-and-one-half multiple dwellings not exceeding four units per building = four units;
- D. Recreational uses and community facilities such as parks, gardens, swimming pools, tennis courts, clubhouses and community buildings;
- E. Accessory uses customarily incidental and subordinate to the principal uses listed above, but expressly excluding any commercial or retail enterprises or home occupations.

§ 214-130. Dimensional regulations.

Property for ARH use shall comply with the following dimensional requirements:

- A. Minimum parcel size. The total parcel shall have a minimum area of not less than 20 acres. A minimum area of 10 acres of the total area required for zoning compliance shall consist of buildable area as defined in § 214-4, Definitions.
- B. Minimum parcel frontage. The total parcel shall have a minimum frontage on an approved public way of at least 100 feet. Frontage need only be met on one road. There shall be no frontage requirements within the ARH.
- C. Front, side and rear yards. The minimum front yard (setback), side yard and rear yard requirements shall be 80 feet and shall pertain only to the periphery of the ARH.
- D. Buffer area. A landscaped buffer strip not less than 30 feet wide, as described in Article IX of the Somers Zoning Regulations, shall be provided along the perimeter of the property. The buffer area shall be counted as part of the front, side and rear yards. Additional buffering may be required in environmentally sensitive areas at the discretion of the Planning Commission. The Commission may modify or waive the buffering requirements where variations in topography, natural features, or compatible land uses negate the need for such a buffer.

§ 214-131. Density regulations.

The maximum number of dwelling units permitted within any ARH shall be determined by the Planning Commission to assure compliance with the purpose and intent of these ARH regulations, and in any event shall not exceed four dwelling units per acre of buildable land. The maximum number of units permitted per development shall equal the buildable area of the parcel multiplied by four. The Commission may allow the units to be concentrated on a small area of the site or spread over the entire site.

§ 214-132. Building requirements.

- A. Building character. The ARH shall be an architecturally integrated development. An architectural theme shall be carried out by the use of common building materials, colors, exterior detailing, bulk and/or roof lines. Rigidity in design shall be avoided. Design characteristics shall be stated in the development application and shall include, but not be

limited to, building materials, architectural design, and street furniture, and shall require Planning Commission approval.

- B. Building location. Building location and orientation shall reflect:
- (1) Relationship to the street line and to other buildings in the development if in close proximity, in order to protect privacy and create visual coherence;
 - (2) Views, solar access, and access to common open space, in order to enhance occupant's scale and identity;
 - (3) Organization of large developments into recognizable subareas in order to provide scale and identity;
 - (4) Avoidance of major topographic change and destruction of significant natural site features, including removal of native trees and vegetation in order to preserve and protect the environment;
 - (5) Reduction of visual intrusion into abutting properties in order to protect existing character. To the extent practicable, the multifamily units of the ARH shall be developed more towards the interior rather than the periphery of the tract so that the one-family and two-family detached residences, if any, border adjacent properties, act as buffer between the development and preexisting one-family neighborhoods.
- C. Maximum building height. The maximum height of structures shall be 1.5 story and 35 feet above the ground.
- D. Maximum number of bedrooms. The maximum number of bedrooms or rooms used primarily for sleeping purposes per dwelling unit shall be three.
- E. Minimum floor area. The minimum floor area for any one dwelling unit shall be 900 square feet.
- F. ADA requirements. All exterior facilities shall comply with the current ADA requirements.

§ 214-133. Utilities.

- A. Each dwelling in an ARH shall be provided with access, drainage and utilities that are functionally equivalent to that provided under the Somers' Subdivision Regulations.¹⁷ All utilities shall be placed underground.
- B. All structures that require plumbing shall be served by a sewage disposal system and a public water supply. All sewage disposal systems require approval from the Town Sanitarian and the State Health Department and/or the Department of Environmental Protection.
- C. All lighting and illumination in and around the buildings and in the public areas shall at a minimum meet IESNA standards.

§ 214-134. Parking and circulation requirements.

17. Editor's Note: See Ch. 213, Subdivision of Land.

- A. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation (such as sidewalks, pathways, and walkways), roadways, driveways and parking.
- B. Vehicular access to the ARH shall be provided from an existing public right-of-way, dedicated and accepted by the Town or state, which in the opinion of the Planning Commission is adequate to service the proposed development. As a matter of public safety, an alternate emergency access may be required.
- C. All roads within the ARH shall be privately owned and maintained and shall be designed with sufficient width, suitable grade and adequate construction to safely provide for the needs of vehicular traffic generated by the development. All roads shall be designed and constructed according to the requirements of the Somers Subdivision Regulations¹⁸ or as otherwise modified by the Planning Commission.
- D. Garages or off-street parking spaces, or a combination thereof, shall be provided for all occupants, employees, and visitors, and shall be not less than 2.25 spaces per dwelling unit, one of which must be in a garage.
- E. The use of exterior stairs and raised curbing in areas where there is pedestrian activity shall be minimized. Single-riser steps or stairs and ramp stairways, as well as individual wheel stops in or around parking lots, shall be prohibited. When a barrier is needed to separate vehicles from islands, walks, signs, etc., other devices shall be used as approved by the Planning Commission.

§ 214-135. Landscaping requirements.

- A. A coordinated landscape design for the entire project area, including landscaping of structures, parking areas, driveways, and walkways, and buffer strips, shall be submitted for approval by the Planning Commission.
- B. Wherever possible, existing trees and vegetative cover shall be conserved and integrated into the landscape design.
- C. Proper maintenance of the landscaping, including the buffer strip, shall be the responsibility of the Association, and shall be a condition of conformance with the Zoning Regulations.

§ 214-136. Common open space requirements.

- A. All land within the ARH which is not covered by buildings, roads, driveways, parking areas or other development, or which is not set aside as private yards, patios or gardens for the residents, shall be common open space. The area of the common open space shall equal at least 30% of the total buildable area of the ARH tract. Such land shall have a shape, dimension, character, and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by all the residents of the development. Land used for septic system(s) may be part of the open space calculation.
- B. Suitable and usable outdoor recreational area or areas shall be provided for the use of

18. Editor's Note: See Ch. 213, Subdivision of Land.

tenants. At least 2,000 square feet per dwelling unit must be usable open space for active and passive recreation. Such space shall be defined to include land for community gardens, hiking/jogging paths, tennis courts or similar facilities.

- C. Subdivision of common open land or its use for other than recreation, conservation, or agriculture, except for easements for underground utilities, shall be prohibited.
- D. Provision shall be made so that the common open space shall be owned in common and readily accessible to the owners and residents of all units in the development, or by a membership corporation, trust or association whose members are the owners and residents of the units. In all cases, the common open space shall be subject to a perpetual restriction running to and enforceable by the Town as a third-party beneficiary, which shall be recorded in the Somers Land Records. Such restriction shall be in such form and substance as the Planning Commission shall prescribe and may contain such additional restrictions on development and the use of common open space as the Commission may deem appropriate. Any proposed documents drafted in accordance with the section shall be submitted to the Commission as part of the application and shall be reviewed by the Town Counsel.

§ 214-137. Community association.

An owners' association shall be established, requiring membership of each lot or unit owner in the ARH. The association shall be responsible for the permanent maintenance of water, sewage, recreational and infrastructure facilities. An association agreement or covenant shall be submitted with the application guaranteeing the continuing maintenance of such common utilities, land and facilities by assessing each unit a share of maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Commission as part of the permit and shall comply with the provisions of Connecticut General Statutes § 47-200 et seq.

§ 214-138. Project identification.

- A. As a condition of its approval, the Planning Commission may permit a sign showing the project name to be permanently affixed at each entrance to the development. Each sign shall be of a size and design to be approved by the Planning Commission, provided that no such sign shall exceed 20 square feet in size. The design of the sign shall be compatible with the character of the development.
- B. All streets shall be posted with standard street signs and all street names shall be approved by the Fire Chief and Assessor. Dwelling units shall be assigned street numbers by the Assessor's office.

§ 214-139. Expiration of special use permit.

A special use permit issued for an ARH shall expire one year following its issuance if construction has not actually commenced. All work in connection with a special use permit issued for an ARH shall be completed within five years of said approval. The Planning Commission, upon written request and for good cause shown, may extend either or both of these time periods one or more times, provided the total extension does not exceed the original time period. Site preparation alone shall not be deemed to be the actual commencement of

construction wider this section. As a condition of its approval, the Commission may establish time limits for any development or phases thereof.

§ 214-140. Security.

Before any building permits are issued, the developer shall be required to provide the Town with performance security in a form and amount satisfactory to the Planning Commission, the Town Engineer, and Town Counsel to guarantee the construction of required public improvements. The initial amount of the bond shall be no less than \$10,000. Reductions in the amount of the original bond may be considered by the Commission for work completed; however, the bond shall not be reduced below the initial \$10,000 amount.

ARTICLE XXIV
Open Space Subdivision Developments
[Added 4-6-2009, effective 4-9-2009]

§ 214-141. Compliance with health and safety codes; bulk requirements; number of lots.

- A. Open space subdivisions shall be permitted in accordance with the Subdivision Regulations in the A and A-1 Zones and shall comply with all public health and safety codes, and the following zoning bulk requirements:
 - (1) Minimum lot area: 30,000 square feet.
 - (2) Minimum lot frontage: 125 feet.
- B. On lots that would be located in areas of the subdivision where the soils are considered "areas of special concern" as defined by the Connecticut Public Health Code Section 19-13-B103d(e) as amended, the Commission shall not allow the reduction in lot size or frontage.
- C. Number of lots.
 - (1) The maximum number of lots allowed in an open space subdivision shall be determined by subtracting the following from the total gross area of the proposed project parcel:
 - (a) Wetlands.
 - (b) Watercourses.
 - (c) Slopes 25% or greater.
 - (d) Flood-prone areas.
 - (e) Ledge outcroppings.
 - (f) Ten percent of the gross acreage for roads and easements.
 - (2) The remaining net area of the parcel shall be divided by 40,000 square feet. The result shall be the maximum number of lots allowed in an open space subdivision, provided the lots comply with the Somers Subdivision Regulations and the public health code. It is understood that the maximum number of lots is not an entitlement or right, but a

guide that will be a function of the unique characteristics and buildability of each site.

- (3) In an effort to continue to find ways to provide for affordable housing in the Town of Somers and in accordance with the Town's Plan of Conservation and Development, the Planning Commission may review any open space subdivision and allow for the approval of one additional lot above the maximum number calculated above, provided the lot can meet the bulk requirements and the public health code. Under this circumstance, the extra lot shall be identified as an "affordable housing" lot and shall meet the requirements of § 214-103F(7) of these regulations.