SOMERS

Zoning Regulations

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SECTION 1 REGULATORY BASICS

1.1 AUTHORITY

The Zoning Commission of the Town of Somers has adopted and established the following Zoning Regulations for the Town of Somers, Connecticut in accordance with the provisions of Chapter 124 of the Connecticut General Statutes (CGS Section 8-1 et seq.), as may be amended.

1.2 PURPOSES

A. STATUTORY PURPOSES

In accordance with CGS Section 8-2, as may be amended, these Regulations are adopted to:

1. Protect the public health, safety, convenience and property values.
2. Lessen congestion in the streets;
3. Secure safety from fire, panic, flood and other dangers;
4. Promote health and the general welfare;
5. Provide adequate light and air;
6. Prevent the overcrowding of land;
7. Avoid undue concentration of population;
8. Facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements;
9. Conserve the value of buildings;
10. Encourage the most appropriate use of land throughout such municipality; and
11. Encourage the development of housing opportunities, including opportunities for multifamily dwellings, consistent with soil types, terrain and infrastructure capacity.

B. ADDITIONAL PURPOSES

In addition, these Regulations are intended to:

1. To prevent environmental damage and other dangers.
2. To preserve and protect the unique character of the Town of Somers.
3. To protect sites and features of historic and archaeological significance.
4. To conserve and protect existing and potential surface water and groundwater drinking supplies and other valuable natural resources.
5. To prevent unnecessary soil erosion and sedimentation.

1.3 ZONING MAP

A. ZONING MAP

1. In order to accomplish the purposes of these Regulations, the Town is divided into districts as enumerated within these Regulations and as shown on the most current Zoning Map(s) adopted by the Commission and on file in the office of the Somers Town Clerk.

2. Any such Zoning Map adopted by the Commission is hereby declared to be a part of these Regulations.

3. Any such Zoning Map and these Zoning Regulations are hereby declared to be the Comprehensive Zoning Plan of the Town of Somers.

B. INTERPRETATION OF DISTRICT BOUNDARIES

In the event of any uncertainty with respect to the boundaries of any districts shown on the Zoning Map, the following rules shall apply:

1. District boundary lines are intended to follow lot lines or center lines of streets, rights-of-way or watercourses, or to be parallel or perpendicular thereto at a distance determined by the use of the map scale thereon unless such district boundary lines are fixed by dimensions as shown on the Zoning Map.

2. For undivided property or where a district boundary divides a lot, the location of any such boundary shall be determined by the use of the map scale thereon, unless shown by dimensions on said Map.

3. Measurements shown to the intersection of two or more streets shall be deemed to be taken from the intersection of the centerlines of such streets.

4. Any interpretation of the Zoning Map as to zone boundaries or dimensions shall be made by the Commission.

1.4 APPLICATION OF REGULATIONS

A. USES PROHIBITED IF NOT PERMITTED

1. Any use not specifically identified in these Regulations as permitted in a zoning district (by Zoning Permit, by Site Plan, by Special Use Permit, or allowed without a permit) shall be deemed to be prohibited within such district.

2. Where the permissibility of a proposed use in a zoning district is uncertain, the Commission shall make the determination as to whether the proposed use is permitted or prohibited in that district and, if permitted, what form of approval is required.

B. MINIMUM REQUIREMENT

1. In their interpretation and application, the provisions of these Regulations shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and welfare unless the context clearly indicates that the provision is intended to be a maximum limitation.

2. In cases of uncertainty as to the proper application of any of the requirements of these Regulations to a particular lot because of its peculiar or irregular shape, the Commission shall determine how such Regulations shall be applied.

C. RELATIONSHIP TO OTHER REGULATIONS

1. These Regulations are not intended to impair or interfere with any duly adopted provisions of law or ordinance nor are these Regulations intended to interfere with or annul any easements, covenants or other agreement between parties.

2. Where these Regulations impose a greater restriction upon the use or dimensions of buildings or structures than are imposed or required by duly adopted provisions of law or ordinance or by applicable easements, covenants or agreements, the provisions of these Regulations shall control.

D. PERMIT 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 any approval or permit required by these Regulations has been issued.

1.5 COMPLIANCE WITH REGULATIONS

A. USE OF LAND OR BUILDINGS

No building, structure or land shall be used or occupied, in whole or in part, except in conformity with all applicable Sections of these Regulations.

B. CREATION OR ALTERATION OF BUILDING OR STRUCTURE

No building, structure or any part thereof shall be erected, moved or altered except in conformity with all applicable Sections of these Regulations.

C. REDUCTION OF LOT AREA OR DIMENSION

1. No lot shall be so reduced, divided, or created such that the area, width or other dimensions of the lot or any of its required yards or required open areas shall be less than prescribed by these Regulations.

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

D. EXCEPTIONS

1. Nothing in these Regulations shall be deemed to require any alteration in the plans, construction or designated use of a building, structure or premises for which:
   a. A zoning permit and building permit shall have been issued prior to the effective date of the relevant regulation provided that work is completed prior to expiration of the relevant zoning permit or building permit or other applicable timeframe.
   b. A site plan application, Special Use Permit application, or variance application shall have been received (statutory date of receipt) prior to the effective date of the relevant regulation and such application shall have been approved and:
      - Substantial construction shall have been commenced within one year of the date of such approval, and
      - That work is completed prior to expiration of any zoning permit or building permit or other applicable timeframe.

2. Nothing in these Regulations shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority.

1.6 ENFORCEMENT

1. The Zoning Enforcement Officer designated by the Zoning Commission shall administer and enforce these Regulations and may be assisted by such other persons as the Zoning Commission directs.

2. In the event that the Commission has not appointed or is otherwise without a Zoning Enforcement Officer, the Commission shalt appoint, on a temporary basis, an agent to administer and enforce these Regulations.

3. 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, 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:
   a. Section 8-12 of the Connecticut General Statues, as it may be amended from time to time,
   b. Town of Somers "Ordinance for Citations for Zoning Violations" (Chapter 96 – Article I) as it may be amended from time to time, and/or
   c. Town of Somers "Ordinance for Citation Appeals and Hearing Process" (Chapter 96 – Article II) as it may be amended from time to time.

1.7 SEVERABILITY / EFFECTIVE DATE

1. 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.

2. Zoning Regulations were originally adopted in Somers on May 12, 1945.

3. The effective date of this comprehensive revision of the Somers Zoning Regulations is New Month Date, Year.

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SECTION 2 WORDS AND TERMS

2.1 BASIC USAGE

A. RULES AND TERMS

1. In the construction, interpretation, application, and enforcement of these Regulations, the rules, terms, and definitions contained in this Section shall be observed and applied, except where the context clearly indicates otherwise.

2. The meaning of words or terms not defined in this Section shall be determined by the Commission after consulting one or more of the following:
    a. The State Building Code.
    b. The Connecticut General Statutes.
    c. The Illustrated Book of Development Definitions (Rutgers University, Center for Urban Policy Research (Piscataway, NJ).
    d. Black's Law Dictionary.
    e. A comprehensive general dictionary.

B. BASIC RULES

In the construction, interpretation, application, and enforcement of these Regulations and when not inconsistent with the context, the following rules shall apply:

1. Words used in the singular include the plural, and the plural the singular.

2. Words used in the present tense include the future tense.

3. Words which are specifically masculine or feminine shall be interpreted as interchangeable.

4. The word "shall" is mandatory and not discretionary.

5. The word "may" is permissive.

6. 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.

C. COMMON TERMS

In the construction, interpretation, application, use and enforcement of these Regulations, commonly used terms shall be interpreted as follows:

1. The word "parcel" includes the word "lot".

2. The words "zone", "zoning district", and "district" have the same meaning.

3. The phrase "used for" includes the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for", and vice versa.

4. The phrase "these Regulations" refers to the entire Zoning Regulations of the Town of Somers.

5. The word "Section" refers to a Section (all paragraphs starting with the same numbers) of these Regulations, unless otherwise specified.

6. The word "person" includes any individual, firm, partnership, corporation, association, organization or other legal entity.

7. The word " structure" includes the word " building".

8. The word "built" includes the words "erected", "constructed", "reconstructed", "altered", or "enlarged".

9. The "Town" means the Town of Somers, Connecticut.

10. The "State" means the State of Connecticut.

11. The "Commission" means the Zoning Commission of the Town of Somers, unless otherwise specified.

12. The phrase "Zoning Map" means the latest officially adopted Zoning Map of the Town of Somers.

2.2 DEFINITIONS

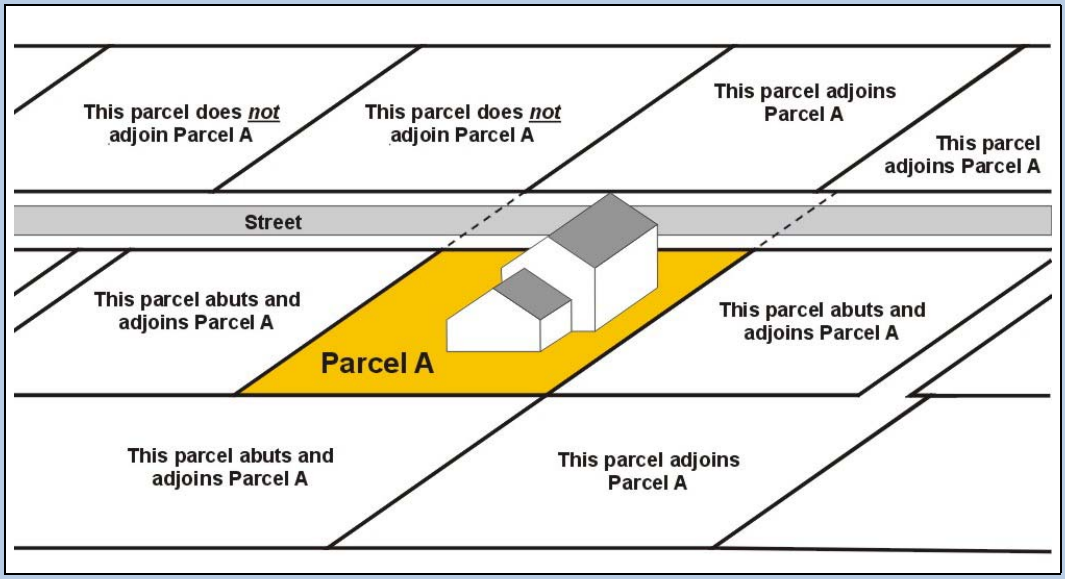
ACCESSORY BUILDING OR STRUCTURE – *See "Principal and Accessory"*.

ACCESSORY USE - *See "Principal and Accessory"*.

Abut and Related Terms

ABUT – Directly next to and sharing a property line with.

ADJOIN – Property that abuts, property that shares a property corner with, and/or property across a public or private street or right-of-way.



ADJOIN - *See "Abut and Related Terms"*.

Agriculture and Related Terms

AGRICULTURE – Based upon CGS 1-1(q) as may be amended:

- Cultivation of the soil,
- Dairying,
- Forestry,
- Raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish;
- The operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations;
- the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, Including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale.
- Water harvesting.

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

BARN – An agricultural building where hay, tools and equipment are kept and livestock may be sheltered.

STABLE - An agricultural building in which horses are sheltered.

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. The term “farm” includes farm buildings, and buildings accessory thereto, nurseries, orchards, ranges, greenhouses, hoophouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities.

LIVESTOCK –Domestic animals raised for use and/or sale including horses, cows, goats and sheep.

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

AREA OF SPECIAL FLOOD HAZARD - *See "Flood-Related Terms" in Section 5.1 of these Regulations.*

BARN - *See "Agriculture and Related Terms*."

BASE FLOOD - *See "Flood-Related Terms" in Section 5.1 of these Regulations*.

BASE FLOOD ELEVATION (BFE) - *See "Flood-Related Terms" in Section 5.1 of these Regulations*.

BASEMENT - *See "Story and Related Terms*." *Also see "Flood-Related Terms" in Section 5.1 of these Regulations*.

BED-AND-BREAKFAST - 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.

Boarding House and Related Terms

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

ROOMING HOUSE - A building in which rooms are offered or provided for residential occupancy for compensation.

BUFFER - *See "Landscaping-Related Terms*."

BUFFER AREA - *See "Landscaping-Related Terms*."

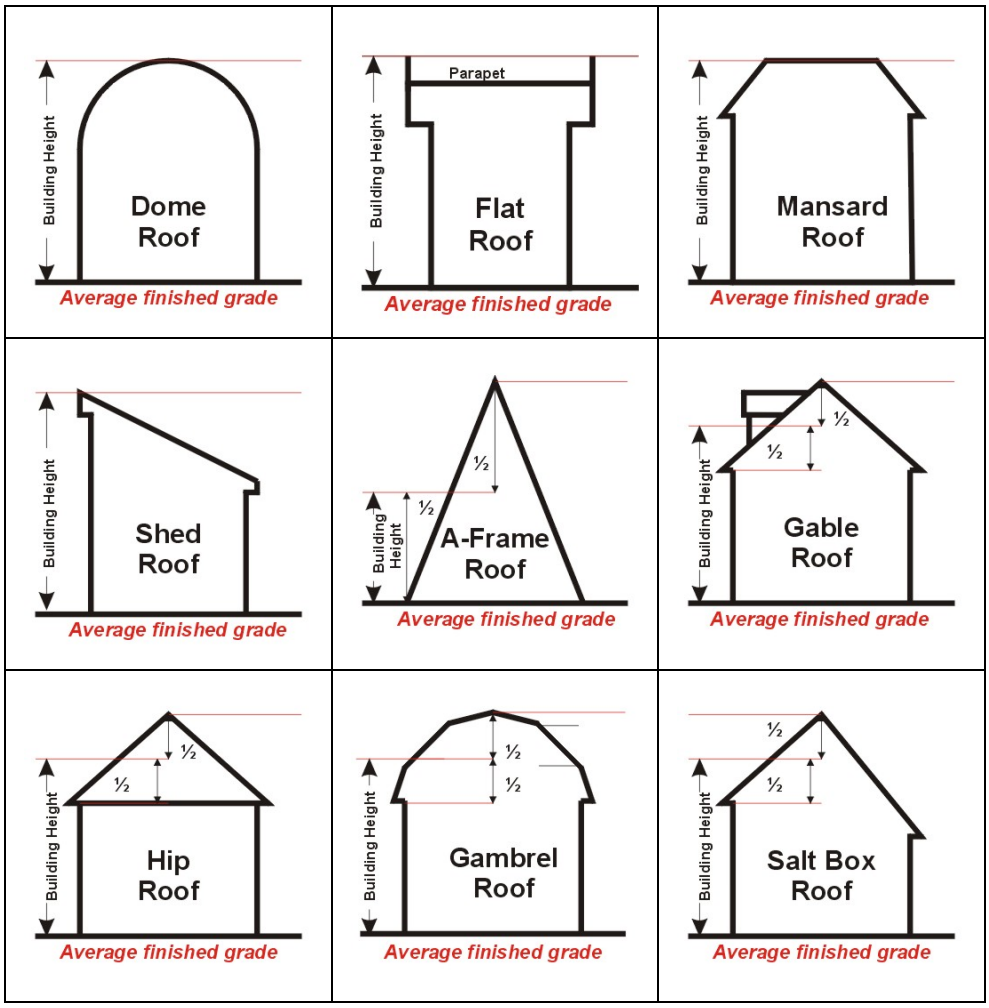
BUILDABLE AREA - The area of a parcel of land excluding inland wetlands, watercourses, one-hundred-year floodplain, or slopes in excess of twenty-five percent (25%).

BUILDING - 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 - *See "Lot Coverage" in "Lot-Related Terms."*

BUILDING HEIGHT - The vertical distance from the average finished grade around the foundation to:

- the highest point of the roof or parapet for a dome, flat, mansard, shed, or A-frame roof,
- the midpoint between the peak and eave for a gable, hip, gambrel, or salt box roof.



BUILDING LINE - *See "Yards versus Setbacks."*

Building Permit / Certificate of Occupancy

BUILDING PERMIT - A permit obtained from the Building Official before construction starts which authorizes construction in accordance with plans submitted. A zoning permit is required prior to the issuance of a building permit. *See "Zoning Permit" below.*

ZONING PERMIT - A permit issued by the Zoning Enforcement Officer before construction starts indicating that the plan(s) for a proposed land use, building, or structure conform to requirements of these Zoning Regulations. A zoning permit is required prior to the issuance of a building permit.

CERTIFICATE OF OCCUPANCY - A certificate obtained from the Building Official following building construction which grants the right to occupy a building or structure based on compliance with applicable laws. A certificate of zoning compliance is required prior to the issuance of a certificate of occupancy. *See "Certificate Of Zoning Compliance" below.*

CERTIFICATE OF ZONING COMPLIANCE - A certificate issued by the Zoning Enforcement Officer indicating that a proposed building, structure, land use or any extensions or alterations thereof conform to the requirements of these Zoning Regulations. A certificate of zoning compliance is required prior to the issuance of a certificate of occupancy and/or initiation of uses at the site.

BUILDING, PRINCIPAL - *See "Principal and Accessory"*.

BUSINESS UNIT OF OCCUPANCY - *See "Sign and Related Terms"*.

CELLAR - *See "Story and Related Terms*." *Also see "Flood-Related Terms" in Section 5.1 of these Regulations*.

CERTIFICATE OF OCCUPANCY - *See "Building Permit / Certificate of Occupancy."*

CERTIFICATE OF ZONING COMPLIANCE - *See "Building Permit / Certificate of Occupancy."*

CLUB - 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.

CGS – Connecticut General Statutes.

COMMERCIAL KENNEL - *See "Kennel-Related Terms*.

COMMISSION - The Zoning Commission of the Town of Somers.

CONSTRUCTION - 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.

CONVALESCENT HOME - 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."

DEVELOPMENT - 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-THROUGH - A business operation where goods and/or services are provided at a service window to patrons while in a motor vehicle.

DWELLING - A building used for residential occupancy except that this term shall not be deemed to include a hotel, motel, inn, convalescent or nursing home, or similar accommodation.

DWELLING UNIT - 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.

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

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

FAMILY – Any number of persons related by blood, adoption, marriage, civil union, and/or legal guardianship and up to three additional unrelated persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

FARM - *See "Agriculture And Related Terms*.

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

Flood-Related Terms

See Section 5.1 – Floodplain Overlay District for the definitions of terms applicable in such areas.

FLOOR, LOWEST - *See "Flood-Related Terms" in Section 5.1 of these Regulations*.

FRONTAGE - *See "Lot Frontage."*

GARAGE, PRIVATE - 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 - 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.

GOLF COURSE - A par-three or regulation golf course containing nine or more holes and expressly excluding miniature golf courses.

GREENHOUSE - 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 (GFA) - The sum of the horizontal area of all floors of a building, measured by exterior dimensions.

GROUNDWATER - All water beneath the surface of the ground found in the pore spaces between particles of soil.

GROUND COVER – *See "Landscaping-Related Terms*."

GROUP CARE FACILITY - 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 CGS Section 19a-490 and required to be licensed pursuant to the provisions of CGS Sections 19a-490 through 19a-503.

HAZARDOUS MATERIAL OR WASTE - 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. "Hazardous material or waste" includes, but is not limited to, the following:

- Any chemical, substance or CGS General Statutes Section 22a-448 or any regulations promulgated pursuant to CGS Sections 22a-448 through 22a-457.
- Any chemical, substance or material identified as a "hazardous chemical" in CGS Section 29-336 or any regulations promulgated under CGS Sections 29-336 through 29-341.
- Any chemical, substance or material identified as a "hazardous waste" in 42 U.S.C. Section 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. Section 6901 et seq.), as amended.

HEDGE - *See "Landscaping-Related Terms*."

HIGHWAY LINE - *See "Lot-Related Terms*.

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

HOME OCCUPATION – A business or activity carried on for personal gain within a dwelling or on a residential property.

HOTEL, INN, MOTEL or MOTOR COURT - 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 - 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 - 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-Related Terms

PERSONAL KENNEL –Dogs kept for personal use and enjoyment (including being bred for show or sports) under one ownership on a single premises when customary, subordinate, and incidental to a residence.

COMMERCIAL KENNEL – An operation or activity which boards or breeds dogs or cats as a business including, but not limited to, a veterinary hospital which boards dogs or cats for nonmedical purposes.

Landscaping-Related Terms

LANDSCAPED or LANDSCAPING – Treatment of an area with grass or ground cover and/or trees, shrubs, or other plant material.

BUFFER - A strip of land with natural vegetation or planted with shrubs and/or trees to provide visual or other screening. Such buffer may also include a berm, fence, or wall.

GROUND COVER – Plant material or other surface treatment (such as mulch, white gravel, or brick or stone paving).

HEDGE - A series of dense plants generally planted in a linear fashion intended to provide complete visual screening.

SCREENING - Natural or man-made materials used to visually screen a structure or land use from a road or from nearby property.

SCREENING, COMPLETE VISUAL - A type of screening which obscures the screened object year-round.

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

SCREENING FENCE or SCREENING WALL - A fence or wall used for complete visual screening.

LIVESTOCK - *See "Agriculture And Related Terms*."

Lot-Related Terms

LOT - A plot or parcel of land in the Town of Somers, all parts of which are in the same ownership, which is 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 and:

- which was created before the adoption of zoning regulations, or
- which, when created, was of at least sufficient size to meet the then-existing minimum zoning requirements for use, coverage and area.

LOT OF RECORD - 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) of the Code of Ordinances.

LOT, FRONT - A lot, other than a rear lot, fronting on a street.

LOT, CORNER - A lot having two adjoining sides facing different streets . *See "Lot Frontage" and "Yard Locations" for special requirements.*

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

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

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

LOT FRONTAGE - The footage required of a lot along a street as defined in these Regulations between side lot lines measured along the street line. On a corner lot, the minimum street frontage shall be provided on all streets.

Lot-Line Related Terms

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

FRONT LOT LINE - A lot line dividing the lot from the street or streets. *See "Street Line or Highway Line" below.*

REAR LOT LINE -The lot line which is generally opposite the front lot line except that a corner lot may not have a rear 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.

SIDE LOT LINE -A lot line which is not a front lot line or a rear lot line.

STREET LINE or HIGHWAY LINE - 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. *See "Front Lot Line" above.*

MANUFACTURED HOME - *See "Flood-Related Terms" in Section 5.1 of these Regulations*.

MANUFACTURED HOME PARK OR SUBDIVISION - *See "Flood-Related Terms" in Section 5.1 of these Regulations*.

MEAN SEA LEVEL - *See "Flood-Related Terms" in Section 5.1 of these Regulations*.

MOBILE HOME - *See "Section 5.1 – Floodplain Overlay District" for the definitions of terms applicable in such areas.*

MOBILE OFFICE - *See "Trailer-Related Terms."*

NEW CONSTRUCTION - *See "Flood-Related Terms" in Section 5.1 of these Regulations*.

Noise-Related Terms

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

DAYTIME HOURS - The hours between 7:00 AM and 9:00 PM, Monday through Saturday, and the hours between 9:00 AM and 9:00 PM on Sunday.

DECIBEL - A unit of measurement of the sound level.

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

EXCESSIVE NOISE - Any sound, the intensity of which exceeds the standards set forth in Section 7.11.F of these Regulations.

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

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

MOTOR VEHICLE - As “motor vehicle” is defined in CGS Section 14-1, as amended.

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

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

SOUND - 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 - 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 - 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 - 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 micronewtons (0.00002 newton) per square meter. The number is expressed in decibels (dB).

Non-Conforming versus Unlawful

NONCONFORMING BUILDING - A building which does not conform to one or more of the current requirements of these Regulations but such building either

- was built prior to the original effective date of these Regulations (May 12, 1945), or
- conformed to the then-existing zoning requirements when built.

NONCONFORMING LOT - A lot which does not conform to one or more of the current requirements of these Regulations but such lot either:

- was created prior to the original effective date of these Regulations (May 12, 1945), or
- conformed to the then-existing zoning requirements when created.

NONCONFORMING USE - A use of any land, building or structure which does not conform to one or more of the applicable requirements of these Regulations but:

- was created prior to the original effective date of these Regulations (May 12, 1945), or
- conformed to the then-existing zoning requirements when established.

UNLAWFUL BUILDING / LOT / USE - A building, lot, or use which does not conform to one or more of the current requirements of these Regulations and does not meet the requirements to be considered a non-conforming building, lot, or use.

NURSING HOME - *See "Convalescent Home."*

OPEN SPACE - Undeveloped land.

OWNER OF RECORD - 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 - 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 - An area used for parking motor vehicles exclusively, in which no gasoline or motor vehicle accessories are sold or no other business is conducted.

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

PERSONAL KENNEL - *See "Kennel-Related Terms*.

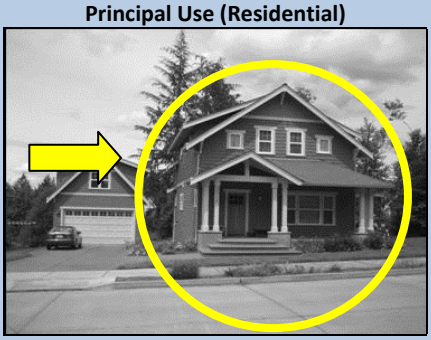
PLANNING COMMISSION - The Planning Commission of the Town of Somers.

Principal and Accessory

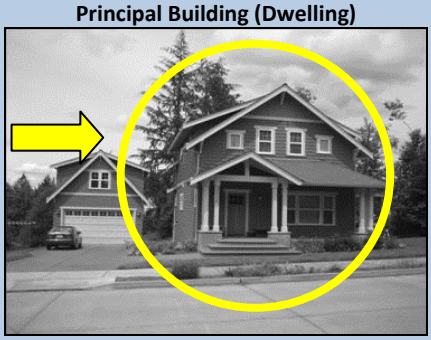
BUILDING, PRINCIPAL - A building in which is conducted the primary or principal use of the lot on which said building is situated.

USE, PRINCIPAL - 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.

Principal Use (Residential)



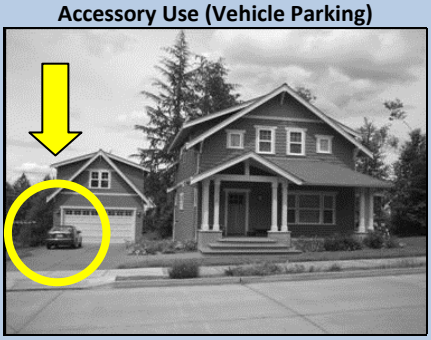
Principal Building (Dwelling)



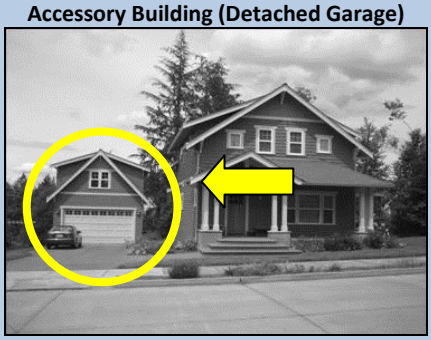
ACCESSORY BUILDING OR STRUCTURE - A supplemental building or structure, the use of which is subordinate or incidental to that of the principal building or structure and which is located on the same lot or a contiguous lot under the same ownership.

ACCESSORY USE - 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.

Accessory Use (Vehicle Parking)



Accessory Building (Detached Garage)



RECREATIONAL VEHICLE - 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. *Also see "Flood-Related Terms" in Section 5.1 of these Regulations*.

RESTAURANT - Space in a building kept, used, maintained, advertised and held out to the public to be a place where meals are regularly served. *Also see "Tea Room."*

ROOMING HOUSE - *See "Boarding House And-Related Terms*."

SCREENING - *See "Landscaping-Related Terms*."

Sign And Related Terms

SIGN - Any device for visual communication (including any structure or natural object such as a tree or rock) used to announce, advertise, identify or attract attention to any object, project, place, person, activity, institution, organization or business. 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 AREA – The area of the entire communication device, exclusive of the supports, unless such supports are also used to advertise.

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

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

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

SPECIAL USE - 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 - *See "Agriculture And Related Terms."*

START OF CONSTRUCTION - *See "Flood-Related Terms" in Section 5.1 of these Regulations*.

STORAGE TRAILER - *See "Trailer Related Terms."*

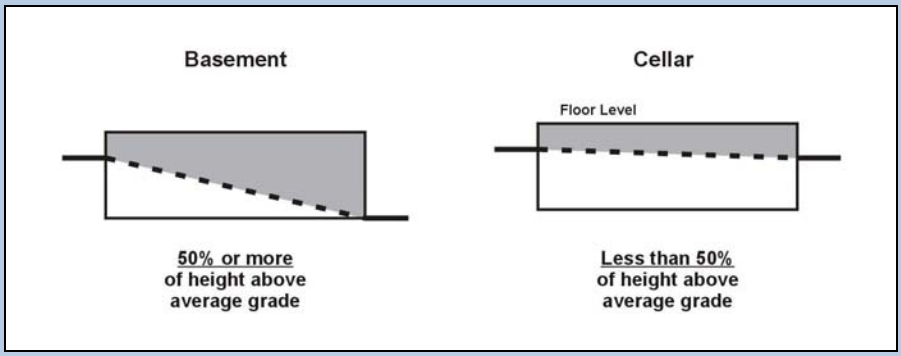
Story And Related Terms

STORY - That portion of a building (other than a cellar, a mezzanine, or a half-story) 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.

BASEMENT - A portion of a building partially below average finished grade but having fifty percent (50%) or more of its height (measured from finished floor elevation to finished floor elevation) above average finished grade. *Also see "Flood-Related Terms" in Section 5.1 of these Regulations*.

CELLAR - A portion of a building partially below average finished grade but having more than fifty percent (50%) of its height (measured from finished floor elevation to finished floor elevation) below average finished grade. *Also see "Flood-Related Terms" in Section 5.1 of these Regulations*.

HALF-STORY - That portion of a building underneath and/or within the roof framing where the finished living area is fifty percent (50%) or less of the area of the floor below.



STREET - 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 - *See "Lot-Related Terms*.

STRUCTURE - 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 - *See "Flood-Related Terms" in Section 5.1 of these Regulations*.

SUBSTANTIAL IMPROVEMENT - *See "Flood-Related Terms" in Section 5.1 of these Regulations*.

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

TEA ROOM – Space in a suitable and permanent building kept, used, maintained, advertised and held out to the public to be a place where a limited menu of food is served. *Also see "Restaurant."*

TOWN - The Town of Somers, Connecticut.

Trailer-Related Terms

TRAILER - 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.

STORAGE TRAILER - 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.

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

UNIT OF OCCUPANCY - *See "Business Unit Of Occupancy" in "Sign and Related Terms"*.

USE, PRINCIPAL - *See "Principal and Accessory"*.

VARIANCE - A modification of the requirements of these Regulations where such modification 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.

WATERCOURSE - As defined in CGS Section 22a-38, as may be amended.

> *"Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon this state or any portion thereof, ….*
>
> *Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (A) Evidence of scour or deposits of recent alluvium or detritus, (B) the presence of standing or flowing water for a duration longer than a particular storm incident, and (C) the presence of hydrophytic vegetation …*

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

WETLAND - As defined in CGS Section 22a-38, as may be amended.

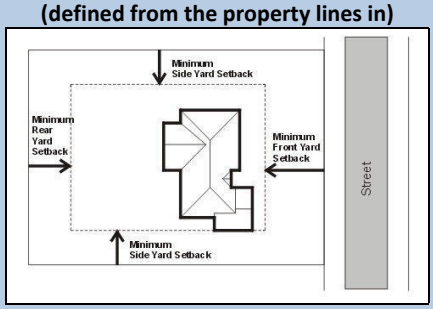
> *"Wetlands" means land, including submerged land, ... which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture …*

Yards Versus Setbacks

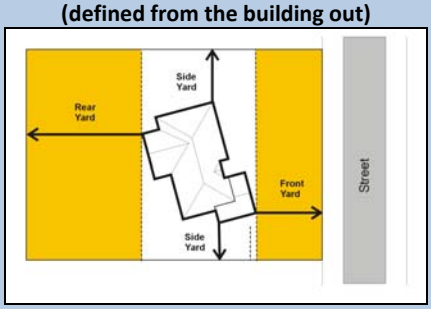
SETBACK - A distance perpendicular to a lot line determined by the minimum yard requirements of these Regulations, behind which buildings and structures may be legally erected.

BUILDING LINE - A line parallel to a street at a distance equal to the required front yard setback or at a greater or lesser distance when so indicated in these Regulations or otherwise legally established by the Town.

Setbacks
(defined from the property lines in)



Yards
(defined from the building out)



YARD - The area between the principal structure and a lot line. Any measurement shall be taken at right angle from the lot line to the nearest point of the structure.

YARD, FRONT –The area extending across the full width of a lot and lying between the front lot line and the principal structure on the same lot.

YARD, REAR - The area extending across the full width of a lot and lying between the rear lot line of the lot and the principal structure on the same lot.

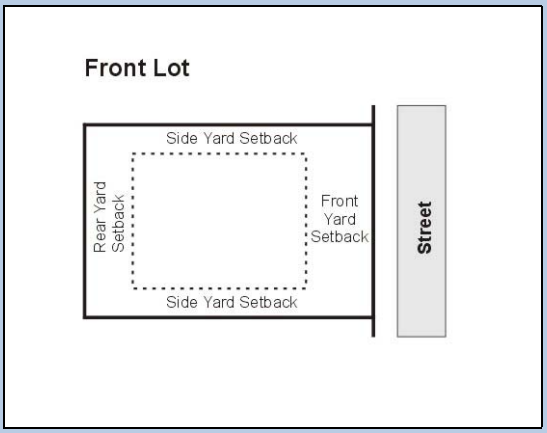
YARD, SIDE - The area parallel to a side lot line lying between the side line of the lot and the principal structure on the same lot. Any yard not a rear yard or a front yard shall be deemed a side yard.

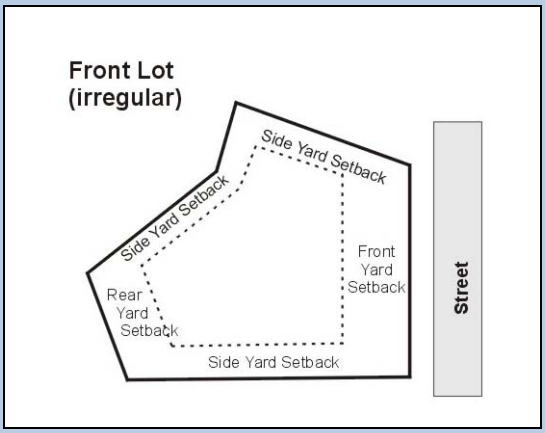
Yard Locations

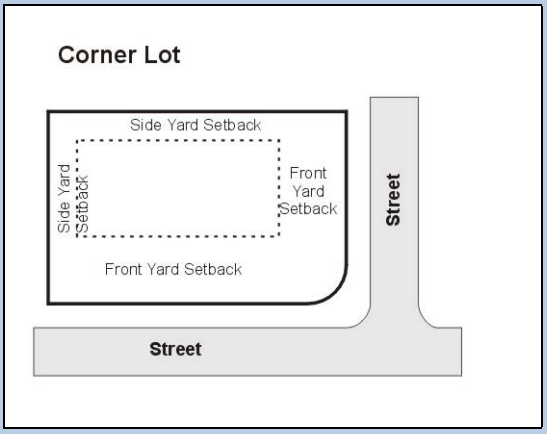
On a front lot with only one street frontage, the street line shall require a front yard setback, the lot line most opposite (rear lot line) shall require a rear yard setback and all other lot lines shall require side yard setbacks.

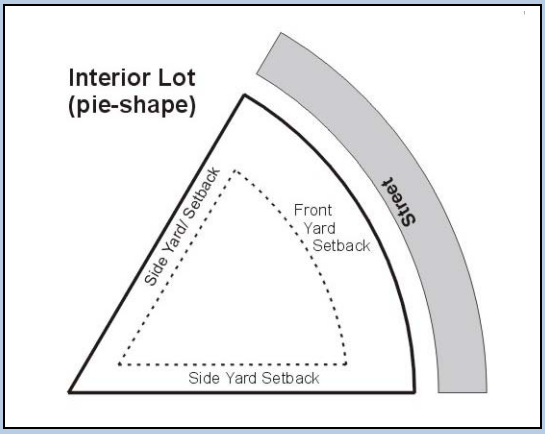
On a corner lot or a lot with multiple frontages, each street line shall require a front yard setback and all other lot lines shall require a side yard setback.

On a "pie-shaped" lot, the street line shall require a front yard setback and all other lot lines shall require a side yard setback.









ZONE - One of the different districts into which the Town of Somers has been divided for the purposes set forth in these Regulations.

ZONING PERMIT – *See "Building Permit / Certificate of Occupancy".*

SECTION 3 RESIDENTIAL DISTRICTS

3.1 PURPOSES

1. The Residential A and Residential A-1 zoning districts are intended to recognize and support the predominant rural and agricultural character of Somers and provide for residential use and development in these areas appropriate to the environmental characteristics of the land (such as soil types, terrain, and infrastructure capacity) and the character of the area.

2. The Residential A-2 zoning district is intended to recognize the smaller lot sizes in the centers of Somers and Somersville and provide for residential use and development in these areas appropriate to the environmental characteristics of the land (such as soil types, terrain, and infrastructure capacity) and the character of the area.

3. Certain non-residential uses may be allowed in the residential zoning districts when the Zoning Commission finds, based on information presented, that such uses will be appropriate for the proposed location in accordance with the standards contained in these Regulations.

Somers

Somersville

Residential

Agricultural

3.2 PRINCIPAL USES AND STRUCTURES

ZPNR	Permitted - Zoning Permit Not Required
ZP	Permitted With Zoning Permit (from Zoning Enforcement Officer)
SPA	Permitted With Site Plan Approval (from Zoning Commission)
SUP	Permitted With Special Use Permit Approval (from Zoning Commission)
x	Not Permitted In This District

A. Residential	Residential A	Residential A-1	Residential A-2
1. One single-family detached dwelling per lot except no lot shall be occupied for residential purposes unless it has the required frontage on a Town-approved or State-approved street	ZP	ZP	ZP
2. Two-family building provided there shall be at least 80,000 square feet of contiguous buildable area and at least 300 feet of frontage	x	ZP	ZP
3. Age-restricted housing subject to the requirements of Section 3.6 of these Regulations	x	SUP	SUP
4. Open Space Subdivision subject to the requirements of Section 3.7 of these Regulations and Section 213-62 of the Somers Subdivision Regulations	x	Approval By Planning Commission	Approval By Planning Commission
B. Open Space			
1. Open space	ZPNR	ZPNR	ZPNR
2. Parks and playgrounds	SUP	SUP	SUP
C. Agricultural			
1. Farm / agriculture	ZPNR	ZPNR	ZPNR
2. Water harvesting for commercial purposes	SUP	SUP	SUP
3. Commercial horse farm subject to the requirements of Section 6.2.B of these Regulations	x	SUP	x
4. Greenhouse operations and nurseries provided that any on-premises sales are limited to products raised on the premises	x	SUP	x
5. Winery (including accessory tasting room) on a parcel of 10 acres or more where ingredient(s) are grown	x	SUP	x
6. Brewery / distillery (including accessory tasting room) on the property where ingredient(s) are grown	x	SUP	x

D. Institutional	Residential A	Residential A-1	Residential A-2
1. Convalescent or nursing home or home for the aged	x	SUP	SUP
2. Place of worship open to the public	SUP	SUP	SUP
3. Nonprofit institution	x	SUP	SUP
4. Private museum	x	SUP	SUP
5. Governmental uses and public service uses such as firehouse, library, etc.	SUP	SUP	SUP
6. Public or private school (not including business or trade schools), nursery, dancing school or riding school, conservatory for music or other arts	x	SUP	SUP
E. Recreational			
1. Golf course or country club	x	SUP	x
2. Public or quasi-public camp provided a minimum boundary buffer of 50 feet shall be provided to camping areas	x	SUP	x
3. Membership club, outdoor recreation provided the property shall contain at least 400 square feet of land per member	x	SUP	x
4. Commercial swimming club	x	SUP	x
F. Utility / Infrastructure			
1. Public utility lines, substations and buildings in accordance with Section 3.5 of these Regulations	SUP	SUP	SUP
2. Wireless telecommunications in accordance with Section 8.3 of these Regulations	x	See Section 8.4	See Section 8.4
G. Other			
1. Cemetery provided a minimum boundary buffer of 20 feet shall be provided to burial plots.	x	SUP	SUP
2. Adaptive re-use of an existing structure on a State highway in accordance with Section 3.9 of these Regulations	x	SUP	SUP

3.3 ACCESSORY USES AND STRUCTURES

A. ACCESSORY PARKING OF VEHICLES

1. On a residential property, parking or storage of motor vehicles is allowed as follows:

	Outside	Inside
a. Registered Passenger-Type Vehicle (including antique, dealer, combinations, etc.)	Permitted	Permitted
b. Registered Commercial-Type Vehicle	Outside storage requires approval of Special Use Permit (from Zoning Commission)	Inside storage of one vehicle per lot is permitted provided vehicle is less than 10,000 pounds gross vehicle weight rating
c. Farm Vehicles On A Farm	Permitted but such vehicles shall not be kept in front of any residence or within the front yard setback.	No Limit
d. Unregistered Vehicle	Limited to two (2) such vehicles except that storage of one additional vehicle may be allowed for 30 days when: o Such vehicle is for sale, o Prior notification is given to the ZEO of the dates of such storage, and o Such storage does not recur for another six (6) months.	Permitted
e. Trailers, Camping Trailers, Recreational Vehicles, Boats, And The Like	Storage in the rear or side yard provided that: o No unit shall be used for sleeping, living, cooking or for carrying on a business in any district except as provided elsewhere in these Regulations. o Screening shall be provided for any such unit, when stored, to substantially reduce the visibility of the unit from the street and from nearby properties.	Permitted

B. GENERAL PROVISIONS FOR ACCESSORY USES / STRUCTURES

Accessory uses, buildings, and 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 as allowed by Section 7.1 of these Regulations.

1. Accessory buildings shall not be located in the front yard of any lot unless located in the rear half of the lot.

2. Accessory buildings less than 200 square feet in area and less than 10 feet in height may be located to within 10 feet of side or rear lot lines when located in the rear half of any lot and when located at least fifty feet (50') from a principal residence on an abutting property.

3. A barn, stable or garage may be erected to the same height limits as a principal building.

4. 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 may be specifically provided elsewhere in these Regulations.

5. Greenhouses as accessory buildings:
   a. On a residential lot, are limited to one structure not exceeding 200 square feet in area.
   b. On a farm, are not limited as to number or size.

6. Accessory buildings housing farm animals shall be located as follows:
   a. Horses and ponies - sited in accordance with Section 6.2.
   b. Hens - at least 100 feet from any lot line and not located between the house and the street.
   c. Other farm animals - at least 100 feet from a street line and at least 200 feet from side or rear lot lines.

7. Accessory buildings on a farm for other than housing farm animals shall be at least 100 feet from all property lines.

8. 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.

9. Any accessory building or structure with a footprint larger than the footprint of the principal building on the property shall:
   a. Meet the setbacks for a principal building, and
   b. Obtain a Special Use Permit from the Commission structure unless it is a barn or other agricultural building on an active farm.

C. PROVISIONS FOR SPECIFIC ACCESSORY USES / STRUCTURES

ZPNR	Permitted - Zoning Permit Not Required
ZP	Permitted With Zoning Permit (from Zoning Enforcement Officer)
SPA	Permitted With Site Plan Approval (from Zoning Commission)
SUP	Permitted With Special Use Permit Approval (from Zoning Commission)
X	Not Permitted In This District

1. Parking / Storage Related	**Residential A**	**Residential A-1**	**Residential A-2**
a. Private garage for motor vehicles	**ZP**	**ZP**	**ZP**
b. Noncommercial greenhouse, storage shed or boathouse.	**x**	**ZP**	**ZP**
c. One temporary storage structure up to 8'x8'x16' for up to 30 days in any calendar year when located on the driveway.	**x**	**ZPNR**	**ZPNR**
2. Home-Based Business Related			
a. Home office in accordance with Section 3.5.A of these Regulations	**ZPNR**	**ZPNR**	**ZPNR**
b. Minor home occupation in accordance with Section 3.5.B of these Regulations	**ZPNR**	**ZPNR**	**ZPNR**
c. Tea room in accordance with Section 3.5.C of these Regulations	**x**	**SUP**	**x**
d. Bed-and-breakfast in accordance with Section 3.5.D of these Regulations	**x**	**SUP**	**SUP**
e. Professional office in accordance with Section 3.5.E of these Regulations	**x**	**SUP**	**SUP**
f. Group day care home in accordance with Section 3.5.F of these Regulations	**x**	**SUP**	**SUP**
3. Recreation-Related Facilities			
a. Noncommercial swimming pool or tennis court provided it complies with yard setbacks for accessory structures	**ZP**	**ZP**	**ZP**

4. Animal-Related	Residential A	Residential A-1	Residential A-2
a. Personal kennel	ZPNR	ZPNR	ZPNR
b. Commercial kennel	x	SUP	x
c. Keeping of up to six (6) hens (no roosters)	ZP	ZP	ZP
d. Horses and ponies for pleasure only in accordance with Section 6.2.A of these Regulations	ZPNR	ZPNR	ZPNR
e. Horses and ponies for commercial purposes in accordance with Section 6.2.B of these Regulations	x	ZPNR	ZPNR
5. Agriculture-Related			
a. Livestock on a farm when kept in accordance with generally accepted agricultural practices as determined by the Connecticut Department of Agriculture	ZPNR	ZPNR	ZPNR
b. Roadside stand for sale of agricultural produce provided at least four parking spaces are available	x	ZP	ZP
c. Building housing animals other than horses and ponies in accordance with Section 3.3.B.8 .	ZP	ZP	ZP
d. Manure storage in accordance with generally accepted agricultural practices as follows: • Up to two cubic yards (2 CY) • Between 2 CY and 16 CY provided such material shall be stored at least 100 feet from any property line • If more than 16 CY or if between 2 CY and 16 CY and stored less than 100 feet from any property line	ZPNR ZPNR SUP	ZPNR ZPNR SUP	ZPNR ZPNR SUP
e. A building or dormitory on a farm to house farm workers at an active farm, provided: i. Such farm employs at least six workers at any given time during the year, including seasonal or otherwise. ii. The number of workers housed shall not exceed two workers per cultivated acre and such cultivated acreage must be within the Town of Somers and owned by the applicant. iii. Before construction or use of any such facility, adequate documentation shall be submitted to demonstrate that the above criteria are met and will be maintained.	x	ZP	ZP
f. Building(s) on a farm for storing and/or processing of agricultural products produced on the premises	x	ZP	ZP
g. Building(s) on a farm for storage and repair of motor vehicles and/or equipment for operation of such farm.	x	ZP	ZP

6. Residential-Related	Residential A	Residential A-1	Residential A-2
a. Accessory apartment in accordance with Section 3.8 of these Regulations	X	ZP	ZP
b. Use of an existing dwelling as a boarding house for up to three boarders or roomers provided the dwelling shall be occupied by the owner as his or her principal residence during any such rooming or boarding occupancy.	X	ZPNR	ZPNR

7. Other	Residential A	Residential A-1	Residential A-2
a. Satellite receivers and antennas (less than 1 meter in diameter)	X	ZPNR	ZPNR
b. Mobile homes for emergency housing or storage for up to 6 months necessitated by natural disaster or similar occurrence	X	ZP	ZP
c. Temporary trailer in accordance with Section 6.3.A of these Regulations	X	See Section 6.3.A	See Section 6.3.A
d. School bus shelters in accordance with Section 6.3.B of these Regulations	X	ZP	ZP
e. Non-profit events in accordance with Section 6.3.C of these Regulations	X	ZP	ZP
f. Special events for commercial operations in accordance with Section 6.3.D of these Regulations	X	SUP	SUP
g. Outdoor wood-burning furnaces in accordance with Section 6.6 of these Regulations	SUP	SUP	SUP
h. Antenna structures operated by licensed amateur radio operators: i. When not located in the front yard, ii. If located in the front yard.	 ZP SUP	 ZP SUP	 ZP SUP

3.4 AREA, YARD AND BULK REGULATIONS

Provisions may be different in an Open Space Subdivision approved in accordance with Section 3.7 of the Zoning Regulations and Section 213-62 of the Somers Subdivision Regulations.

A. Density	Residential A	Residential A-1	Residential A-2
1. Maximum Density (lots per acre of buildable area on the parcel)	0.70	0.70	0.70
B. Lot Area / Frontage			
1. Minimum Lot Area (Square Feet)	40,000	40,000	20,000 (sewer) 40,000 (septic)
2. Minimum Contiguous Buildable Area (Square Feet)	40,000	40,000	20,000
3. Minimum Lot Frontage (Feet)	175	175	125
C. Setbacks – Buildings / Structures			
1. Minimum Front Setback (Feet)			
a. Principal Structure	50	50	50
b. Accessory Structure greater than 200 SF (but not permitted in front yard unless in rear half of lot)	50	50	50
c. Accessory Structure up to 200 SF (but not permitted in front yard unless in rear half of lot)	50	50	50
2. Minimum Side Setback (Feet)			
a. Principal Structure	25	25	15
b. Accessory Structure greater than 200 SF	25	25	15
c. Accessory Structure up to 200 SF	25	25	10
3. Minimum Rear Setback (Feet)			
a. Principal Structure	40	40	40
b. Accessory Structure greater than 200 SF	25	25	25
c. Accessory Structure up to 200 SF	25	25	10
D. Setbacks – Parking Area			
1. Minimum Side Setback (Feet)	10	10	5
2. Minimum Rear Setback (Feet)	10	10	10
E. Building Height			
1. Maximum Height - Primary Building	35 feet 2.5 stories	35 feet 2.5 stories	35 feet 2.5 stories
2. Maximum Height - Accessory Building	20 feet 2.0 stories	20 feet 2.0 stories	20 feet 1.5 stories
F. Lot Coverage			
1. Maximum Lot Coverage	25%	25%	25%

3.5 HOME OCCUPATION

A. HOME OFFICE

1. The use by the occupant(s) of a portion of the interior living space of a dwelling for a home-based office utilizing only customary office equipment provided that:
   a. The use does not change the residential character of the dwelling in any visible manner.
   b. Not more than 20% of the floor area of the building is used for the home office.
   c. No non-resident is employed in the office and no client visits occur.

B. MINOR HOME OCCUPATION

1. A home occupation carried on entirely within the dwelling (i.e., not within a garage or outbuilding) by one or more residents thereof and utilizing only customary home equipment, provided that:
   a. The use is clearly incidental and secondary to the use of the building for dwelling purposes.
   b. Not more than 25% of the floor area of the building shall be used in the conduct of the home occupation.
   c. No more than one non-resident is employed on the premises for that purpose.
   d. No more than one commercial-type vehicle shall be used in connection with the minor home occupation.
   e. The use does not change the residential character of the dwelling in any visible manner.
   f. The use does not create objectionable noise, odor, vibrations or unsightly conditions noticeable off the premises.
   g. The use does not create interference with radio and television reception in the vicinity.
   h. The use does not create a health or safety hazard.
   i. No retail sales are carried on at the premises.
   j. No personal physical service of any kind is performed.
   k. No external alterations or construction features not customarily found in a home are required.

2. Antique shops, barbershops and beauty shops shall not be permitted as minor home occupations.

3. A family day care home (1-6 persons) operated in accordance with State law shall be considered a minor home occupation.

C. TEA ROOM

1. Where allowed by these Regulations, the Commission may grant a Special Use Permit for a tea room operated by the resident owner as an accessory use to the residential dwelling provided that such use shall not occupy more than 25 percent of the total floor area of the building.

2. Such use may have up to two non-resident employees.

3. Adequate off-street parking shall be provided for the use and the Commission shall review the location and adequacy of the driveway for such use.

D. BED AND BREAKFAST

1. Where allowed by these Regulations, the Commission may grant a Special Use Permit for a bed and breakfast provided that:
   a. The bed and breakfast shall be operated by the resident owner.
   b. The bed and breakfast shall be located on a collector or arterial road as such roads are classified in the Plan of Conservation and Development.
   c. Adequate off-street parking shall be provided on the premises.
   d. The bed-and-breakfast establishment may have one non-resident employee.
   e. As part of any approval, the Commission may establish reasonable conditions with respect to driveway location, screening, and/or other factors.

2. A site plan shall be submitted in accordance with Section 9.3 of these Regulations.

E. PROFESSIONAL OFFICE

1. Where allowed by these Regulations, the Commission may grant a Special Use Permit for a professional office provided that:
   a. The professional office shall be restricted to the resident owner.
   b. The professional office shall be located on a collector or arterial road as such roads are classified in the Plan of Conservation and Development.
   c. Adequate off-street parking shall be provided on the premises.
   d. The professional office may have one non-resident employee except that a medical doctor or dentist may have two nonresident employees.
   e. The professional office shall not occupy more than 25% of the total floor area of the building.
   f. As part of any approval, the Commission may establish reasonable conditions with respect to driveway location, screening, time limits, hours of use, and/or other factors.

2. A site plan shall be submitted in accordance with Section 9.3 of these Regulations.

F. GROUP DAY CARE HOME

4. Where allowed by these Regulations, the Commission may grant a Special Use Permit for a group day care home (7-12 persons) operated in accordance with State law.

5. The location of any driveway serving a group day care home shall be subject to review and approval of the Zoning Commission.

3.6 AGE-RESTRICTED HOUSING

A. PURPOSE

It is the purpose of this Section to make provision for addressing 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 CGS Section 46a-64b et seq. while conserving important natural site features and permanently preserving open space.

B. OCCUPANCY AND MANAGEMENT

1. An age-restricted housing (ARH) development as enabled by this Section shall be comprised of dwelling units for occupants age 55 and older, who are generally able to maintain an independent lifestyle without the help of additional support services.

2. Units in an ARH development approved under this Section shall, through deed restrictions or other acceptable covenant, be limited to:
   a. At least one person who is 55 years of age or older.
   b. A spouse of an occupant qualified under Subsection 2.a. above.
   c. A spouse of an occupant qualified under Subsection 2.a. above who has entered into a long-term care facility except that such remaining spouse who remarries or cohabitates must meet all occupancy requirements.
   d. A widow or widower of a former occupant qualified under Subsection 2.a. above except that such remaining spouse who remarries or cohabitates must meet all occupancy requirements.
   e. No more than three residents may occupy a dwelling unit.
   f. One child 21 years of age or older may reside with his or her parent(s).

3. An owners' association shall be established, requiring membership of each lot or unit owner in the ARH development.

4. Any application for an ARH development shall include a proposed association agreement or covenant guaranteeing the continuing and permanent maintenance of water, sewage, recreational, infrastructure, and other facilities and maintenance of landscaping and buffering.

5. Such proposed association 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 CGS Section 47-200 et seq.

C. PERMITTED USES

The following uses shall be permitted in an ARH development:

1. One-family detached dwelling units.

2. Two-family buildings.

3. Multiple dwelling units per building.

4. Recreational uses and community facilities such as parks, gardens, swimming pools, tennis courts, clubhouses and community buildings.

5. Accessory uses customarily incidental and subordinate to the principal uses listed above (such as a home office), but expressly excluding any commercial or retail enterprises.

D. AREA, YARD AND BULK REGULATIONS

	ARH
1. Maximum Density (units per acre of buildable land)	As determined by the Planning Commission but not to exceed four (4) units per buildable acre
2. Minimum Parcel Area	20 acres
3. Minimum Buildable Area On Parcel	10 acres
4. Minimum Parcel Frontage	100 Feet
5. Minimum Building Setback At Perimeter of Parcel	80 Feet
6. Maximum Building Height	35 feet 1.5 stories
7. Maximum Lot Coverage	As determined by the Planning Commission
8. Minimum Perimeter Landscaped Buffer (shall be located within building setback requirement)	30 Feet

E. UTILITY, CIRCULATION AND PARKING

1. The ARH development shall be served by:
    a. A public water supply, and
    b. A sewage disposal system approved by the local Health Department and, if required, by the State Health Department and/or the Department of Energy and Environmental Protection.
    c. A Town-owned sanitary sewer approved by the Somers Water Pollution Control Authority.

2. All utilities shall be placed underground.

3. Adequate exterior lighting in public areas shall be provided in accordance with Section 7.3 of these Regulations and shall consider the unique needs of an older population.

4. Vehicular access to the ARH development 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.

5. As a matter of public safety, an alternate emergency access may be required.

6. All roads within the ARH development shall be:
    a. Privately owned and maintained,
    b. Designed with sufficient width, suitable grade and adequate construction to safely provide for the needs of vehicular traffic generated by the development,
    c. Designed and constructed according to the requirements of the Somers Subdivision Regulations or as otherwise approved by the Planning Commission.

7. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation (such as sidewalks, pathways, and walkways) and site improvements shall avoid the use of individual wheel stops, exterior stairs, and raised curbing where the mobility or safety of an older population may be adversely affected. All exterior facilities shall comply with ADA requirements.

8. Adequate parking shall be provided for all occupants, employees, and visitors as follows:
    a. At least one garage parking space per unit, and
    b. At least 2.25 total spaces per dwelling unit.

F. DEVELOPMENT DESIGN

1. **Building Character** - The design of the ARH development shall demonstrate an architecturally integrated development using common building materials, colors, exterior detailing, bulk, and/or roof lines while avoiding rigidity in design.

2. **Building Location** - Building location and orientation shall reflect:
    a. Relationship to the street line and to other buildings in the development in ways that protect privacy and create visual coherence;
    b. Organization of the development and provision of views, solar access, and access to common open space in order to enhance scale and identity;

3. **Bedroom Limitation** - The maximum number of bedrooms or rooms used primarily for sleeping purposes per dwelling unit shall be three.

4. **Environmental Preservation** - In order to preserve and protect the environment, the design of the ARH development shall avoid major topographic change and destruction of significant natural site features, including removal of native trees and vegetation. Wherever possible, existing trees and vegetative cover shall be conserved and integrated into the landscape design.

5. **Landscaping / Buffering** –
   a. A coordinated landscape design for the ARH development shall be submitted for approval by the Planning Commission.
   b. Adequate buffering shall be provided and maintained in order to protect existing character and reduce visual intrusion into abutting properties. 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.

6. **Open Space / Recreation Facilities** –
   a. At least 30 percent of the total buildable area of the ARH tract shall be designated as common open space with adequate shape, dimension, character, and location to assure its use for park, recreation, or conservation purposes by all the residents of the development. Land used for septic system(s) may be part of the open space calculation.
   b. The common open space shall be owned in common and readily accessible to the owners and residents of all units in the development.
   c. Any application for an ARH development shall include a perpetual restriction to be recorded in the Somers Land Records limiting any development on such common open space.
   d. 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.

7. **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.
   c. Dwelling units shall be assigned street numbers by the Assessor's office.

G. APPLICATION REQUIREMENTS

1. In addition to the material required for a Special Use Permit application in Section 9.4 of these Regulations, the applicant shall submit:
   a. A table describing 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.
   b. Architectural drawings of typical structures, including floor plans and elevations.
   c. An architectural rendering of typical structures.
   d. 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.
   e. 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.
   f. A copy of the sewage disposal plans and application to the State Department of Health or Department of Energy and Environmental Protection.

2. Said application shall contain sufficient information so that the Planning Commission can determine the applicability of said application for the following items:
   a. Consistency with the Somers Town Plan of Conservation and Development;
   b. Consistency with the Special Use Permit criteria contained in Section 9.4.E of these Regulations.

H. FINANCIAL GUARANTY

To ensure completion of roadways, drainage, landscaping, and other common improvements, no Certificates of Occupancy shall be issued for more than eighty percent (80%) of the units unless and until a financial guaranty has been provided or other adequate arrangements have been made to ensure completion of improvements integral to the satisfactory completion of the project as approved by the Zoning Commission.

3.7 OPEN SPACE SUBDIVISIONS

A. PURPOSE AND INTENT

Open space subdivisions are encouraged in Somers where they will:

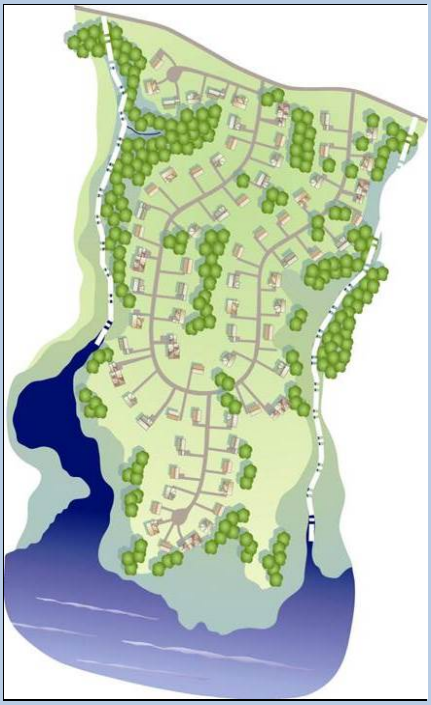
- Help preserve open space, farmland and farmland soils, and community character;
- Result in residential development in harmony with natural resources and the natural capability of the land; and
- Result in residential development that is sensitive to parcel characteristics and the surrounding area.

A pre-application review is strongly encouraged for an Open Space Subdivision.

Conventional Subdivision – A development of residential lots laid out primarily on the basis of strict dimensional standards such as lot area and/or frontage and where the provision of open space or conservation areas is typically a secondary consideration.

Conservation Subdivision – A development of residential lots laid out primarily on the basis of site characteristics where important resource areas are set aside for open space, wildlife habitat, agriculture, recreation, and/or community character and the layout of lots is typically a secondary consideration.

Conventional Subdivision



Conservation Subdivision

B. OVERALL DESIGN OF DEVELOPMENT

1. An application for an Open Space Subdivision shall include a site inventory / analysis map prepared by a landscape architect, civil engineer, or surveyor licensed to practice in Connecticut unless determined by the Commission to be unnecessary for:
   a. a very low density development (such as one unit per four acres of total parcel area).
   b. a plan where a significant portion of the property will be dedicated as open space.

2. Such site inventory / analysis map shall identify:
   a. **Primary Conservation Areas** –
      - Watercourses;
      - Wetlands and vernal pools;
      - Steep slopes (25 percent or more); and
      - 100-year floodplain.
   b. **Secondary Conservation Areas** -
      - Prime farmland soils and farmland soils of statewide significance;
      - Existing farm fields and farm structures;
      - Areas within 100 feet of existing streets or roads;
      - Areas within 50 feet of a wetland or within 100 feet of a watercourse or vernal pool;
      - 500-year floodplain;
      - Ridgelines, scenic views and vistas from the public roadway(s);
      - Significant geologic formations (such as ledge or rock outcroppings);
      - Natural Diversity Database sites or wildlife corridors;
      - Identified historic structures or historic resources;
      - Notable individual trees (>18" diameter) and/or mature woodlands;
      - Stone walls and /or farm hedgerows; and
      - Possible open space / trail connections between conservation areas on the site and adjacent protected and unprotected open space.

3. If the Commission is dissatisfied with the sufficiency of the plan submitted by the applicant, the Commission may engage a landscape architect, civil engineer, or surveyor licensed to practice in Connecticut to evaluate or augment the analysis. As authorized by CGS Section 8-1c and in accordance with Town Ordinance 114-7 et seq,, the applicant shall be charged for the cost of such services as a fee for processing the application.

4. The Commission may refer the Open Space Subdivision plan to any department, agency or official it deems appropriate for review and comment.

C. DEVELOPMENT STANDARDS

1. The overall layout plan for the Open Space Subdivision shall reflect the site inventory / analysis map and areas of the site which are considered Primary Conservation Areas or Secondary Conservation Areas shall be considered for permanent protection which may include preservation as open space deeded to the Town, a land trust or other conservation organization, or a homeowners association if acceptable to the Commission.

2. No lot shall include any area designated as a Primary Conservation Area or a Secondary Conservation Area unless specifically authorized by the Commission.

3. Any lot created as part of an Open Space Subdivision shall comply with the following requirements:

ZONE	
Maximum Density (lots per acre of buildable area on the parcel)	0.70
Minimum Lot Size	25,000 SF provided every lot shall comply with the Public Health Code
Minimum Open Space Set-Aside	40 percent of the total area of the parcel
Minimum Perimeter Buffer (Perimeter of Open Space Subdivision Parcel)	25’
Minimum Lot Frontage • On an existing public street • On a new street constructed as part of the development	 175’ 100’
Minimum Front Yard Setback • On an existing public street • On a new street constructed as part of the development	 50’ 40’
Minimum Side Yard Setback	15’
Minimum Rear Yard Setback	30’
Maximum Lot Coverage	40%
Maximum Building Height	2 ½ stories

3.8 ACCESSORY APARTMENTS

A. PURPOSE

This Section of the Regulations is intended to allow for the establishment of accessory apartments to help address the current and future housing needs of the community while protecting the public health, safety and welfare.

B. STANDARDS

1. Accessory apartments shall:
   a. Only be permitted in or attached to a single-family detached dwelling;
   b. Only be on a lot meeting the lot area requirement of the zone;
   c. Be limited to one (1) per lot or parcel; and
   d. Not be metered separately for utilities.

2. The owner of the property shall reside on the premises and an affidavit shall be filed with the Zoning Enforcement Official upon request specifying that the property owner resides on the premises.

3. The principal dwelling unit and the accessory apartment shall be connected by an operable door on a common wall and shall not constitute a two-family dwelling as defined by the Connecticut State Building Code.

4. Water supply and sewage disposal shall be subject to the approval by the local Health Department.

5. An accessory apartment may be established by construction of an addition to the principal structure, provided that:
   a. The single-family character of the dwelling and the surrounding neighborhood is maintained; and
   b. The addition shall not be constructed into the existing front yard.

6. The accessory apartment shall be a minimum six hundred (600) square feet of floor area but not more than thirty-five percent (35%) of the total floor area of the dwelling.

7. An accessory apartment shall not contain more than one (1) bedroom.

8. A total minimum of three (3) off street parking spaces shall be provided: Two (2) spaces per principal dwelling and one (1) space for the accessory apartment. Such parking shall be adequately drained and suitably screened from adjacent residences.

C. PERMIT PROCEDURES

1. Applications for a Zoning Permit and Certificate of Zoning Compliance shall be reviewed by the Zoning Enforcement Official respectively and shall be accompanied by the following:
   a. An affidavit of ownership signed by the owner of the premises;
   b. An affidavit signed by the owner of the premises affirming the intent of an owner to occupy either the principal dwelling or accessory apartment;
   c. A report prepared by and bearing the seal of a professional engineer verifying the adequacy of the sewage disposal and water supply systems for both dwelling units and approved by the local Health Department; and
   d. Sufficient building drawings and/or clear photographs to show the exterior/ interior building alterations proposed (a plot plan and floor plans will be required for building additions).

2. If subsequently requested by the Zoning Enforcement Official, the owner of the premises shall, for verification purposes, execute and provide a sworn affidavit to such official stating that said premises is occupied by the owner or by his or her spouse.

3.9 ADAPTIVE RE-USE

A. PURPOSE

This Section is intended to encourage the preservation, restoration and maintenance of existing residential buildings, related outbuildings, and properties of historical and/or architectural significance along State highways in Somers by allowing for alternative uses, where appropriate.

B. STANDARDS

The Commission may grant a Special Use Permit for the adaptive re-use of existing residential buildings, related outbuildings, and properties of historical and/or architectural significance along Route 190 or Route 83 for business, professional or business enterprise purposes, including accessory dwelling units on upper floors, where the Commission finds, based on evidence submitted and its own deliberations, that:

1. The structure has historical and/or architectural significance to Somers;

2. The property on which the structure is, or is to be, located shall have frontage on a State highway;

3. The nature and conduct of such use and any proposed improvements (such as parking areas) shall:
   a. Enhance and preserve the exterior integrity and appearance of the structure(s);
   b. Enhance and preserve the aesthetic appearance of the property; and,
   c. Maintain the general character of the neighborhood.

4. The nature of the proposed adaptive reuse (type of use, occupancy, hours of operation, traffic generation; building appearance) shall be compatible with the character of the area.

5. The adaptive reuse shall not result in a substantial departure from a residential use appearance or that generate significantly higher traffic levels on a regular basis or that conflict with the character of the area.

SECTION 4 BUSINESS / INDUSTRIAL DISTRICTS

4.1 PURPOSES

A. VILLAGE BUSINESS (VB) ZONE

The Village Business (VB) zoning district is intended to recognize and support the business uses in the historic village centers in Somers Center and Somersville and provide for appropriate use and development in these areas.

See Section 4.2 for declaration of the Village Business district as a "village district" in accordance with CGS Section 8-2j.

B. BUSINESS (B) ZONE

The Business (B) zoning district is intended to provide areas for convenience goods and services and commercial uses which are considered necessary to serve the residents and businesses of the Town.

C. COMMERCIAL RECREATION (CR) ZONE

The Commercial Recreation (CR) zoning district is intended to provide a master planning process to effectively manage and control a commercial recreation use on Route 190 in Somers.

D. INDUSTRIAL (I) ZONE

The Industrial (I) zoning district is intended to permit a variety of uses of an industrial nature which might not be desirable or compatible in residential or business areas.

Somers

Somersville

4.2 VILLAGE DISTRICT DECLARED

1. In order to maintain and enhance the historic value, distinctive character and landscape of the village areas in Somers Center and Somersville, the Village Business (VB) zoning district is hereby declared to be a "village district" as authorized by CGS Section 8-2j and as recommended in the Plan of Conservation and Development.

2. In accordance with CGS Section 8-2j, the Commission shall consider the design, placement, relationships and compatibility of structures, plantings, signs, roadways, street hardware and other objects in public view. These Regulations encourage the conversion, conservation and preservation of existing buildings and sites in a manner that maintains the historic value, distinctive character and landscape of the village district.

3. Applications within a village district shall be reviewed and processed in accordance with Section 9.8.N except that construction or renovation of residential dwellings within the Village Business (VB) zoning district shall be exempt from such village district review.

4.3 PRINCIPAL USES AND STRUCTURES

ZPNR	Permitted - Zoning Permit Not Required
ZP	Permitted With Zoning Permit from Zoning Enforcement Officer)
SPA	Permitted With Site Plan Approval from Zoning Commission)
SUP	Permitted With Special Use Permit Approval from Zoning Commission)
x	Not Permitted In This District

A. Business	Village Business	Business	Commercial Recreation	Industrial
1. Buildings area containing: a. Retail, personal service, bank, or office b. Restaurant (indoor seating only) c. Tavern / Inn	SUP	SUP	x	x
2. Printing establishment	SUP	SUP	x	SUP
3. Motor vehicle sales, service provided such use was in existence prior to <<effective date>>	SUP	x	x	x
4. Motor vehicle sales, service	x	SUP	x	SPA
5. Liquor store	SUP	SUP	x	x
6. Hotel or motel	SUP	SUP	x	x
7. Funeral home	SUP	SUP	x	x
8. Gasoline sales approved or in existence as of <<effective date>>	SUP	SUP	x	x
9. Animal hospital (which may include boarding)	x	SUP	x	SUP
10. Animal grooming facility provided no boarding of animals occurs	SUP	SUP	x	SUP
11. Winery / brewery / distillery (including accessory indoor tasting room)	SUP	SUP	x	x

B. Mixed-Use	Village Business	Business	Commercial Recreation	Industrial
1. Mixed-use buildings containing business and residential uses within the same building with business uses required on the first floor level (retail-type uses are encouraged) and allowed on the upper floor(s).	**SUP**	x	x	x
C. Industrial				
1. Industrial research and service	x	**SUP**	x	**SPA**
2. Warehousing, wholesaling, building material sale, contractor's yard, truck terminal	x	x	x	**SPA**
3. 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	x	x	x	**SPA**
4. Autobody repair and painting	x	x	x	**SPA**
D. Recreational				
1. Commercial recreation facility in accordance with Section 4.6.C of these Regulations.	x	x	**SUP**	x
2. Golf center in accordance with Section 4.6.C of these Regulations.	x	x	**SUP**	x
3. Commercial recreation events in accordance with Section 4.6.D of these Regulations.	x	x	**SUP**	x
E. Residential				
1. One single-family detached dwelling per lot except that no lot shall be occupied for residential purposes unless it has the required frontage on a Town-approved or State-approved street.	**SPA**	**ZP**	x	x
2. Two-family building provided there shall be at least 40,000 square feet of contiguous buildable area and at least 250 feet of frontage.	**SPA**	**ZP**	x	x
3. Age-restricted housing in accordance with Section 3.6 of these Regulations	x	**SUP**	x	x

F. Institutional	Village Business	Business	Commercial Recreation	Industrial
1. Place of worship open to the public	SUP	SUP	x	x
2. Governmental uses and/or public service uses such as firehouse, library, etc.	SUP	SUP	x	SUP
3. Convalescent or nursing home or home for the aged	SUP	SUP	x	x
4. Public or private school (not including business or trade schools), nursery, dancing school or riding school, conservatory for music or other arts	SUP	SUP	x	x
5. Nonprofit institution or private museum	SUP	SUP	x	x
G. Open Space				
1. Open space	ZPNR	ZPNR	ZPNR	ZPNR
2. Parks and playgrounds	SUP	SUP	x	SUP
H. Agricultural				
1. Farm / agriculture	ZPNR	ZPNR	ZPNR	ZPNR
2. Water harvesting for commercial purposes	SUP	SUP	SUP	SUP
3. Greenhouse operations and nurseries	x	SUP	x	SUP
4. Commercial horse farm in accordance with Section 6.2 of these Regulations	x	x	x	SUP
I. Utility / Infrastructure				
1. Public utility lines, substations and buildings in accordance with Section 6.4 of these Regulations	SUP	SUP	SUP	SUP
2. Wireless transmitting and receiving in accordance with Section 8.3 of these Regulations	See Sec. 8.3	See Sec. 8.3	See Sec. 8.3	See Sec. 8.3
J. Other				
1. Cemetery provided a minimum boundary buffer of 20 feet shall be provided to burial plots.	SUP	SUP	x	x
2. Adult-oriented establishment in accordance with Section 8.5 of these Regulations	x	SUP	x	x

4.4 ACCESSORY USES AND STRUCTURES

A. GENERAL PROVISIONS FOR ACCESSORY USES / STRUCTURES

1. 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 as allowed by Section 7.1 of these Regulations.

2. Accessory buildings for commercial or industrial uses shall observe the same yard and height requirements as a main building.

3. Accessory buildings on a farm or a residentially used lot shall be governed by Section 3.3 of these Regulations.

B. PROVISIONS FOR SPECIFIC ACCESSORY USES / STRUCTURES

ZPNR	Permitted - Zoning Permit Not Required
ZP	Permitted With Zoning Permit from Zoning Enforcement Officer
SPA	Permitted With Site Plan Approval from Zoning Commission)
SUP	Permitted With Special Use Permit Approval from Zoning Commission
X	Not Permitted In This District

C. Accessory To A Business Use	Village Business	Business	Commercial Recreation	Industrial
1. Off-street parking and loading in accordance with Section 7.2	**Same approval procedure as principal use**	**Same approval procedure as principal use**	**Same approval procedure as principal use**	**Same approval procedure as principal use**
2. Uses and/or structures customary, subordinate, and incidental to the principal business use.	**Same approval procedure as principal use**	**Same approval procedure as principal use**	**Same approval procedure as principal use**	**Same approval procedure as principal use**
3. Drive-through establishment in accordance with Section 4.8 of these Regulations	**X**	**SUP**	**X**	**X**
4. Outdoor seating associated with a restaurant / winery / brewery / distillery.	**SUP**	**SUP**	**X**	**X**

D. Accessory To A Farm	Village Business	Business	Commercial Recreation	Industrial
1. Roadside stand for sale of agricultural produce provided at least four parking spaces are available.	ZP	ZP	x	ZP
2. Building(s) on a farm for storing and/or processing of agricultural products produced on the premises.	ZP	ZP	x	ZP
3. Building(s) on a farm for storage and repair of motor vehicles and equipment for operation of such farm.	ZP	ZP	x	ZP
4. A building or dormitory on a farm 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 and such cultivated acreage must be within the Town of Somers and owned by the applicant. c. Before construction or use of any such facility, adequate documentation shall be submitted to demonstrate that the above criteria are met and will be maintained.	X	ZP	x	ZP
5. Building housing horses and ponies in accordance with Section 6.2.	ZP	ZP	ZP	ZP
6. Building housing animals other than horses and ponies in accordance with Section 3.3.B.8	ZP	ZP	ZP	ZP
7. Manure storage in accordance with generally accepted agricultural practices as follows: a. Up to two cubic yards (2 CY) b. Between 2 CY and 16 CY provided such material shall be stored at least 100 feet from any property line c. If more than 16 CY or if between 2 CY and 16 CY and stored less than 100 feet from any property line	NP NP SUP	NP NP SUP	NP NP SUP	NP NP SUP
E. Utility / Infrastructure				
1. Underground storage of fuel when in accordance with Section 7.12 of these Regulations and CGS Section 22a-449, as amended.	SUP	SUP	x	SUP

F. Other	Village Business	Business	Commercial Recreation	Industrial
1. Mobile homes for emergency housing or storage for up to 6 months at a time (and renewable) necessitated by natural disaster or similar occurrence	ZP	ZP	x	ZP
2. Temporary trailer in accordance with Section 6.3A of these Regulations	SUP	SUP	x	SUP
3. School bus shelters in accordance with Section 6.3.B of these Regulations	ZP	ZP	x	ZP
4. Non-profit events in accordance with Section 6.3.C of these Regulations	ZP	ZP	x	ZP
5. Special events for commercial operations in accordance with Section 6.3.D of these Regulations	SUP	SUP	x	SUP
6. Satellite receivers and antennas (less than 1 meter in diameter)	ZPNR	ZPNR	x	ZPNR
7. Outdoor wood-burning furnaces in accordance with Section 6.6 of these Regulations	SUP	SUP	x	SUP
8. Antenna structures operated by licensed amateur radio operators: a. When not located in the front yard, b. If located in the front yard.	ZP SUP	ZP SUP	x	ZP SUP

4.5 AREA, YARD AND BULK REGULATIONS

A. Lot Area / Frontage	Village Business	Business	Commercial Recreation	Industrial
1. Minimum Lot Area (Square Feet)	20,000 (sewer) 40,000 (septic)	40,000	40,000	60,000
2. Minimum Lot Frontage (Feet)	75	75	75	200
B. Setbacks – Principal Building				
1. Business - Maximum Front Setback (Feet)	15	N/A	N/A	N/A
2. Business - Minimum Front Setback (Feet)	5	25	50	35
3. Residential - Minimum Front Setback (Feet)	25	25	N/A	35
4. Minimum Side Setback (Feet)	10	10	20	20
5. Minimum Rear Setback (Feet)	30	30	40	40
C. Setbacks – Accessory Building / Structure				
1. Minimum Front Setback (Feet)	**Not Permitted In Front yard**	**Not Permitted In Front yard**	50	**Not Permitted In Front yard**
2. Minimum Side Setback (Feet)	10	10	20	20
3. Minimum Rear Setback (Feet)	30	30	40	40
D. Setbacks – Parking Area				
1. Minimum Side Setback (Feet)	5	5	25	5
2. Minimum Rear Setback (Feet)	10	10	50	10
E. Building Height				
1. Maximum Height - Primary Building	35 feet / 2.5 stories	35 feet / 2.0 stories	35 feet / 2.0 stories	40 feet / 2.0 stories
2. Maximum Height – Mixed Use Building	40 feet / 3.5 stories	N/A	N/A	N/A
F. Coverage				
1. Maximum Impervious Coverage	60%	60%	60%	60%

4.6 SPECIAL REGULATIONS FOR CR ZONE

A. PURPOSE

These special regulations are intended to provide a regulation to effectively manage and control a commercial recreation use on Route 190 in Somers.

B. PRELIMINARY DISCUSSION

In order to guide any proposed activity within the Commercial Recreation (CR) district and minimize the potential for unnecessary expense or delay, potential applicants are strongly encouraged to arrange for preliminary meetings with the Zoning Commission prior to submitting an application.

C. PHYSICAL IMPROVEMENTS

1. Any physical improvements within the Commercial (CR) district shall be in accordance with an overall Master Plan for the commercial recreation use approved by the Commission through a Special Use Permit.

2. The overall Master Plan application shall include:
   a. A site plan showing the configuration of physical improvements on the property and any proposed activity areas.
   b. An operations plan describing the hours of operation of different events and activities at the property (excluding any special events such as concerts or special personal, corporate, or other events which may only be authorized under Section 4.6.D of these regulations).

3. Prior to issuance of a Special Use Permit for the Master Plan, the Commission shall find that the proposed physical improvements will:
   a. Be conducted in harmony with the use of nearby properties and the immediate neighborhood.
   b. Be appropriately located on the property to protect the character of the area.
   c. Be adequately buffered from nearby residential properties.
   d. Be in accordance with the Special Use Permit criteria contained in Section 9.4.E of these Regulations.

4. The Commission may establish conditions for any such Special Use Permit related to physical improvements to ensure appropriate operations including, but not limited to, parking, hours of operation, type and size of signs and length of permit.

D. SPECIAL EVENTS

1. Any special events such as concerts or special personal, corporate, or other events may only be authorized under this Section 4.6.D of these regulations.

2. Any such special events within the Commercial / Recreation (CR) district shall be in accordance with a calendar of special events approved by the Commission through a Special Use Permit.

3. Prior to issuance of a Special Use Permit for the calendar of events, the Commission shall find that the proposed activity or activities will:
   a. Be conducted in harmony with the use of nearby properties and the immediate neighborhood.
   b. Be appropriately located on the property to protect the character of the area.
   c. Be adequately buffered from nearby residential properties.
   d. Be in accordance with the Special Use Permit criteria contained in Section 9.4.E of these Regulations.

4. The Commission may establish conditions for any such Special Use Permit to ensure appropriate operations including but not limited to parking, hours of operation, type and size of signs and length of permit.

5. Said Special Use Permit shall be valid for one year except that the Commission or the Zoning Enforcement Officer may, upon written request by the operator, extend the permit for up to five years provided that:
   a. No changes are being made to plan previously approved by the Commission (including the nature, number and size of events of different types) except that the dates on the calendar may change.
   b. A renewal request is filed at least 90 days prior to the opening of the season and such request is accompanied by the Special Use Permit application fee.
   c. The Zoning Enforcement Officer has advised relevant municipal officials about the renewal request and received responses at least 60 days prior to the opening of the season,
   d. The Zoning Enforcement Officer has advised the Zoning Commission about the renewal request and any responses from relevant municipal officials at least 60 days prior to the opening of the season, and
   e. No objections have been raised to the extension of the validity by the Zoning Commission.

6. Any material change in the calendar of events approved by the Commission (including the nature, number and size of events of different types) or any objections raised by the Zoning Commission shall cause a new Special Use Permit to be required.

7. The granting or extension of a Special Use Permit under this Section shall not supersede other permits which may be necessary (mass gathering, Traffic Authority, etc.). All required permits must be obtained and conditions met prior to the commencement of any event.

8. The applicant is responsible for police and traffic control for the event, if required.

4.7 DRIVE-THROUGH ESTABLISHMENTS

A. FOOD SERVICE DRIVE THROUGH

1. The Commission may, by Special Use Permit, allow a drive through operation serving food or drink to patrons while in a motor vehicle subject to the following:
   a. A single property may have only one such drive through operation and such establishment shall not occupy more than 25% of the total ground floor area of all buildings on the property.
   b. The serving window shall not be located closer, measured horizontally, than 1,500 feet from the serving window of another food service drive-through establishment on another property.
   c. No said use will be permitted within 450 feet of a residential zone measured horizontally from the service window to the nearest point of the residential property.
   d. The serving window shall be located at the rear or side of the building arranged to harmonize with the character of the surrounding area.
   e. 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.
   f. Hours of operation shall be limited to between 5:00 AM to 11:00 PM unless waived or further limited by the Commission.
   g. No outside audio system is permitted except for a central service ordering menu board.
   h. 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.
   i. 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.
   j. Trash receptacles are to be located for the convenience of the patrons and are to be shown on the proposed site plan.
   k. One menu sign board not exceeding 24 square feet may be permitted in addition to signage allowed in Section 7.1 of these Regulations.

B. OTHER DRIVE THROUGH ESTABLISHMENT

1. The Commission may, by Special Use Permit, allow a drive through operation for establishments such as banks, pharmacies, dry cleaners, and similar non-food or beverage service type businesses subject to the following:
   a. The serving window shall be located at the rear or side of the building arranged to harmonize with the character of the surrounding area.
   b. 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.

2. A site plan shall be submitted in accordance with Section 9.3 of these Regulations.

C. QUEUEING SPACES AT A DRIVE-THROUGH ESTABLISHMENT

1. All drive-through establishments shall provide a sufficient queueing space to meet the needs of persons who may reasonably be expected to use such buildings or structures or to make such uses of land.

2. For a drive-through establishment, the vehicular service queue lane shall be at least nine feet (9') wide and shall consist of:
    a. A twenty foot (20') space for a vehicle at the service window,
    b. At least twenty feet (20') for cars leaving said window, and
    c. Between the street line and the window position for cars approaching:
        - At least two hundred feet (200') in length for a food service establishment, and
        - At least one hundred feet (100') for a non-food service establishment.

3. The Commission reserves the right to require more queuing spaces based on information about similar facilities elsewhere.

4. Said vehicular service queue lane shall not block parking spaces, block other circulatory aisles, obstruct visibility for entrances or exits, or cross pedestrian walks or paths.

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SECTION 5 SPECIAL DISTRICTS

5.1 FLOODPLAIN OVERLAY DISTRICT

The Floodplain Overlay District is established to implement the provisions of the National Flood Insurance Program. The numbering of this section differs from other sections of the Regulations since it is intended to replicate the Model Floodplain Management Regulations (October 2018) promulgated by the Federal Emergency Management Agency (FEMA) and the Connecticut Department of Energy and Environmental Protection (DEEP).

1. STATUTORY AUTHORIZATION AND PURPOSE

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of Connecticut has in Title 7, Chapter 98, Section 7-148(c)(7)(A) and in Title 8, Chapter 124, Section 8-2 of the General Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Zoning Commission of the Town of Somers, Connecticut, does ordain as follows:

1.2 FINDING OF FACT

The flood hazard areas of the Town of Somers are subject to periodic flood inundation which results in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

These flood losses are caused by the cumulative effect of obstructions in the floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damage. Uncontrolled development and use of the floodplains can adversely affect the community.

The Town of Somers has voluntarily participated in the National Flood Insurance Program (NFIP) since February 17, 1982. The NFIP is founded on a mutual agreement between the federal government and each participating community. Local, state and federal governments must share roles and responsibilities to meet the goals and objectives of the NFIP. The community's role is of paramount importance. Property owners are able to receive federally- subsidized flood insurance only if the community enacts and enforces the minimum floodplain regulations required for participation in the NFIP.

1.3 STATEMENT OF PURPOSE

It is the purpose of this [ordinance/regulation] to regulate floodplain development, promote public health, safety, and general welfare, and minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1.3.1 To protect human life and health, and prevent damage to property;

1.3.2 To minimize expenditure of public funds for costly flood control projects;

1.3.3 To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

1.3.4 To minimize prolonged business interruptions and other economic disruptions;

1.3.5 To minimize damage to public facilities, infrastructure and utilities, such as water and gas mains, electric, telephone and sewer lines, and streets and bridges, located in the floodplain;

1.3.6 To help maintain a stable tax base by providing for the sound use and development of flood hazard areas in such a manner as to minimize flood damage and flood blight areas;

1.3.7 To insure that potential buyers are notified that property is in a flood hazard area;

1.3.8 To prevent increase in flood heights that could increase flood damage and result in conflicts between property owners;

1.3.9 To ensure that those who occupy the flood hazard areas assume responsibility for their actions; and

1.3.10 To discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

1.4 OBJECTIVES

In order to accomplish its purposes, this [ordinance/regulation] includes objectives, methods and provisions that:

1.4.1 Restrict or prohibit uses which are dangerous to health, safety and property due to flood or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

1.4.2 Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

1.4.3 Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of flood waters;

1.4.4 Control filling, grading, dredging and other development which may increase erosion or flood damage; and

1.4.5 Prevent or regulate the construction of barriers or obstructions which will unnaturally divert flood waters or which may increase flood hazards to other lands.

2.0 DEFINITIONS

Base Flood – The flood having a one (1) percent chance of being equaled or exceeded in any given year, also referred to as the one hundred (100) year flood, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

Base Flood Elevation (BFE) – The elevation of the crest of the base flood or 100-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 riverine areas.

Basement – Any area of the building having its floor subgrade (below ground level) on all sides.

Building – see definition for "Structure".

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

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

Federal Emergency Management Agency (FEMA) - The federal agency that administers the National Flood Insurance Program (NFIP).

Finished Living Space – As related to fully enclosed areas below the base flood elevation (BFE), a space that is, but is not limited to, heated and/or cooled, contains finished floors, has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace. Unfinished enclosed areas below the BFE should comply with FEMA Technical Bulletin 2, Flood-Damage Resistant Materials Requirements.

Flood– A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation/runoff of surface waters from any source.

Flooding – *See "Flood"*

Flood Insurance Rate Map (FIRM) – The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the insurance risk premium zones applicable to a community.

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.

Floodway – The channel of a river or other 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 (1.0) foot. For the purposes of these regulations, the term "Regulatory Floodway" is synonymous in meaning with the term "Floodway".

Historic Structure – Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

  (1) By an approved state program as determined by the Secretary of the Interior ,or

  (2) Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such an area meets the design requirements specified in Subsection 5.3.1.3 of this Regulation.

Market Value – As related to substantial improvement and substantial damage, the market value of the structure shall be determined by **the property's tax assessment, minus land value;** 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.

Mean Sea Level (MSL) – The North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

New Construction – Structures for which the "start of construction" commenced on or after **[effective date of floodplain regulations, date of initial adoption]**, the effective date of the floodplain management regulations, and includes any subsequent improvements to such structures.

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

Special Flood Hazard Area (SFHA) – The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, A1-30, AE, AO, AH on a FIRM. The SFHA is also called the Area of Special Flood Hazard.

Start of Construction – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the 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 erections of temporary forms; not does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

Substantial Improvement – Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place during a ten (10) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance - A grant of relief by the Zoning Board of Appeals from the terms of this Section of the Regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

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

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

3.0 GENERAL PROVISIONS

3.1 AREAS TO WHICH THIS REGULATION APPLIES

This Regulation shall apply to all Special Flood Hazard Areas (SFHA) within the Town of Somers.

3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS (SFHA)

The Special Flood Hazard Areas (SFHA) identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for the Town of Somers, Hartford County, dated August 16, 2006, accompanying Flood Insurance Rate Maps (FIRM), dated August 16, 200**6**, the Somers Connecticut Floodplain Management Study for Gillette's Brook, Gulf Stream, Abbey Brook, and Thrasher and Schanade Brooks, and other supporting data applicable to the Town of Somers, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this Regulation. Since mapping is legally adopted by reference into this Regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA.

The SFHA includes any area shown on the FIRM as Zones A, AE, AO, and AH, including areas designated as a floodway on a FIRM. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. Also included are areas of potential, demonstrable or historical flooding, including any area contiguous with but outside the SFHA identified by FEMA, and where the land surface elevation is lower than the base flood elevation (BFE) as shown in the FIS, and the area is not protected from flooding by a natural or man-made feature. The FIRM and FIS are on file in the Town Hall, Town of Somers.

3.3 STRUCTURES ALREADY IN COMPLIANCE

A structure or development already in compliance with this Regulation shall not be made non-compliant by any alteration, modification, repair, reconstruction or improvement and must also comply with other applicable local, state, and federal regulations. No structure or land shall hereafter be located, extended, converted, modified or structurally altered without full compliance with the terms of this Regulation and other applicable regulations.

3.4 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.

3.5 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.

3.6 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 by 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.

3.7 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Regulation should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Regulation, which shall remain in full force and effect; and to this end the provisions of this Regulation are hereby declared to be severable.

4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Town Floodplain Manager is hereby appointed to administer, implement and enforce the provisions of this Regulation.

4.2 CERTIFICATION

Where required under this Regulation, a registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Regulation. Such certification must be provided to the Town Floodplain Manager.

4.3 ESTABLISHMENT OF THE FLOODPLAIN MANAGEMENT SECTION OF THE ZONING PERMIT

The flood management section of the Zoning Permit must be completed in conformance with the provisions of this Regulation prior to the commencement of any development activities. Permits issued under this Regulation shall expire if actual construction of a permitted structure does not commence within one hundred and eighty (180) days of the permit approval date.

4.4 PERMIT APPLICATION PROCEDURES

A flood management section of the Zoning Permit is hereby established for all construction and other development to be undertaken in Special Flood Hazard Areas in this community. Prior to any development activities, application for a flood management section of the Zoning Permit shall be made to the Town Floodplain Manager on forms provided and may include, but not be limited to, plans in duplicate drawn to scale showing, at a minimum, the property lines and location of the parcel; the nature, location, dimensions, and elevations of the area in question; limit and extent of the 100-year floodplain and/or floodway boundary and base flood elevation(s); existing and proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required to be submitted to the Town Floodplain Manager.

4.4.1 **Application Stage** - The applicant shall provide at least the following information, where applicable. Additional information may be required on the permit application form.

4.4.1.1 Base flood elevation (BFE) for the site in question as determined in the FEMA Flood Insurance Study (FIS) or Flood Insurance Rate Map (FIRM). The FIS flood profiles provide more accurate BFE data than the FIRM. The extent of the 100- year floodplain and floodway must be depicted with a boundary line on any site plans and shown in relation to existing and proposed structures or development;

4.4.1.2 Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all new construction, substantial improvements or repairs to structures that have sustained substantial damage;

4.4.1.3 Elevation in relation to mean sea level to which any non-residential new construction, substantial improvements or repair to structures that have sustained substantial damage will be dry flood-proofed;

4.4.1.4 Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. Computations by a registered professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other materials required by the Federal Emergency Management Agency (FEMA) in order to officially amend or revise the Flood Insurance Rate Map. The applicant must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained;

4.4.1.5 A statement and supporting documentation (all costs of project, market value of structure, etc.) verifying that the proposed alterations to an existing structure meets or does not meet the criteria of the substantial improvement and/or substantial damage definition. If a development meets the definition of substantial improvement and/or substantial damage, the structure must be brought into compliance with all floodplain regulations as if it was new construction;

4.4.1.6 Where applicable the following certifications by a registered professional engineer or architect are required, and must be provided to the Town Floodplain Manager. The design and methods of construction must be certified to be in accordance with accepted standards of practice and with the provisions of Subsection 5.3.

(a) Non-residential flood-proofing must meet the provisions of Subsection 5.3.1.2;

(b) Fully enclosed areas below the base flood elevation (BFE) must meet the minimum design criteria in Subsection 5.3.1.3;

(c) No (0.00) increase in floodway water surface elevations are allowed. Any development in a floodway must meet the provisions of Subsection 5.3.4;

4.4.2 **Construction Stage -** Upon completion of the applicable portion of construction, the applicant shall provide verification to the Town Floodplain Manager of the following as is applicable:

4.4.2.1 Lowest floor elevation shall be verified for:

(a) A structure in Zones A, AE, A1-30, AO or AH is the top of the lowest floor (including basement);

(b) A non-residential structure which has been dry flood-proofed is the elevation to which the flood-proofing is effective (Note: For insurance purposes, a dry flood-proofed, non-residential structure is rated based on the elevation of its lowest floor unless it is floodproofed to one foot above the BFE.);

4.4.2.2 Deficiencies detected by the review of the above listed shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

4.5 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Town Floodplain Manager shall include, but not be limited to:

4.5.1 Review all permit applications for completeness, particularly with the requirements of Subsection 4.4.1.

4.5.2 Review all permit applications to determine whether the proposed development and building sites will be reasonably safe from flooding.

4.5.3 Review all development permits to assure that the permit requirements of this Regulation have been satisfied.

4.5.4 Review all permit applications to assure that all necessary federal or state permits have been received. Require that copies of such permits be provided and maintained on file with the permit application. Such permits include, but are not limited to, Water Diversion Permit, Dam Safety Permit, and Army Corps of Engineers 401 and 404 Permits.

4.5.5 Notify the regional planning agency and affected municipality at least thirty-five (35) days prior to a public hearing if any change of regulation or use of a flood zone will affect an area within five hundred (500) feet of another municipality.

4.5.6 Notify the adjacent communities and the Department of Energy and Environmental Protection (DEEP), Inland Water Resources Division, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

4.5.7 Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.5.8 Obtain, record and maintain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new construction, substantial improvements or repair to a structure that has sustained substantial damage.

4.5.9 Obtain, record and maintain the elevation (in relation to mean sea level) to which the new construction, substantial improvement or repair to a structure that has sustain substantial damage has been flood-proofed.

4.5.10 When flood-proofing is utilized for a particular structure, the Town Floodplain Manager shall obtain certification from a registered professional engineer or architect, in accordance with Subsection 5.3.1.2.

4.5.11 Where interpretation is needed as to the exact location of boundaries of the area of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Town Floodplain Manager shall make necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Regulation.

4.5.12 Require the applicant to provide base flood elevation data for all proposed development, including manufactured home parks and subdivisions.

4.5.13 When base flood elevation data or floodway data have not been provided in accordance with Subsection 3.2 and Subsection 4.4, the Town Floodplain Manager shall 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 Subsection 5.0.

4.5.14 All records pertaining to the provisions of this Regulation shall be obtained and maintained in the office of the Town Floodplain Manager.

4.5.15 Upon completion of the permitted development and prior to issuance of a Certificate of Occupancy (CO), necessary as-built surveys (prepared by a Connecticut Licensed Professional as per Connecticut State Statutes) and engineering and architectural certifications shall be provided to the Town Floodplain Manager demonstrating compliance with the approved plans and standards set forth in Subsection 4.4.

5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all Special Flood Hazard Areas (SFHAs) the following provisions are required:

5.1.1 New construction, substantial improvements, and structures that have sustained substantial damage shall be constructed using methods and practices that minimize flood damage.

5.1.2 New construction, substantial improvements, and structures that have sustained substantial damage shall be constructed with materials and utility equipment that are flood-damage resistant and conform to the provisions of FEMA Technical Bulletin 2, Flood Damage-Resistant Material Requirements. This includes, but is not limited to, flooring, interior and exterior walls, wall coverings and other materials installed below the base flood elevation plus one (1.0) foot.

5.1.3 New construction, substantial improvements, and repairs to structures that have sustained substantial damage shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

5.1.4 New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless they are a functionally dependent use or facility.

5.1.5 The bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, appliances, fixtures and components, HVAC duct work and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure shall be elevated one (1.0) foot above the base flood elevation (BFE). This includes, but is not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation duct work, washer and dryer hook-ups, electrical junction boxes, and circuit breaker boxes. Systems, fixtures, equipment and components shall not be mounted on or penetrate through breakaway walls intended to fail under flood loads. Connections or other equipment that must be located below the BFE plus 1.0 foot elevation are permitted only when no other elevation alternative is available and provided they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of the base flood event. Electrical wiring systems that must be located below the BFE plus 1.0 foot shall conform to the standards for wet locations.

5.1.6 New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

5.1.7 New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

5.1.8 On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

5.1.1 Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood. Above-ground storage tanks which are located outside or inside of a structure must be elevated one (1.0) foot above the base flood elevation (BFE) or shall be securely anchored to prevent flotation, collapse or lateral movement under conditions of the base flood. Where elevated on platforms, the platforms shall be cantilevered from or knee braced to the building or shall be supported on elevated foundations that conform to the standards for the particular flood zone as described in Subsection 5.3. Anchored tanks must have the top of the fill pipe located at least one (1.0) foot above the BFE and have a screw fill cap that does not allow for the infiltration of flood water.

5.1.10 In any portion of a watercourse that is altered or relocated, the flood carrying capacity must be maintained. Notify adjacent communities and the Connecticut Department of Energy and Environmental Protection (CTDEEP), Inland Water Resources Division (IWRD) prior to any alteration or relocation of a watercourse.

5.1.11 If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be located within the SFHA and must meet the construction requirements of the flood zone. The structure includes any structurally attached additions, garages, decks, porches, sunrooms, patios or any other structure attached to the main structure.

5.1.12 If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., structure must be built to the highest BFE). The structure includes any structurally attached additions, garages, decks, porches, patios, sunrooms, or any other structure attached to the main structure.

5.1.13 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 flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

5.1.14 Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from 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.

5.2 STANDARDS FOR WATERCOURSES WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS (UN-NUMBERED A ZONE), ADOPTED FLOODWAYS AND/OR FLOOD MAPPING

5.1.1 The Town Floodplain Manager shall require base flood elevation (BFE) data be provided with any application for new construction, substantial improvement, repair to structures which have sustained substantial damage or other development in Zone A without a FEMA-published BFE (un-numbered A Zone). A registered professional engineer must determine the BFE in accordance with accepted hydrologic and hydraulic engineering practices and document the technical methods used. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval. The Town Floodplain Manager shall obtain, review and reasonably utilize any BFE and floodway data available from a federal, state or other source, including data developed for subdivision proposals, as criteria for requiring that new construction, substantial improvements, repair to structures which have sustained substantial damage or other development in un-numbered A Zones on the community's Flood Insurance Rate Map (FIRM) meet the standards in Subsection 4.4 and Subsection 5.3. If no BFE can be determined, the lowest floor, including basement, must be elevated to two (2) feet above the highest adjacent grade next to the structure.

5.2.2 When BFEs have been determined within Zones A1-30 and AE on the community's FIRM but a regulatory floodway has not been designated, the Town Floodplain Manager must require that no new construction, substantial improvements, repair to structures which have sustained substantial damage or other development, including fill, shall be permitted which will increase the water surface elevation of the base flood more than one (1.0) foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development.

5.2.3 The Town Floodplain Manager may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the municipality's request or not), the community shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1.0) foot at any point within the community.

5.2.4 The Town Floodplain Manager shall obtain, review and reasonably utilize any BFE and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, repair to structures which have sustained substantial damage or other development in any area of potential, demonstrable or historical flooding within the community meet the standards in Subsection 4.4 and Subsection 5.3.

5.2.5 Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one (1.0) foot, provided that the community first completes all of the provisions required by such Section 65.12.

5.3 SPECIFIC STANDARDS

5.3.1 Construction Standards in Special Flood Hazard Areas (SFHA), Zones A, A1-30, AE.

5.3.1.1 Residential Construction - All new principal buildings or other habitable structures are prohibited in Special Flood Hazard Areas (SFHA). Accessory buildings or structures, substantial improvements, and repair to structures that have sustained substantial damage which are residential structures shall have the bottom of the lowest floor, including basement, elevated one (1.0) foot above the base flood elevation (BFE). Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated one (1.0) foot above the BFE.

5.3.1.2 Non-Residential Construction - All new construction, substantial improvements, and repair to structures that have sustained substantial damage which are commercial, industrial or non- residential structures shall:

(a) Have the bottom of the lowest floor, including basement, elevated one (1.0) foot above the base flood elevation (BFE); or

(b) In lieu of being elevated, non-residential structures may be dry flood-proofed to one (1.0) foot above the BFE 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 provided that such structures are composed of structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects 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 Section. Such certification shall be provided to the Town Floodplain Manager on the FEMA Floodproofing Certificate, Form 81-65.

(c) The bottom of all electrical, plumbing, machinery or other utility equipment that service the structure must be elevated one (1.0) foot above the BFE.

5.3.1.3 Fully Enclosed Areas Below The Base Flood Elevation Of Elevated Buildings - All new construction, substantial improvements, or repair to structures that have sustained substantial damage, whether residential or non-residential, that include fully enclosed areas formed by a foundation and other exterior walls shall have the lowest floor elevated to one (1.0) foot above the base flood elevation (BFE). The elevated building shall be designed to preclude finished living space below the lowest floor and be designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls (wet flood-proofing). Designs for complying with this requirement must either be certified by a registered professional engineer or architect as meeting the requirements of ASCE 24 Section 2.6.2.2, or meet the following minimum criteria listed in subsections (a)-(h) below:

(a) Provide a minimum of two (2) openings (hydraulic flood vents) having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding. The enclosed area is measured on the exterior of the enclosure walls. These hydraulic openings must be located on at least two different exterior walls of each enclosed area. If the structure has more than one enclosed area, openings must be installed in the exterior walls of each enclosed area so that flood waters can enter directly from the outside;

(b) The bottom of all openings shall be no higher than one (1.0) foot above the higher of either the final interior grade or floor elevation, or the finished exterior grade adjacent to the outside of the foundation wall. At least one side of the structure's fully enclosed area must be at or above grade. Fill placed around the foundation walls must be graded so that the elevation inside the enclosed area is equal to or higher than the adjacent outside elevation on at least one side of the building. The finished floor of the enclosed area shall be no lower than the bottom of the foundation openings. The foundation slab of a residential structure, including the slab or a crawlspace, must be set equal to the outside finished grade on at least one side of the building;

(c) The openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of flood waters in both directions without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means. These coverings must not block or impede the automatic flow of floodwaters into and out of the enclosed area. Other coverings may be designed and certified by a registered professional engineer or approved by the [title of local administrator];

(d) Openings shall not be less than three (3) inches in any direction in the plane of the wall;

(e) The area cannot be used as finished living space. Use of the enclosed area shall be the minimum necessary and shall only be used for the parking of vehicles, building access or limited storage. Access to the enclosed area shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The enclosed area shall not be used for human habitation;

(f) All interior walls, floor, and ceiling materials located below one (1.0) foot above the BFE shall be unfinished and resistant to flood damage-resistant in accordance with FEMA Technical Bulletin 2, Flood Damage-Resistant Requirements.

(g) Electrical, plumbing, HVAC ductwork, machinery or other utility equipment and connections that service the structure (including, but not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation, washers and dryer hook-ups, electrical junction boxes, circuit breaker boxes and food freezers) are prohibited in the fully enclosed area below the BFE plus one (1.0) foot. Utilities or service equipment located in this enclosed area, even if elevated one (1.0) foot above the BFE in the space, will subject the structure to increased flood insurance rates.

(h) A residential building with a structurally attached garage having the floor slab below the BFE is considered an enclosed area below the BFE and must meet the standards of Subsections 5.3.1.3 (a)-(g). A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters in both directions. Flood openings or vents are required in the exterior walls of the garage or in the garage doors. Garage doors that must be manually opened do not meet the flood vent opening requirements in Subsection 5.3.1.3 (a)-(c). In addition to the automatic entry of floodwaters, the areas of the garage below BFE plus one (1.0) foot must be constructed with flood damage-resistant materials per the requirements of FEMA Technical Bulletin 2. Garages attached to non-residential structures must also meet the aforementioned requirements or be dry floodproofed as per the requirements of Subsection 5.3.1.2.

5.3.2 Manufactured (Mobile) Homes and Recreational Vehicles (RVs).

5.3.2.1 In all Special Flood Hazard Areas (SFHA), manufactured (mobile) homes, trailers and mobile offices are prohibited. Any substantial improvement or repair as a result of substantial damage, shall be elevated so that the bottom of the frame is located one (1.0) foot above the base flood elevation (BFE). The manufactured home must also meet all the construction standards per Subsection 5.3.1.

5.3.2.2 All manufactured (mobile) homes within a SFHA shall be installed using methods and practices which minimize flood damage. Adequate access and drainage should be provided. Elevation construction standards include piling foundations placed no more than ten (10) feet apart, and reinforcement is provided for piers more than six (6) feet above ground level.

5.3.3 Floodways - Located within Special Flood Hazard Areas (SFHA) are areas designated as floodways on the community's Flood Insurance Rate Maps (FIRM) or Flood Boundary and Floodway Maps (FBFM). Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, no encroachments, including fill nor any new construction shall be permitted. Substantial improvements, repairs to substantially damaged structures and other developments shall be permitted unless certification, with supporting technical data, by a registered professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge published by FEMA. Buildings and structures meeting the standard above and located in whole or in part in the floodway shall be designed and constructed in accordance with ASCE 24. Fences in the floodway must be aligned with the flow and be of an open design. A permit may be given which allows encroachments resulting in increases in base flood elevations provided the community first obtains a conditional floodway revision by meeting the requirements of C.F.R. 44, Chapter 1, Subsection 65.12.

5.3.4 Standards for Development in Areas of Shallow Flooding (Zones AO and AH) - Located within the Special Flood Hazard Areas (SFHA) are areas designated as shallow flooding areas (AO and AH Zones). These areas have flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In AO and AH zones, the following provisions apply:

5.3.4.1 For residential structures, all new principal buildings or other habitable structures shall be prohibited. Accessory buildings or structures, substantial improvements and repair to structures that have sustained substantial damage shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as one (1.0) foot above the depth number specified on the Flood Insurance Rate Map (FIRM. If no depth number is specified, the lowest floor, including basement, shall be elevated at least three (3.0) feet above the highest adjacent grade.

5.3.4.2 For non-residential structures, all new construction, substantial improvements and repair to structures that have sustained substantial damage shall:

(a) Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as one (1.0) foot above the depth number specified on the Flood Insurance Rate Map (FIRM). If no depth number is specified, the lowest floor, including basement, shall be elevated at least three (3.0) feet above the highest adjacent grade; or

(b) Together with attendant utility and sanitary facilities be completely flood-proofed to above the highest adjacent grade at least as high as one (1.0) foot above the depth number specified on the FIRM, or if no depth number is specified at least three (3.0) feet above the highest adjacent grade, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Designs for complying with this requirement must be certified by either a registered professional engineer or architect.

5.3.4.3 On-site drainage for all proposed structures in AO and AH Zones located on slopes shall provide adequate drainage paths to guide flood waters around and away from such structures.

5.3.4.4 Fully enclosed areas below the lowest floor in AO and AH Zones must comply with the provisions of Subsection 5.3.1.3 for hydraulic flood vents.

6.0 DESIGN STANDARDS FOR SUBDIVISION PROPOSALS

If a proposed subdivision is located in a Special Flood Hazard Area (SFHA) the following requirements shall apply:

6.1 All subdivision proposals shall be consistent with the need to minimize flood damage;

6.2 All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

6.3 All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

6.4 The Town Floodplain Manager shall require the applicant to provide BFE data for all subdivision proposals. In all special flood hazard areas where base flood elevation (BFE) data is not available, the applicant shall provide a hydrologic and hydraulic engineering analysis performed by a registered professional engineer that generates BFEs for all subdivision proposals and other proposed development, including manufactured home parks and subdivisions.

7.0 VARIANCE PROCEDURES

7.1 ESTABLISHMENT OF VARIANCE PROCESS

7.1.1 The Zoning Board of Appeals, as established by the Town of Somers, shall hear and decide appeals and requests for variances from the requirements of this Regulation.

7.1.2 The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Town Floodplain Manager in the enforcement or administration of this Regulation.

7.1.3 Any person aggrieved by the decision of the Zoning Board of Appeals or any person owning land which abuts or is within a radius of one hundred (100) feet of the land in question may appeal within fifteen (15) days after such decision to the State Superior Court of [Judicial District], as provided in Section 8-8 of the General Statutes of Connecticut.

7.1.4 The Town Floodplain Manager shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) in its biennial report.

7.2 SPECIFIC SITUATION VARIANCES

7.2.1 Buildings on a Historic Register - Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or any locally-adopted historic district without regard to the procedures set forth in the remainder of this Section and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historical designation.

7.2.2 Functionally Dependent Use or Facility - Variances may be issued for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use or facility provided the structure or other development is protected by methods that minimize flood damage, create no additional threat to public safety, and meet all the requirements of Subsection 7.4.

7.2.3 Floodway Prohibition - Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

7.3 CONSIDERATIONS FOR GRANTING OF VARIANCES

In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other Sections of this Regulation and the items listed below as Subsection 7.3.1 – 7.3.11. Upon consideration of these factors and the purposes of this Regulation, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Regulation.

7.3.1 The danger that materials may be swept onto other lands to the injury of others;

7.3.2 The danger to life and property due to flooding or erosion damage;

7.3.3 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

7.3.4 The importance of the services provided by the proposed facility to the community;

7.3.5 The necessity of the facility to waterfront location, in the case of a functionally dependent facility;

7.3.6 The availability of alternative locations not subject to flooding or erosion damage for the proposed use;

7.3.7 The compatibility of the proposed use with existing and anticipated development;

7.3.8 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

7.3.9 The safety access to the property in times of flood for ordinary and emergency vehicles;

7.3.10 The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

7.3.11 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.

7.4 CONDITIONS FOR VARIANCES

7.4.1 Variances shall only be used upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum necessary as not to destroy the historic character and design of the building and result in the loss of historic designation of the building. Variances pertain to a piece of property and are not personal in nature. A properly issued variance is granted for a parcel of property with physical characteristics so unusual that complying with the regulation would create an exceptional hardship to the applicant or the surrounding property owners. Those characteristics must be unique to that property and not be shared by adjacent parcels. For example, economic or financial hardship is not sufficient cause for a variance, nor are inconvenience, aesthetic considerations, physical handicaps, personal preferences or disapproval of one's neighbors.

7.4.2 Variances shall only be used upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, damage the rights or property values of other persons in the area, cause fraud on or victimization of the public, or conflict with existing local laws, ordinances or regulations. Only hardships that are based on unusual or unique physical characteristics of the property in question, characteristics that are not shared by adjacent parcels, shall quality to meet subsection (ii) above. Claims of hardship based on the structure, on economic gain or loss, or on personal or self-created circumstances are not sufficient cause for the granting of a variance.

7.4.3 No variance may be issued within a regulatory floodway that will result in any increase in the 100-year flood levels. A variance may be issued for new construction, substantial improvements and other development necessary for the conduct of a "functionally dependent use" provided that there is good and sufficient cause for providing relief; and the variance does not cause a rise in the 100-year flood level within a regulatory floodway. The structure and other development must be protected by methods that minimize flood damages.

7.4.4 Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation (BFE), and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation up to amounts as high as $25 for $100 of insurance coverage.

8.0 ENFORCEMENT

8.1 Each Permit shall authorize, as a condition of approval, the Town Floodplain Manager or designated agents to make regular inspections of the subject property. The Town Floodplain Manager or designated agents are also authorized to inspect any property in a Special Flood Hazard Area (SFHA) where it appears that violations of these Regulations may be taking place.

8.2 If the Town Floodplain Manager finds that any person is undertaking any construction, substantial improvement, filling, or any other activity or maintaining a condition which in violation of these regulations, the Town Floodplain Manager shall:

8.2.1 Issue a written order by certified mail, return receipt requested, to the subject property owner, ordering that the activity cease and ordering the property owner to either seed to obtain a [Floodplain Development/Building/Zoning] Permit prior to continuing with the activity or, if appropriate, ordering that all violations and/or obstructions be removed from the Special Flood Hazard Area (SFHA) immediately.

8.2.2 Notify the Building Official and request that any building permit(s) in force be revoked or suspended and that a stop work order be issued.

8.2.3 The Town Floodplain Manager may suspend or revoke a Floodplain Development Permit if it is found that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of work as set forth in the application including application plans. Prior to revoking any permit, the Town Floodplain Manager shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action.

8.2.4 Failure to comply with any written order issued under this Section shall be considered a violation of these regulations and is subject to the penalties described in Subsection 10.0.

8.2.5 In the event violations or obstructions are not promptly removed from the Special Flood Hazard Area (SFHA), the Town Floodplain Manager may cause such removal and remediation work to be performed utilizing bond money held in escrow pursuant to Subsection 3.0 of this Regulation, or may direct the [director of public works or appropriate agent] to cause such work to be done and to place a lien against the property.

8.2.6 Any person subjected to enforcement action pursuant to this Regulation, may appeal any requirement, decision, or determination of the Town Floodplain Manager to the [local appeals board], in accordance with Subsection 6.0 of this Regulation. Such person shall provide such information as necessary including appropriate certifications from a registered professional engineer or architect in order to substantiate the claim that the requirement, decision, or determination of the Town Floodplain Manager was in error or unwarranted.

9.0 PENALTIES FOR VIOLATION

Any violation of the provisions of this Regulation or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grant of variances or special exceptions, shall constitute a misdemeanor. Any person who violates this Regulation or fails to comply with any of its requirements shall, upon conviction thereof, be fined a penalty of $250.00 per day or imprisoned for not more than ten (10) days for each day of violation, or both, and in addition shall pay all costs and reasonable legal fees involved in the case. Nothing herein contained shall prevent the Town of Somers from taking such lawful action as is necessary to prevent or remedy any violation.

5.2 PLANNED DEVELOPMENT DISTRICT

A. PURPOSE

This section of the regulations is intended to permit modification of the strict application of the standards and provisions of these Regulations to accomplish the purposes set forth below:

1. Enable the development or redevelopment of specific areas in accordance with an overall Master Plan for such area and in accordance with the Plan of Conservation and Development adopted in accordance with CGS Section 8-23, as may be amended.

2. Be flexible in order to allow for innovative design techniques, accommodate unique uses and/or encourage creative approaches to development or redevelopment.

3. Promote economic development in appropriate locations which will help meet community needs and be compatible with the community.

4. Result in a development that demonstrates a high regard for design and that is compatible with the historic, cultural and geographic qualities of Somers.

B. ELIGIBLE AREAS

In order to establish a Planned Development District (PDD), public water and public sewers shall be provided to the proposed development and *at least one* of the following conditions shall be met:

1. The location of the proposed PDD shall be identified as a potential location for a PDD in the Plan of Conservation and Development adopted in accordance with CGS Section 8-23, as may be amended.

2. The location of the proposed PDD shall consist of an assemblage of contiguous or abutting properties, with at least one of the properties identified as a potential location for a PDD in the Plan of Conservation and Development adopted in accordance with CGS Section 8-23, as may be amended.

3. The location of the proposed PDD shall be contiguous or abutting to a PDD previously approved by the Zoning Commission, provided the Master Plan demonstrates that the proposed development will complement the overall development of the area.

C. PRELIMINARY DISCUSSION

In order to guide the proposed development and minimize the potential for unnecessary expense or delay, persons wishing to establish a Planned Development District hereunder are strongly encouraged to arrange for preliminary meetings with the Zoning Commission prior to submitting an application for a Planned Development District.

D. APPLICATION REQUIREMENTS

1. A Planned Development District may only be established by approval of three applications submitted and processed at the same time:
   a. A Master Plan providing the information described in Section 5.2.E in sufficient detail for the Zoning Commission to understand and establish the overall parameters of the proposed development;
   b. A text amendment application, processed in accordance with Section 9.5 of these Regulations, where "the exact wording of the change applied for" shall refer to the Master Plan documents as may be approved by the Zoning Commission in accordance with this Section 5.2 of the regulations; and
   c. A Zoning Map Amendment Application, processed in accordance with Section 9.6 of these Regulations, locating the proposed Planned Development District on the official Zoning Map.

2. Once a Planned Development District is established, actual development may only occur with site plan approval as provided in Section 9.3 of these Regulations where the purpose of such site plan approval is to determine if the proposed development is consistent with the approved Master Plan and to document the proposed improvements.

3. As provided in Chapter **114** of the Ordinances of the Town of Somers, the Zoning Commission may require the applicant to pay the cost of reasonable consulting fees for peer review of the technical aspects of any of the applications.

E. REQUIREMENTS FOR MASTER PLAN SUBMITTAL

A Master Plan of the proposed development shall be submitted to the Zoning Commission for approval, and such Master Plan shall include the following:

1. Overview of Planned Development District: a name identifying the proposed Planned Development District and a general statement regarding the intent of the proposed Planned Development District.

2. Conceptual site plans: one or more sheets depicting the proposed schematic design of the site, including:
   a. The identification and general location of proposed uses;
   b. Existing and proposed building footprints;
   c. Proposed public and private streets, sidewalks and/or pedestrian walkways, rights-of-way, and parking areas;
   d. A landscaping plan, including the location of proposed buffers;
   e. Information regarding the provision of water, sewer, drainage, and other utilities; and
   f. The location of public and/or private open space or conservation areas.

3. Schematic architectural drawings: one or more sheets illustrating the schematic design of the proposed buildings and structures, including:
   a. Schematic floor plans;
   b. Architectural elevations of all buildings; and/or
   c. Photographs of buildings similar to the proposed buildings.

4. Data table: information regarding the proposed development, including:
   a. Lot area and lot frontage;
   b. Building setbacks, yards, and/or building separations;
   c. Lot coverage (coverage by building(s) and impervious coverage);
   d. Proposed floor area by proposed use;
   e. Parking spaces.

5. Additional documentation: Depending on the nature and/or intensity of the proposed Planned Development District, the following documentation may also be required by the Zoning Commission:
   a. A traffic study estimating the potential traffic generation and the capacity of streets within and neighboring the district to accommodate the projected traffic;
   b. A report regarding the adequacy of proposed utility services;
   c. A statement on how the proposed development complies with the Plan of Conservation and Development; and
   d. Any additional information as may be required by Section 9.3 of these Regulations.

F. APPLICATION PROCESSING

1. Following the close of the public hearing(s), the Zoning Commission shall first approve, modify and approve, or deny the Master Plan.

2. In evaluating the merits of the Master Plan and determining the appropriateness of a proposed PDD, the Zoning Commission shall consider the following factors:
   a. Consistency with the Plan of Conservation and Development, as may be amended.
   b. Whether the proposed PDD promotes reasonable and logical development to serve the public interests of the community.
   c. Whether the uses proposed are consistent with the Special Use Permit considerations and criteria, as appropriate, of Section 9.4.E of these Regulations.
   d. Accessibility to major roads and proximity to community services.
   e. Physical characteristics of the lot.
   f. The capability of existing infrastructure to support the proposed development (or infrastructure to be provided by the applicant).
   g. Any other factors that it deems applicable to a change of zone request.

3. If the Zoning Commission denies the Master Plan, it shall also deny the text amendment application and the Zoning Map Amendment Application.

4. If the Zoning Commission approves or modifies and approves the Master Plan, the Zoning Commission may approve the text amendment application.

5. If the Zoning Commission approves or modifies and approves the Master Plan, the Zoning Commission may approve the Zoning Map Amendment Application.

G. EFFECT OF APPROVAL.

1. If the Zoning Commission approves the text amendment application, the effect of such approval shall be, provided the requirements of Section 5.2.H below are followed, to treat the Master Plan materials approved by the Zoning Commission and any conditions of approval as if they were a distinct part of the text of these Regulations and to modify Section 5.2.K of these Regulations to reference the approved Master Plan and any conditions of approval.

2. If the Zoning Commission approves the Zoning Map Amendment Application, the effect of such approval shall be to rezone the property to the name of the Planned Development District, provided the requirements of Section 5.2.H below are followed.

3. Adoption of a PDD by the Zoning Commission and completion of the requirements of Section 5.2.H below shall constitute authorization to apply for site plan approval.

4. Any provision of these Regulations applicable to the property prior to the zone change and text amendment and not superseded by adoption of the Master Plan, standards, and Zoning Map and regulation amendments shall continue in full force and effect.

H. COMPLETION OF APPROVAL

1. If the Zoning Commission approves the text amendment application, the approved Master Plan and accompanying material shall, within 90 days of the Zoning Commission's action, be submitted to the Zoning Commission for signature by the Chair or the approval of the zone change and text change shall be null and void.

2. Once signed by the Chair of the Zoning Commission, the approved Master Plan shall, at the applicant's expense, be filed on the land records within 30 days of the Chairman's signature or the approval of the zone change and text change shall be null and void.

3. Upon request of the applicant and for good cause shown, the Zoning Commission may extend the period prescribed in Section 5.2.H.1 by ninety (90) additional days and/or the period prescribed in Section 5.2.H.2 by thirty (30) additional days.

4. The effective date of the text amendment and the Zoning Map Amendment Applications shall be the date that the approved Master Plan documents, signed by the Chair of the Zoning Commission, are filed on the land records by the applicant at the applicant's expense.

I. SITE PLAN APPROVAL

1. No construction within the PDD may occur without approval of detailed site plans in accordance with Section 9.3 of these Regulations documenting that the proposed construction substantially conforms to the approved Master Plan and standard engineering requirements.

2. If site plans are not submitted within two years of the effective date of the text amendment and the Zoning Map Amendment Applications, or within two years of the final dismissal of an appeal of such zone change by a court of competent jurisdiction, and if an extension of time is not given by the Zoning Commission for good cause shown, then the text amendment application and the Zoning Map Amendment Application shall become null and void and the PDD area shall revert to all the requirements of its previous zoning.

3. Site plans may be submitted in phases, provided that such phases:
   a. Include all those public amenities and features used as a public protection for the surrounding area; and
   b. Shall be capable of complete and self-sufficient existence without the completion of the remaining stages.

4. If construction of improvements is not begun and diligently prosecuted to completion within five years of the effective date of the text amendment and the Zoning Map Amendment Application, or within five years of the final dismissal of an appeal of such zone change by a court of competent jurisdiction, and if an extension of time is not given by the Zoning Commission for good cause shown, then the text amendment application and the Zoning Map Amendment Application shall become null and void and the PDD area shall revert to all the requirements of its previous zoning.

5. No certificate of zoning compliance precedent to a certificate of occupancy shall be issued within the PDD without the posting of a financial guaranty, in form, amount and surety approved by the Zoning Commission, to guarantee the provision of common elements which may be included in a later phase but are considered by the Commission to be integral to the overall development, including, but not limited to, private roads, buffer strips, walkways, recreational facilities, or other common elements.

J. FUTURE MODIFICATIONS

1. Any modification of an approved Master Plan may be approved by site plan approval in accordance Section 9.3 of these Regulations if the modification:
   a. Decreases the dimensional elements (e.g., reduction of building size) or lessens the impact on abutting properties; and/or
   b. Does not substantially alter, in the opinion of the Zoning Commission, the character of the approved Master Plan.

2. Any modification of an approved Master Plan shall be approved by a text amendment in accordance with Section 9.5 and with Section 5.2.H of these Regulations codifying the revised Master Plan as part of this Section 5.2 of the regulations if the modification:
   a. Adds or deletes a permitted use or substantially alters, in the opinion of the Zoning Commission, the area devoted to different uses in the approved Master Plan.
   b. Increases the dimensional elements in the Master Plan (e.g., expansion of building size).
   c. Substantially alters, in the opinion of the Zoning Commission, the character of the approved Master Plan.

K. APPROVED PLANNED DEVELOPMENT DISTRICTS

1. Planned Development District #1 (<<insert name of PDD District>>) approved by the Zoning Commission at a meeting on (<<insert date of ZC approval>>), effective on (<<insert date of filing on land records>>), and filed on the land records at Volume _____, Page _____ and/or Map File _____.

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SECTION 6 USE-RELATED PROVISIONS

6.1 PROHIBITED USES

Notwithstanding any other provisions of these Regulations, the following buildings, structures and uses are prohibited in all zoning districts:

A. HAZARDOUS MATERIALS / PROCESSES

1. Disposal of hazardous materials or wastes.

2. Manufacture or production of hazardous materials or wastes except as specifically authorized and approved by the Commission.

3. Use or storage of hazardous materials or wastes except for:
   a. the use or storage of reasonable amounts (as determined by the Commission) of hazardous materials when clearly incidental to the principal use of a building, structure or land.
   b. use or storage of common household items when accessory to a residential use.

4. Dry-cleaning establishments and similar uses using chemicals.

5. Furniture stripping establishments.

6. Hazardous waste dumps.

7. Commercial laboratories and commercial photographic developing and processing.

B. MANUFACTURING / PROCESSING

1. Commercial processing or incineration of animal and vegetable products: slaughterhouse; abattoir, meat packing, distillation of bones, offal or dead animals, rendering or dumping;; stockyards; soap manufacturing; glue manufacturing; tanneries; refining and recovery of products from fish or animal refuse.

2. Manufacture or storage of explosives or nuclear products or their development or assembly.

3. Paper manufacturing;

4. Wool scouring and cleaning; cotton textile sizing, scouring, bleaching, dyeing and similar operations;

5. Paint and varnish manufacturing; and creosote and creosote products manufacturing.

6. Blast furnaces or smelting of copper, iron, lead, tin or zinc, drop forging or foundries or facilities for metal heat treatment, annealing, descaling or plating processes; metal finishing; heat treating; electroplating.

7. Manufacture of cement, lime, gypsum, plaster of Paris, creosote, chlorine or carbolic, hydrochloric, nitric, picric or sulfuric acid.

8. Fertilizer manufacture, except in connection with the operation of a sewage disposal plant.

9. Plastics or rubber manufacture or paint or lacquer.

10. 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.

11. Coal or petroleum distillation or derivation of by-products.

12. Fiberglass manufacture.

C. OTHER USES / ACTIVITIES

1. Uses similar to any use or activity specifically listed in this Section 6.1 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.

2. Trailer parks.

3. Private septage lagoon or any other pond or depression used for holding domestic wastes pumped from septic tanks.

4. Junkyards.

5. Motor vehicle salvage and processing.

6. Racetracks, animal and vehicular.

7. Amusement parks.

8. Nuclear power plants.

9. Burial of stumps.

10. Organizations in which compensation is charged for the privilege of hunting wild game on private property.

6.2 HORSES AND PONIES

A. FOR PLEASURE

1. The keeping of horses and/or ponies for personal pleasure is permitted in any zone subject to generally accepted agricultural practices and the following:

Number of Horses	Minimum Lot Area Required
1 horse/pony	Two acres
2 horses/ponies	Three acres
3 horses/ponies	Four acres
4 horses or more /ponies	See Section 6.2.B below

2. Buildings housing horses and/or ponies kept for personal pleasure shall be sited at least 100 feet from all property lines.

3. Any manure pile or area of concentrated storage of waste shall be in accordance with Section 3.3.C.5.d.

4. Corrals shall be at least 10 feet from property lines.

B. FOR COMMERCIAL PURPOSES

1. The Commission may permit the keeping of horses and/or ponies for breeding, boarding and/or instruction for commercial purposes in any zone as a Special Use Permit subject to generally accepted agricultural practices and the following:
   a. The use may be conducted only by the resident of the premises as an accessory use.
   b. The premises shall be at least 10 acres in area.
   c. Living quarters for a full-time caretaker or watchman may be allowed as part of the Special Use Permit provided such living quarters shall be:
      - an integral part of a building housing horses or horse facilities and shall not be freestanding, and
      - limited to three rooms, including a kitchen.

2. Buildings housing horses and/or ponies for commercial purposes shall be sited at least 200 feet from all property lines.

3. Any manure pile or area of concentrated storage of waste shall be in accordance with Section 3.3.C.5.d.

4. Corrals shall be at least 10 feet from property lines.

6.3 TEMPORARY USES

A. TEMPORARY TRAILERS

1. The ZEO may issue a Zoning Permit for an office trailer, which may include facilities for a watchman, to service a construction project during the period from the issuance of a Building Permit to the issuance of the Certificate of Occupancy.

2. The Commission may issue a Special Use Permit for the limited use of trailers or mobile homes for temporary uses other than for residential purposes which in the judgment of the Commission are warranted. The Special Use Permit shall be valid for up to one year and may be renewed by the Zoning Enforcement Officer for up to an additional year provided all conditions are complied with.

B. SCHOOL BUS SHELTERS

1. The Zoning Enforcement Officer may issue a Zoning Permit for a school bus shelter for one school year (August 15 to June 15) subject to the following:
   a. Verification of the location for a school approved bus stop.
   b. Such shelter may be located within the required front yard setback but at least 30 feet from the pavement edge and shall not block the sight line from any intersection or driveway.
   c. The shelter may not exceed 24 square feet in floor area, nor seven feet in ceiling height.
   d. Certification of construction by the Building Inspector.

C. SPECIAL EVENTS FOR NON-PROFIT ORGANIZATIONS

1. 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 provided:
   a. the profits are to be used for civic, religious or philanthropic purposes,
   b. such event is held on the organization's own premises,
   c. the event shall not be for a period not exceeding seven days, and
   d. a Zoning Permit is obtained from the Zoning Enforcement Officer.

2. The granting of a Special Use Permit under this section does not supersede other permits which may be necessary (mass gathering, Traffic Authority, etc.). All required permits must be obtained and conditions met prior to the commencement of any event.

D. SPECIAL EVENTS FOR COMMERCIAL OPERATIONS

1. The Commission may issue a Special Use Permit for auctions, food festivals, music jamborees and flea markets, provided that:
   a. The activities are an accessory and secondary use to an existing commercial use.
   b. The proposed activities shall be conducted on property situated adjacent to a state highway.
   c. The applicant is responsible for police and traffic control for the event, if required.

2. The granting of a Special Use Permit under this section does not supersede other permits which may be necessary (mass gathering, Traffic Authority, etc.). All required permits must be obtained and conditions met prior to the commencement of any event.

3. Prior to issuance of a Special Use Permit, the Commission shall find that the proposed activity will:
   a. Be conducted in harmony with the use of nearby properties and the immediate neighborhood.
   b. Be appropriately located on the property to protect the character of the area.
   c. Be adequately buffered from nearby residential properties.

4. The Commission may establish conditions for any such Special Use Permit to ensure appropriate operations including but not limited to parking, hours of operation, type and size of signs and length of permit.

5. Said Special Use Permit shall be valid for one year except that the Commission or the Zoning Enforcement Officer may, upon written request by the operator, extend the validity for up to five years provided that:
   a. A renewal request is filed at least 90 days prior to the event and such request is accompanied by the Special Use Permit application fee,
   b. The Zoning Enforcement Officer has advised relevant municipal officials about the renewal request and received responses at least 60 days prior to the event,
   c. The Zoning Enforcement Officer has advised the Zoning Commission about the renewal request and any responses from relevant municipal officials at least 60 days prior to the event, and
   d. No objections have been raised to the extension of the validity by the Zoning Commission.

6. Any material change in the nature of the event or any objections raised by the Zoning Commission shall cause a new Special use Permit to be required.

6.4 PUBLIC UTILITY USES

1. Public utility lines, substations and buildings may be permitted in any zone by Special Use Permit provided that:
   a. Any transmission line shall be located, configured (right-of-way), designed, and constructed to prevent hazard to the public and surrounding property.
   b. Natural gas booster stations shall be located on a site at least one acre in area and having no dimension less than 100 feet.
   c. A utility substation shall:
      - be located on a lot at least 10,000 square feet in area.
      - have suitable fencing to protect the public and adequate landscaping to effectively screen the substation from surrounding property.
      - Comply with the yard setbacks of the district in which the substation is located.
      - Have at least two off-street parking spaces.

2. Minor structures, such as hydrants, telephone or light poles or similar equipment, shall not be subject to these Regulations.

6.5 ALCOHOLIC BEVERAGES

Sale of alcoholic beverages, subject to State Liquor Commission control and restrictions, may be permitted by the Zoning Commission by Special Use Permit in accordance with the following:

1. **Restaurant Permit** - Alcoholic drink shall not be served in any restaurant, except as an accessory use to the primary function of serving food and operating under a restaurant liquor permit as provided in CGS Section 30-22a, as amended.

2. **Retail Sale** - 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.

3. **On-Premises Consumption** - An establishment allowing only on-premises consumption of beer, wine and cider not exceeding six percent liquor by volume shall be located at least 100 feet from a church or public school.

4. **Grocery** - Grocery stores with beer and wine permits shall be considered or regarded as a package store outlet.

5. **Bottling / Storage** - 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.

6. **Residential Districts** - Provided the main entrance to that part of the building subject to licensing is more than 750 feet from a church or public school or another establishment having a liquor control permit, the sale of alcoholic liquors for consumption on the premises is permitted In residential districts as follows:
   a. A club under a club permit.
   b. 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.

6.6 WOOD-BURNING FURNACES

1. Outdoor wood-burning furnaces (OWBF) may be permitted by the Zoning Commission by Special Use Permit provided the OWBF shall:
   a. Operate only on wood that has not been chemically treated;
   b. Be located at least 200 feet, measured in a straight line, from the nearest residence not being served by the unit; and

2. In addition, the OWBF shall have a chimney height that exceeds the height of the roof peaks of residences located within 500 feet of the OWBF, measured in a straight line, provided the chimney height is not more than 55 feet. Unless the applicant can demonstrate that the OWBF will be located at least 500 feet from any property line, the applicant shall submit a map drawn by a licensed land surveyor showing vertical and horizontal measurements to all residences within the 500 foot radius to demonstrate compliance with CGS Section 22a-174k.

3. Operation of any OWBF shall be prohibited from April 15 to October 15 except that 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.

SECTION 7 STANDARDS

7.1 SIGNS

A. PURPOSE AND INTENT

It is the purpose and intent of this section to:

- Accommodate signs for identification, direction, and as a form of communication;
- Protect the public safety by regulating the size, height, location and lighting of signs in order to avoid undue distractions to motorists and pedestrians;
- Maintain and enhance the aesthetic and historical values of the community.

These Sign Regulations are intended to place restrictions on the time, place, and manner (when, where, and how) of signage so that the purposes stated above may be accomplished. This includes restrictions on size, height, location, and number of signs that may be displayed.

Unless specifically allowed as provided within Section 7.1, no sign shall be established, constructed, reconstructed enlarged, moved or structurally altered except in conformity with these Regulations and until a sign permit, if required by this section, has been issued.

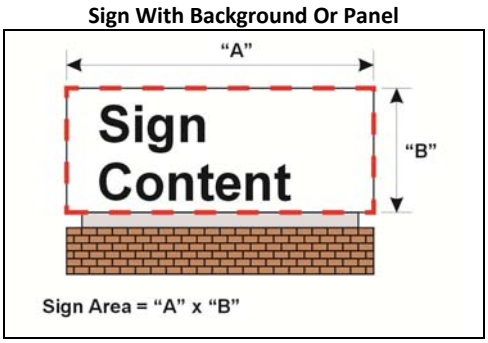
B. SIGN MEASUREMENT

1. Sign area shall be measured as provided below:
   a. In the case of any sign consisting of one or more sign panels (or a background different from the building where the background is considered by the Zoning Enforcement Officer to be an integral part of and clearly related to the sign), the sign area shall be the smallest rectangle which encompasses the sign panel and all of the lettering, wording and accompanying designs or symbols.
   b. In the case of any sign consisting of individual letters or symbols affixed to, attached to, or painted on a wall, window, or other part of the building, the sign area shall be the smallest rectangle which encompasses all of the letters or symbols and accompanying designs.
   c. In the case of a detached sign, the sign area shall not include the vertical, horizontal or diagonal supports which affix the sign to the ground, unless such supports are evidently designed to be part of the sign.

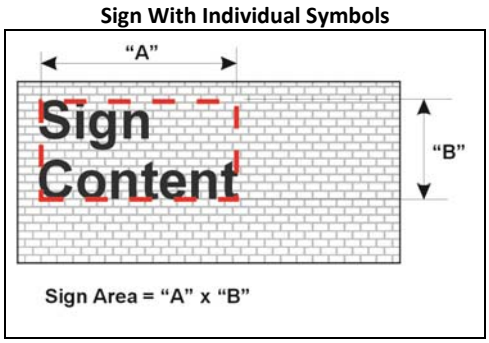
2. Sign height shall be measured from the average ground elevation around the base of the sign to the top of the sign, including vertical supports or other features.

Measurement of Sign Area

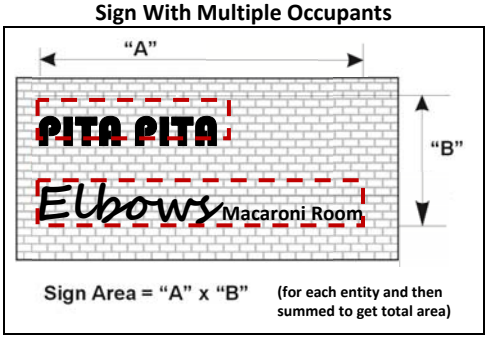
Sign With Background Or Panel



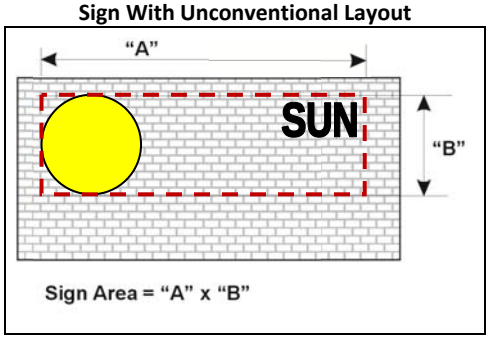
Sign With Individual Symbols



Sign With Multiple Occupants



Sign With Unconventional Layout



C. RESIDENTIAL DISTRICTS

1. Permitted Without Zoning Permit

Type of Sign	Maximum Sign Area	Maximum Number of Signs	Location
a. Signs giving name and address of the property and/or the occupant	1 SF	1 sign per lot	Back of street line
b. Signs pertaining to the sale, lease or rental of property on which they are located	6 SF per sign	2 signs per lot	Back of street line
c. Holiday decorations without commercial advertising	n/a	n/a	Back of street line
d. Private directional signs	2 SF	n/a	Back of street line
e. Political or ideological signage provided: • such signage shall not be displayed for more than sixty (60) consecutive days. • political signs pertaining to candidates, political parties or political issues in a national, state or municipal election shall be removed within five days after the election.	32 SF total on any one property		On private property so as to not obstruct sight lines or interfere with pedestrian or vehicular traffic.
f. Any sign erected by the town, state or federal government or any branch or department thereof relating to traffic safety.	Per Manual of Uniform Traffic Control Devices	n/a	Per Manual of Uniform Traffic Control Devices
g. Directional signs or traffic signs (Police approval required if within street line)	6 SF	n/a	Back of street line

Example Of Name / Address Sign

Example Of Real Estate Sign

2. Permitted With Zoning Permit (Staff)

Type of Sign	Maximum Sign Area	Maximum Number of Signs	Location
a. Signs pertaining to a home based business permitted as an accessory use of the lot	4 SF	1 sign per lot	Back of street line
b. Signs giving the name of the farm on a wall of an accessory building	Up to 3 SF / LF of wall where displayed	1 sign per farm	30 feet back of street line
c. Signs pertaining to and during the construction or repair of property on which they are located	25 SF for all such signs	2 signs per lot	15 feet back of street line
d. 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 SF per sign	2 signs per subdivision	15 feet back of street line
e. Special event signs of civic and nonprofit organizations on the premises for not more than 90 days within any 12-month period	25 SF	1 sign per lot	15 feet back of street line
f. Temporary special event sign for noncommercial or civic events at the site of the event may be posted no sooner than 30 days prior to the event and removed within five days of the event.	32 SF total	1 sign per lot	
g. Off-premise temporary signs announcing special events posted no sooner than 30 days prior to the event and removed within five days of the event.	12 SF	Up to 15 off-premises locations	

3. Permitted With Special Use Permit (Zoning Commission)

Type of Sign	Maximum Sign Area	Maximum Number of Signs	Location
a. Signs in connection with Special Use Permits authorized by Zoning Commission	15	1 per lot	15 feet back of street line
b. Common directory sign for civic, educational and/or religious organizations located in Somers (shall require consent of property owner or approval of Highway Department having jurisdiction if within street line)	50 SF total 6 SF per sign	1 sign per major highway near the Town line	

4. Other Signs

Any sign not specifically listed in Section 7.1.C. is expressly prohibited in residential districts.

D. BUSINESS / INDUSTRIAL DISTRICTS

1. Permitted Without Zoning Permit

Type of Sign	Maximum Sign Area	Maximum Number of Signs	Location
a. Any sign permitted in a residential district without a Zoning Permit is permitted in a business or industrial district subject to the same requirements.	See Section 7.1.C.1		
b. Each business unit of occupancy above the first floor may display a sign on the inside of each window serving said business unit of occupancy	6 SF total for all signs	1 sign per window	----
c. Portable sign placed on a business property during business hours only provided such sign is not artificially illuminated.	6 SF	1 sign per property	Back of street line
d. Signs attached or painted on a door, window or wall announcing sales or special features provided such sign(s) shall not be displayed for more than 30 days and shall be removed immediately after the termination of such sale or special feature.	Shall not exceed 25% of the area of said door, window or wall	n/a	

2. Permitted With Zoning Permit (Staff)

Type of Sign	Maximum Sign Area	Maximum Number of Signs	Location
a. Any sign permitted in a residential district with a Zoning Permit is permitted in a business or industrial district subject to the same requirements.	See Section 7.1.C.2		
b. **Wall Sign(s)** - Exterior sign(s) for a business unit of occupancy on the first floor	2 SF / LF of building façade for the business unit of occupancy	n/a	Back of street line
c. **Directory Sign(s)** - A common directory sign with not more than 1 square foot of sign area for each business unit of occupancy which is served by said entrance.	24 SF per sign	1 per entrance	Within 10 feet of building entrance
d. **New Businesses** - 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.	n/a	n/a	Back of street line
a. Any sign permitted in a residential district with a Special use Permit is permitted in a business or industrial district subject to the same requirements.			
b. **Detached Sign(s)** – Not higher than 15 feet in height nor be within 20 feet of a side lot line.	20 SF total area per sign face	1 per lot	20 feet back of street line

3. Other Signs

Any sign not specifically listed in Section 7.1.D is expressly prohibited in business and industrial districts.

E. LOCATION AND HEIGHT STANDARDS

1. All non-residential signs shall be located on the same lot as the business location.

2. Where more than one sign is permitted or is located on a building, such signs shall be of uniform height and shape.

3. 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.

4. Signs shall be located to face the street providing access to the property.

5. No sign shall be erected within, or overhang, public rights-of-way except public safety signs and other municipal informational signs:

6. Ground signs, including supports, shall not exceed a height above the surface of the ground where located of:
    a. Six feet (6’) in a residential district, or
    b. Fifteen feet (15’)in a business or industrial district,.

7. 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.

F. STANDARDS FOR LIGHTING AND MOVEMENT

1. A sign may be artificially illuminated provided:
   a. The source of the artificial illumination is external to the sign (internally lit signs are not permitted).
   b. Any such illumination shall be confined to or directed to the surface of the sign only.
   c. All light sources of signs shall be designed and shielded in accordance with guidelines of the International Dark Sky Association (IDSA) and so that they cannot be seen from beyond the property on which such sign is located.
   d. No exposed neon bulbs or light emitting diodes (LED) shall be visible from the exterior of the building.
   e. No electronic signs with changeable messages shall be visible or readable from the street.

2. 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.

3. 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.

4. No floodlights of the magnitude typically used as search lights or airport beacons shall be permitted.

5. No sign or sign lighting shall be higher than the surrounding tree line so as to obstruct or interfere with a scenic view from afar.

6. Any LED lighting installed shall not produce illumination rated above three thousand degrees Kelvin (3000K).

G. MANAGEMENT AND MAINTENANCE

1. Unless otherwise noted in this Section, all signs under these Regulations shall require the approval of the Zoning Enforcement Officer and shall meet all requirements of the Building Code and these Zoning Regulations.

2. 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.

3. Upon discontinuance of tenancy it shall be the responsibility of the property owner to eliminate signs pertaining to a removed use, business or proprietor.

4. 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.

7.2 PARKING AND LOADING

A. PURPOSE

This Section of the regulations is intended to require that buildings, structures and uses of land be provided with a sufficient number of off-street motor vehicle parking spaces, queueing spaces, and loading 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.

B. NUMBER OF PARKING SPACES

All buildings, structures and uses of land shall provide 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. The following schedule of parking requirements shall apply (singularly for a single use and in combinations for more than one use):

1. Residential Uses (including home-based businesses)

Use	Minimum Spaces Required
a. Single Family Dwelling	2 per dwelling unit
b. Multi-Family Development	2.00 per dwelling unit, plus 0.20 per dwelling unit in a common lot for guests
c. Dwelling with home occupation	2 per dwelling unit, plus 1 space for clients
d. Dwelling with professional office (not medical or dental)	2 per dwelling unit, 1 space per employee, plus 2 spaces for clients
e. Dwelling with professional office (medical or dental)	2 per dwelling unit, 1 space per employee, plus 4 spaces for patients
f. Convalescent or nursing home or home for the aged	2 spaces per 3 beds and 1 space per 3 employees
g. Housing for the elderly	2 spaces per 3 dwelling units

2. Business Uses

Use	Minimum Spaces Required
a. Retail and personal service stores	5.00 spaces per 1,000 SF GFA
b. Restaurants	1 space per 3 seats
c. Business offices and banks	4.00 spaces per 1,000 SF GFA excluding basement storage/utility areas
d. Physician/dentist office, clinics	1 space per doctor, 1 space per employee, and 2 spaces per examining room
e. Lodging facilities	1 space per guest sleeping room, plus office, restaurant and dwelling requirement where applicable
f. Meeting or conference facilities	1 space per 3 persons/design capacity

3. Industrial Uses

Use	Minimum Spaces Required
a. Industrial uses, including wholesale and storage	2 spaces per 3 employees on the largest shift when the capacity of building is in full use

4. Institutional / Assembly-Type Uses

Use	Minimum Spaces Required
a. Theater, assembly hall or auditorium having fixed seats and restaurants	1 space per 3 seats
b. Churches and other places of public assembly or recreation	1 space per 6 legal occupants
c. Senior high school	4 spaces per classroom, plus parking required for auditorium

5. Other Uses

Use	Minimum Spaces Required
a. Uses not listed	As determined by the Commission based on information provided by the applicant

C. NUMBER OF LOADING SPACES

1. 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.

2. Loading spaces not less than 10 feet wide, 25 feet long and 14 feet high shall be provided in not less than the number indicated below:

Use	Minimum Spaces Required
a. Retail store buildings	No loading space for the first 5,000 SF GFA, 1 loading space for the next 20,000 SF GFA, another loading space for the next 25,000 SF GFA, and then 1 loading space for each 50,000 SF GFA thereafter
b. Office, institution, theater and public assembly building	No loading space for the first 25,000 SF GFA, 1 loading space for the next 100,000 SF GFA, and then 1 loading space for each 100,000 SF GFA thereafter
c. Industrial and warehousing buildings	1 loading space for the first 50,000 SF GFA, 1 loading space for the next 50,000 SF GFA, and then 1 loading space for each 100,000 SF GFA thereafter

3. Loading areas shall only be located in side or rear yards.

D. CONFIGURATION REQUIREMENTS

1. In addition to the parking, queueing, and loading spaces, adequate provisions must also be made for access to the buildings, structures or uses by emergency vehicles, such as police, fire and medical vehicles.

2. Corner visibility requirements as contained in Section 7.8 shall apply.

3. 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).

4. 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.

5. 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.

6. Dimensions of parking spaces and aisles shall be at least as follows:
   a. Width of space: Nine feet (10 feet if adjacent to wall or column)
   b. Length of space: 20 feet
   c. Width of aisle:

Width of Aisle	Two-Way Travel	One-Way Travel
With spaces perpendicular to aisle	24 feet	24 feet
With spaces at 60° to aisle	20 feet	18 feet
With spaces at 45° to aisle	20 feet	15 feet
With spaces at 30° to aisle	20 feet	13 feet
With spaces parallel to aisle	20 feet	12 feet

E. OTHER REQUIREMENTS

1. 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.

2. In determining the adequacy and suitability of parking, queueing, and loading spaces, 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.

3. 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.

4. 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.

5. 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.

6. 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.

7.3 EXTERIOR LIGHTING

A. PURPOSE

These Regulations are intended to provide standards with regard to exterior lighting in order to maximize the effectiveness of site lighting, to enhance public safety and welfare, to raise public awareness of energy conservation, to discourage the installation of lighting fixtures that emit objectionable illumination, to avoid unnecessary upward illumination and illumination of adjacent properties, and to reduce glare.

B. APPLICABILITY

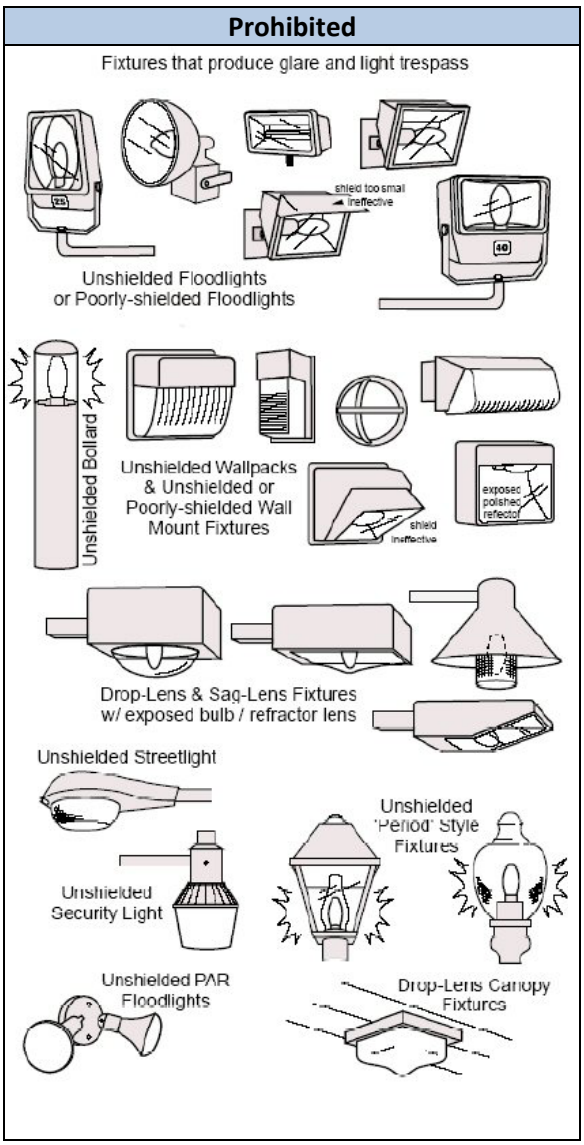
The standards herein shall apply to all exterior lighting where a Site Plan Application or Special Use Permit is required, except for single-family dwellings.

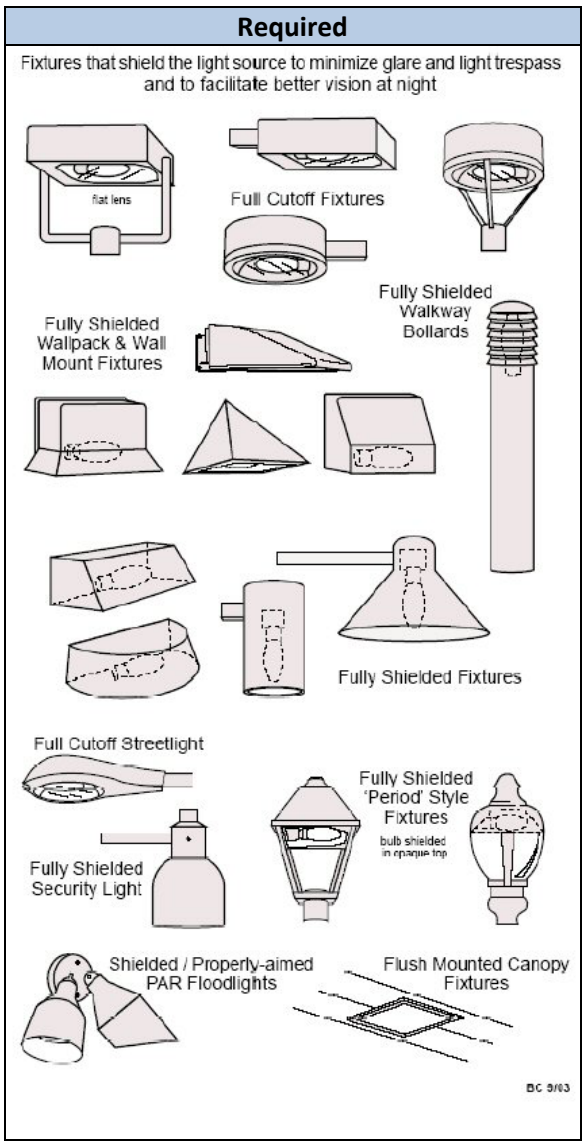
A lighting plan, certified by a licensed professional engineer, shall be submitted with any application for Site Plan Approval or Special Use Permit specifying the location and type of all exterior lighting fixtures and the proposed illuminance levels of the proposed development.

C. STANDARDS

1. All exterior lights, building illumination directed from the exterior of the building, and sign illumination shall be designed, located, installed and directed in such a manner as to:
   a. Prevent direct glare or light trespass of more than 0.1 foot-candles onto neighboring properties,
   b. Employ evenly distributed, transitional light levels which are consistent from area to area and provide uniform distribution of light without compromising safety and security.
   c. Minimize contrast between light sources, lit areas and dark surroundings, and
   d. Be confined within the target area to avoid glare outside the property line or boundary, or into the sky.

2. Light fixtures which cast light primarily downward shall be used and lighting fixtures shall be full cut-off type fixtures or Illuminating Engineering Society of North America (IESNA) cut-off fixtures except as approved by the Commission. In no case shall lighting be directed above a horizontal plane or through the top of the lighting fixture, and the fixture shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways. The use of general floodlighting fixtures shall be discouraged.





3. All lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and not cast on other areas. Attached building or wall lighting shall be screened by the building's architectural features or contain a cutoff shield so that such illumination does not extend beyond a forty-five (45) degree angel down from the light source.

4. All lighting for display, aesthetic, parking and sign lighting, shall be placed on timers and turned off after business hours; lighting provided for security may be motion-activated after hours.

5. The height of light fixtures shall not exceed thirty-five (35) feet in height.

6. High pressure sodium light sources are not permitted unless the applicant demonstrates that other alternatives are not adequate or practical for the site.

7. Lighting designed to highlight flagpoles shall be targeted directly at the flag.

8. The lighting of any outdoor recreation facilities shall be subject to the approval of the Zoning Commission. Where outdoor playing fields or other special outdoor activity areas are to be illuminated, lighting fixtures shall be specified, mounted and aimed so that their beams fall within the primary playing area and immediate surroundings, and minimal light trespass is received off the site, and in no event greater than 0.1 foot-candles.

9. Any LED lighting installed shall not produce illumination rated above three thousand degrees Kelvin (3000K).

D. ILLUMINATION LEVELS

1. In terms of illumination levels, the Commission shall be guided by the illumination levels as recommended by:
   a. The Illuminating Engineering Society of North America (IESNA), and/or
   b. The International Dark Sky Association (IDSA).

2. Replacement of light fixtures and/or light bulbs (or LEDs) shall maintain the illumination levels shown on the photometric plan approved by the Zoning Commission or, in the absence of such approved plan, the lighting levels as recommended by:
   a. The Illuminating Engineering Society of North America (IESNA), and/or
   b. The International Dark Sky Association (IDSA).

7.4 LANDSCAPING

A. PURPOSE

This section of the Regulations is intended to preserve existing vegetation and encourage or require planting of new screening and landscaping material in order to help address runoff and drainage, provide transitions between land uses, enhance the appearance and natural beauty of the Town, and to protect and increase property values.

B. GENERAL PROVISIONS

1. On all Site Plan and Special Use Permit applications submitted to the Commission, adequate provision shall be made for landscaping on the site in order to meet the purposes of this Section.

2. Existing plant materials may be used to meet all or part of these landscaping regulations and diligent efforts shall be made to preserve existing trees in good condition over 18 inches in caliper.

3. Non-native invasive plant species as identified by the State of Connecticut Department of Energy and Environmental Protection shall not be permitted as part of any landscaping plan approved by the Commission.

4. All landscaping must be completed in compliance with these Regulations or guaranteed by provision of a financial guaranty prior to issuance of a Certificate of Occupancy.

5. The requirement for the provision of landscaping in a growing condition according to accepted horticultural practices shall be the continuing obligation of the owner of the property on which any structure or use is located as long as such structure or use is in existence and its requirement for landscaping continues.

6. The Commission may require additional landscaping or more mature plantings when unusual conditions require more extensive screening, or for noise abatement to prevent the depreciation of adjoining residential properties.

7. The Commission may reduce the landscape requirements for excellence in building or site design including, but not limited to, the size and quality of landscape materials, the compatibility of proposed structures with surrounding architectural types, the quality of building materials, and the site characteristics.

C. SPECIFIC LANDSCAPING REQUIREMENTS

1. Any application for Site Plan Approval or Special Use Permit shall provide landscaped areas on site, which are in the aggregate, at least 20% of the total lot area. On such lots that are smaller than one acre, the Commission may require landscaped areas on the site, which are in the aggregate, up to 15% of the total lot area.

2. Unless modified by the Commission as provided in Section 7.4.C.3 below, any application for Site Plan Approval or Special Use Permit shall provide a grassed and/or landscaped area adjacent to the street which is not less than 20 feet in depth (measured from the edge of pavement) with at least one shade tree at least three inches (3”) in caliper per 50 feet or part thereof of the street frontage, planted outside the road right-of-way and in locations which do not block sight lines.

3. The Commission may reduce or eliminate the front yard landscaped area requirement when:
   a. An existing site is being redeveloped and significant landscaping will be added adjacent to the street, and/or
   b. Parking is located behind the building or to the side of the building and when the front yard landscaped area requirement will prevent the building being moved closer to the street to create or enhance a pedestrian-friendly environment, and/or for excellence in building and site design, and/or
   c. The Commission finds that there will be excellence in landscaping on other parts of the site.

4. Any application for Site Plan Approval or Special Use Permit shall provide a landscaped area along side and rear lot lines at least 10 feet wide with one shade tree at least 3 inches in caliper for each 50 feet or part thereof of such lines except that the Commission may reduce or eliminate the side/rear yard landscaped area requirement when:
   a. Adjacent properties are sharing parking and access as evidenced by a permanent agreement filed on the land records, and/or
   b. An existing site is being redeveloped and significant landscaping will be added on the site, and/or
   c. the Commission finds that there will be excellence in landscaping on other parts of the site.

5. Any application for Site Plan Approval or Special Use Permit shall provide landscaped end islands and/or landscaped center islands at least 10-feet wide within the parking lot including deciduous shade trees spaced 40 feet on center, interspersed flowering trees, and low shrubs.

6. 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. BUFFERING AND SCREENING REQUIREMENTS

1. Loading areas visible from a street shall have complete visual screening consisting of the following:
   a. A hedge of evergreens maintained at a height of at least six feet (at least four feet in height at the time of planting), and/or
   b. A screening fence or screening wall at least six feet in height and a maximum of eight feet in height and three-fourths (3/4) solid.

2. When a proposed use or activity in a business or industrial zone abuts a residential zoning district, the following buffering and screening shall be provided as follows:
   a. 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.
   b. The building and other activity areas shall have partial visual screening between zoning districts consisting one deciduous (at least 3" in caliper) or evergreen tree (at least 6' in height) for every 25 feet of zone boundary provided that at least half of all trees are evergreen trees.
   c. The parking areas shall be screened by
      - A hedge of evergreens maintained at a height of at least six feet (at least four feet in height at the time of planting), and/or
      - A screening fence or screening wall at least six feet in height and a maximum of eight feet in height and three-fourths (3/4) solid.

3. When a proposed use or activity in a business or industrial zone adjoins a residential zoning district across a street:
   a. The width of the front yard land landscaped area shall be 30 feet, and
   b. The number of trees required to be planted in the front yard land landscaped area shall be doubled.

4. In the case of a parcel under common ownership lying in more than one district, any buffer required for a use in the business or industrial district may be provided in the portion of the parcel that is in a residential district.

5. A hedge, screening fence, or screening wall required by these Regulations shall be maintained by the property owner in good condition throughout the period of use of the property and shall be replanted if necessary.

7.5 STORMWATER MANAGEMENT

A. PURPOSE AND INTENT

This Section of the Regulations is intended to:

- Minimize pollution from non-point source runoff,
- Mitigate impacts to the hydrologic system from development,
- Reduce or prevent flooding, stream channel erosion, and/or other negative impacts created by stormwater runoff, and
- Promote the application of Low Impact Development (LID) strategies.

B. GENERAL STANDARDS

1. 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 or her 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.

2. Said disposal shall not increase peak runoff onto nearby properties or public roadways, except as permitted by law.

3. Disposal of driveway surface water onto a Town roadway is prohibited and cellar or groundwater interceptor drains shall not be permitted to drain onto public roadways.

C. SITE PLAN / SPECIAL USE PERMIT REQUIREMENTS

1. Unless modified by the Commission by Special Use Permit as provided in Section 7.5.D below, any development within the Town of Somers seeking Site Plan Approval or Special Use Permit approval shall implement the following provisions of Chapter 7 of the Connecticut Stormwater Quality Manual (CSQM), as amended:
   a. Pollutant Reduction (CSQM Section 7.4).
   b. Groundwater Recharge and Runoff Volume Reduction (CSQM Section 7.5).
   c. Peak Flow Control (CSQM Section 7.6) for the 10-year, 25-year, and 100-year storm events.

2. In the design of a stormwater management system, design professionals may utilize low impact development techniques as contained in the Connecticut Stormwater Quality Manual, as amended.

D. MODIFICATIONS

1. The Commission may, by Special Use Permit, modify the requirements of this Section provided that adequate information has been submitted by the applicant to evaluate the request and:
   a. the Town Engineer has provided a positive recommendation regarding the modification, or
   b. the Commission has received a report from a professional engineer hired by the Commission providing a positive recommendation regarding the modification.

7.6 SOIL EROSION AND SEDIMENT CONTROL

A. PURPOSE

This Section of the regulations is intended to prevent or minimize soil erosion and sedimentation as part of any development activity within Somers.

B. GENERAL REQUIREMENTS

1. All development shall establish, implement, and maintain soil erosion and sediment controls in accordance with the publication entitled "Connecticut Guidelines for Soil Erosion and Sediment Control", as amended.

2. Erosion and sediment control measures and facilities shall be in place prior to the start of development.

3. Erosion and sediment control measures and facilities shall be maintained in effective condition and in accordance with any approved Control Plan.

4. During development, the Zoning Enforcement Officer and/or the Erosion Control Officer may inspect the site at any time to review sediment and erosion control measures, ensure compliance with any approved Control Plan, and ensure that control measures and facilities have been properly performed, installed and maintained.

C. CONTROL PLAN REQUIRED

1. A soil erosion and sediment control plan ("Control Plan") prepared in accordance with "Connecticut Guidelines for Soil Erosion and Sediment Control", as amended, shall be required in conjunction with any application for development when the cumulative disturbed area is more than 1/2 acre except that a single-family dwelling that is not a part of a subdivision of land shall be exempt from the requirement to submit a Control Plan.

2. The Control Plan shall identify proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available principles, methods, technology and practices as found in the "Connecticut Guideline for Soil Erosion and Sediment Control", as amended.

3. Alternative principles, methods and practices from those found in the Connecticut Guideline for Soil Erosion and Sediment Control, as amended, may be used with prior approval of the Commission.

7.7 DRIVEWAYS

1. Driveway entrances to and from a street shall be so located as to provide appropriate visibility and safety to the general public.

2. No obstruction shall be placed near a driveway which interferes with visibility of those using such driveway or those passing by.

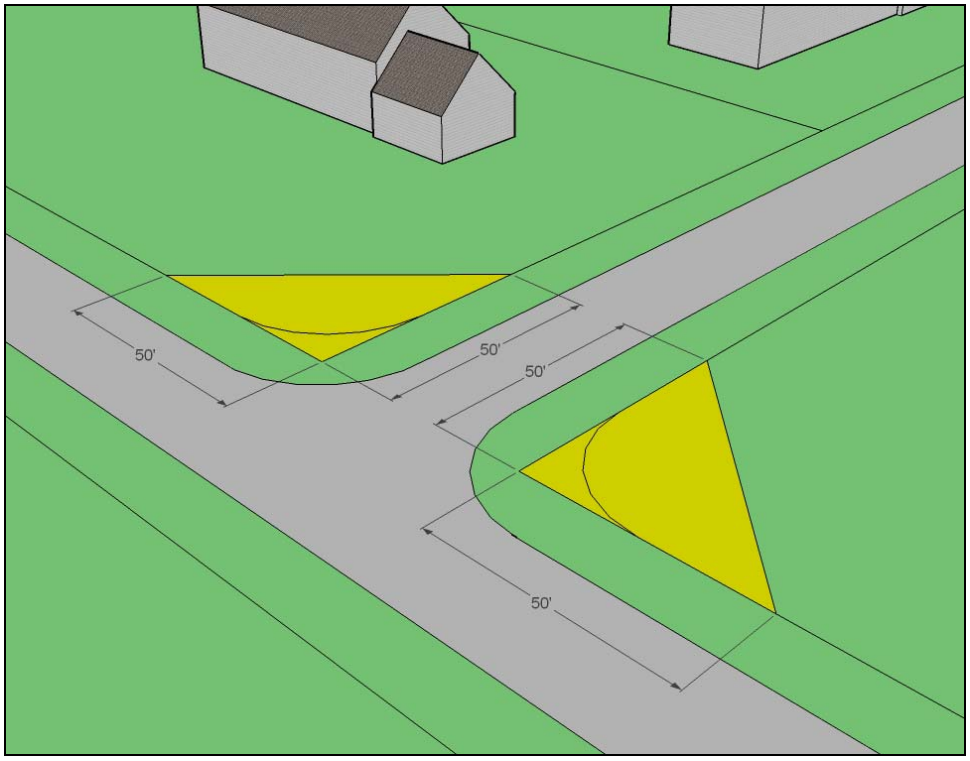
3. Driveways are permitted in front yards and front yard landscaped areas.

4. Residential driveways shall be located no nearer than 10 feet to a side lot line and shall meet the requirements of Chapter 104, Driveways.

7.8 CORNER VISIBILITY

1. No obstruction, such as vehicles, machinery, materials, signs, hedges, trees, shrubs or other growth, shall be created, established or erected:
   a. To a height exceeding three feet above the street grade within the triangular area defined by points located 50 feet back from two intersecting street lines on local roads,
   b. Within a larger triangular area on higher volume roads, or
   c. Which interferes with a clear view of drivers of vehicles on a curve or at any street intersection and/or endangers the safety of those traveling upon such streets.

2. 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.



7.9 SEWERS AND WATER

1. All lots shall provide for an adequate potable water supply and for proper sewage disposal for the users intended.

2. 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 local Health Department before a certificate of occupancy may be issued.

3. Where Town-owned sanitary sewers are planned or available, a statement of use and estimated discharge volume shall be filed with the application for a Zoning Permit and the system(s) installed shall have the written approval of the Somers Water Pollution Control Authority before a Certificate of Occupancy may be issued.

7.10 HISTORIC SIGNIFICANCE

1. No construction, excavation or other use of land shall be allowed which, in the opinion of the Commission, is unreasonably or unnecessarily destructive to sites having historical or archaeological significance.

2. If any sites or materials which may reasonably be suspected of having historical or archaeological significance are discovered during the course of any construction, excavation, removal or filling activities, such discovery shall be immediately reported to the Zoning Enforcement Officer.

3. Upon such report, the Zoning Enforcement Officer shall immediately notify:
   a. The Office of the State Archeologist, and/or
   b. The Zoning Commission.

4. The Zoning Commission may schedule a public meeting to discuss:
   a. Whether the site has historical or archaeological significance, and
   b. Any modifications or adjustments which could be made to investigate, document, and/or preserve the historical or archaeological significance.

5. Following a finding of historical or archaeological significance, the Commission may:
   a. 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. Revoke any existing permit or site plan pertaining to the property provided that the Commission shall, within 10 days after revocation, issue an amended permit or 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.

7.11 PERFORMANCE STANDARDS

A. PURPOSE

1. This Section of the Regulations is intended 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.

B. APPLICABILITY / ENFORCEMENT

1. No permit shall be issued for a building, structure or use under these Regulations if it is determined that such building, structure or use would not comply with these standards.

2. If it is determined 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.

C. DISCHARGE OF WASTE / REFUSE

1. No treated or untreated sewage, hazardous or industrial materials or wastes or other waste or refuse shall be discharged into any watercourse or wetlands.

2. 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.

3. 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.

D. HEAT

1. 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.

E. VIBRATION

1. No vibration shall be transmitted outside the property where it originates.

F. NOISE

1. See "Noise-Related Terms" in Section 2 of these Regulations for definitions of terms used in this Section.

2. 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:

	Receptor Zone		
Emitter Use	**Industrial**	**Business**	**Residential / Other**
Industrial	70 dBA	66 dBA	61 dBA Daytime 51 dBA Nighttime
Commercial and retail trade	62 dBA	62 dBA	55 dBA Daytime 45 dBA Nighttime
Residential and all other zones	62 dBA	55 dBA	55 dBA Daytime 45 dBA Nighttime

3. 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 (5) 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.

4. The emission of impulse noise shall not be caused or allowed in any zone in excess of:
   a. 100 dB peak sound-pressure level at any time.
   b. 80 dB peak sound-pressure level during nighttime hours in any residential zone.

5. Measurements to determine compliance with these standards shall be taken by a competent person using appropriate equipment 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.

6. These standards shall not apply to:
   a. Unamplified sounds emitted by or related to the human voice,
   b. Natural phenomena,
   c. Wild or domestic animals,
   d. Bells or chimes from a clock in any building or from a school or church,
   e. A public emergency sound signal,
   f. Sounds created by farming equipment or farming activity,
   g. Any emergency, and/or
   h. Snow removal.

7. The following shall be exempt from the provisions of this section, subject to the conditions noted:
   a. Noise created by the operation of property maintenance equipment during daytime hours.
   b. Noise generated by any construction equipment operated during daytime hours.
   c. 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.
   d. Noise created by blasting, provided that the blasting is conducted between 8:00 AM and 5:00 PM local time and provided that a permit for such blasting has been obtained from appropriate state authorities and the Zoning Commission.
   e. Noise created by refuse and solid waste collection and disposal, provided that such activity is conducted between 8:00 AM and 6:00 PM local time.
   f. Noise created by a fire alarm or intrusion alarm.
   g. Noise created by public facility maintenance during daytime hours.

7.12 GROUNDWATER PROTECTION

A. PURPOSE

This Section of the Regulations is intended to help protect groundwater quality in order to ensure an adequate supply of safe drinking water.

B. STANDARDS

1. Fuel tanks intended for residential fuel oils or other petroleum products 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:
   a. The State Building and Fire Codes,
   b. The National Fire Prevention Association (NFPA 30),
   c. The American Society For Testing Materials,
   d. Connecticut Regulations For Control of Nonresidential Underground Storage And Handling of Oil and Petroleum Liquids, and
   e. The Department of Energy and Environmental Protection.

2. Commercial underground tanks and storage systems shall be designed, constructed and installed in accordance with the standards of:
   a. The State Building and Fire Codes,
   b. National Fire Prevention Association (NFPA 30),
   c. American Society For Testing Materials,
   d. Connecticut Regulations For Control of Nonresidential Underground Storage And Handling of Oil and Petroleum Liquids, and
   e. The Department of Energy and Environmental Protection.

3. New and enlarged sites for the accommodation or storage of chemical fertilizers, pesticides, salt and herbicides shall:
   a. Have a roof which shall prevent precipitation from coming into contact with these materials.
   b. Have a liquid-tight floor with no drains.
   c. Be located so that the surface water runoff drains away from the storage area.

4. Plans for new and enlarged manure storage sites shall be submitted for review to the Department of Energy and 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.

5. 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.

6. Any of the facilities described above shall be shown on a plot plan filed with the Town Fire Marshal and local Health Department.

C. CONTINGENCY PLAN REQUIRED

1. 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.

2. 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).

D. INSPECTION AND ENFORCEMENT

1. The local Health Department, the Building Inspector, the Fire Marshal, and/or the Zoning Enforcement Officer, as the case may be, are authorized to check at any time any non-residential facility 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. Above-ground 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 lagoon or any other pond or depression used for holding domestic wastes pumped from septic tanks.

2. Should the local Health Department, Building Inspector or Fire Marshal determine upon inspection that a facility is not in compliance with this Section, said official shall immediately notify the Zoning Enforcement Officer.

3. Once notified, the Zoning Enforcement Officer shall notify, in writing, the owner of said facility of such noncompliance and the reasons for the same and the owner shall have 15 days from the date of said notification to cure such noncompliance.

4. If not corrected within said period, the certificate of occupancy for the property shall be revoked and the Zoning Enforcement Officer shall:
   a. Notify the owner of said facility, and
   b. Undertake appropriate enforcement action with the concurrence of the Zoning Commission.

7.13 ACCESS MANAGEMENT

A. PURPOSE

This Section is intended to manage the number, size, and location of driveways and access points, especially those on major roadways, in order to promote public safety and provide for safer and more efficient traffic operations along major roadways.

B. GENERAL PROVISIONS

1. Where street geometry, traffic volumes or traffic patterns warrant, the Commission may:
   a. Limit the number of driveways that serve a specific site,
   b. Designate the location or configuration of any driveway,
   c. Require the use or provision of a shared driveway with associated easements, and
   d. Limit access to a major street and require access from a minor street.

2. As part of application approval, the Commission may:
   a. Require the establishment of a mutual driveway or other easements to provide a single point of access for two or more abutting properties in a location acceptable to the Commission and the Traffic Authority,
   b. File such easements on the land records in favor of the abutting property owners and/or the Town of Somers as shall be acceptable to the Commission and the Town Attorney, and/or
   c. Utilize a mutual driveway or other easement that exists on abutting property in lieu of having a separate curb cut onto a road or street.

3. In reviewing existing and future curb cuts, the following guidelines shall be considered:
   a. Cuts should generally be located opposite existing streets and/or major driveways;
   b. The number of site access points should be limited;
   c. Driveway closures should not restrict internal site circulation;
   d. Internal connections between adjacent properties and the combination of access/egress driveways serving adjacent properties shall be required whenever practicable.

7.14 PEDESTRIAN IMPROVEMENT

A. PURPOSE

This Section is intended to provide for the establishment and improvement of a pedestrian network in Somers.

B. STANDARDS

1. To provide safe pedestrian access, sidewalks and/or walkways shall be constructed along street frontages and within the site to serve buildings and parking areas in the following locations unless modified by the Commission:
   a. Village Business Districts.
   b. Planned Development Districts.
   c. Commercial Recreation (CR) District.

2. To provide safe pedestrian access, sidewalks and/or walkways may be required by the Commission along street frontages and within the site to serve buildings and parking areas in the following locations :
   a. Business Districts.
   b. Industrial Districts.
   c. Age-Restricted Housing Development.
   d. Special Permit Uses In Residential Districts.

3. Unless modified by the Commission, sidewalks shall be at least five (5) feet wide and constructed of concrete unless an alternative surface treatment is considered acceptable by the Commission.

7.15 REFUSE MANAGEMENT

A. PURPOSE

This Section is intended to provide standards for the location and design of dumpsters, other refuse containers, and refuse management in general on business and/or industrial properties.

B. STANDARDS

1. To minimize visibility from the street and from nearby residential uses, dumpsters and other refuse equipment or facilities on business and/or industrial properties shall, unless otherwise approved by the Commission, be screened from any street line by buildings, fences, walls, landscaped berms or evergreen shrubs, trees, and/ or other means to provide complete visual screening.

2. To reduce windblown refuse or other impacts, dumpsters and other refuse equipment or facilities shall, unless otherwise approved by the Zoning Enforcement Officer, be contained within a fenced or landscaped enclosure.

3. Dumpsters and other refuse equipment or facilities shall not be placed in such a manner as to reduce the number of available parking spaces on the property to less than that required by these Regulations.

SECTION 8 SPECIAL PROVISIONS

8.1 DIMENSIONAL EXCEPTIONS

A. YARD SETBACK EXCEPTIONS

1. An appropriate driveway may be located within the required front yard setback.

2. The following minor projections of structures may project not more than one foot into any required yard setback:
   a. Window or door frames and sills,
   b. Belt courses,
   c. Cornices, and
   d. Other architectural features.

3. The following major projections of structures in residential zones may project not more than five feet into any required yard setback:
   a. Chimneys,
   b. Bay windows not longer than 25% of the wall from which they project,
   c. Eaves,
   d. Roofs over doorways,
   e. Hatchways, and
   f. Steps, areaways and fire escapes,.

4. The yard setback 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 provided, however, that:
   a. No wall or fence in any residence zone shall exceed eight feet in height measured above the natural grade.
   b. A wall or fence located within the front yard setback shall not exceed three feet in height nor be more than one-half (1/2) solid unless it is a stone wall or an agricultural fence.

5. A signs permitted in accordance with Section 7.1 of these Regulations may be placed within the required front yard setback.

6. 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.

B. HEIGHT EXCEPTIONS

1. Subject to the limitations in Section 8.1.B.2, the height limitations of these Regulations shall not apply to:
   a. Church spires, belfries and domes not used for human occupancy,
   b. 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.

2. For the exception to the height limitations, such features listed in Section 8.1.B.1 may only be erected to such height as is reasonable and necessary to accomplish the purpose that they are intended to serve and such features must:
   a. Be an integral part of the primary structure,
   b. Not be used for human occupancy, and.
   c. Not, in the aggregate, occupy more than 10% of the building area.

C. LOT FRONTAGE / AREA EXCEPTIONS

1. 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, 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:
   a. Was owned separately from any adjoining land prior to December 12, 1953, as evidenced by deed recorded in the Somers land records,
   b. 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
   c. Was shown on a plan of subdivision or resubdivision approved by the Planning Commission after December 12, 1953.

2. Any deviation from current yard setback requirements for such lot shall require a variance from the Zoning Board of Appeals.

8.2 NON CONFORMING CONDITIONS

A. PURPOSE AND INTENT

It is the purpose and intent of these Regulations:

- To permit non-conforming lots, uses and structures to continue until they are removed,
- To prevent enlargement, expansion or extension of non-conforming lots, uses and structures unless such enlargement, expansion or extension is specifically approved by the Commission by Special Use Permit.

B. NON-CONFORMING LOTS

1. In any district, a principal building and customary accessory buildings and structures may be erected on a lawful lot existing as of the effective date of adoption or amendment of these Regulations, or any applicable amendments hereto, provided that the yard dimensions and requirements other than those applying to lot area or lot frontage shall conform to the requirements of the district in which such lot is located.

2. A non-conforming lot shall not be reduced in area, dimension or any other manner which would increase its non-conformity.

3. If a non-conforming lot is converted to a conforming lot, it shall thereafter conform to the requirements of the district in which it is located, and the non-conforming lot shall not thereafter be resumed.

C. NON-CONFORMING USES

1. Where a lawful use exists at the effective date of adoption or amendment of these Regulations, or any applicable amendments hereto, which use is no longer permitted under these Regulations as adopted or amended, such use may be continued so long as it remains otherwise lawful.

2. Ordinary repairs may be made or remodeling done to any structure devoted in whole or in part to a non-conforming use, provided that such work does not increase the non-conformity.

3. Any building or structure containing a non-conforming use, which has been destroyed or damaged by fire, explosion, act of God, or by public enemy may be restored only to the same dimensions, gross square foot area and cubic volume existing immediately prior to such damage or destruction.

4. A nonconforming use shall not be considered terminated or deemed abandoned unless the property owner of such use voluntarily discontinues such use and such discontinuance is accompanied by an intent to not reestablish such use.

5. After the effective date of adoption or amendment of these Regulations or any applicable amendments hereto, unless a Special Use Permit has been granted by the Commission in accordance with Section 9.4 of these Regulations to allow the particular non-conforming use to be altered, a non-conforming use shall not be:
   a. Enlarged or increased, nor extended to occupy a greater floor area or area of land than was occupied at the effective date of adoption or amendment of these Regulations;
   b. Moved in whole or in part to any portion of the land other than that occupied by such use at the effective date of adoption or amendment of these Regulations; or
   c. Extended or enlarged by the attachment to a building or land of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

6. A non-conforming use may, by granting of a Special Use Permit by the Commission in accordance with Section 9.4 of these Regulations, be changed to another non-conforming use provided that:
   a. The Commission shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use;
   b. The Commission may attach such conditions and safeguards as may be required to protect the public health, safety and general welfare and to ensure continued compliance with these Regulations; and
   c. A written statement of intent to abandon the prior use is submitted.

7. If a non-conforming use is abandoned, the previous non-conforming use shall not thereafter be resumed.

8. No 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.

D. NON-CONFORMING STRUCTURES

1. Where a lawful structure exists at the effective date of adoption or amendment of these Regulations, or any applicable amendments hereto, which could not be built under the provisions of these Regulations as enacted or amended by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful.

2. A non-conforming structure may be moved within its existing lot so long as such move decreases its non-conformity.

3. Provided that such work does not increase the non-conformity, nothing in these Regulations shall prevent:
   a. Ordinary repairs made to a non-conforming structure;
   b. The strengthening or restoring to a safe condition of a non-conforming structure declared unsafe by the Building Official; or
   c. The strengthening or restoring to a safe condition of any part of a non-conforming structure where required by any lawful order.

4. A nonconforming building or structure shall not be considered terminated or deemed abandoned unless the property owner of such building or structure voluntarily discontinues such building or structure and such discontinuance is accompanied by an intent to not reestablish such building or structure. The demolition or deconstruction of a nonconforming building or structure shall not by itself be evidence of such property owner's intent to not reestablish such building or structure.

5. A legal nonconforming structure may be maintained, repaired, restored, rebuilt, replaced or altered provided such work:
   a. results in a building or structure with the same dimensions, gross square foot area, cubic volume, density, bulk and site location existing in the previously existing structure;
   b. does not increase the non-conforming aspect of the structure; and,
   c. complies with other applicable parts of these Regulations for the specific use and zone.

6. 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.

7. The extension or enlargement of any building within a special flood hazard area shall meet the Flood Damage Prevention Regulations.

8. After the effective date of adoption or amendment of these Regulations or any applicable amendments hereto, a non-conforming structure shall not be enlarged or altered in a manner which increases the non-conformity.

9. A legal nonconforming structure which is damaged or destroyed by fire, explosion, act of God, or the public enemy, may be rebuilt:
   a. In conformance with these Regulations; or
   b. Only to the same dimensions, gross square foot area, cubic volume, density, bulk and site location existing immediately prior to such damage or destruction, but not to any greater extent than in the previously existing structure.

E. 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.

8.3 TELECOMMUNICATION FACILITIES

A. PURPOSE

These regulations are intended to establish guidelines and standards for the siting of telecommunication facilities in Somers in order to protect the public safety and general welfare and, through design, siting, and screening, to minimize any adverse effects.

The Town of Somers recognizes that wireless communication services have become an important means of communication relied upon by residents and visitors. Wireless telecommunication services also have a public safety component since they can be used to summon police, fire and other emergency services, if or when needed. The Town intends to balance the public need or benefit resulting from wireless communications service in Somers while seeking the least obtrusive means of having such services available and minimizing possible negative impacts.

Please note that antenna structures operated by licensed amateur radio operators are addressed in Section 3.3.C.7 and Section 4.4.F.8.

B. FACILITIES REQUIRING SPECIAL USE PERMIT

The following telecommunication facilities shall require a Special Use Permit from the Zoning Commission and any such facility shall be reviewed for consistency with:

a. The purposes of this Section 8.3,
b. The Special Use Permit criteria contained in 9.4.E of these Regulations, and
c. The Standards contained in Section 8.3.D of these Regulations.

1. New Public Safety Tower or Antenna - A new antenna and/or tower intended and used primarily for the purpose of police, fire, ambulance, and/or other emergency services or similar emergency communications.

2. New Tower or Antenna on Town-Owned Property - A new antenna and/or tower located on property owned, leased or otherwise controlled by the Town of Somers.

3. New Tower or Antenna - Any new antenna and/or tower not regulated by the Connecticut Siting Council or by the Public Utilities Regulatory Authority including but not limited to radio towers, meteorological towers, or similar towers.

C. FACILITIES REGULATED BY STATE AUTHORITIES (STATE)

For telecommunication facilities regulated by the Connecticut Siting Council (CSC) or the Public Utilities Regulatory Authority (PURA), the standards contained in Section 8.3.D of these Regulations shall be submitted to such regulatory agency and shall be considered part of the "location preferences or criteria" as that term is used in CGS Chapter 277a.

1. Connecticut Siting Council - As provided in Chapter 277a of the Connecticut General Statutes (CGS Section 16-50g et seq.) and the rulings of the Connecticut Siting Council, telecommunications towers owned or operated by the state, a public service company, certified telecommunications provider or used in a cellular system including:
   a. Establishment of new towers (or built to support telecommunications antennae),
   b. Co-location of new antennae on existing towers,
   c. Modification of approved towers, and
   d. Applications to attach small cells to a new structure, an electric transmission pole or other freestanding structure.

Applicants to the Connecticut Siting Council are strongly encouraged to *meet with the Zoning Commission* within 30 days of the pre-application notice to a municipality as required by CGS Section 16-50l.(f)(1), to review technical reports concerning:

- **the need for the facility,**
- **a description of the site selection process,**
- **any alternate sites considered,**
- **measures to mitigate potential aesthetic impacts of the facility, and**
- **the potential environmental effects of the proposed facility.**

Such meeting with the Commission shall not be in lieu of the public informational meeting as provided for by CGS Section 16-50l.(f)(1).

2. Public Utilities Regulatory Authority – As provided in Chapter 283 of the Connecticut General Statutes (CGS Section 16-228 et seq.) and the rulings of the Public Utilities Regulatory Authority (PURA), the placement of small cell or similar (telecommunication) facilities on utility poles (including replacement or convenience poles) that are part of the electric distribution system.

D. STANDARDS

The following standards apply to applications submitted to the Commission under Section 8.3.E and to applications submitted to the CSC or PURA.

Location

1. Protect the Town's visual quality and minimize any adverse visual impacts of wireless communication facilities through proper design, siting, and screening.

2. Avoid locating wireless communication facilities in:
   a. Special Flood Hazard areas.
   b. Regulated wetland areas.

3. Avoid locating wireless communication facilities in locations which will have adverse visual impacts upon:
   a. Recognized historic places (properties listed in the National Register of Historic Places and/or the State Register of Historic Places),
   b. Designated historic districts (National Register Historic Districts, State Register Historic Districts, and/or local historic districts),
   c. Scenic resources designated in the Plan of Conservation and Development or elsewhere,
   d. Areas shown on the:
      - Connecticut DEEP Natural Diversity Database, and/or
      - Federal Listed Species and Natural Communities Maps.

Antenna Type

4. For new towers, Somers expresses its preference that the number of towers be minimized, especially visually prominent ground-mounted towers.

5. Somers expresses its preference for wireless communication facilities in the following order / hierarchy:

	PREFERRED
Existing Utility Poles	1. Small cell or other similar telecommunication facilities on existing utility distribution poles.
Structure Mounted (provided that such installation preserves the character and integrity of those structures)	2. Totally enclosed within: • An existing structure. • A new steeple, chimney, or similar architecturally compatible structure.
	3. Externally mounted on the wall of: • An existing structure. • A new steeple, chimney, or similar architecturally compatible structure.
	4. Mounted on or within a new purpose-built structure designed to fit Somers's overall character (such as a structure designed to look like a barn, silo, or similar).
	5. Externally mounted on the roof of: • An existing structure. • A new steeple, chimney, or similar architecturally compatible structure.
Internal Mount on Tower	6. New internally-mounted antennae on an existing or new tower (monopole or flagpole).
	NOT PREFERRED
Up-sized Utility Poles	7. Small cell or other similar telecommunication facilities on utility poles that are substantially larger in size or scale compared to existing utility poles.
External Mount on Tower	8. New antennae externally-mounted on existing or new pole (co-location) including "monopine" or monopole. 9. New lattice tower. 10. New guyed tower.

Design

6. For new installations, all wireless communication facilities and associated equipment and material shall be visually shielded, camouflaged, and/or minimized to be as visually unobtrusive as possible when viewed from nearby properties and public roadways.
   a. The design of the equipment, buildings and related structures shall, to the extent possible, use materials, neutral colors, finish, textures, screening, and landscaping that will blend them into their location.
   b. Any building mounted antenna shall not extend more than 10 feet above the highest point of the structure unless specifically approved by the Commission due to unusual circumstances.
   c. Any building mounted antenna shall be completely screened or shall be designed and installed to be architecturally compatible with the structure in question.

7. New towers shall be located away from property lines and habitable buildings at least as far as the height of the tower, including any antennas or other appurtenances unless adequate information has been provided to demonstrate that a "yield point" or other approach has been designed into the tower to avoid a tower falling on adjacent properties or habitable buildings.

8. With regard to installations on utility poles:
   a. Any replacement poles or convenience poles shall retain the general height and visual characteristics of the utility pole they are replacing.
   b. All equipment shall be placed within one enclosure mounted in the least visually obvious location on the pole.

9. Lighting of any wireless communication facilities shall be clearly disclosed and shall not exceed what is clearly necessary for public safety. No towers shall be artificially lighted unless required by the FAA or other applicable authority and specifically authorized by the Commission.

10. Signage shall be clearly disclosed and should not exceed what is clearly necessary for public safety.

11. Site development shall minimize impervious surfaces, avoid soil erosion and runoff problems, maintain natural buffers, and provide for security and safe access.

12. Towers shall be protected to prevent unauthorized climbing.

Equipment Shelters

13. For equipment shelters associated with telecommunications facilities:
    a. The presence of wireless communication equipment shall be concealed within buildings that resemble sheds and other building types found in Somers.
    b. Such buildings shall not exceed one story in height and shall not exceed the maximum height in feet for an accessory building as specified in Section 3.4 of these Regulations.
    c. Such equipment and shelters shall be set back from property lines in accordance with the requirements in the zoning district for the minimum yard setbacks for principal buildings.
    d. Such equipment shelters shall, in the opinion of the Commission, be appropriately scaled (floor area, height) and designed for the setting and the number of carriers provided.
    e. In unusual situations where the above is not practical or desirable, the Commission may allow the use of underground vaults or ground-mounted equipment shielded by extensive landscaping and/or fencing.

14. For building mounted antennae, equipment vaults shall be concealed or use screening appropriate to the building shall be used to shield equipment from view.

15. Any equipment cabinets or other appurtenances used in association with the tower or antenna shall be clearly shown as part of the application including how such equipment is designed to blend with the surrounding landscape or be obscured from adjacent properties and streets.

16. Security fencing, no more than six feet in height, may be required by the Commission around the antenna, tower, and equipment depending on the nature of the installation.

17. Landscaping, including buffering, may be required by the Commission around the antenna, tower, and equipment depending on the nature of the installation.

Operation / Maintenance of Towers / Antennae

18. All antennae and equipment shall be operated in a manner consistent with FCC guidelines for radio frequency emissions and other requirements.

19. All antennae and equipment shall, under normal operating conditions, be consistent with the noise standards as stated in the Town of Somers Noise Ordinance, Chapter 6B of the Town of Somers Code.

E. APPLICATION REQUIREMENTS / REQUESTS

For applications filed with the Zoning Commission (ZC) under Section 8.3, the information identified below as relevant will generally be required unless modified or waived by the Commission. For applications filed with the Connecticut Siting Council (CSC) or the Public Utilities Regulatory Authority PURA), the information identified below as relevant is requested.

	ZC	CSC	PURA
1. Carrier Identified –			
a. A statement identifying which licensed carrier is either an applicant or a co-applicant on the application.	☑	☑	☑
2. **Emergency Service Needs Considered** –			
a. A statement identifying whether an authorized emergency services organization (police, fire and/or ambulance services) is either an applicant or a co-applicant on the application.	☑	☑	
b. If an authorized emergency services organizations is not a co-applicant, statements from police, fire and ambulance services indicating whether they have any emergency service communication needs which could be addressed by the proposed facility.	☑	☑	
c. Documentation that the proposed facility will not cause any interference with any emergency or public safety radio system.	☑	☑	☑
3. Regulatory Compliance–			
a. A statement that all towers, antennas, and/or equipment will, at all times, be operated in accordance with relevant local, state, and federal regulations.	☑	☑	☑
b. Documentation regarding noise emission from equipment and steps to be taken so that any equipment noise is inaudible at the property line.	☑	☑	☑
4. **Coverage** –			
a. Coverage parameters used in the analysis of potential sites.	☑	☑	☑
b. Information on all tower sites considered and the reasons for rejection of any site.	☑	☑	

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	ZC	CSC	PURA
5. **Visual Impact And Extent –**			
a. For a new tower, the boundaries of the tower's viewshed (the area within which the tower can be seen based upon topography).	☑	☑	
b. For a new tower, notice of a "balloon test" for the proposed site shall be published in accordance with the notice provisions in CGS Section 8-7.	☑	☑	
c. Illustrations of the proposed tower, antennas, equipment shelters, and any other construction or development attendant to the facility.	☑	☑	☑
d. Visual simulation of the proposed tower, antennae and equipment enclosure(s)	☑	☑	☑
e. A statement indicating whether utilities serving the facility will be overhead or underground.	☑	☑	
f. A statement indicating whether the site will require lighting per the FAA regulations and, if so, what type of lighting is proposed	☑	☑	
g. A statement as to whether any commercial logo or identification will be placed on any equipment so as to be visible from adjacent property or a public street.	☑	☑	☑
6. **Construction Plans –**			
a. For towers, site plans with two-foot contour intervals showing all proposed changes to the existing property, including clearing, grading, structure and equipment location(s), temporary or permanent roads or driveways, existing and proposed stormwater management facilities, and other considerations.	☑	☑	
b. For utility pole installations, site plans showing all proposed changes within the street right-of-way or on nearby property including vegetation removal, grading, and other considerations.			☑
c. For towers, drawings of the tower and key dimensional parameters including any built-in "yield point" or other parameter.	☑	☑	
d. Drawings of any building, underground vault, fence, screening, or other enclosure for equipment	☑	☑	
e. For towers or for any ground based equipment or structures, landscaping drawings.	☑	☑	☑

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	ZC	CSC	PURA
7. **Other Requirements** –			
a. A statement shall be submitted indicating whether there are any deed restrictions or easements or other encumbrances that would affect the installation of wireless communication facilities.	☑	☑	
b. For applications to PURA, the applicant shall submit a statement indicating their willingness to schedule a public information meeting in Somers if requested by the Town.			☑
8. **Operational Considerations** –			
a. A statement about whether the site will require lighting per the FAA regulations or be installed for any reason and, if so, what type of lighting is proposed.	☑	☑	
b. The applicant's program for annual reporting of the contact person.	☑	☑	☑
c. The applicant's proposal for documenting, upon request by the Town: • Whether radio frequency emissions from the antennae and/or equipment exceed FCC guidelines and actions taken to correct any non-compliance. • Whether equipment at the site complies with noise limitations and actions taken to correct any non-compliance	☑	☑	☑
d. For new towers, the applicant shall prepare and submit an affidavit acceptable to the Commission, for recording on the land records, declaring responsibility for the orderly removal of towers, antennas and associated equipment and restoration of the site at the operator's expense.	☑	☑	
e. A written maintenance plan for the site, including, but not limited to, all facilities including landscaping at the site.	☑	☑	

8.4 EARTH REMOVAL AND FILLING

A. PURPOSES

The purposes of this Section of the Regulations 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.

B. ALLOWED WITHOUT NO PERMIT REQUIRED

The necessary and incidental excavation, removal and/or filling of up to 1,000 cubic yards of earth material is permitted without obtaining additional approval only if such activity occurs in connection with one of the following:

1. 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 as part of the Zoning Permit or Special Use Permit provided that:
   a. Topsoil or loam may only be removed to the extent necessary to allow permitted building or other construction activities.
   b. Such topsoil or loam shall be retained on the property and shall be re-spread on the property following the completion of construction activities.
   c. Such topsoil and loam shall then be reseeded or otherwise stabilized to prevent erosion.
   d. 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.

2. The landscaping of a lot having one or more existing structures.

3. Normal agricultural operations.

4. 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.

5. A subdivision approved by the Planning Commission with a financial guaranty for erosion and sediment control on file.

C. ALLOWED WITH SITE PLAN APPROVAL

1. The removal or destruction of more than 20 cubic yards of topsoil on any lot when not in connection with construction, regrading or landscaping work provided, 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.

2. Existing excavation, removal or filling operations may continue as nonconforming uses until the expiration of their yearly permit, but the operator must then file a statement with the Commission 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.

D. ALLOWED WITH SPECIAL USE PERMIT

1. Unless exempted as provided in Section 8.4.B, any excavation or removal of sand, gravel, clay, soil, humus, quarry-stone, rock or other earth materials or filling of land shall require a Special Use Permit.

2. Any blasting associated with the excavation and/or removal of earth products shall require approval of a separate Special Use Permit by the Commission. As part of the application review process, the Commission shall consider the following:
   a. A report from the Fire Marshal.
   b. Reports from any other local or state agency having jurisdiction over blasting operations.
   c. A report submitted by the applicant regarding whether the blasting will constitute a nuisance or cause damage to nearby property.
   d. Any guidelines issued by the Department of Energy and Environmental Protection (weblink to DEEP guidelines not found).

3. Crushing or separating operations shall also require approval of a separate Special Use Permit by the Commission.

E. PROCEDURES FOR SPECIAL USE PERMIT

1. **Issuance** - The Zoning Commission may issue or renew a Special Use Permit for excavation, removal or filling operations involving earth products and:
   a. Shall establish an expiration date for any Special Use Permit issued pursuant to this Section,
   b. Such expiration date shall not exceed one year from the date of Commission approval, and
   c. The Special Use Permit shall be filed in accordance with Section 9.4 of these Regulations prior to commencement of any operations.

2. **Renewal** -
   a. 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.
   b. No Special Use Permit shall be renewed until:
      i. An updated, certified engineered site plan has been approved by the Zoning Commission and is in compliance with Section 8.4.G of these Regulations.
      ii. The Commission or its authorized agent has inspected the work under the previous permit.
   c. 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.

3. No Special Use Permit shall be issued or renewed pursuant to this Section unless the following conditions are met:
   a. 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.
   b. The activity shall be in harmony with the general purpose and intent of these Regulations and shall not have an adverse effect on any existing or potential surface water or groundwater supplies.
   c. The premises shall be excavated and graded in conformity with the proposed plans as approved.
   d. 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.
   e. 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.
   f. 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.
   g. During and after the excavation, removal or filling, the site shall be cleared of debris.
   h. Silt and sediment shall not be permitted to run off the site and settlement basins shall be used to control sedimentation.
   i. All arable soil from any excavation or fill area shall be set aside and retained on the premises, and shall be re-spread over the affected area and permanently seeded upon completion of the entire operation or any part thereof.

j. Unless a plan for removal is coordinated with the owner of an adjacent tract and approved by the Commission:
   i. 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.
   ii. 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.
   iii. Such prohibited activities include, but are not limited to, excavation, removal, stockpiling and clearing.
   iv. Measurement shall be made from the property line or street line, as appropriate, to the nearest point of such removal, filling or other activity.
   v. 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.
   vi. 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.
   vii. 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.
k. 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.
l. 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.
m. If considered necessary by the Zoning Commission, a limitation may be placed upon the stockpiling of excavated or fill material.
n. Local streets shall be kept clean by the permittee of the earth removal and/or filling operation at all times.
o. 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.
p. A permanent grass mixture and/or trees spaced apart not more than seven feet on center shall be planted on the re-stabilized area.

q. These plans shall be referred to the Natural Resources Conservation Service or other agency for recommendations.
r. Machines and trucks working in, to and from the pit area shall be properly muffled and covered at all times.
s. All trucks shall be required to take the shortest distance to a state road.
t. Topsoil or loam shall not be removed from any property except in accordance with Section 8.4.B.1.
u. The site will be subject to continuously conform to the State of Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.

F. STANDARDS

1. 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 Section 8.4.E.3.o. Boundary stakes shall be maintained at all times for the purpose of inspection for compliance.

2. 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.

3. 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 AM nor continue after 5:30 PM Monday through Friday; or earlier than 8:00 AM 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.

4. 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.

5. 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.

6. 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.

G. APPLICATION REQUIREMENTS

1. 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.

2. A fee of $600 per year shall be levied upon the permittee to defray the expenses of inspections and reports.

H. FINANCIAL GUARANTY REQUIREMENTS

1. As a condition of the Special Use Permit, the applicant shall post a financial guaranty in the amount equal to 120% of the cost estimated by the applicant and approved by the Commission (but not less than $10,000) for:
   a. All excavation, removal and filling,
   b. All sedimentation and erosion control measures to be installed and continuously maintained, and
   c. All work necessary to completely restore the site as required by these Zoning Regulations.

2. Such financial guaranty shall be in the form of a continuous surety bond, irrevocable letter of credit, cash or passbook acceptable to the Commission.

3. In order to ensure the faithful performance and completion of the work pursuant to the conditions of the Special Use Permit approval, any financial guaranty provided under this section shall be filed with the Town 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.

4. Such financial guaranty shall provide terms acceptable to the Town Attorney specifying that:
   a. Such financial guaranty shall only be canceled with the approval of the Zoning Commission, and
   b. Notice of any proposed cancellation shall be provided to the Commission at least 30 days in advance of such proposed cancellation for such cancellation to be of any effect.

5. Cessation of operations for a six-month period shall be considered as cause to call the financial guaranty to address stabilization of the site.

I. RESTRICTIONS ON TRANSFER

1. No Special Use Permit issued in accordance with this Section shall be transferable or assignable to any other person, corporation or legal entity and no transfer of deed involving an earth removal / filling operation shall occur until:
   a. Complete restoration of an earth removal / filling operation has been completed to the Commission's satisfaction,
   b. The full amount of the financial guaranty has been released to the Town to complete the restoration of the site, or
   c. The person, corporation or legal entity responsible for the restoration of the earth removal / filling operation submits proof acceptable to the Commission that new security, satisfactory to the Commission, is in force before the present security is released.

2. Any alienation of title to the premises concerning which a permit has been issued, whether by sale, lease, gift, devise or other means, shall:
   a. Operate as a revocation of said Special Use Permit and any subsequent owner, lessee or sub-lessee must apply for a new permit before any excavation, removal or filling operations may be conducted upon said premises, and
   b. Be cause for the Commission to see that the full amount of the financial guaranty has been released to the Town to complete the restoration of the site.

3. No such new Special Use Permit shall be issued to a new person, corporation or legal entity unless all conditions stated in these Regulations, and in any previous permits, have been met.

J. REVOCATION OF PERMIT.

1. 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 Section 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.

2. 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 financial guaranty.

3. These provisions are in addition to, and not in lieu of, the provisions of Section 1.6 of these Regulations and any other provisions of State law.

8.5 ADULT-ORIENTED ESTABLISHMENTS

A. APPLICABILITY

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.

B. LOCATIONAL LIMITATIONS

1. Adult-oriented establishments are permitted only in the Business Zoning District

2. The lot on which such establishment is located shall be at least 1,000 feet measured along a straight line from property line to property line from:
   a. Any lot that is zoned for residential uses,
   b. Any lot that contains other adult-oriented establishments,
   c. Any lot containing an existing residential use,
   d. 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 180 days a year),
      - 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.

C. OTHER REQUIREMENTS

1. Adult-oriented establishments shall be subject to:
   a. the Special Use Permit provisions of Section 9.4 of these Regulations, and.
   b. the Site Plan review provisions of Section 9.3 of these Regulations.

2. The following specific criteria shall also apply to any adult-oriented establishment:
   a. One parking space for every 100 square feet of gross floor area devoted to the adult-oriented establishment shall be provided.
   b. No exterior sign shall contain any photographic or artistic representation of specified anatomical areas.
   c. 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.
   d. No adult use shall be established in any building of which any part is used for residential purposes.
   e. No residential use shall be established in any building of which any part is used as an adult use establishment.
   f. Illumination –
      - Adequate lighting shall be provided on a site to ensure the safe movement of persons and vehicles and for security purposes.
      - Stairways, sloping or rising paths and building entrances and exits shall be illuminated.
      - All lighting shall be full cut-off or shielded type to prevent direct glare and/or light trespass onto adjoining properties. Flood lighting and spotlight-type fixtures attached to the building are prohibited.
      - All nonessential lighting (display, aesthetic, parking and sign lighting) shall be turned off after business hours, leaving only the necessary lighting for site security.
      - The use of motion detection lighting for security is preferred over a constant light source.

SECTION 9 PROCEDURES

9.1 STAFF PROCEDURES

A. ZONING PERMIT

1. A Zoning Permit shall be required from the Zoning Enforcement Officer whenever:
   a. A building, structure or part thereof will be constructed, reconstructed, altered, extended, enlarged, moved, or occupied; or
   b. A Building Permit will be issued unless the Zoning Enforcement Officer determines that a Zoning Permit is not required, or
   c. A non-conforming use will be altered, changed, intensified or extended after the date of adoption of these Regulations, or
   d. Land will be developed, or
   e. These Regulations provide that a Zoning Permit is required.

2. In a village district, notification of the village district consultant may be required in accordance with the requirements of Section 9.8.N.

3. No Zoning Permit shall be issued for any building, structure or land use unless the lot for which the permit is sought complies with the frontage requirements stated these Regulations and has the required frontage on:
   a. A street as defined in these Regulations, or
   b. A street as defined in these Regulations which is under construction and which shall have been:
      - Approved by the Planning Commission, and
      - Will become a street dedicated and accepted by the Town or the State.

4. Pursuant to CGS Section 8-3(f), no Building Permit shall be issued until a Zoning Permit has been issued.

5. Application for such permit shall be made on the form provided by the Zoning Enforcement Officer and shall be accompanied by plans and/or other information that comply with the requirements in the Appendix of these Regulations.

6. A Zoning Permit shall be issued when the Zoning Enforcement Officer has determined that the activities proposed are in conformance with these Regulations and/or any Approval or Special Use Permit approved by the Zoning Commission and/or any variance granted by the Zoning Board of Appeals.

7. **Location Verification –**
   a. After a foundation has been completed and prior to any additional construction thereon, the Zoning Enforcement Officer may require the submission of a certified plot plan drawn by a land surveyor currently licensed to practice in Connecticut showing the exact location of the foundation on the site.
   b. If an as-built drawing has been required, no building or structure shall thereafter be constructed above the foundation walls until the certified survey has been approved by the Zoning Enforcement Officer or the Commission as complying with the Zoning Permit and all applicable provisions of the Zoning Regulations.

8. In accordance with CGS Section 8-3(f), the recipient of a Zoning Permit may publish notice of issuance of the Zoning Permit in a newspaper with substantial circulation in Somers in order to establish the appeal period per CGS Section 8-7. Any such notice to be published by the recipient shall contain:
   a. A description of the building, use or structure and its location,
   b. The identity of the applicant, and
   c. A statement that an aggrieved person may appeal to the Zoning Board of Appeals in accordance with the provisions of CGS Section 8-7.

9. Any Zoning Permit issued under these Regulations shall expire twelve months from the date of issuance unless:
   a. A valid Building Permit for the use, construction and site development authorized by the Zoning Permit is in effect, or
   b. The Zoning Enforcement Officer renews the Zoning Permit for periods not to exceed twelve months, when the building and/or site development authorized by the Zoning Permit is in conformity with these Regulations and any amendments made subsequent to the date of original issuance of the Zoning Permit.

10. In the event that any Zoning Permit is issued based on incorrect information or the specific conditions of approval are not strictly adhered to, such Zoning Permit shall be null and void.

B. CERTIFICATE OF ZONING COMPLIANCE

1. A Certificate of Zoning Compliance issued by the Zoning Enforcement Officer shall be required before any land is occupied or used or any structure constructed is occupied or used for any purpose.

2. Until the Zoning Enforcement Officer has issued a Certificate of Zoning Compliance which certifies conformance of the building, structure or use with these Regulations or with a variance granted by the Zoning Board of Appeals or that the building, structure or use is a valid nonconforming building, structure or use under these Regulations:
   a. No use of land shall be occupied, used or changed in violation of these Regulations;
   b. No use of a building or structure shall be undertaken or changed.

3. Pursuant to CGS Section 8-3(f), no Certificate of Occupancy shall be issued until a Certificate of Zoning Compliance has been issued.

4. In the case of new construction, the Zoning Enforcement Officer may require submission of a certified plot plan drawn by a land surveyor currently licensed to practice in Connecticut showing the exact location of the improvements on the site prior to the issuance of a Certificate of Zoning Compliance. In the event of substantial deviations from any plan approved by the Commission, the Zoning Enforcement Officer shall submit such "as built" drawings to the Commission for its determination of acceptance or need for plan amendment.

5. 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.

6. No permanent Certificate of Zoning Compliance 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.

7. If the site improvements cannot be completed because of weather or for other pertinent reasons, a conditional Certificate of Zoning Compliance may be issued by the Zoning Enforcement Officer for a period not to exceed 180 days, provided that a financial guaranty shall be posted in an amount sufficient to cover the cost of completing the remaining site improvements. Upon satisfactory completion of the remaining site improvements and the written request of the applicant, the Zoning Enforcement Officer and/or the Commission shall then release the financial guaranty.

8. In accordance with CGS Section 8-3(f), the recipient of a Certificate of Zoning Compliance may publish notice of issuance of the Zoning Permit in a newspaper with substantial circulation in Somers in order to establish the appeal period per CGS Section 8-7. Any such notice to be published by the recipient shall contain:
   a. A sufficient description of the approved building, use or structure and its location to comply with the notice requirements of Connecticut law,
   b. The identity of the applicant, and
   c. A statement that an aggrieved person may appeal to the Zoning Board of Appeals in accordance with the provisions of CGS Section 8-7.

9. In the event that any Certificate of Zoning Compliance is issued based on incorrect information or the specific conditions of approval are not strictly adhered to, such Certificate of Zoning Compliance shall be null and void.

9.2 PRE-APPLICATION REVIEWS (STAFF / ZC)

A. PRE-APPLICATION REVIEW BY STAFF

1. Prior to the submission of an official application, it is recommended that the applicant meet with appropriate Town Staff to discuss the proposed application in order to:
   a. Suggest possible enhancements and identify areas of concern,
   b. Identify the potential need for third party consultants in accordance with Section 9.8.E of these Regulations, and
   c. Minimize delay, expense and inconvenience to the applicant.

2. This meeting is recommended in order to facilitate consideration of factors that may be associated with a particular proposal before the applicant proceeds with preparation of detailed maps, plans and documents required for formal consideration.

3. Neither the pre-application plan nor the informal consideration by Town Staff (such as the Zoning Enforcement Officer or the Town Engineer) shall be deemed to constitute any portion of the official and formal procedure of applying for any approval as contemplated herein or under the provision of the Connecticut General Statutes.

B. PRE-APPLICATION REVIEW BY COMMISSION

1. Any potential applicant may request the opportunity to place such proposal on the agenda of a regular or special meeting of the Commission for the purpose of presenting preliminary plans or concepts and receiving preliminary comments, observations, questions, or areas of concern.

2. For larger or more complex applications, it is recommended that the applicant present a pre-application plan for informal consideration by the Commission prior to the submission of an official application in order to:
   a. Facilitate consideration of factors that may be associated with a particular proposal before the applicant proceeds with preparation of materials required for formal consideration by the Commission, and/or
   b. Identify the potential need for third party consultants in accordance with Section 9.8.5 of these Regulations.

3. Such pre-application submission shall, at a minimum, include the following:
   a. A plan providing sufficient information for the Commission to visualize the proposed development, to identify the location of significant natural features, and other relevant information; and
   b. A written summary of the project the Commission is being asked to address.

4. The pre-application materials shall be submitted to the Zoning Enforcement Officer for scheduling on a future Commission agenda.

5. In accordance with CGS Section 7-159b, neither the proponent nor the Commission shall be in any way bound by statements made in such informal discussions, their purpose being only to minimize delay, expense and inconvenience to the public, the proponent, and the Commission upon the future receipt, if any, of a formal application.

6. Neither the pre-application plan nor the informal consideration by the Commission shall be deemed to constitute any portion of the official and formal procedure of applying for any approval as contemplated herein or under the provision of the Connecticut General Statutes.

7. While the meeting and optional pre-application plan should benefit any formal application, neither the applicant nor the Commission shall be bound by any statement made during such informal review, nor shall the statement of any Commission member be deemed to be an indication of prejudgment or prejudice, it being acknowledged by the applicant that the Commission response like the request itself is preliminary and subject to further refinement.

8. Following any informal discussion, the Commission may suggest that the proposal, or certain aspects thereof, be referred to other municipal, State, or Federal agencies for review and comment, or may suggest that additional information is or will be required prior to action on a formal application.

9.3 SITE PLAN APPLICATION

A. PURPOSE

The purpose of a Site Plan Application is to enable a detailed review of all proposed development for which such approval shall be specified in order to ensure compliance with these Regulations and promote the health, safety, and general welfare of the community.

A site plan submitted with a Special Use Permit is an integral part of the Special Use Permit application and shall not be considered a site plan application pursuant to CGS 8-3 but must include, unless otherwise provided by the Regulations, the information required to be included with a Site Plan Application

B. APPLICATION REQUIREMENTS

1. A Site Plan Application shall be submitted to the Zoning Enforcement Officer for any activity designated in the Regulations as requiring such approval and no building, structure, parking lot, sign or outdoor use of land, except those designated as a permitted use in a District, shall be established, used, constructed, enlarged, modified or moved until a Site Plan Application meeting the requirements of this Section has been submitted and approved by the Zoning Commission.

2. A Site Plan Application shall be accompanied by an adequate number of each of the following:
    a. Full-size (24” by 36”) sets of detailed plans, signed and sealed by an appropriate professional, for review by the Commission and its designees that comply with Appendix D to these Regulations,
    b. Reduced-size (11” by 17”) set of the same materials, and
    c. Electronic set of the same materials in PDF format.

3. The application shall be accompanied by a fee, as provided in the fee schedule of the Town.

4. In accordance with the Appendix to these Regulations, the Commission may require the submission of additional information as deemed necessary to make a reasonable review of the application.

5. If a Site Plan Application involves an activity regulated pursuant to CGS Sections 22a-36 to 22a-45, inclusive, the applicant shall submit an application for a permit to the Conservation Commission not later than the day such Site Plan application is filed with the Commission.

C. PROCEEDINGS

1. The date of receipt for the Site Plan Application shall be determined in accordance with Section 9.8.B.

2. An incomplete Site Plan Application shall be denied in accordance with Section 9.8.C.

3. For new construction or other activity considered to be significant in the sole judgment of the Commission, the Commission may hold a public hearing on the application and when such hearing is to be held:
   a. Legal notice of such public hearing shall published in accordance with Section 9.8.F at the cost of the Commission,
   b. A sign (which shall be obtained from the Zoning Enforcement Officer) shall be posted and maintained in a logical and prominent place on each street frontage of the property during the 10-day period before the public hearing, and
   c. The applicant shall give notice to property owners within 100 feet of the subject property in accordance with the requirements of Section 9.8.G.

4. Notification to adjoining municipalities may be required in accordance with the requirements of Section 9.8.H.

5. Notification to water companies may be required in accordance with the requirements of Section 9.8.I.

6. In a village district, notification of the village district consultant may be required in accordance with the requirements of Section 9.8.N.

7. The Commission may require the applicant provide proof of a written inquiry to the Connecticut Office of State Archeology regarding the potential archeological significance of the property. .

8. Whenever approval of a Site Plan Application is the only approval required, a decision on the application shall be rendered within sixty-five (65) days after the date of receipt of such Site Plan Application, regardless of whether a public hearing is held, except that the applicant may consent to one or more extensions of such period provided the total period of any such extension or extensions shall not exceed sixty-five (65) days.

9. Notwithstanding the provisions of this Section, if an application involves an activity regulated pursuant to CGS Sections 22a-36 to 22a-45, inclusive and the time for a decision by the Commission would elapse prior to the thirty-fifth day after a decision by the Conservation Commission, the time period for a decision shall be extended to thirty-five (35) days after the decision of such agency.

10. The applicant may withdraw such application at any time prior to action by the Commission.

D. DECISION CONSIDERATIONS

1. On a Site Plan Application involving an activity regulated pursuant to CGS Sections 22a-36 to 22a-45, inclusive, the Commission shall give due consideration to any report of the Conservation Commission when making its decision.

2. On a Site Plan Application involving notice to the Connecticut Office of State Archeology, notice to adjoining municipalities under Section 9.8.H or notice to water companies under Section 9.8.I, the Commission shall give due consideration to any report received.

3. A Site Plan Application shall be evaluated by the Commission under the requirements of these Regulations listed within this Section.

4. The Commission may request reports on the application from Town Departments and/or any other agency deemed appropriate by the Commission.

5. In reviewing a Site Plan Application, the Commission shall consider the following:
   a. The application shall contain all information required by this Section
   b. The information shall have been prepared by persons possessing the necessary expertise to prepare it.
   c. Information shall be presented with adequate clarity to permit the Commission to understand it and determine compliance.
   d. The presentation of a complete application, as described herein, is the obligation of the applicant, and failure to meet these criteria shall be grounds for denial without prejudice to future applications.
   e. The application shall conform in all respects with the requirements in these Regulations that may apply, unless a certified copy of a variance from any such provision is submitted with the application, or the Zoning Enforcement Officer has issued a finding that the nonconformance is a legal, pre-existing nonconformity in accordance with these Regulations.

6. Upon review of the application and determination of compliance with these regulations, the Commission may approve, modify and approve, or disapprove the application. If the Commission determines that the application is incomplete, the same may be denied without prejudice to any future complete application.

7. In approving a Site Plan Application, the Commission may:
   a. Impose modifications deemed necessary to ensure compliance with these Regulations as well as protect the public health, safety, welfare, convenience, and property values.
   b. Impose stipulations and/or conditions of approval as it may deem necessary and desirable and such conditions may specifically include hours of operation, restrictions on days of the week, and similar restrictions as to time.
   c. Where appropriate (e.g. for non-structural uses such as tag sales, outdoor events, and the like), the Commission may approve a Site Plan Application which is temporary and will be effective only commencing on, or terminating on, specified dates.

8. In accordance with CGS Section 8-3(g), the Commission may require that a financial guaranty be posted before any permits are issued for the activities shown on the approved plan, in an amount and form acceptable to the Commission, to ensure:
   a. The timely and adequate completion of any site improvements that will be conveyed to or controlled by the municipality,
   b. The implementation of any erosion and sediment controls required during construction activities, and/or
   c. The maintenance of pavement areas, retention or detention basins or other improvements approved with such site plan for up to one year after the date on which such improvements have been completed to the reasonable satisfaction of the Commission or its agent or accepted by the Town.

E. ACTION DOCUMENTATION

1. The Commission shall, whenever it grants or denies a Site Plan Application, state upon its record the reason(s) for its decision.

2. The Commission shall send, by Certified Mail, a copy of any decision to the applicant within fifteen (15) days after such decision is rendered.

3. The Commission shall cause notice of the approval or denial of site plans to be published in a newspaper having a general circulation in the community within fifteen (15) days after such decision is rendered.

4. In any case in which such notice is not published within the fifteen-day period after a decision has been rendered, the person who submitted such plan may provide for the publication of such notice within ten (10) days thereafter.

F. FOLLOWING APPROVAL

1. When an approval has been granted by the Commission, the applicant shall, within sixty (60) days after approval, submit final plans on which all modifications imposed by the Commission as part of the approval have been clearly indicated and noted in the revision block for signature by the Chairman of the Commission as follows:
   a. One (1) set of paper copies of the approved plan(s).
   b. One (1) set of plans and associated documents in PDF digital format.

2. Following signature by the Chairman, the Zoning Enforcement Officer shall be authorized to issue a Zoning Permit as described in Section 9.1 for work to commence. No development shall be permitted except in conformity with the approved plan. All site improvements including all modifications required by the Zoning Commission shall be installed to the satisfaction of the Commission or its agent, before final approval is given and a Certificate of Zoning Compliance issued.

3. Minor Changes –
   a. The Zoning Enforcement Officer shall have the authority to approve minor changes to an approved Site Plan Application if such changes do not alter the character, quality, density, intensity, types of uses, amenities or other major features of the Site Plan Application as approved, and such changes are in conformity to the requirements of these Regulations.
   b. Any such change shall be reported to the Commission and shall be reflected on an amended site plan or as-built plan.
   c. If the Zoning Commission determines that changes in the Site Plan Application, or any change of Use within a building or structure or on a lot, may alter overall character, quality, density, intensity, uses, amenities, traffic generation, parking facilities or other major features of the Site Plan Application as approved, said modification shall require a new application.

4. In accordance with CGS Section 8-3(g), no Certificate of Occupancy shall be issued before a required financial guaranty is posted and/or the approved site improvements are completed to the reasonable satisfaction of the Commission or the Zoning Enforcement Officer.

5. If an “as-built” plan is required by the Zoning Enforcement Officer, no Certificate of Zoning Compliance shall be issued until such “as-built” plan has been submitted and found acceptable.

G. EXPIRATION AND COMPLETION

1. Unless otherwise provided by State law, all work in connection with a site plan shall be completed within five (5) years after the approval of the plan and failure to complete all work within such five-year period shall result in automatic expiration of the approval of such site plan unless the Commission shall have granted an extension of the time to complete work in connection with such site plan.

2. Unless otherwise provided by State law, the Commission may grant one or more extensions of the time to complete all or part of the work in connection with the site plan provided the total extension or extensions shall not exceed ten years from the date such site plan is approved.

3. The Commission may condition the approval of such extension on a determination of the adequacy of the financial guaranty.

9.4 SPECIAL USE PERMIT APPLICATION

A. PURPOSE

The purpose of a Special Use Permit Application is to review the appropriateness of certain uses or activities in a specific location or configuration in order to evaluate overall impacts of the specific application, ensure compliance with these Regulations, and promote the health, safety, and general welfare of the community.

It is recognized that there are certain uses which because of their unique characteristics cannot be distinctly classified or regulated so as to be uniformly permitted in a particular zoning district without careful consideration in each case of the impact of such uses upon neighboring uses and the surrounding area. In addition there shall be careful evaluation of the public need for such uses in the particular locations proposed. Such uses, therefore shall be treated individually through the use of Special Use Permits.

B. APPLICATION REQUIREMENTS

1. A Special Use Permit application shall be submitted for any activity designated in the Regulations as requiring approval of a Special Use Permit.

2. Each application for a Special Use Permit shall be accompanied by appropriate plans and drawings, unless expressly waived by the Commission or in writing by the Zoning Enforcement Officer. If a site plan is required, such site plan shall include the information required for a Site Plan Application and shall be considered as integral to the Special Use Permit application.

3. An adequate number of copies of the Special Use Permit Application shall be made in the form prescribed by the Commission, and shall include the following information:
   a. A detailed statement describing the existing and proposed use or uses,
   b. A detailed statement describing how the Special Use Permit criteria in Section 9.4.E are addressed, and
   c. Any approval from any local, regional, state, or federal agency or department having jurisdiction over any aspect of the application, and
   d. A list of all property owners, together with addresses, required to be notified by Section 9.8.G or other section of these Regulations.

4. All Special Use Permit applications shall be accompanied by a fee, as provided in the fee schedule of the Town, to cover the cost of administration.

5. The Commission may require the submission of additional information as deemed necessary to make a reasonable review of the application.

6. If a Special Use Permit Application involves an activity regulated pursuant to CGS Sections 22a-36 to 22a-45, inclusive, the applicant shall submit an application for a permit to the Conservation Commission not later than the day such Special Permit application is filed with the Commission.

7. The Commission shall not be required to hear the same Special Use Permit application, or substantially the same Special Use Permit application for a period of 12 months after a decision by the Commission or by a Court on an earlier such application.

C. PROCEEDINGS

1. The date of receipt of the Special Use Permit Application shall be determined in accordance with Section 9.8.B.

2. An incomplete Special Use Permit Application shall be denied in accordance with Section 9.8.C.

3. The Commission shall hold a public hearing on the Special Use Permit Application and:
   a. Publish a legal notice in accordance with the requirements of Section 9.8.F,
   b. Require that the applicant post and maintain a sign (which shall be obtained from the Zoning Enforcement Officer) in a logical and prominent place on each street frontage of the property during the 10-day period before the public hearing, and
   c. Require that the applicant give notice to property owners within 100 feet in accordance with the requirements of Section 9.8.G.

4. Prior to the date assigned for a public hearing, the Commission may refer any application for a Special Use Permit to the Planning Commission for a report.

5. Prior to the scheduled meeting regarding the application, the applicant shall submit the following to the Zoning Enforcement Officer or the application shall be considered incomplete:
   a. A copy of the complete package of information sent to abutters,
   b. A list of the abutters to whom the notices were sent,
   c. Proof of mailing to property owners required to be notified by Section 9.8.G or other section of these Regulations.

6. Notification to adjoining municipalities may be required in accordance with the requirements of Section 9.8.H.

7. Notification to water companies may be required in accordance with the requirements of Section 9.8.I.

8. In a village district, notification of the village district consultant may be required in accordance with the requirements of Section 9.8.N.

9. The Commission shall process the Special Use Permit Application within the period of time permitted under CGS Section 8-7d:
   a. The public hearing shall commence within sixty-five (65) days after receipt of the application.
   b. The public hearing shall be completed within thirty-five (35) days after such hearing commences.
   c. All decisions shall be rendered within sixty-five (65) days after completion of such hearing.
   d. The applicant may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days.

10. Notwithstanding the provisions of this Section, if an application involves an activity regulated pursuant to CGS Sections 22a-36 to 22a-45, inclusive and the time for a decision by the Commission would elapse prior to the thirty-fifth day after a decision by the Conservation Commission, the time period for a decision shall be extended to thirty-five (35) days after the decision of such agency.

11. The applicant may, at any time prior to action by the Commission, withdraw such application.

12. It is the responsibility of the applicant to provide plans and reports which describe the proposed development's conformance with the requirements of these Regulations, including all of the information in this Section.

D. DECISION CONSIDERATIONS

1. On a Special Use Permit Application involving an activity regulated pursuant to CGS Sections 22a-36 to 22a-45, inclusive, the Commission shall:
   a. wait to render its decision until the Conservation Commission has submitted a report with its final decision, and
   b. give due consideration to any report of the Conservation Commission when making its decision.

2. On a Special Use Permit Application, the Commission shall give due consideration to any report received from the Planning Commission.

3. On a Special Use Permit Application involving notice to adjoining municipalities under Section 9.8.H or notice to water companies under Section 9.8.I, the Commission shall give due consideration to any report received.

4. Before the Commission approves a Special Use Permit Application, it shall determine that the application:
   a. Is in conformance with the applicable provisions of these Regulations,
   b. Has, in the sole discretion of the Commission, satisfied the Special Use Permit Criteria in Section 9.4.E, and
   c. Is in harmony with the purposes and intent of these Regulations and the currently adopted Plan of Conservation and Development.

5. Before granting a Special Use Permit, the Commission shall determine that any accompanying plans are in conformance with the applicable provisions of these Regulations including the requirement that any site plan that is part of the Special Use Permit Application be in conformance with Section 9.3 of these Regulations.

6. In granting a Special Use Permit, the Commission may:
   a. Stipulate such conditions as are reasonable and necessary to protect or promote the public health, safety or welfare; property values; the environment; sound planning and zoning principles; improved land use, site planning and land development; or better overall neighborhood compatibility.
   b. Impose additional requirements, conditions or safeguards as a prerequisite to the issuance of the Certificate of Zoning Compliance by the Zoning Enforcement Officer, if it shall be found necessary in order that the spirit of these Regulations may be observed, public safety and welfare secured or substantial justice done.
   c. Set time limits on the Special Use Permit and/or require periodic renewal of the Special Use Permit without a public hearing. In the event an appeal is taken from the Commission approval of a Special Use Permit, then the time period shall commence on the date of final disposition of such litigation. An expired Special Use Permit shall be considered null and void

7. Where the Commission finds or has reason to believe that circumstances or conditions upon which a Special Use Permit is warranted may change over time, the Commission may limit the time during which the Special Use Permit shall remain valid and may cause the review and substantiation of the justifying circumstances or conditions at periodic intervals or when occupancy or tenancy of the premises changes.

8. Whenever the Commission acts upon a Special Use Permit, it shall state upon its records the reason for its decision.

E. SPECIAL USE PERMIT CONSIDERATIONS

A. Compliance with The Zoning Regulations

Whether the Commission finds that the proposed use and the arrangements of proposed buildings, structures, facilities and other site improvements will comply with all applicable provisions of these Zoning Regulations.

B. POCD Consistency

Whether the Commission finds that the proposed use of the subject site will be consistent with the Plan of Conservation and Development for the Town of Somers.

C. Orderly Development

Whether the Commission finds that the location, type, character, size, and intensity of the use and of any building or other structure in connection therewith will be in harmony with the appropriate and orderly development of the Town and the neighborhood and will not hinder or discourage the appropriate development and use of adjacent property.

Whether the Commission finds that the design, layout and operation of the proposed buildings, structures or uses will be compatible with nearby properties and/or have negative impacts on the enjoyment, usefulness and value of nearby property.

D. Appropriate Location

Whether the Commission finds that the proposed use will be appropriate for the location proposed and whether the size and height and intensity of all proposed buildings and activities and the extent of all proposed site improvements will reasonably harmonize with the character of the neighborhood in which such use is to be established with consideration of:

1. the degree of care and attention taken to protect the adjacent area, and
2. the public purpose to be served by the proposed facility, and
3. the balance between such public purpose and any adverse impact to the adjacent area and the impact on the general welfare of the community.

E. Public Safety

Whether the Commission finds that there will be adequate provision for the purpose of fire protection, police protection and emergency equipment after considering the nature and location of the proposed use and of any building or other structure in connection therewith .

(continued on next page)

Special Use Permit Criteria (continued)

F. Traffic Congestion

Whether the Commission finds that the streets serving the proposed use will be adequate to carry the proposed traffic and whether adequate provision will be made for entering and leaving the site in such a manner that no undue hazard to vehicular and/or pedestrian traffic or undue traffic congestion shall be created.

G. Protection of Important Resources

Whether the Commission finds that the proposed development adequately protects important natural resources and community resources.

Whether the Commission finds that the proposed development will enhance community character and not detract from the overall ambience of the community.

Whether the Commission finds that the proposed use will not negatively affect existing or future public drinking supply sources.

H. Landscaping and Buffers

Whether the Commission finds that suitable landscaping and buffers will be provided in conformance with these Regulations on the site on which the proposed use is to be located.

Whether the Commission finds that appropriate landscaping /buffers between the subject use and adjacent properties will be maintained and/or provided.

I. Utilities

Whether the Commission finds that subject site will have adequate water and sewerage systems to service the proposed use.

Whether the Commission finds that adequate provisions for storm water drainage will be provided without adversely affecting neighboring properties, or adjacent public drainage systems.

F. ACTION DOCUMENTATION

1. The Commission shall, whenever it grants or denies a Special Use Permit, state upon its record the reason(s) for its decision.

2. The Commission shall send, by Certified Mail, a copy of any decision on a Special Use Permit Application to the applicant within fifteen days after such decision is rendered.

3. The decision shall:
   a. State the name of the owner of record,
   b. Contain a description of the premises to which it relates,
   c. Identify the Section of the Regulations under which the Special Use Permit was granted or denied, and
   d. Specify the nature of the Special Use Permit.

4. The Commission shall cause notice of the approval or denial of the Special Use Permit Application to be published in a newspaper having a general circulation in the community within fifteen (15) days after such decision is rendered.

5. In any case in which such notice is not published within the fifteen-day period after a decision has been rendered, the person who submitted such application may provide for the publication of such notice within ten days thereafter.

G. FOLLOWING APPROVAL

1. A Special Use Permit shall expire:
   a. One year following its issuance if the construction, development or other activity allowed under such permit has not been actually commenced (site preparation alone shall not be deemed to be the actual commencement of the construction, development or activity under this section), and
   b. Two years following its issuance if the construction or development allowed thereunder has not been completed.

2. 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.

3. A Special Use Permit granted by the Commission shall only become effective upon the filing of a copy, certified by the Commission, in the land records of the Town, in accordance with the provisions of CGS Section 8-3d.

4. A Special Use Permit shall only authorize the particular use or uses specified in the Commission's approval.

5. Failure to adhere strictly to the documents, plans, terms, conditions, and/or safeguards approved by the Commission or its staff shall be a violation of these Regulations.

6. Any condition or safeguards attached to the granting of a Special Use Permit shall remain with the property as long as the Special Use Permit use shall be in operation. These condition and safeguards shall continue in force regardless of any change in ownership of the property.

7. Any authorized Special Use Permit shall be subject to revocation by the Commission if any condition or safeguard imposed by the Commission upon buildings, structures, land or uses for said permit shall not be strictly adhered to by the applicant, user and/or owner. Notification thereof shall be filed in the Office of the Town Clerk.

H. AMENDMENTS OR MODIFICATIONS

1. An approved Special Use Permit may be amended or modified.

2. Application shall be made in the same manner as the original application and subject to and in accordance with the provisions of these Regulations authorizing the granting of the original Special Use Permit.

3. All requirements of a Special Use Permit application shall apply, unless waived in accordance with Section 9.4.H.5 below.

4. Any application for an amendment shall include a copy of any and all prior Certificate of Decision(s) as recorded in the Somers Land Records.

5. Minor Modification - An amendment of Special Use Permit requirements may be granted without a public hearing for minor modifications to the building or site plan where the Commission finds that each of the following is true:
   a. Alterations to the building or site do not materially affect the basic size, form, style, ornamentation and appearance of the structures as shown on the approved plans;
   b. The proposed modification does not materially reduce the effectiveness of the approved landscaping, screening or buffering of the site;
   c. The proposed modification does not materially impact the number of parking spaces or vehicular circulation; and
   d. The proposed modification does not materially alter drainage patterns.

6. Any proposed modification must continue to comply with the original approval action of the Zoning Commission except those items specifically modified and all other applicable requirements.

9.5 TEXT AMENDMENT

A. APPLICATION REQUIREMENTS

1. A Regulation Amendment Application shall be submitted for any proposal to amend, change, or repeal any Section of these Regulations.

2. Any such application shall be accompanied by an appropriate number of copies of the precise wording of the existing and proposed text and any other supporting information.

3. The application shall be accompanied by a fee, as provided in the fee schedule of the Town to cover the cost of administration.

4. The Commission may require the submission of additional information as deemed necessary to make a reasonable review of the application.

5. A Regulation Amendment Application shall only be submitted by:
   a. An owner of real property,
   b. Residents or persons having an interest in land in Town, or
   c. By the Commission on its own initiative.

6. The Commission shall not be required to hear any petition or petitions relating to the same changes, or substantially the same changes, more than once in a period of twelve months unless it finds, on facts presented in writing, that a material change in the situation justifies this action. A change of ownership of property or any interest therein shall not be deemed a material change in the situation for the purpose of this Section.

B. PROCEEDINGS

1. The date of receipt for the Regulation Amendment Application shall be determined in accordance with Section 9.8.B.

2. An incomplete Regulation Amendment Application shall be denied in accordance with Section 9.8.C.

3. The Commission shall hold a public hearing on the Regulation Amendment Application and:
   a. Shall cause a legal notice to be published in accordance with the requirements of Section 9.8.F.
   b. May publish the full text of such proposed regulation in such notice.

4. For any proposed amendment to these Regulations initiated by the Commission:
   a. Any fees shall be waived,
   b. The notice requirements of Section 9.8.F shall be sufficient.

5. The Commission shall refer any application to amend these Regulations to the Planning Commission for a report at least thirty (30) days prior to the date assigned for a public hearing.

6. The Commission may request input from any Town department or other agency it deems appropriate on an application to amend these Regulations.

7. Notification to regional planning agencies may be required in accordance with the requirements of Section 9.8.J.

8. Notification to adjoining municipalities may be required in accordance with the requirements of Section 9.8.H.

9. Notification to water companies may be required in accordance with the requirements of Section 9.8.I.

10. A copy of the proposed regulation shall be filed by the applicant in the Office of the Town Clerk for public inspection at least ten (10) days before the public hearing.

11. In accordance with CGS Section 8-7d(g), the Commission shall notify any person or organization on the public notice registry at least seven (7) days prior to the commencement of the public hearing on the Regulation Amendment application.

12. The Commission shall process the Regulation Amendment Application within the period of time permitted under CGS Section 8-7d:
    a. The public hearing shall commence within sixty-five (65) days after receipt of the application,
    b. The public hearing shall be completed within thirty-five (35) days after such hearing commences,
    c. All decisions shall be rendered within sixty-five (65) days after completion of such hearing,
    d. The applicant may consent to one (1) or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days, and
    e. These provisions shall not apply to any action initiated by the Commission regarding adoption or change of any Regulation.

13. The applicant may, at any time prior to action by the Commission, withdraw such application.

C. DECISION CONSIDERATIONS

1. The Commission shall act upon the changes requested in such Regulation Amendment Application.

2. Any report from an adjacent municipality or a regional planning agency shall be made a part of the record of such hearing.

3. On a Regulation Amendment Application involving notice to adjoining municipalities under Section 9.8.H, notice to water companies under Section 9.8.I, notice to a regional planning agency under Section 9.8.J, or any reports received in response to a request as per Section 9.5.B.6, the Commission shall give due consideration to any report or testimony received.

4. In making its decision, the Commission shall take into consideration the report from the Planning Commission.

5. Before approving any Regulation Amendment Application, the Commission shall determine that the proposed regulation change will aid in:
   a. Protecting the public health, safety, welfare, or property values,
   b. Attaining the purposes of these Regulations,
   c. Implementing the recommendations in the Plan of Conservation and Development, and
   d. Accomplishing the provisions contained in Section 8-2(a) of the Connecticut General Statutes.

6. Such Regulation(s) shall be established, changed or repealed only by a majority vote of all the members of the Commission.

7. In making its decision, the Commission shall state on the record its findings on consistency of the proposed establishment, change, or repeal of such Regulations with the Plan of Conservation and Development.

D. ACTION DOCUMENTATION

1. Whenever the Commission acts upon a Regulation Amendment Application, it shall state upon the record the reasons for its decision.

2. As part of approving a Regulation Amendment Application, the Commission shall establish an effective date for the Regulation change provided that a notice of the decision of the Commission shall have been published in a newspaper having a substantial circulation in the community before such effective date.

3. The Commission shall send, by Certified Mail, a copy of any decision on a Regulation Amendment Application to the applicant within fifteen (15) days after such decision is rendered.

4. The Commission shall cause notice of the approval or denial of the Regulation Amendment Application to be published in a newspaper having a general circulation in the community within fifteen days after such decision is rendered.

5. In any case in which such notice is not published within the fifteen (15) day period after a decision has been rendered, the person who submitted such application may provide for the publication of such notice within ten (10) days thereafter.

E. FOLLOWING APPROVAL

1. A regulation amendment approved by the Commission shall be filed in the Office of the Town Clerk before the effective date.

9.6 ZONING MAP AMENDMENT

A. APPLICATION REQUIREMENTS

1. A Zoning Map Amendment Application shall be submitted in writing on forms provided by the Commission for any proposal to alter the zoning designation of any parcel of land or part thereof.

2. A Zoning Map Amendment Application shall be:
   a. Initiated by the affected property owner(s), or
   b. commenced by the Commission on its own initiative.

3. Unless such application is initiated by the Commission, the application shall include:
   a. Written reason(s) for the proposed amendment,
   b. A map at a scale that clearly shows the area to be reclassified and the present classification and proposed new classification including existing and proposed boundaries,
   c. A metes and bounds description of the land to be included in the amendment based on a boundary survey certified to a State of Connecticut Class D Survey standard,
   d. An adequate number maps, accurately drawn at an appropriate scale by a Professional Engineer or Land Surveyor registered or licensed to practice in the State of Connecticut, showing existing and proposed zoning for the subject property and land within five-hundred (500) feet of the subject property, and any other information considered pertinent by the applicant.
   e. The names, addresses, tax map and lot numbers of all owners of property subject to the proposed amendment.
   f. A list of all property owners required to be notified as per Section 9.8.G;
   g. A list of all owners of property within 500 feet of the proposed zone change including the address of the property, the area of the property, and that property's percentage of the entire area within 500 feet of the proposed zone change.
   h. A fee, as provided in the fee schedule of the Town to cover the cost of administration.

4. The Commission shall not be required to hear a Zoning Map Amendment Application that has been rejected within one (1) year from the date of rejection unless it finds, on facts presented in writing, that a material change in the situation justifies this action. A change of ownership of property or any interest therein shall not be deemed a material change in the situation for the purpose of this Section.

B. PROCEEDINGS

1. The date of receipt of the Zoning Map Amendment Application shall be determined in accordance with Section 9.8.B.

2. The Commission shall hold a public hearing on the Zoning Map Amendment Application and:
   a. Shall cause a legal notice to be published in accordance with the requirements of Section 9.8.F.
   b. Require that the applicant give notice to property owners within 100 feet in accordance with the requirements of Section 9.8.G.

3. The Commission shall refer any application to amend the Zoning Map to the Planning Commission for a report at least thirty (30) days prior to the date assigned for a public hearing.

4. The Commission may request input from any Town department or other agency it deems appropriate on an application to amend the Zoning Map.

5. In accordance with Section 9.8.J of these Regulations, any proposed change of zone affecting any properties within 500 feet of the Town line shall be referred to the Regional Planning Agency.

6. Notification to adjoining municipalities may be required in accordance with the requirements of Section 9.8.H.

7. Notification to water companies may be required in accordance with the requirements of Section 9.8.I.

8. A copy of the proposed zone change shall be filed by the applicant in the Office of the Town Clerk for public inspection at least ten (10) days before the public hearing.

9. The Commission shall process the Zoning Map Amendment Application within the period of time permitted under CGS Section 8-7d:
   a. The public hearing shall commence within sixty-five (65) days after receipt of the application,
   b. The public hearing shall be completed within thirty-five (35) days after such hearing commences,
   c. All decisions shall be rendered within sixty-five (65) days after completion of such hearing,
   d. The applicant may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days, and
   e. These provisions shall not apply to any action initiated by the Commission regarding a Zoning Map Amendment.

10. In accordance with CGS Section 8-7d(g), the Commission shall notify any person or organization on the public notice registry at least seven (7) days prior to the commencement of the public hearing on the of the Zoning Map Amendment.

11. The applicant may at any time prior to action by the Commission, withdraw such application.

C. DECISION CONSIDERATIONS

1. On a Zoning Map Amendment Application involving notice to adjoining municipalities under Section 9.8.H, notice to water companies under Section 9.8.I, or notice to a regional planning agency under Section 9.8.J, or any reports received in response to a request as per Section 9.6,B.4, the Commission shall give due consideration to any report or testimony received.

2. In making its decision the Commission shall take into consideration the report from the Planning Commission.

3. Before approving any Zoning Map Amendment Application, the Commission shall determine that the proposed zone change:
   a. Is in accordance with the Plan of Conservation & Development,
   b. Is suitable for the intended location,
   c. Will aid in protecting the public health, safety, welfare, or property values,
   d. Will aid in attaining the purposes of these Regulations, and
   e. Will help accomplish the provisions contained in Section 8-2(a) of the Connecticut General Statutes.

4. Such Zone Change shall be established, changed or repealed only by a majority vote of all the members of the Commission except that, if a protest against a proposed change is filed at or before a hearing with the Commission, signed by the owners of twenty percent (20%) or more of the area of the lots affected by such proposed change or of the lots within five-hundred (500) feet in all directions of the property included in the proposed change, such change shall not be adopted except by a vote of two-thirds (2/3) of all the members of the Commission.

D. ACTION DOCUMENTATION

1. Whenever the Commission acts upon a Zoning Map Amendment Application, it shall state upon the record:
   a. The reason for its decision, and
   b. Its findings on consistency of the proposed zone change with the Plan of Conservation and Development.

2. As part of approving a Zoning Map Amendment Application, the Commission shall establish an effective date for the zone change provided a notice of the decision of the Commission shall have been published in a newspaper having a substantial circulation in the community before such effective date.

3. Unless the applicant is the Commission itself, the Commission shall send, by Certified Mail, a copy of any decision on a Zoning Map Amendment Application to the applicant within fifteen (15) days after such decision is rendered.

4. The Commission shall cause notice of the approval or denial of the Zoning Map Amendment Application to be published in a newspaper having a general circulation in the community within fifteen (15) days after such decision is rendered.

5. In any case in which such notice is not published within the fifteen-day period after a decision has been rendered, the person who submitted such application may provide for the publication of such notice within ten days thereafter.

E. FOLLOWING APPROVAL

1. A Zone Change approved by the Commission shall be filed in the Office of the Town Clerk before the effective date.

9.7 ZONING BOARD OF APPEALS

A. GENERAL PROVISIONS

1. **Appointment** - There shall be a Zoning Board of Appeals (ZBA) established pursuant to the provisions of CGS Chapter 124.

2. **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, requirement or decision made by the Zoning Enforcement Officer.
   b. To vary the application of the Zoning Regulations solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of these Regulations would result in exceptional difficulty or unusual hardship and only when such variance shall result in substantial justice being done and the public safety and welfare secured
   c. To hear and decide all matters referred to it and upon which it shall be required to pass under any provision of these Regulations or State law.

3. **Meetings -**
   a. All meetings of said Board shall be held in accordance with the meeting schedule on file with the Town Clerk or at the call of the Chairman or Secretary.
   b. All meetings of said Board shall be open to the public.
   c. The Board shall keep minutes of its proceedings, showing the vote of each member upon each matter.
   d. Each order, requirement or decision of the Board shall be filed in the Zoning Department and shall be a public record.
   e. If a regular member of the Board of Appeals is absent, the Chairman of the Board shall designate an alternate from such panel choosing in rotation so that they shall act as nearly equal a number of times as possible and, if any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

4. **Disqualification** - A member of the Board shall disqualify himself or herself to act in a given case and shall state the reason for such disqualification which could include his or her relationship to any party involved or of financial interest in the matter before the Board.

B. VARIANCES

1. **Authority** - In accordance with CGS Section 8-6, the Board of Appeals shall have the power and duty to determine and vary the application of the Regulations solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of these Regulations would result in exceptional difficulty or unusual hardship and 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.

2. **Application Requirements** -
   a. A Variance Application shall be accompanied by sufficiently detailed plans for review by the Board and its designees.
   b. An accurate and detailed plan drawn to scale is required showing the type and the degree of the variance requested, however, the Board of Appeals may require the filing of a survey meeting the Class A-2 accuracy standards of the Code of Practice for Standards of Accuracy of Surveys and Maps, by the Connecticut Association of Land Surveyors, Inc., when the variance is dimensional in nature or such survey is integral to the understanding of the application.
   c. An application to the ZBA shall be accompanied by a fee as provided in the Town fee ordinance.
   d. If a Variance Application involves an activity regulated pursuant to CGS Sections 22a-36 to 22a-45, inclusive, the applicant shall submit an application for a permit to the Conservation Commission not later than the day such application is filed with the Board.
   e. The Board shall not be required to hear any application for the same variance or substantially the same variance for a period of six (6) months after a decision by the Board or by a court on an earlier such application.

3. **Nature of Variance** -
   a. Any variance granted by the Zoning Board of Appeals shall run with the land and shall not be personal in nature to the person who applies for and receives the variance.
   b. A variance shall not be extinguished solely because of the transfer of title to the property or the invalidity of any condition attached to the variance that would affect the transfer of the property from the person who initially applied for and received the variance.
   c. A variance shall only authorize the particular activity specified in the Board's approval.

4. **Proceedings** -
   a. The date of receipt for the Variance Application shall be determined in accordance with Section 9.8.B.
   b. The Board shall hold a public hearing on the Variance Application and:
      i. Publish a legal notice in accordance with the requirements of Section 9.8.F,
      ii. Not less than fifteen (15) days before the subject hearing, the applicant shall mail a copy of the legal notice of the hearing to the owners of each parcel or property within 100 feet of the appellant's property, as determined from the latest real estate Grand List of the Town in the Tax Assessor's Office, and
      iii. At the hearing, the applicant, or his/her legal representative, shall submit evidence of the required mailing in the form of U.S. Postal Service Certificates of Mailing, a list showing the names and address of the owners of all such properties, and a copy of the notification (including attachments) which were mailed.
   c. At such hearing, any party may appear in person or may be represented by agent or by attorney.
   d. Notification to adjoining municipalities may be required in accordance with the requirements of Section 9.8.H.
   e. Notification to water companies may be required in accordance with the requirements of Section 9.8.I.
   f. An incomplete Variance Application shall be denied in accordance with Section 9.8.C.
   g. The Board shall process the Variance Application within the period of time permitted under CGS Section 8-7d:
      i. The public hearing shall commence within sixty-five (65) days after receipt of the application.
      ii. The public hearing shall be completed within thirty-five (35) days after such hearing commences.
      iii. All decisions shall be rendered within sixty-five (65) days after completion of such hearing.
      iv. The applicant may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days.
   h. The applicant may, at any time prior to action by the Board, withdraw such application.

5. **Decision Considerations** -
   a. Whenever a Variance Application is joined with an appeal by any person alleging to be aggrieved by any order, requirement, or decision made by the Zoning Enforcement Officer, the Board shall first decide the issues presented by such appeal before acting on the Variance Application.
   b. The application of a regulation which substantive requirements are mandated by statute shall not be subject to variance.
   c. In order to approve an application for a variance, the Board shall find that a literal enforcement of these Regulations would result in exceptional difficulty or unusual hardship:
      i. Solely with respect to the parcel of land that is the subject of the application,
      ii. Owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, and
      iii. Shall not be based upon the non-conforming use of neighboring lands, structures, or buildings.
   d. 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.
   e. The Board shall only grant the minimum variance necessary to alleviate the exceptional difficulty or unusual hardship:
      i. In harmony with the general purpose and intent of these Regulations.
      ii. With due consideration for conserving the public health, safety, convenience, welfare and property values, and
      iii. So that substantial justice shall be done and the public safety and welfare secured.
   f. Whenever the Board of Appeals grants or denies any variance in the Zoning Regulations applicable to any property it shall state upon its records:
      i. The reason for its decision,
      ii. The Regulation which is varied in its application, and
      iii. When a variance is granted, a specific description of the exceptional difficulty or unusual hardship on which its decision is based.
   g. The concurring vote of four (4) members of the Board shall be necessary to vary the application of the Zoning Regulations.

6. **Special Considerations For Use Variances** -
   a. As provided in CGS Section 8-6(a), these Regulations hereby state that the Board of Appeals shall not permit any use by variance which is not otherwise allowed in that zoning district.
   b. Where a use of land, building or other structures is permitted by variance by the Board, approval of a Special Use Permit by the Zoning Commission shall be required before issuance of a Zoning Permit.

7. **Special Considerations For Variances In Floodplain Areas** –
   a. See Subsection 7.0 within Section 5.1 of these Regulations.

8. **Action Documentation** -
   a. The Commission shall, whenever it grants or denies a Variance Application, state upon its record the reason(s) for its decision.
   b. Notice of the decision of the Board shall be sent by Certified Mail to any applicant to the Board within fifteen (15) days after such decision has been rendered. Such notice shall:
      i. State the name of the owner of record,
      ii. Contain a description of the premises to which it relates,
      iii. State the nature of the hardship claimed, and
      iv. Specify the nature of such variance including the Regulation which is varied in its application.
   c. Notice of the decision of the Board shall be published in a newspaper having a substantial circulation in the community within fifteen (15) days after such decision has been rendered.
   d. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.

9. **Following Approval** - A variance granted by the Board shall only become effective upon the filing of a copy, certified by the Board, in the Office of the Town Clerk, in accordance with the provisions of CGS Section 8-3d.

C. LOCATION OF USES

1. As provided in CGS Section 14-54, any person who desires to obtain a license for dealing in or repairing motor vehicles shall obtain:
   a. A Certificate of Approval of Location from the ZBA, and
   b. Approval from the local building official and local fire marshal

2. The ZBA shall hold a public hearing on any request for a Certificate of Approval of Location.

3. Approval of a Certificate of Approval of Location by the ZBA does not preclude any requirement for or approval of Site Plan Application or a Special Use Permit by the Zoning Commission.

4. In all cases where the ZBA shall authorize the issuance of a Certificate of Location Approval, under any of the above powers, it shall be the duty of said ZBA to attach such conditions and safeguards as may be required to protect the public health, safety and general welfare, and to ensure continual compliance to these Regulations.

5. The provisions of this section shall not apply to:
   a. A transfer of ownership to a spouse, child, brother, sister or parent of a licensee,
   b. A transfer of ownership to or from a corporation in which a spouse, child, brother, sister or parent of a licensee has a controlling interest, or
   c. A change in ownership involving the withdrawal of one or more partners from a partnership.

D. APPEALS OF ZONING ENFORCEMENT OFFICER ORDERS

1. **Authority** - In accordance with CGS Section 8-7, an appeal may be taken to the Board of Appeals by any person alleging to be aggrieved by any order, requirement, or decision made by the Zoning Enforcement Officer.

2. **Application Materials** –
   a. Any such appeal shall be taken within thirty (30)-days of the issuance of the order, requirement, or decision by filing a notice of appeal on the application forms provided by the Town with the Zoning Enforcement Officer and the Zoning Board of Appeals specifying the grounds thereof.
   b. An appeal shall be accompanied by a fee as provided in these Regulations.
   c. The Zoning Enforcement Officer shall forthwith transmit to said Board all the papers constituting the record upon which the appeal from was taken.
   d. The Board of Appeals may require the filing of a survey meeting the Class A-2 accuracy standards of the Code of Practice for Standards of Accuracy of Surveys and Maps, by the Connecticut Association of Land Surveyors, Inc., when warranted by the proximity of the proposed change of use or construction or alteration of a structure to any property line.

3. **Effect of Appeal**–
   a. Where such order by the Zoning Enforcement Officer prohibits further construction or expansion of a use in violation of the Zoning Regulations, an appeal shall not be cause for such construction or expansion to continue except to such extent that the Board may allow when ruling on the appeal.
   b. In situations other than that described in Section 9.7.D.3.a above, an appeal shall temporarily stop all zoning enforcement and proceedings with regard to such order, requirement or decision unless the Zoning Enforcement Officer certifies to the Board of Appeals after the appeal has been filed that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property.
   c. If the Zoning Enforcement Officer certifies to the Board of Appeals that a stay would cause imminent peril to life or property, enforcement and proceedings shall only be stayed by a restraining order granted by a court of record, on notice to the Zoning Enforcement Officer and on due cause shown.

4. **Proceedings** -
   a. The Board shall hold a public hearing on the appeal and:
   b. Publish a legal notice in accordance with the requirements of Section 9.8.F,
   c. Not less than fifteen (15) days before the subject hearing, the appellant shall mail a copy of the legal notice of the hearing to the owners of each parcel or property within 100 feet of the appellant's property, as determined from the latest real estate list of the Town in the Tax Assessor's Office.
   d. At the hearing, the applicant, or his/her legal representative, shall submit evidence of the required mailing in the form of U.S. Postal Service Certificates of Mailing, a list showing the names and address of the owners of all such properties, and a copy of the notification (including attachments) which were mailed.
   e. At such hearing, any party may appear in person or may be represented by agent or by attorney.
   f. Notification to adjoining municipalities may be required in accordance with the requirements of Section 9.8.H.
   g. Notification to water companies may be required in accordance with the requirements of Section 9.8.I.
   h. The Board shall process the appeal within the period of time permitted under CGS Section 8-7d:
   i. The public hearing shall commence within sixty-five (65) days after receipt of the appeal.
   j. The public hearing shall be completed within thirty-five (35) days after such hearing commences.
   k. All decisions shall be rendered within sixty-five (65) days after completion of such hearing.
   l. The applicant may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days.
   m. The applicant may, at any time prior to action by the Board, withdraw such application.

5. **Considerations** –
   a. The Board shall have all the powers of the Zoning Enforcement Officer from whom the appeal has been taken but only in accordance with the provisions of this Section.
   b. The Board shall make such order, requirement or decision as in its opinion should be made in the circumstances.
   c. The Board may reverse, affirm wholly or partly, or may modify any order, requirement, or decision from which an appeal has been taken.
   d. The concurring vote of four (4) members of the Board shall be necessary to reverse, affirm partly, or modify any order, requirement, or decision of the official charged with the enforcement of the Regulations.
   e. Whenever the Board sustains or reverses wholly or partly any appeal, it shall state upon its records the reason for its decision and the Regulation which is varied in its application or to which an exception is granted.

6. **Action Documentation** -
   a. The Board shall, whenever it grants or denies an appeal, state upon its record the reason(s) for its decision.
   b. Notice of the decision of the Board shall be sent by Certified Mail to any person who appeals to the Board within fifteen (15) days after such decision has been rendered.
   c. Notice of the decision of the board shall be published in a newspaper having a substantial circulation in the community within fifteen (15) days after such decision has been rendered.
   d. In any case in which such notice is not published within such fifteen (15) day period, the person who took such appeal may provide for the publication of such notice within ten (10) days thereafter.

9.8 PROCEDURAL REQUIREMENTS

A. APPLICATION SUBMITTAL REQUIREMENTS

1. Applications to the Commission or the Board of Appeals shall be submitted to the Land Use Department.

2. Applications shall be submitted on forms obtained from the Land Use Departmentfor the type of application being submitted.

3. Applications shall be accompanied by the appropriate fee(s) as specified in the fee schedule adopted by the Town except that the Commission or the Town shall be exempt from any application fee.

4. Applications shall be submitted with such supporting plans, materials, and other information as required by these Regulations.

5. Applications shall be signed by the applicant and, if applicable, the owner of the property affected.

B. DATE OF RECEIPT

For the purposes of calculating statutory time frames for processing applications, the date of receipt of an application to the Zoning Commission or the Zoning Board of Appeals shall be:

1. The day of the next regularly scheduled meeting of the Commission or the Board of Appeals immediately following the day of submission of the application to the Zoning Enforcement Officer, or

2. Thirty-five (35) days after submission, whichever is sooner.

C. INCOMPLETE APPLICATIONS

1. Each application shall be reviewed by the Zoning Enforcement Officer to determine whether the application is substantially complete.

2. An application shall not be considered actually complete until all of the information as required by these Regulations has been received by the Zoning Commission or the Zoning Board of Appeals at a regularly scheduled meeting.

3. An application considered by the Commission to be incomplete or an application submitted without the requisite fee shall be denied.

D. SEQUENCE OF HEARINGS

Where a proposed development or activity requires multiple applications, the Commission may conduct any public hearings simultaneously or in the order they deem appropriate.

E. CONSULTATIONS

On any application, the Commission or Board may:

1. Seek the advice and opinion of other officials, boards, or commissions to assist it in evaluating applications,

2. Retain an engineer, architect, landscape architect, professional land use planner, attorney, or other consultant to review, comment, and guide its deliberations on any application, and

3. Require that the applicant, to the extent authorized by any Town Ordinance:
   a. Deposit funds with the Commission or Board for the costs of any consulting review fees, or
   b. Reimburse the Commission or Board for the cost of such consulting review.

F. NOTICE BY NEWSPAPER

1. When a public hearing is required by these Regulations or scheduled by the Commission, the Zoning Enforcement Officer shall cause notice of the hearing to be published in a newspaper having a general circulation in the community.

2. Such notice shall be published at least twice at intervals of not less than two days, the first not more than fifteen days, nor less than ten days, and the last not less than two days before the date of the hearing.

G. NOTICE BY MAIL TO NEARBY PROPERTY OWNERS

1. Applicants or their representatives shall be responsible for notifying owners of property within 100 feet of the subject property of any pending application for Special Use Permit, Zone Change Application, or Variance or whenever else required by these Regulations.

2. As part of any such application, the applicant shall submit:
   a. A list of the names and addresses of owners of property within 100 feet of the subject property utilizing the latest records of the Town Tax Assessor to determine the owner of each property,
   b. A map showing the subject property, the surrounding properties and the approximate location of structures within 100 feet of the subject property, including tax lot numbers.

3. The applicant shall notify at least one (1) owner of each of the properties within 100 feet of the subject property of the time, place, date, and purpose of the hearing by sending a copy of the legal notice to each such property owner not less than ten (10) days prior to the scheduled hearing.

4. Notices from the applicant to the property owners within 100 feet shall be sent via U.S. First Class Mail and proof of mailing shall be evidenced by Certificates of Mailing from the U.S. Postal Service.

5. Prior to the date of the Commission's Public Hearing regarding the application, the applicant shall submit:
   a. A list of the property owners to whom the notices were sent,
   b. A copy of the material sent to the property owners, and
   c. The Certificates of Mailing.

H. NOTIFICATION OF ADJOINING MUNICIPALITIES

1. In accordance with CGS Section 8-7d(f), the Commission or Board of Appeals shall notify the clerk of an adjoining municipality of any application concerning any project on any site in which:
   a. Any portion of the property affected by a decision is within five-hundred (500) feet of the boundary of the adjoining municipality,
   b. A significant portion of the traffic to the completed project shall use streets within the adjoining municipality to enter or exit the site,
   c. A significant portion of the sewer or water drainage from the project shall flow through and significantly impact the drainage or sewerage system within the adjoining municipality, or
   d. Water runoff from the improved site shall impact streets or other municipal or private property within the adjoining municipality.

2. Such notice shall be made by Certified Mail return receipt requested and shall be mailed within seven (7) days of the day of the submission to the Zoning Enforcement Officer of the application, petition, request, or plan.

3. No hearing shall be conducted on any application, petition, request, or plan unless the adjoining municipality has received the notice required under this Section.

4. Such adjoining municipality, through a representative, may appear and be heard at any hearing on any such application, petition, request, or plan.

I. NOTIFICATION OF WATER COMPANIES

1. In accordance with CGS Section 8-3i, an applicant shall provide written notice to a water company and to the Commissioner of the Department of Public Health when an application, petition, request or plan is filed with the Commission or Board of Appeals concerning any project on any site which is within:
   a. An aquifer protection area, provided such area has been delineated in accordance with CGS Section 22a-354c, or
   b. The watershed of a water company, as defined in C.G.S. 16-1, provided such water company has filed a map with the Commission or the Board of Appeals or on the land records showing the boundaries of the watershed.

2. Such notice shall be made by Certified Mail return receipt requested and shall be mailed within seven (7) days of the date of the day of the submission to the Zoning Enforcement Officer of the application, petition, request, or plan.

3. Prior to the scheduled meeting regarding the application, the applicant shall submit the following to the Zoning Enforcement Officer or the application shall be considered incomplete:
   a. A copy of the complete package of information sent to a water company and to the Commissioner of the Department of Public Health,
   b. Proof of mailing, and
   c. The return receipt.

4. Such water company may, through a representative, appear and be heard at any hearing on any such application, petition, request, or plan.

J. REFERRALS TO COUNCILS OF GOVERNMENTS

1. The Commission shall give written notice to the Council of Governments when any portion of the land affected by a Zoning Regulation or boundary change affecting the use of a district is located within five-hundred (500) feet of the boundary of another municipality.

2. Such notice shall be made not later than thirty (30) days before the public hearing and shall be made by electronic mail or by Certified Mail, return receipt requested.

3. The Council of Governments may submit advisory findings and recommendations to the Commission at or before the hearing.

4. The Commission shall read any comments submitted by the Council of Governments into the record of any public hearing or public meeting held on the application.

5. The lack of a response from any such Council of Governments shall not delay the processing of the application.

K. BENEFICIARIES OF A TRUST

In accordance with CGS Section 8-7c, any person who makes an application to the Commission or Board of Appeals pertaining to real property, the record title to which is held by a trustee of any trust, shall file with said application a sworn statement disclosing the name(s) of the equitable owner(s) of such real property or the beneficiary(ies) of the trust.

L. CONSERVATION RESTRICTION

1. In accordance with CGS Section 47-42d, any person filing a zoning application for property that is subject to a conservation restriction or a preservation restriction shall provide proof that the applicant has, at least sixty days prior to the filing of the permit application, provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction.

2. In lieu of such notice, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction.

3. Such notice shall not be required if the application is only for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of such existing building.

4. If the holder of the restriction provides proof that granting of the permit application will violate the terms of the restriction, such agency, official or director shall not grant the permit.

5. If the applicant fails to comply with the notice provisions of CGS Section 47-42d, the applicant and/or any successor entity may be subject to the penalties or other enforcement provisions contained in CGS Section 47-42d.

M. FINANCIAL GUARANTY REQUIREMENTS

1. Where a financial guaranty is required by any section of these Regulations, the Zoning Enforcement Officer shall require evidence of compliance with the following standards before accepting any financial guaranty.

2. Where a financial guaranty is required, no Zoning Permit shall be issued until such performance guaranty has been accepted by the Commission or its agent.

3. The required amount of the financial guaranty will be established by the Commission based on a listing provided by the applicant of the type and estimated quantities of materials needed to complete the approved site improvements that will be conveyed to or controlled by the Town. The amount of the financial guaranty shall be sufficient to cover the cost plus ten percent (10%) of any proposed or required site improvements, including but not necessarily limited to:
   a. Street grading, roadway paving, and street plantings;
   b. Installation of curbs, storm drainage facilities, landscaping, sidewalks, monuments, bridges, and culverts; and
   c. Erosion and sedimentation control measures.

4. The Commission may require a separate financial guaranty for all erosion and sedimentation controls required as part of an approval.

5. All financial guaranties shall be posted prior to the issuance of a Zoning Permit or a Certificate of Zoning Compliance and any Zoning Permit or Certificate of Zoning Compliance issued shall be null and void if the required financial guaranties are not posted as required.

6. **Acceptable Forms of Financial Guaranties** - Financial guaranties shall be in one or more of the following forms:
   a. Cash deposited with the Town;
   b. Certified check(s) payable to the Town, when the amount of any check is fully insured by the FDIC;
   c. Bank deposit(s) assigned solely and irrevocably to the Town, when the amount of any deposit is fully insured by the FDIC; and/or
   d. An irrevocable letter of credit naming the Town as sole beneficiary provided that:
      i. Such letter of credit shall be issued by a branch of a bank in Connecticut or by a branch of a bank in the United States provided that:
      ii. Such bank is included in the most recent list issued by the Securities Valuation Office of the National Association of Insurance Commissioners (or any successor office or organization, "NAIC") as a bank meeting NAIC standards for issuing letters of credit for reinsurance purposes, or
      iii. The long-term unsecured debt of such bank (or the long-term unsecured debt of its holding company) is rated BBB or better by Standard & Poor's rating service or Baa or better by Moody's rating service;
      iv. The terms and conditions of such letter of credit shall be acceptable in form and substance to the Town; and
      v. When through the passage of time, such letter of credit shall have less than thirty (30)-days remaining until its expiration or lapse date, and such expiration date has not been extended, the Town may draw the full amount under said letter of credit and the proceeds may be retained by the Town as a cash deposit form of financial guaranty.

7. A financial guaranty required in the amount of $10,000 or less shall be posted in cash or certified check only.

8. Upon completion of the proposed and required improvements, the applicant may be required to submit to the Commission:
   a. An as-built, A-2 survey of the improvements;
   b. Certification of accurate monument location by a land surveyor registered in the State of Connecticut;
   c. Easements (if required) in a form satisfactory to the Commission; and
   d. Proof of fulfillment of any other requirements or conditions.

9. At the written request of the applicant to release or reduce the financial guaranty, the Zoning Enforcement Officer shall, not later than sixty-five days after receiving such request:
   a. Authorize release or reduction of the guaranty, or
   b. Provide the person posting such financial guaranty with a written explanation as to the additional improvements that must be completed before such financial guaranty or portion thereof may be released.

10. To promote public health and safety and to safeguard the Town in regard to the future maintenance of said improvement, the Commission may retain a financial guaranty for maintenance, in cash or certified check, in the amount of ten percent (10%) of the total required financial guaranty for a period of one (1) year following completion of all proposed and required improvements.

11. If all work associated with an application approved by the Commission is not completed within the prescribed amount of time, the approval shall expire and become null and void. Any financial guaranty may be used by the Town to complete the site improvements.

N. VILLAGE DISTRICT PROCEDURES

1. **Village District Review Required Unless Exempted** - All new construction, substantial reconstruction, and rehabilitation of properties in a village district and any changes of use or new uses not exempted below shall require Commission approval as specified in this Section.

2. **Exempted Activities** -
   a. Change of Use - Village district review shall not be required, and a Zoning Permit may be issued by the Zoning Enforcement Officer for a change of use within the village district when:
      i. No or minor modifications to the site or structure are proposed;
      ii. Such proposed use is permitted in the zone; and
      iii. Such proposed use is substantially similar to the previous use or deemed to have less neighborhood impact and similar or less parking requirements than a previously permitted use.
   b. Routine Maintenance / Minor Modification – Village district review shall not be required, and a Zoning Permit may be issued by the Zoning Enforcement Officer for routine maintenance and minor modifications within view from any public roadway when the Zoning Enforcement Officer determines that such routine maintenance or minor modification will be consistent with the character of the district as well as all other applicable requirements of this Section.
   c. Alteration Not Visible – Village district review shall not be required for any alteration or structural modification within the village district when such work does not change the building footprint or floor area and such work is not subject to Site Plan or Special Permit approval from the Commission.

3. **Professional Drawings Required** - Unless the Commission determines that professional drawings are not necessary due to the nature of the improvements proposed or other material provided:
   a. Drawings of buildings and structures within a village district shall be prepared by a Connecticut-licensed architect.
   b. Site plans and landscape plans within a village district shall be prepared by a Connecticut-licensed engineer, surveyor, and/or landscape architect, as appropriate.

4. **Design Considerations** - Applications within the village district shall be reviewed against the standards and criteria included in the CGS Section 8-2j, as contained elsewhere in these Regulations, and the following:

	Design Considerations
Streetscape	• The area between the building facade and the street line should be configured as a pedestrian-friendly area with appropriate landscape materials and pedestrian-oriented amenities such as outdoor seating and displays.
Building Character	• Buildings should be harmoniously related to their surroundings • Buildings should be harmoniously related to the scale and architecture of existing buildings in the district where there is a functional or visual relationship • Buildings should be designed and appropriately proportioned to be consistent with the area's architectural character and style. • The building facade should be configured to be pedestrian-friendly with entrance porches or canopies and large windows (with grille and transom) utilized for displays at the first floor level.
Parking And Access	• In order to provide for a pedestrian-friendly environment, access management strategies are encouraged with as few driveways as practicable (shared driveways are encouraged) and with significant pedestrian amenities provided on the site whenever any driveway disturbs the pedestrian realm. • In order to provide for a pedestrian-friendly environment, parking is discouraged in the area between the front of the building and the street line. All parking should be located at the rear or side of the building.
Signage And Lighting	• Signage should be designed to reinforce the unique character and features of the village and add interest to the street level environment. • Illumination for buildings, parking areas, and signs shall be accommodated with down lighting fixtures (such as goose neck fixtures for signage).
Other	• The removal or disruption of historic traditional or significant structures or architectural elements should be minimized

5. **Compatibility Objectives** - In addition, all development in the village district shall be designed to achieve the following compatibility objectives:
   a. The building and layout of buildings and included site improvements shall reinforce existing buildings and streetscape patterns and the placement of buildings and included site improvements shall assure there is no adverse impact on the district;
   b. Proposed streets and or driveway shall be connected to the existing village district road and driveway network, wherever possible;
   c. Pedestrian access shall be provided to connect with adjacent village district sidewalks, uses, and buildings;
   d. Open spaces within the proposed development shall reinforce open space patterns of the district, in form and siting;
   e. Locally significant features of the site such as distinctive buildings, specimen trees, or sight lines or vistas from within the district shall be integrated into the site design;
   f. The landscape design shall complement the district's landscape patterns;
   g. The accessory features and structures common in the village district shall be continued in a uniform architectural theme throughout the proposed development and shall be compatible with their surroundings (including exterior signs, colonial style site lighting, white picket fences, brick paver walks, etc.); and
   h. The scale, proportions, massing and detailing of any proposed building shall be in proportion to the scale, proportion, massing and detailing in the district.

6. **Procedures** –
   a. All applications for new construction or substantial reconstruction within the village district and in view from public roadways shall be subject to review and recommendation by a " village district consultant" selected and contracted by the Commission for such application and such "village district consultant" shall be:
      i. A Design Review Board established by the Town of Somers;
      ii. An architect or architectural firm;
      iii. Landscape architect; or
      iv. A planner who is a member of the American Institute of Certified Planners.
   b. The village district consultant shall review the application and report to the Commission within 35 days of the official receipt of an application with regard to compliance with the village district criteria contained herein.
   c. Failure of the village district consultant to report within 35 days shall not alter or delay statutory time limits.
   d. The report of the village district consultant (if any) shall be entered into the record of any public hearing which may or may not be held and may be considered by the Commission in making its decision. The applicant shall be afforded the opportunity to review and comment upon any such report and to offer additional information to the Commission in response to said report.
   e. The Commission may additionally seek the recommendation of any Town or Regional Agency or outside specialists with which it consults, including but not limited to, any historical organizations, the Capitol Region Council of Governments, the Connecticut Trust for Historic Preservation, and The University of Connecticut College of Agriculture and Natural Resources. Any report from such agency or organization shall be entered into the record of the public hearing and may be considered by the Commission in making its decision. The applicant shall be afforded the opportunity to review and comment upon any such report and to offer additional information to the Commission in response to said report.
   f. No approval of the Commission shall be effective until a copy thereof, certified by the Commission, containing the name of the owner of record, a description of the premises to which it relates and specifying the reasons for its decision, is recorded in the land records of the Town of Somers. The Town Clerk shall index the same in the Grantor's index under the name of the then record owner and the record owner shall pay for such recording.

SITE PLAN APPLICATION CHECKLIST

☐ 1. Application Form bearing the original signature(s) of the owner(s) of record, or letter of authorization from the owner to a designated agent

☐ 2. Application Fee

☐ 3. Three (3) copies of site plans showing, where applicable:

Reference

- ☐ Name and address of property owner(s)
- ☐ Name and address of applicant(s) / developer(s)
- ☐ Address of property in question
- ☐ Name of development (if any)

Professional Certifications

- ☐ Signature and seal of an engineer, landscape architect, or land surveyor who is registered in the State of Connecticut
- ☐ Incorporation of an A-2 survey prepared, sealed and signed by a Connecticut licensed land surveyor
- ☐ Where applicable, a statement from a Connecticut-licensed soil scientist that the “flagging” of wetland soils and delineation of watercourses on the maps is accurate

Property Location / Configuration

- ☐ A north arrow
- ☐ An acceptable scale, generally not less than 1" equals 40'
- ☐ A key map showing the location of the property in relation to private streets, accessways, and surrounding areas
- ☐ Survey information of the land in question the actual dimensions of the plot to be built upon or used including distances, angles, and bearings
- ☐ The location of any wetlands, watercourses, aquifers, or areas of special flood hazard
- ☐ The zoning district classification of the plot and any surrounding zones
- ☐ Limits of any easements, or right of way and their purpose

SITE PLAN APPLICATION CHECKLIST (continued)

Site Layout

- ☐ The location and size of existing and proposed buildings and structures with setback distances from lot lines
- ☐ The location of setback lines
- ☐ Existing and proposed merestones, iron pins and other property markers
- ☐ Finished floor elevations of all buildings and structures

Zoning Compliance

- ☐ Existing and proposed bulk requirements including lot size, lot frontage, building coverage, front yard, side yards, and rear yard
- ☐ Existing and proposed building height
- ☐ Existing and proposed parking, open space, landscaping, and other requirements

Utility Services

- ☐ Type of water supply and sewage disposal system and location
- ☐ Location of subsurface sewage disposal area and site testing locations for the same, if applicable
- ☐ Engineering data including drainage system (computations as required)

Erosion and Sediment Control

- ☐ A soil erosion and sediment control plan and narrative demonstrating compliance with the erosion and sediment control provisions of these Regulations
- ☐ Identification of specific erosion and sedimentation controls to be used

See full Zoning Regulations for possible additional plan requirements depending on nature of activity proposed)

SPECIAL USE PERMIT APPLICATION CHECKLIST

☐ 1. Application Form bearing the original signature(s) of the owner(s) of record, or letter of authorization from the owner to a designated agent

☐ 2. Application Fee

☐ 3. A statement describing in detail the proposed use or uses

☐ 4. Three (3) copies of site plans showing, where applicable:

Reference

- ☐ Name and address of property owner(s)
- ☐ Name and address of applicant(s) / developer(s)
- ☐ Address of property in question
- ☐ Name of development (if any)

Professional Certifications

- ☐ Signature and seal of an engineer, landscape architect, or land surveyor who is registered in the State of Connecticut
- ☐ Incorporation of an A-2 survey prepared, sealed and signed by a Connecticut licensed land surveyor
- ☐ Where applicable, a statement from a Connecticut-licensed soil scientist that the “flagging” of wetland soils and delineation of watercourses on the maps is accurate

Property Location / Configuration

- ☐ A north arrow
- ☐ An acceptable scale, generally not less than 1" equals 40'
- ☐ A key map showing the location of the property in relation to private streets, accessways, and surrounding areas
- ☐ Survey information of the land in question the actual dimensions of the plot to be built upon or used including distances, angles, and bearings
- ☐ The location of any wetlands, watercourses, aquifers, or areas of special flood hazard
- ☐ The zoning district classification of the plot and any surrounding zones
- ☐ Limits of any easements, or right of way and their purpose

SPECIAL USE PERMIT APPLICATION CHECKLIST (continued)

Site Layout

- ☐ The location and size of existing and proposed buildings, structures with setback distances from lot lines, required buffers, parking, and other requirements as stated in regulations
- ☐ Finished floor elevations of all building and structures
- ☐ Existing and proposed merestones, iron pins and other property markers

Utility Services

- ☐ Type of water supply and sewage disposal system and location
- ☐ Location of subsurface sewage disposal area and site testing locations for the same, if applicable
- ☐ Engineering data including drainage system (computations as required)

Erosion and Sediment Control

- ☐ A soil erosion and sediment control plan and narrative demonstrating compliance with the erosion and sediment control provisions of these Regulations
- ☐ Identification of specific erosion and sedimentation controls to be used

See full Zoning Regulations for possible additional plan requirements depending on nature of activity proposed)

REGULATION CHANGE APPLICATION CHECKLIST

☐ 1. Application Form bearing the original signature(s) of the owner(s) of record, or letter of authorization from the owner to a designated agent

☐ 2. Application Fee

☐ 3. A statement describing in detail the proposed use or uses

☐ 4. Three (3) copies of the proposed text amendment identifying by reference to appropriate article, section, subsection, or paragraph numbers and to any other designation to be altered and indicating in brackets the text (italicized) to be added and strike through the text to be deleted

☐ Three (3) paper copies and one (1) PDF copy of a written report stating the reasons for the proposed change and to what extent it would enhance the general health, safety and welfare of the Town of Somers.

☐ Any other information which in the Commission's judgment will assist in evaluating the proposal

See full Zoning Regulations for possible additional plan requirements depending on nature of activity proposed)

ZONE CHANGE APPLICATION CHECKLIST

- ☐ 1. Application Form bearing the original signature(s) of the owner(s) of record, or letter of authorization from the owner to a designated agent

- ☐ 2. Application Fee

- ☐ 3. A statement describing in detail the proposed use or uses

- ☐ Three (3) paper copies and one (1) PDF copy of a map at an appropriate scale showing:
  - ☐ The property proposed to be rezoned indicating the existing zoning district designation, the proposed boundary line(s), and the proposed zoning district designation
  - ☐ A key map showing the location of the property in relation to surrounding areas
  - ☐ Properties within five hundred (500) feet in all directions of the premises proposed to be rezoned

- ☐ Any other information which in the Commission's judgment will assist in evaluating the proposal

See full Zoning Regulations for possible additional plan requirements depending on nature of activity proposed)

PLANNED DEVELOPMENT DISTRICT APPLICATION CHECKLIST

☐ 1. Regulation Change application (described separately)

☐ 2. Zone Change application (described separately)

☐ Three (3) paper copies and one (1) PDF copy of a Master Plan at an appropriate scale including:

Conceptual Site Plans - One or more sheets depicting the proposed schematic design of the site including:

- ☐ The identification and general location of proposed uses;
- ☐ Existing and proposed building footprints;
- ☐ Proposed public and private streets, sidewalks and/or pedestrian walkways, rights-of-way, and parking areas;
- ☐ A landscaping plan, including the location of proposed buffers;
- ☐ Information regarding the provision of water, sewer, drainage, and other utilities; and
- ☐ The location of public and/or private open space or conservation areas.

Schematic Architectural Drawings - One or more sheets illustrating the schematic design of the proposed buildings and structures, including:

- ☐ Schematic floor plans;
- ☐ Architectural elevations of all buildings, and/or
- ☐ Photographs of buildings similar to the proposed buildings.

Data Table - Information regarding the proposed development including:
Lot area and lot frontage;

- ☐ Building setbacks, yards, and/or building separations;
- ☐ Building coverage and impervious coverage;
- ☐ Proposed floor area by proposed use;
- ☐ Parking spaces.

PLANNED DEVELOPMENT DISTRICT APPLICATION CHECKLIST (cont.)

Additional Documentation - Depending on the nature and/or intensity of the proposed Planned Development District, the following documentation may also be required by the Zoning Commission:

- ☐ A traffic study estimating the potential traffic generation and the capacity of streets within and neighboring the district to accommodate the projected traffic;
- ☐ A report regarding the adequacy of proposed utility services;
- ☐ A statement on how the proposed development complies with the Plan of Conservation and Development;
- ☐ Any other information which in the Commission's judgment will assist in evaluating the proposal

See full Zoning Regulations for possible additional plan requirements depending on nature of activity proposed)

NOTES & COMMENTS

TOWN OF SOMERS
INCORPORATED
1734
CONNECTICUT