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SECTION 5 GENERAL REGULATIONS

Section 5.1 **Non-Conforming Lots, Land Use and Buildings or Structures**

Within the zones established by this regulation or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this regulation was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this regulation or future amendment.

It is the intent of this regulation to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this regulation to be incompatible with permitted uses in the zones involved. It is further the intent of this regulation that non-conformities shall not be enlarged upon, extended or expanded if such a change increases the non-conformity, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A non-conforming use of structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this regulation by attachment on a structure or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which could be prohibited generally in the zone involved. To avoid undue hardship, nothing in this regulation shall be deemed to require a change in the plans, construction or designated use of any structure on which actual construction was lawfully begun prior to the effective date of the adoption or amendment of this regulation.

5.1.1 Non-Conforming Lot of Record

A dwelling unit or a non-residential building may be erected on a lot of less width or area or both than required and the Zoning Enforcement Officer is authorized to issue a permit provided that:

- A. Said lot was created or established as a separate building lot prior to the adoption of Zoning in the Town of Newington or, at the time of its creation or establishment as a separate building lot, complied with all lot width and area requirements then in effect, and
- B. The lot must be shown or describe as a separate and distinct building lot on a map, or in a deed or other instrument duly recorded in the Town Clerk's Office. A certified copy of such map, deed or other instrument shall be filed with the application for the zoning permit., and
- C. No owner of such lot or lots at any time since it became non-conforming shall have owned adjacent land which may be or could have been merged as part of the lot in question.
- D. The lot fronts on an accepted street, a proposed street in an approved subdivision for which surety has been posted in accordance with Section 7.3, or on a private street constructed in accordance with the minimum standards of the Town of Newington, unless specifically permitted subject to the appropriate standard as set forth in these regulations, and.
- E. All other requirements are met.

- 5.1.2 The lawful use of land existing at the time of the adoption of these regulations or of any amendment hereto, although such use does not conform to the provisions hereof, may be continued; but if such use ceases for a period of 12 months, or is changed to a conforming use, all future use of said land shall be in conformity with these regulations.
- 5.1.3 The lawful use of a building or structure, existing at the time of the adoption of these regulations or of any amendment hereto, although such use does not conform to the provisions hereof, may be continued and such use may be extended throughout the building, provided that no structural alterations are made, other than those ordered by an authorized public official to assure the safety of the building or structure; and provided further that such extension does not displace any conforming use.
- 5.1.4 Whenever a non-conforming use of a building has ceased for a period of at least 12 months, such use shall not thereafter be re-established; and any future use shall be in conformity with the provisions of these regulations.
- 5.1.5 Any non-conforming building or structure which is destroyed or damaged by fire or casualty may be reconstructed and structurally altered, provided such reconstruction or alteration is commenced within 6 months of the date of such damage or destruction. Up to an additional 6 months may be granted by the Commission to commence reconstruction for extenuating circumstances. The repair or replacement of the structure must be completed within one (1) year of issuance of building permits. Such restoration, repair or replacement must be of the same dimension, floor area, cubic volume, density and footprint on the property existing prior to the damage or destruction. (Effective 4-6-2011) (Corrected 12-14-12)
- 5.1.6 When a building or structure is non-conforming only in regard to height, area or yard requirements, the reconstruction or structural alteration will be permitted if said building or structure is destroyed or damaged by fire or casualty. No such reconstruction or structural alteration shall increase the non-conformity. (Effective 12-01-01)

5.2 Procedures and Standards for All Special Exceptions or Special Permits

- 5.2.1 Uses specified in these regulations as special ~~exceptions or~~ permits are declared to possess such special characteristics that each must be considered a special case. The following general procedures, requirements and standards apply and must be followed; in addition to the standards and conditions particular to the proposed use and specifically set forth in these in these regulation. Those conditions and standards are hereby determined to be necessary to protect the public health, safety, convenience and property values.
- 5.2.2 Petitions for special ~~exceptions or~~ permits must be heard by the appropriate commission or board as required in the section relating to the exception or permit.
- 5.2.3 A public hearing is required on the proposed special ~~exception or~~ permit with due notice as provided by Connecticut General Statute.
- 5.2.4 After the hearing, the commission or board may approve, disapprove or approve with conditions.
- 5.2.5 To permit proper review, the commission or board **shall may**, in accordance with Section 5.3, require that a site plan be submitted, and may require any other information deemed necessary to determine if the use is in harmony with the intent of the regulation, and the character of the area in which it is located.

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- 5.2.6 In reviewing the proposed special ~~exception or~~ permit, the Commission shall consider the following criteria as well as any specific standards pertaining to the requested special exception or special permit and record its findings in the record of the meeting:
- A. The need for the proposed use in the proposed location.
 - B. The existing and probable future character of the neighborhood in which the use is located.
 - C. The size, type and location of main and accessory buildings in relation to one another, and in relation to other structures in the vicinity.
 - D. Traffic circulation within the site; amount, location and access to parking, and traffic load or possible circulation problems on existing streets or proposed streets and driveways considering impact on existing streets are effected. For large scale retail developments in excess of 40,000 square feet of gross floor area a traffic impact analysis report with proposed mitigation measures shall be submitted with the application.
 - E. Availability of public water and sewer, and possible overloading of water and sewage systems and the adequacy of the existing off site storm water system serving the property to safely accommodate any increase in drainage. (Effective 12-01-01)
 - F. Location and type of display signs, lighting and landscaping and the impact of type signs on adjacent properties.
 - G. Safeguards to protect adjacent property, and the neighborhood in general, from detriment including, but not limited to proper buffering.
- 5.2.7 Following an approval of a special ~~exception or~~ permit, such approval shall become null and void if the use proposed under the Special ~~Exception or~~ permit changes. Amendments to the conditions of a Special ~~Exception~~ **Permit or substantial changes** shall require a new petition and public hearing as required by the Connecticut General Statutes. (Effective 12-01-01)
- 5.2.8 No special ~~exception or~~ special permit granted according to these regulations shall be effective until a copy of the special ~~exception or~~ special permit, ~~certified by~~ signed **by the Chairman of** the Commission or Board, whichever is applicable, is filed by the applicant in the Town Clerk's office in accordance with State Statutes which require recording in the Land Records.
- 5.2.9 The Commission may attach a time limit to a Special ~~Exception or~~ Special Permit when it determines that such a condition will protect adjacent property and the character of the neighborhood. If a time limit is made a condition of approval the Special ~~Exception/~~Permit may be revoked for due cause after a public hearing.

5.3 Procedures and Requirements for Site Plans

5.3.1 Permits and Certificates

No building permits shall be issued in any zone or for any use where a site plan is required, unless a site plan, prepared in accordance with these regulations, has been approved by the Commission and has been filed by the applicant with the Town Planner. No Certificates of Zoning Compliance shall be issued unless the requirements of such site plans have been fulfilled.

5.3.2 Procedure

When required, a site plan shall be submitted to the Commission in accordance with these regulations. The site plan shall be approved, denied, or approved with modifications in accordance with the standards and conditions contained in these regulations.

5.3.3 Commission Review

In reviewing site plans, the Commission shall consider the following, as well as the conditions and standards herein. Applicants should also refer to Section 7.4, Design Standard and Site Plan Checklist.

1. The existing and planned future character of the adjacent property.
2. Traffic circulation within the site; amount, location and access to parking; traffic generated and possible traffic hazard or circulation problems on existing or proposed drives or streets.
3. Availability and adequacy of public utilities serving the site and the adequacy of the existing and proposed stormwater system to accommodate any increased drainage. (Effective 12-01-01)
4. The location of signage, lighting and natural or landscape features.
5. Safeguards to protect adjacent property and the neighborhood in general from detriment or depreciation.
6. The suitability of the building design to its site.
7. Safeguards to promote the convenience of travel and the orderly use of land through the safe location of driveways, the number, size and access points to a site in relationship to adjacent properties and the public roadway. (Effective 12-01-01)

5.3.4 Content of a Site Plan

~~A. **Context Map: An overall map drawn to a scale of 1" = 200', which can be used as an overlay on Metropolitan District Maps. This map will show the overall design of the development and surrounding property within 500 feet.**~~

1. General

1. Data block which gives required zoning information such as height, area and yard requirements, parking, spaces, green space, etc.
2. Layout of buildings.
3. Layout of streets and parking.
- ~~4. **Lines indicating proposed drainage system with direction arrows.**~~
- ~~5. **Lines indicating sanitary sewer system with direction arrows.**~~
- ~~6. **Names of abutting property owners.**~~
7. Proposed open spaces and recreation area, if required.
- ~~8. **Inland Wetland and Watercourses showing 50 foot setback area and 100 foot upland review area. (Effective 8-15-07)**~~

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~~9. Hydrologic soil groups based on information available from the United States Department of Agriculture Natural Resource Conservation Service and/or highly pervious soils as found from onsite soil testing.~~

10. Trees with six inch (6") caliper or larger.
11. Area identified on the Natural Diversity Database as maintained by the Connecticut Department of Energy and Environmental Protection.

12. Context Map: An overall map drawn to a scale of 1" = 200', which can be used as an overlay on Metropolitan District Maps. This map will show the overall design of the development and surrounding property within 500 feet.

2. Architectural Elevations: Plans of the proposed buildings drawn to a scale of 1/8" = 1'0", showing the elevations of all sides of the proposed buildings in sufficient detail to show architectural styling. The plans shall be prepared on mylar for filing with the site development plan and shall have a signature block for signing by the Commission Chairman.
 1. Samples of all exterior building materials proposed to be used.
 2. For existing buildings, photographs of all sides of the building may be submitted in lieu of architectural elevations.
3. Plot Plan: A layout map of the proposed site drawn to a scale of 1" = 40', on either of the following size sheets: 24" x 36" with a 3/4" ruled margin, or 15" x 24" with a 1/2" ruled margin; containing the following data:
 1. The plans or maps shall conform to the class A-2 requirements of the "Code of Recommended Practice for Standards of Accuracy of Maps" of the Connecticut Technical Council, Inc.
 2. Distance and bearings of all boundary lines and acreage of site.
 3. Proposed streets and street lines with center line stations, curve data and parking spaces.
 4. Building **setback** lines in accordance with these regulations.
 5. Proposed buildings and other structures, including signs, dumpster enclosures and mechanical equipment.
 6. Easements noting grantors, grantees and purpose.
 7. Monuments will be indicated at corners and angles of all streets and at all points of curvature and tangency. In areas accessible to National Geodetic Survey points, or other coordinated points, the monument points within the proposed site shall be coordinated. These coordinates shall appear in tabular form on the plot plan. The accessibility of these NGS points shall be determined by the Town Engineer.
 8. Names of abutting property owners. Location of any buildings within 100' of all property shall be shown.
 9. All open space or other common or public land uses shall be indicated.

10. Landscaping and Planting Plan, including name, size and location of plants.
 11. Lighting Plan for all exterior light fixtures and bulb types.
 12. Commission approval and signature block.
4. Topographic and Utility Map: A map drawn to a scale of 1" = 40', see "C. Plot Plan), in addition to the requirements of the Plot Plans, show the following:
1. All existing and proposed buildings.
 2. Curb lines, curb cuts, edge of pavement, and pavement width.
 3. Existing and proposed sanitary sewers, **and direction of flow.**
 4. Existing and proposed water and gas main systems, **and direction of flow.**
 5. Existing and proposed contours shall be shown in not less than two-foot intervals; but in cases of relatively level land, the contours shall be one-foot intervals. Existing contours in excess of fifteen (15%) percent gradient shall be identified by shading the areas that meet this criterion. (Effective 3-4-2011)
 6. Proposed storm drainage system, showing all low impact development techniques (such as swales, rain gardens, infiltration trenches, etc.) and any structural measures (such as catch basins, end walls, manholes, lengths and sizes of pipes, with invert elevations of each inlet and outlet).
 7. Connections of all springs into proposed storm drainage system as needed.
 8. Location and indications of existing brook channels, and 100-year flood limits.
5. Erosion Control Plan: The disturbance of any area exceeding one-half acre shall require an Erosion and Sediment Control Plan to conform with P.A. 83-388 of the Connecticut General Assembly, and Section 8-25 of the General Statutes as amended, and the following requirements:
1. Existing and proposed boundary and lot lines, with dimensions given in feet and areas given in square feet. Existing and proposed easements and right-of-way for public utilities and other public uses with dimensions given in feet.
 2. Location of all wetlands and watercourses on the property and within sufficient distance beyond the property line and the extent of proposed changes in their configurations. **The 100' upland review area boundary shall also be shown.**
 3. Location of proposed activities.
 4. Elevation at two-foot contour intervals. If deposition, removal or grading of material is proposed, resulting elevations shall be shown by two-foot contour intervals.
 5. Identification of **wetland** soils, including locations of any soil borings or test holes. Soil types shall be identified in accordance with categories established by the National Cooperative Soil Survey of the United States Department of Agriculture, Soil Conservation Service.
 6. A general delineation of the vegetative cover of any regulated area.
 7. Bodies of water and high water level for all inundated areas.

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8. All drainage appurtenances existing and proposed together with erosion control measures or temporary or permanent soil erosion control measures to be constructed in connection with, or as part of, the proposed work.
 9. Details of erosion control measures.
 10. Proposed limits of disturbance / compaction and the method of ensuring same.
6. Access Management Plan: All existing and proposed streets and driveways within 500 feet of the boundaries of the proposed development shall be shown on the 200' scale Key Map. The Commission will review the number and location of all proposed access points to ensure that public safety and welfare are promoted and that the proposed development will not adversely impact public roadways. When the Commission determines that it is in the best interest of public safety, and to promote orderly development, the applicant may be required to modify the site development plan to achieve the following access management standards:
1. Reduce curb cuts and provide shared access with an abutting property.
 2. Establish inter site connections using internal driveways.
 3. Provide access using a service road.
 4. Direct left turning vehicle movements to an abutting roadway with the least intensity of current and projected traffic volume.
 5. On corner properties locate driveways no closer than 200' to the intersection or as may be approved by the Commission. (Effective 12-01-01)

5.3.5 Improvements

Street improvements, drainage, sewer and water supply, landscaping, recreation areas, parking and loading facilities and any other improvements required by the Commission shall be installed according to the specifications of the Town of Newington before final acceptance is given and a Certificate of Occupancy is issued. The developer, with the approval of the Commission, may install improvements in a portion of the plan and receive final acceptance of that portion only. Any unfinished portion of the site plan shall be bonded prior to the issuance of a Certificate of Occupancy and Certificate of Zoning Compliance. Improvements related to the safe use of the site, such as but not limited to, lighting, fire lanes, and fire hydrants, shall be completed and will not be bonded. (Effective 12-01-01)

5.3.6 Surety

The Town Manager, acting for the Commission, may accept surety in lieu of actual site improvements in accordance with Section 7.3. The surety that can be accepted by the Town Manager shall be limited to certified check, pass book/certificate of deposit, or a letter of credit. No insurance bond will be acceptable. For existing buildings where site plan approval is required, a cash bond in the amount of 10% of the total site improvement costs shall be posted with the Town Manager prior to the issuance of a building permit. In no case shall the bond posted with the Town Manager be less than \$2500. (Effective 12-01-01)

5.3.7 Approval

To be effective, the approved site plan must be signed by the Chairman of the Commission and shall show the date of the Commission approval. The applicant shall file with the Town Planner a mylar of the approved site plan, with the Commission's Certificate of Action affixed, and a mylar showing the buildings' elevations.

5.3.8 Time Limit

The Commission may grant additional extensions provided that all work in connection with such site plan approved on or after October 1, 1989 shall be completed within five (5) years after the date of approval of the site plan. Failure to complete all work within such five (5) year period shall result in automatic expiration of the approval of such site plan. The Commission may grant one or more extensions of such five year period, provided the total extension shall not exceed ten years from the date such site plan is approved. "Work" for purposes of this subsection means all physical improvements required by the approved plan (CGS Section 8-3(i)).

For site plans approved on or before October 1, 1989 approval shall be void if substantial construction is not started within seven years from the date of approval.

5.3.9 Change in Use and Site Design

~~A. A change in use of land or in the use of a structure or building will require Commission approval of a site plan if any one of the following occurs: such change in use increases the required amount of parking, loading or access or increases the building's gross floor area by more than 10 percent; alters the site's parking lot landscape areas, or green space, landscaping and buffer requirements of Section 6.10. Changes only to the architecture of the building will not require the submission of a new site plan to the Commission. (Effective 12-01-01)~~

A. A change in use of land or in the use of a structure or building will require Commission approval of a site plan if any one of the following occurs:

1. ~~such change in use~~ increases the **required** amount of parking;
2. changes the loading or access;
3. increases the building's gross floor area by more than 10 percent;
4. alters the site's parking lot ~~landscape areas, or~~ green space, or landscaping, ~~and buffer requirements of or increases the amount of buffering required in~~ Section 6.10.

B. Minor changes not requiring additional parking, loading, access or structural addition of less than 10 per cent to the rear or side areas of buildings will not require site plan approval.

C. For the purposes of this section examples of a change of use would include but are not limited to the conversion or addition of floor space from industrial/warehouse use to retail floor space or office floor space. the conversion of retail floor space to recreation use or public assembly use, such as a school or sports complex, church, etc. (Effective 12-01-01)

D. Changes only to the architecture of the building will not require the submission of a new site plan to the Commission. (Effective 12-01-01)

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5.4 Public Hearings

For ~~special exception~~, special permit, zone map change, **and** resubdivision, public hearings the Town of Newington will be responsible for mailing a Notice of Public Hearing to abutting property owners, and if a condominium complex is an abutter or across the street, to all officers of the condominium complex. The applicant shall be responsible for placing on the property subject to the public hearing a sign provided by the Town of Newington providing notice of the scheduled hearing. This sign shall be placed in a location that is easily visible to the public at least ten (10) calendar days prior to such hearing **and shall remain until the petition is acted upon by the Commission**.

SECTION 6 **SPECIAL REGULATIONS**

6.1 Off –Street Parking and Loading Regulations

[no changes]

6.2 Signs

[changes to be made separately]

6.3 Flood Plain Regulations

[no changes]

6.4 Removal of Earth Products

6.4.1 General

Except as otherwise provided in this section, there shall be no removal, in any zone, of soil, sand, gravel, stone or other earth products, ~~except excavation for basements of structures to be erected on the land forthwith, and except for grading or landscaping incidental to the development of the land, or to grading for public improvements.~~

6.4.2 As of Right

~~Excavation~~ **excavation** for basements of structures to be erected on the land forthwith, and ~~except for~~ **and** grading or landscaping incidental to the development of the land, ~~or to~~ **and** grading for public improvements.

A. The applicant shall submit a site plan of the area where removal is proposed, prepared by a registered professional engineer, showing the existing and proposed finished grades.

6.4.3 Special Permit

The Commission may grant a permit for the removal of soil, sand, gravel, stone or other earth products not incidental to the above purposes, subject to the following conditions and the provisions of Sections 5.2 and 5.3.

6.4.4 Conditions

- A. The applicant shall submit a site plan of the area where removal is proposed, prepared by a registered professional engineer, meeting the provisions of Section 5.2 and also showing the existing and proposed finished grades at the conclusion of operations, provisions for drainage, proposed landscaping and type of cover crop, the location of rock faces and exposed bedrock outcropping, and any other features considered necessary by the Commission for adequate study of the proposal. (Effective 3-4-2011)
- B. The plan shall provide for proper drainage of the area after completion. No bank shall exceed a slope of one foot of vertical rise in 2 feet of horizontal distance. No removal shall take place within 50 feet of a property line except when modified by a two-third vote of the Commission. (Effective 3-4-2011)
- C. At the conclusion of operations, the whole area where removal has taken place shall be covered with not less than 4 inches of topsoil and seeded with a suitable cover crop. This requirement may be modified by the Commission where no practical purpose is accomplished by adherence to it.
- D. No equipment not required for actual removal of the material shall be allowed. The processing of earth product is prohibited except when permitted by the Commission and approved by a two thirds vote. (Effective 8-15-07)
- E. The property shall be maintained in safe condition, no ponding of water, steep slopes or any potentially hazardous condition.

6.4.4 Approval

In passing upon applications for special permits under this section, the Commission shall consider the effects of such removal on surrounding property and the future usefulness of the premises when the operation is completed. The Commission may require the applicant to post surety with the Town Manager in an amount approved by the Commission as sufficient to guarantee conformity with the provisions of this section. The Commission may place a time limit upon any special permit granted, which in no case shall exceed 2 years. Upon approving a special permit, the Commission shall file with the Town Engineer at least one copy of the approved plan of operations, so that no removal may take place except in conformity with this section.

6.5 Filling of Land

6.5.1 General

The ~~purpose of this section is~~ purposes of this section are to (a) conserve and preserve water storage areas by helping to maintain the ground water level and stream flow, (b) secure the safety of traffic movement, and (c) control any fill operations that may create a safety or health hazard to the public or adjacent property owners, or be detrimental to the immediate neighborhood or the Town.

6.5.2 Special Permit

~~The Commission shall grant a permit for the filling of land subject to the following conditions and the provisions of Sections 5.2 and 5.3. A permit is required except in the following circumstances:~~

- A. ~~Construction of a building for which a building permit has been duly issued.~~

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- ~~B. Agricultural or landscaping operations, including pond operations, providing a report approving the operation is provided to the Town Engineer by the Soil Conservation Service.~~
- ~~C. Where such filling operations have been approved by the Commission as a part of a subdivision or a site plan. No filling of land shall commence until a building permit for the project has been issued. This condition may be waived by a two thirds vote of the Commission.~~
- ~~D. Within the rights of way of the State of Connecticut.~~
- ~~E. Regrading of one residential lot to improve the property, providing the Town Engineer inspects and approves this operation before and after regrading takes place.~~

6.5.2

As of Right

- A. Construction of a building for which a building permit application has been submitted.
- B. Agricultural operations. The applicant shall submit a site plan of the area where the fill is proposed prepared by a registered professional engineer.
- C. Where such filling operations have been approved by the Commission as a part of a subdivision or a site plan. No filling of land shall commence until a building permit for the project has been issued.
- D. Regrading of a residential lot to improve the property. The applicant shall submit a site plan of the area where the fill is proposed, prepared by a registered professional engineer, showing the existing and proposed finished grades.

6.5.3

Special Permit

The Commission may grant a permit for the filling of land not incidental to the above purposes, subject to the following conditions and the provisions of Sections 5.2 and 5.3.

- A. The applicant shall submit a site plan of the area to be filled, prepared by a registered professional engineer, meeting the provisions of Section 5.2 and also showing finished grades at the completion of filling, type of fill material, and proposed access for vehicles and hours of operation, as well as any other information considered necessary by the Commission for adequate study of the proposal.
- B. The plan shall provide for proper drainage of the operation, during and after completion. No bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance. Necessary precaution against erosion shall be shown.
- C. At the conclusion of filling operation, the disturbed area shall be covered with not less than 4 inches of top soil and seeded with a suitable cover crop.

6.5.4 Approval

In passing upon applications for **special** permits under this section, the Commission shall consider the effects of such filling on surrounding property and the future usefulness of the premises when the operation is completed. The Commission may require the applicant to post surety with the Town Manager in an amount approved by the Commission as sufficient to guarantee conformity with the provisions of this section. The Commission may place a time limit upon any **special** permit granted, which in no case shall exceed 2 years. Upon approving a **special** permit, the Commission shall file with the Town Engineer at least one copy of the approved plan of operations, so that no filling may take place except in conformity with this section.

6.6 **Regulations Governing Uses Which Sell Alcoholic Beverages**

[No changes proposed]

6.7 DELETED (EFFECTIVE 8-15-07) RESERVED, FORMERLY INTERIOR LOTS AND SINGLE FAMILY HOMES.

[No changes proposed]

6.8 **Open Space Subdivisions**

[No changes proposed]

6.9 **Reserved**

[no changes]

6.10 **Green Space, Landscaping and Buffer Requirements**

6.10.1 Minimum Landscaped Area

Notwithstanding other portions of this regulation, no **use development** shall be permitted in any zone which does not leave **a minimum landscaped area of at least** 10 percent of the total lot area free of any building, impervious surface material or other structures, **not including required yards. Land in the front, side and rear setback areas shall not count toward the minimum landscaped area.** Such minimum **landscaped** areas shall be planted with grass, moss, ground cover or trees in such a way as to allow natural percolation of rainwater and not to interfere with adequate drainage of rainwater from surfaced or built-up portions, and to promote proper environmental design, including the implementation of low impact development techniques.

6.10.2 Location

Generally, **the** green space will be located in the yard areas and most particularly, in the front yard.

6.10.3 Town Center

In the B-TC Zone, the green space may include the landscaped space required in the parking regulation.

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6.10.4 Berlin Turnpike

On the Berlin Turnpike, the front yard green space and landscape area is most important to the public interest for the preservation and enhancement of property values, the implementation of vegetative low impact development techniques, and the control of traffic function and reduction of hazards.

- A. Alteration and additions affecting 25 percent of the gross floor area or more for business and industrial uses shall make substantial effort to add green space and landscaping, particularly in the front yard.
- B. ~~New construction of business and industrial uses shall provide front yard green space and landscaping of at least 35 feet. The Commission may waive this requirement in whole or in part in accordance with the procedures of Section 6.10.5 C. When requested to waive this standard the Commission will take into account access management measures and parking lot green space enhancements proposed by the applicant and the implementation of vegetative low impact development techniques. No accessory structures, above-ground utilities, or pavement shall be placed in the front yard.~~

6.10.5 Buffers

Where buffer **areas** are required **elsewhere** in this Regulation, the following standards shall be met:

- A. If, in the judgment of the Commission, a buffer **area** is necessary to protect residential areas within or adjacent to the proposed area, the Commission may require landscaping, fencing or other appropriate screening within any required front, side or rear yard, in an amount and location appropriate to the need for such screening.
- B. ~~A minimum~~ **A** buffer area shall be not less than 25 feet in width and planted with evergreens no fewer than 2 rows nor further than 15 feet apart, with trees planted no more than 15 feet apart along each row, staggered to provide maximum screening, and using trees not less than 5 feet in height at time of planting. Suitable existing tree cover may be substituted. When the proposed new development abuts existing Town-owned open space or a designated greenway, the minimum buffer area shall not be less than 50 feet in width. Suitable existing tree cover may be substituted when approved by the Commission. (Effective 3-4-2011) Where authorized by the Commission, the buffer area may be used for stormwater management and implementation of vegetative low impact development techniques.
- C. ~~The Commission reserves the right to alter the buffer requirement when, in its opinion, the individual natural, topographical, or manmade utilities of the site clearly indicate that the buffer requirement is inappropriate. The buffer may not be increased to more than double nor decreased to less than half the requirement herein, and any such action shall require a two-thirds vote of the Commission members present.~~

6.11 Sale, Rental, Service or Storage of Motor Vehicles (effective 01/17/2015)

[no changes]

Section 6.12 Willard Avenue Development District-Special Permit Zone

[no changes]

Section 6.13 Accessory Apartments (Effective 2-20-09)

The Commission may grant a special exception for one accessory apartment in an existing or proposed single-family dwelling located only in an R-20 or R-12 zone, subject to the following standards and conditions and the provisions of Section 5.2.

- 6.13.1 The owner of the property subject to the permit shall reside on the property throughout the duration of the permit. The accessory apartment shall be limited to a maximum occupancy of two persons. The owner of the property may reside in the accessory apartment or in the principal residence.
- 6.13.2 The building shall be determined to be capable of being added to in a safe manner. An applicant for an accessory apartment special exception shall submit a Zoning Location Survey, Class A-2, verifying compliance with the zoning regulations, Section 4 Height, Area and Yard requirements.
- 6.13.3 An accessory apartment shall contain at least 500 square feet. Additions may be made to the side or rear of the single-family dwelling, but the new floor area for the accessory apartment shall not exceed 300 square feet. The accessory apartment shall not exceed 30% of the gross livable floor area of the entire structure excluding garages and basements. The remaining living area of the principal residence shall not be less than 900 sq. ft. Basements and garages shall not be used for an accessory apartment living unit.
- 6.13.4 The apartment shall have at least one means of its own outside access and at least one internal doorway connection into the principal dwelling unit. A floor plan layout showing the proposed means of access shall be submitted to the Building Official for review and approval. The outside access to the accessory apartment shall not front the adjacent public street unless otherwise approved by the Commission.
- 6.13.5 The architectural style of the single family residence shall be maintained. Exterior stairs for a second floor living space shall not be visible from the street. Photos of the existing single family residence and drawings of proposed exterior changes shall be submitted as part of the application.
- 6.13.6 The accessory apartment shall not have more than one bedroom and shall be equipped with its own bath and kitchen. The accessory apartment shall have common utilities and shall not have separate metering devices. A floor plan showing the living area of both the principal residence and the accessory apartment identifying alterations, the location of internal doorway connection, additions and the sizes of each residence shall be submitted with the application.
- 6.13.7 Not more than three parking spaces shall be provided for the use of the principal dwelling unit and the accessory apartment unless otherwise approved by the Commission. This parking shall be in Section 6.1.1 (B).
- 6.13.8 An affidavit certifying ownership and occupancy signed by the owner of the premises stating that the owner will occupy one of the dwelling units shall be submitted with the application. The Commission may attach a time limit to a special exception when it determines that such a condition will protect adjacent property and the character of the neighborhood. If a time limit is made a condition of approval the special exception may be revoked for due cause after a public hearing. **A request to renew the accessory apartment use or transfer it to another property owner shall require the approval of a new special exception.**

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6.13.9 **A request to renew the accessory apartment use or transfer it to another property owner shall require the approval of a new special exception.**

6.14 Residual Lots (Effective 2-13-02)

[no changes]

6.15 Stormwater Management (Effective 3/14/14, Revised 02/25/15)

[no changes]

6.16 Medical Marijuana Dispensary and Production (Effective 4/28/14)

[no changes]

SECTION 7
ADMINISTRATION

Section 7.1 **Enforcement**

7.1.1 Zoning Enforcement Officer

The Town Manager shall appoint a Zoning Enforcement Officer, and may appoint one or more Deputy Zoning Enforcement Officer(s) who shall have the responsibility and authority to enforce the provisions of these regulations. Such Officer may cause any building, land or use to be inspected and may order in writing any person to correct or abate any condition violating these regulations. He shall keep on file for public inspection a full and accurate record of all applications, permits, certificates and other records ~~required by these regulations or~~ pertaining to his **services duties**.

7.1.2 Penalties

Any person, firm or corporation, violating any of the provisions of this regulation shall for each violation upon conviction thereof pay a penalty as set forth in the Connecticut General Statutes.

7.1.3 Zoning Citation Ordinance

In addition to the enforcement procedures and penalties set forth in the Connecticut General Statutes, any person, firm or corporation, violating any of the provisions of the Zoning Regulations may be cited and fined pursuant to Chapter 13, Article IV, and Chapter 2 Article XVI, Section 2 of the Newington Code of Ordinances, Zoning Citation, adopted in accordance with Section 8-12(a), Connecticut General Statutes.

Section 7.2 **Zoning Permits**

7.2.1 Application for Zoning Permit

Prior to the construction, reconstruction, change of use, enlargement, extension, moving or structural alteration of any **sign**, building or other structure (other than a permitted fence), and prior to any occupancy, use or change in use of any land, building, or other structure or part thereof, an application for a Zoning Permit shall be

submitted to the Zoning Enforcement Officer. If the Zoning Enforcement Officer shall find the proposed building or other structure or use in compliance with these regulations, he shall issue a Zoning Permit, provided no such permit shall be issued for a use requiring a site plan, special exception or special permit, until such site plan, special exception or special permit has been granted by the Commission.

The Zoning Enforcement Officer may require the a plot plan to indicate the **location of the structure and** measures to control soil erosion that shall be in place prior to the start of construction. (Effective 3-4-2011)

7.2.2 No building permit shall be issued unless a zoning permit has been issued by the Zoning Enforcement Officer. Zoning and building permits may be issued simultaneously or separately.

7.2.3 Certificate of Zoning Compliance

Prior to the issuance of any Certificate of Occupancy by the Building Official, an application for a Certificate of Zoning Compliance shall be submitted to the Zoning Enforcement Officer. If the Enforcement Officer finds the building or other structure or use in compliance with an approved site plan, special permit or exception, and with these regulations, he shall issue a Certificate of Zoning Compliance. Certificates of Occupancy and Zoning Compliance may be issued simultaneously or separately.

A certificate of Zoning Compliance may be issued for individual buildings within a multi building complex that are in compliance with the provisions of the approved site plan, special exception or special permit even though other structures in the complex are not yet in compliance and provided bond surety has been posted pursuant to Section 7.3.

The Zoning Enforcement Officer shall provide a Statement of Zoning Compliance upon request, and upon payment of the fee established by the Town Manager.

7.2.4 Permits required by this section are in addition to, and not in lieu of, all other permits and certificates required by other ordinances and regulations of the Town.

Section 7.3 Surety

The Commission may require ~~as a condition of approval of any site plan~~, adequate surety to insure that the improvements shown on such plan are made. Surety will not be required if all the improvements are completed prior to the application for a Certificate of Zoning Compliance.

7.3.1 Procedure

If a Certificate of Zoning Compliance is desired prior to the completion of all the site improvements shown on a site plan, the following procedure shall be followed.

- A. The site must be constructed, developed or improved to a condition adequate for safe access or movement of people and goods on the premises.
- B. The Developer shall notify the Town Planner of intention to post Surety for completion of the site plan improvements. The Town Planner shall coordinate the posting of this Surety with the Town Engineer and the Town Manager.
- C. **The Town Engineer shall estimate the cost of completion within the time period for such improvements and submit a recommended amount of surety to the Town Planner. The Developer shall provide the Town Engineer with an estimate of the cost of completion. The Town Engineer**

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shall review the estimate and submit a recommended amount of surety to the Town Planner.

- D. The Developer shall post cash or other negotiable security with a forfeiture clause, as approved by the Town Manager, with the Manager. The **negotiable security Surety** that can be accepted by the Town Manager shall be limited to certified check, ~~passbook certificate of deposit~~, or a letter of credit. No insurance bond will be acceptable.
- E. The Manager will notify the Town Planner that a Certificate of Zoning Compliance may be issued for the structure or use once the Surety is posted.
- F. The time period for the completion of the site improvements covered by the posted Surety shall not exceed one year. If the work is not completed within one year, the Commission shall instruct the Manager to notify the Developer that the improvements are incomplete and that the Surety will be expended by the Town to effect completion of the improvements.

The Town Manager shall notify the Developer (and Surety Company **if applicable**) in writing of the default, and that if said improvements are not completed in thirty (30) calendar days, weather permitting, (first day shall be the date of the letter), the Town shall correct the deficiency (ies) and execute the Performance Bond and/or Surety to cover the cost to the Town.

The Developer may request the Commission to extend the time period for completion of the improvements for up to six (6) additional months, provided the Commission finds that unusual conditions or undue hardship justify such extension. At the completion of the extension period, the Manager shall be empowered to expend the Surety to effect completion of the improvements, or application may be made to the Commission to renegotiate a final date.

- G. When the Developer has completed the subject improvements or portions thereof, application may be made to the Town Planner requesting the Commission to reduce or release the Surety.
- H. The Commission shall approve the release and reduction of all ~~**bond surety**~~ **Performance Bonds and Sureties**.

Section 7.4 Design Standards, Site Plan Check List

The Commission shall use the following standards of the review of plans submitted to the Commission for review and action pursuant to Section 5.3 of these Regulations. The construction of any improvements shown on any such plan shall be in accordance with these standards.

7.4.1 Design Manual and Construction Standards

- A. The "Low Impact Development and Stormwater Manual for the Town of Newington" shall be used as a design manual for stormwater management.
- B. The following documents shall be used for construction standards:
 - 1. The current CTDOT publication, as amended, "Standard Specifications for Road, Bridges and Incidental Construction,"
 - 2. Town of Newington, "Specifications for Construction of Roads,"

3. Town of Newington Zoning Regulations,
4. Town of Newington Subdivision Regulations, and
5. Connecticut Landscape Contractors Association's "Standard Specifications for Planting Trees, Shrubs, Vines, etc."

7.4.2 Map Scales and Sheet Size

All individual site plans and subdivision plans shall be drawn to a scale not to exceed 1" = 40'. The maximum sheet size shall not exceed 24" x 36".

7.4.3 Property Lines

- A. All exterior boundary lines and interior property lines or lot lines shall be shown with a length and bearing for each line. Bearings shall be for a traverse in a clockwise direction. (Class A-2, Transit Survey.) The map shall be certified by a Connecticut registered Land Surveyor.
- B. All abutting properties shall be shown with distances and names of current ownership as shown in the Office of the Town Assessor.
- C. A north arrow shall be shown on each sheet of plans and referenced as True, Magnetic, Grid, etc.
- D. The National Geodetic Vertical Datum is required. When such points are inaccessible, the Town Engineer shall approve any other points.

7.4.4 Street Lines

- A. All street lines for either existing or new streets must be shown on maps with lengths and bearings for a traverse in a clockwise direction. All curve data shall be shown.
- B. At all principal points on street lines, such as block corners, PC's and PT's of curves shall be permanently monumented using concrete survey monuments with brass or bronze discs permanently marked or punched. Minimum monument size is 4"x 6"x 36".
- C. Front and rear property lines shall be marked using metal pins.
- D. All front building setback lines shall be shown with reference to the street lines. Indicate whether this setback line is a standard in accordance with the Zoning Regulations or if such line has been established by the Commission.

7.4.5 Rights-of-Way, Easements or Stream Encroachment Lines

- A. Lengths and bearings of the centerline and each sideline are required together with the established widths. Bearings shall be shown for a traverse in a clockwise direction.
- B. The use of the reserved space must be given, such as: sanitary, gas, water, etc. The applicant shall submit documentation of easement holder for proposed uses of the right-of-way (R.O.W.)
- C. Where a R.O.W., easement, or encroachment crosses street or property lines, the location of the centerline and sidelines must be shown together with tied distances from property corners or street monuments.

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- D. In all areas where roads or streets or any other type structure is in cut or fill, show slope easement rights to provide for a minimum 2:1 slope outside of standard right-of-way widths.
- E. Stream encroachment lines where crossing property under development, must be shown and must comply with those lines as officially adopted by the State of Connecticut Environmental Protection Agency (Mill Brook and Piper Brook), or Town of Newington (Rock Hole Brook and Webster Brook).

7.4.6 Driveway and Parking

- A. For any development requiring site plan approval, all new driveways and parking areas shall be constructed in accordance with Section 6.1.1.K. Driveways shall conform to Town of Newington Specifications for Private Streets and Parking Lots. See typical cross-sections in Section 6.
- B. Each parking space shall be shown. See typical details in Section 6.
- C. ~~Unless otherwise approved by the Commission (such as for implementing low impact development techniques or other reasons), driveways shall be at least 28' in width from the face of curb, but unusual, adverse field conditions may be recognized by the Commission and the minimum width may be reduced to 24'. Driveways shall be at least 28' in width from the face of curb.~~
- D. Maximum permitted grade for a driveway is 10%. Maximum grade for a parking area is 5%. Cross pitch on any driveway shall not exceed 5%.
- E. No parking will be allowed within a street right-of-way unless specifically authorized by the Town in order to provide additional public parking within the B-TC district.
- F. Horizontal and vertical control for driveways shall conform to Residential Street requirements. Where driveways intersect with streets or other driveways, the radius of the gutter shall be a minimum of 25'.

7.4.7 Elevations, Grades, Existing and Proposed

- A. All elevations are to be on North American Vertical Datum, NAVD 88.
- B. Contour lines are required on all plans or maps. Both the existing ground and the proposed finish grading must be shown and clearly labeled as to each type. Contour lines shall be shown at an interval of 2 feet, except where area is almost level (less than 1%). On level areas, "spot" elevations may be used. Contour lines must extend at least 50 feet into adjacent properties to depict actual conditions. Existing contours in excess of fifteen (15%) percent gradient and rock outcroppings shall be identified by shading the area that meets this criterion. (Effective 3-4-2011)
- C. Unless modified by the Commission in order to implement low impact development techniques, minimum continuous slope across grass shall be 1%; minimum slope across pavement shall be 0.6%; and maximum slope across parking lot shall be 5%.

- D. Show existing and proposed ground elevations for finishing grading at all corners of buildings and structures except for individual residences.

7.4.8 Walls and Slopes

- A. Maximum earth slopes shall not exceed 2:1 (2 feet horizontal to 1 foot vertical). Where steeper slopes are needed, retaining walls or rip-rap are required. If the difference in grade at a property line exceeds 3 feet, then a retaining wall with fence at top is required, unless sloping can be done with the property itself.

Where a retaining wall is proposed it shall be topped with a suitable barrier or fence with a minimum height of four (4) feet. The back of any retaining wall shall not be closer than five (5) feet to an adjacent property boundary line.

- B. Retaining walls shall be designed to provide footings below the frost line in the ground. Where the total height of the retaining wall exceeds 4 feet or retains unbalanced fill, design calculations by a Registered Professional Engineer must be provided for approval of such walls.
- C. The regrading of the property shall not result in the removal of natural exposed rock faces and bedrock outcropping, except that the Commission may permit removal when necessary and 2:1 (2 feet horizontal to 1 foot vertical) slope can be achieved by terracing to ensure stabilization and replanting as determined by the Commission. (Effective 3-4-2011)

7.4.9 Sidewalks and Curbs

A. Public Streets

1. All sidewalks and curbs in public streets shall be constructed to the standards of the Town of Newington.
2. All sidewalks shall be made of concrete or pervious concrete or pervious pavers or other materials acceptable to the Town, be at least 4 feet wide, and designed in accordance with the Town's construction standards and the American with Disabilities Act.
3. The requirement for curbing on a public street may be modified or waived by the Commission in order to implement low impact development techniques.

B. Private Property

1. Curbing in commercial developments shall be concrete or granite for entrance and exit drives and parking islands.
2. A 6" continuous bituminous curb is required on the perimeter of all private parking lots.
3. For a development approved by the Commission as a site plan or special permit, the requirement for curbing in a private parking area may be modified or waived by the Commission in order to implement low impact development techniques.

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4. For other development not requiring approval by the Commission, the requirement for curbing in a private parking area may be modified or waived by the Town Engineer in order to implement low impact development techniques.
5. Curbing is not required for parking space adjacent to driveway for individual residences.

7.4.10 Street Lines and Grades

- A. The minimum right-of-way width for any proposed street shall be in accordance with the Subdivision Regulations. Other rights-of-way may be greater in width when required by the Commission.
- B. For existing streets, the adopted street line grade shall be used. For new streets, the street line grade shall be designed in such a manner as to avoid the formation of deep cuts or high fills.
- C. A plan and profile shall be submitted to the office of the Town Engineer to a scale of 1" = 40' horizontal, and 1" = 4' vertical, for approval of new streets and main private driveways. On all plan sheets, the finish grade shall be shown at 50 foot intervals at the street line, at each side of driveways and at each property corner. Adequate site distance shall be provided.

7.4.11 Water

The water supply system of any building used for human occupancy shall be connected to Metropolitan District Commission system or, where appropriate the New Britain Water Department system ~~**unless waived by the Commission after consultation with the Newington Public Health Coordinator.**~~

7.4.12 Sewer

The sanitary system of any building used for human occupancy shall be connected to the public utility system, if available. A public sanitary sewer system shall be considered available to a building when the property line is located within 200 feet of an existing public sewer or when a new sewer line within 200 feet of the property line will be operational prior to the issuance of a Certificate of Occupancy. ~~**The Commission may waive this requirement after consultation with the Newington Public Health Coordinator.**~~

7.4.13 Storm Drainage

All work shall be done in accordance with *Town of Newington Low Impact Development and Stormwater Manual* specifications. Hydraulic calculation must be submitted to the Town Engineer at the time of application for site plan development.

- A. Standard State of Connecticut catch basin with sump required.
- B. 12" minimum pipe size required for catch basins within the site.
- C. 0.5% minimum acceptable grade for pipe.

- D. 2.0' minimum cover over pipe except in street where 2.5' of cover is required.
- E. On state highways and Town of Newington streets, the minimum size shall be 15" R.C. pipe.
- F. Design storm system to handle the surface run-off from a storm having a 10-year frequency. Use 5 minute time of concentration for small parking lots. Large parking lots may require other standards, as determined by the Town Engineer. The computation shall consider all drainage areas contributing to the site, whether within the site or outside of it, based on upstream development from existing zoning or Town's Plan of Development for most intensive use.
- G. Show all roof drains -- type, size, location and point of connection to storm sewer. Specify invert elevation at point of connection. This requirement applies to all building structures except single-family housing. Roof leaders shall be piped (underground) into the on-site drainage system.
- H. Where the proposed storm system is to be connected to an existing State of Connecticut drainage system, computations shall meet State design standards.
- I. Drainage agreement must be signed where private connection is made into Town of Newington system.

7.4.14

Utilities

- A. All existing utilities in the street and in right-of-way shall be clearly shown. This includes both the horizontal plan and the vertical profile. Included within this group are electrical and telephone underground wires or ducts.
- B. All proposed utilities shall be located underground **but the Commission may waive or modify this requirement due to adverse field conditions upon a two thirds vote and a statement of its reasons.**
- C. All exterior mechanical equipment shall be shown whether on the roof or ground mounted.
- D. Lighting
 - 1. Lighting for parking areas, drives and general use shall be in fixtures with shielding or cut-off which direct the light to its intended location. No light shall be directed off the premises.
 - 2. Lighting attached to commercial or industrial buildings to illuminate service bays, loading docks or similar purposes, shall be in fixtures which direct the light toward the intended use area. Spotlights and bare bulbs are not permitted.
 - 3. Lighting for multi-family residential uses shall be located in decorative fixtures. Poles for lighting fixtures shall not exceed 17 feet in height. Lighting attached to buildings shall be decorative and intended primarily for safety. No bare bulbs or spotlights are permitted.
 - 4. Overall height of base, poles or standard and fixture for lighting in all non-residential uses shall not exceed 17' from the surrounding

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ground. ~~The Commission may grant a height waiver for parking lots in excess of 100 cars.~~

5. ~~Hi-pressure sodium type fixtures are preferred.~~

7.4.15 Cultural Features including Flood Plains, Inland Wetlands and Slopes.

- A. Show location and type of trees 6" diameter and larger, either existing or proposed, and all evergreens including shrubs. For area of solid woods, show outline of forest land parts.
- B. Include location of all existing fences and structures, existing or proposed, in the site plan.
- C. Show in detail any low areas that will not self-drain (swales) and location of all swamp areas.
- D. Existing contours in excess of fifteen (15%) percent gradient and rock outcroppings shall be identified by shading the area that meets this criterion. These areas shall be kept in their natural condition and not modified ~~unless waived by a two-thirds vote of the Commission. (Effective 3-4-2011)~~ **unless approved by the Commission pursuant to a special permit in accordance with Section 5.2.**

7.4.16 Headwalls and Channel Protection

- A. Where the storm drainage system discharges into any natural drainage course (brook, river, etc.), headwalls at the end of any pipe are required together with adequate armoring of channel banks to provide protection from water erosion; in general, equivalent to 50 S.F. of rip-rap for a 15" pipe and increase this amount proportionately for larger sizes of pipe.
- B. Designs for headwall or end walls shall be submitted to the Town Engineer for approval. Where water velocities are high (more than 3 F.P.S., aprons with energy dissipating devices may be required together with adequate armor.

7.4.17 Snow Removal

Provisions shall be made for the storage of snow from parking areas within the site, in a location which is both appropriate and not required for other purposes. The area shall be shown on the plan as "Snow Storage Area".

7.4.18 Building or Structure Elevations

On all site plans, the finished first floor or top of foundations elevation together with basement floor elevation, must be shown. ~~For subdivisions, these elevations may be required where questions arise as to surface or sanitary drainage for low-lying areas.~~

7.4.19 Fencing

- A. Substantial fencing (chain link not less than 4' high) shall be required in all areas close to pedestrian or vehicular traffic where hazardous conditions exist. This includes the top of high retaining walls, headwalls, top of steep embankments, or near vertical embankment into stream

courses. The determination of any fencing requirement will be made by the Commission based upon the particular situation or location.

- B. Fencing in non-residential uses shall not exceed 4' in height in the front yard, subject to Section 4.4.2, nor 8' in height in side or rear yards. Fencing in locations outside of yard areas shall not exceed 12' in height.
- C. Fencing in residential uses shall not exceed 4' in height in the front yard, subject to Section 4.4.2, nor 6' in side or rear yards or elsewhere on the site.
- D. Fencing on corner lots shall not exceed 4' in height along the two (2) front sides of the property and may only be increased to 6' in height starting at the rear street side corner of the dwelling unit. The fence height and placement cannot impede corner visibility and shall conform to all applicable traffic standards as determined by the Town Engineer (Effective 10-3-08).

7.4.20 Building Locations

- A. Buildings shall be located showing the required front yard setback distance from the front property line and the closest distance from the building to each side of the lot or area. Locating one building from another is not acceptable when two or more buildings are included.
- B. Overall dimensions and proposed gross floor area of each building must be shown including any irregular areas or jogs.

7.4.21 Erosion and Sedimentation Control

The "Guidelines for Soil Erosion and Sediment Control," Connecticut DEP, January 1985 will be used as the minimum standard for the design of erosion and sediment control measures.

7.4.22 Certification

Residential, Commercial and Industrial Site Plans: The seals of a Professional Engineer, Land Surveyor and Landscape Architect, licensed to practice in the State of Connecticut, must be stamped or embossed on each sheet where each shall have responsibility in the development of the site plan as outlined in the Rules and Regulations of the associated Board of Registration.

7.4.23 Map Title

There shall be a Title Block which shall contain the following information:

1. **Location Street Address** of property
2. Owner of property, **and the name of the developer if different**
3. Date
4. Scale
5. Name(s) or Person(s) making map

7.4.24 Actual field conditions may be different or changed from those conditions assumed in the preparation of this plan, and in such circumstances, the Town Engineer may direct that certain modifications or amendments be effected and constructed to ameliorate such changed conditions.

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7.4.25 Additional requirements may be stipulated by the Commission for sidewalks, curbing, retaining walls, pavement construction, stormwater management, etc. on those site plans on which it has conditional approval, if it finds that unusual or special conditions of the property warrant such changes.

7.4.26 These requirements may be modified or reduced by the Commission if it finds that unusual or special conditions, including increasing the utilization of low impact development techniques, warrant a waiver from the strict interpretation of these standards.

7.4.27 All work in connection with such site plan shall be completed within five years after the approval of the site plan. The Certificate of Approval of such site plan shall state the date on which such five-year period shall result in automatic expiration of the approval of such site plan. "Work" for the purposes of this Subsection, means all physical improvements required by the approved site plan.

7.4.28 Filing of Approved Plans

Plans which require the signature of the Chairman prior to filing shall not become effective until the following steps are completed:

7.4.27.1a) a transparency of the Certificate of Action is affixed to the original plan mylar; b) the conditions are noted and incorporated onto the plan; c) the mylar original is signed by the TPZ Chairman; and d) a mylar copy of the signed mylar original is filed in the Town Plan and Zoning Office.

7.4.27.2 Special Exceptions will not become effective until the Certificate of Action is filed by the applicant on the Land Records of the Town of Newington.

7.4.27.3 The Commission reserves the right to require, in addition to mylar filings, the submission of plan data in Connecticut State Plane Coordinate System NAD83, units: US Feet for incorporation into the Town Planning Department's GIS data base.

7.4.28 Signature Block

Approved by the Town Plan and Zoning Commission under
Petition # _____ at meeting of _____

Date

Chairman

7.5 Forms

7.5.1 Application Form

The Application Form is available at the Building and Town Planning Departments.

7.5.2 Procedures to be followed when submitting the application:

A. ~~**Application forms must be filed in triplicate.**~~ The application shall be typed or neatly printed.

- B. Maps and plans, as defined in the applicable regulations, shall be submitted ~~in 5 copies with the application forms as follows: five full-size (24" x 36") sets, and ten half-size (11" x 17") sets.~~
- C. An application fee, as appropriate, shall accompany the application.
- D. Application for Zone Change shall be accompanied by a map of the subject property(s) and all properties within 500 feet, and names and addresses of all property owners within 500 feet.
- E. Application for subdivision and resubdivision shall comply with the requirements set forth in the Town of Newington Subdivision Regulations.
- F. Application for a Special Exception shall comply with this regulation.
- G. Application for a Site Plan of Development shall comply with the Site Plan Check List.
- H. In accordance with Connecticut State Statutes, this all applications will be acted upon by the ~~Planning & Zoning Commission~~ Town Plan and Zoning Commission, or a public hearing date will be set, within 65 days of receipt of the application unless an extension is granted by the applicant.

7.5.3 Fee Schedule

Fee for permits and copies of regulations shall be set on a fiscal year basis by the Commission as it determines to be appropriate.

7.6 Amendment

7.6.1 Initiation

On its own initiative or on receipt of a written application to amend any portion of these regulations, the Commission may amend the regulations or change the boundaries of the zones herein established after public hearing in accordance with the State Statutes.

7.6.2 Protest

If a protest is filed at such hearing with the Commission against such change, signed by owners of 20 percent or more of the area of lots included in such proposed change, or of the lots within 500 feet in any direction of the property included in the proposed change, such change shall not be adopted except by a vote of two-thirds of all members of the Commission.

7.6.3 Applications

Any person or persons who are property owners or residents in the Town of Newington may make written application for amendment of these regulations on prepared forms at the office of the Town Planner, to be signed by the applicant. A plan giving proposed boundaries must accompany each application for a change in zoning boundaries.

7.6.4 Reapplication

In the event of the rejection of an application for amendment of zoning regulation or zone district boundary by the Commission, said Commission

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shall not be required to hear such application again within a period of 12 months unless said Commission shall find that a material change in the situation justifies a rehearing. Section 8-3 (C) C.G.S.

~~7.6.5~~ ~~Withdrawal~~

~~On an application requiring a public hearing, where an applicant withdraws the application after a date for the public hearing has been advertised, the application may not be resubmitted for a period of one year. The Commission may waive the time requirement in the case of special circumstances. Such circumstances must be detailed in the Commission minutes.~~

7.7 Validity

If any section, clause, provision or portion of these regulations shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect or impair any other section, clause, provision or portion of these regulations.

SECTION 8 BOARD OF APPEALS

Section 8.1 Powers and Duties

The Board of Appeals, hereinafter called the Board, as authorized by Section 8-6 of the Connecticut General Statutes, shall have the following powers and duties:

- 8.1.1 It may adopt such rules and regulations as may be necessary to carry out these regulations.
- 8.1.2 It shall hear and decide appeals where it is alleged that there is error in any order or decision of the Zoning Enforcement Officer.
- 8.1.3 **Granting a** variance from the specific terms of these regulations. **Such variance** may be granted by the Board only if all of the following circumstances apply and the Board shall make a written finding in its minutes as a part of the record in the case.
 - A. A written application for a variance is submitted demonstrating:
 - 1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved which are not applicable to other lands, structures or buildings in the same zone;
 - 2. That literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zone under the terms of these regulations and their application would result in exceptional difficulty and unusual hardship to the petitioner.
 - 3. That the special conditions and circumstances do to result from the actions of the applicant;

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other land, structures or buildings in the same zone; and
 5. That granting of the variance will be in harmony with the general purpose and intent of these regulations, and will not be injurious to the neighborhood, otherwise detrimental to the public welfare.
- B. No nonconforming use of neighboring lands, structures or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a variance.
 - C. In granting a variance, the Board may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this regulation.
 - D. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this regulation in the zone involved, or any use expressly or by implication prohibited or otherwise regulated by special permit by the terms of this regulation in said zone.

Section 8.2 Membership and Procedure

8.2.1 The Board shall consist of 5 members to be appointed by the **Newington Town** Council. One of the original members shall be appointed to serve one year, one member for 2 years, one member for 3 years, one member for 4 years and one member for 5 years. Thereafter, one member shall be appointed to said Board annually for a term of 5 years. An appointment to fill a casual vacancy shall be only for the unexpired portion of the term.

8.2.2 Meetings

Meetings of the Board shall be held at such times as the Board may determine, or upon call of the Chairman. All meetings shall be open to the public. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and become a public record.

8.2.3 Appeals

Appeals from the decision of the **Zoning** Enforcement Officer may be made to the Board of Appeals by a person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the **Zoning** Enforcement Officer. Such appeal shall be taken within a reasonable time as provided by the rules of the Board by filing ~~with the officer from whom the appeal is taken and~~ with the Board of Appeals a notice of appeals specifying the grounds thereof. The **Zoning** Enforcement Officer shall forthwith transmit to the Board all papers constituting the record from which the action appealed was taken.

8.2.4 The Board shall hear appeals from alleged errors of the Enforcement Office de novo, and may in accordance with the provisions of these regulations reverse or affirm, wholly or partly, or may modify any such order, requirement, decision or determination of the Enforcement Officer, to decide in favor of the appellant or any matter upon

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which it is required to pass under these regulations or to permit a variance from the strict application of the provision of these regulations.

~~8.2.5 If, after a permit has been authorized by the Board, such permit is not lifted from the Office of the Enforcement Officer within a period of 6 months from the date of authorization, then such authorization shall be null and void and no permit shall be issued thereunder.~~

8.2.6 The Board shall hold a public hearing on all appeals, ~~requests for special exceptions~~, and applications for variances. The Board shall fix a reasonable time for such hearings and publish a notice thereof in a newspaper of general circulation within the Town in accordance with the State Statutes. At such hearings any party may appear in person or by attorney. Such exception, variance or reversal of a decision of the Enforcement Office, shall become effective at such time as may be fixed by the Board, provided a copy thereof shall be filed in the Office of the Town Clerk, and notice of such filing shall have been published in a newspaper having substantial circulation in the municipality before such effective date.

8.2.6 A The applicant shall place on the property subject to the public hearing a sign provided by the Town of Newington providing notice of the scheduled hearing. This sign shall be placed in a location that is easily visible to the public at least ten (10) calendar days prior to such hearing.

8.2.7 All determinations of the Board shall be made in accordance with the Comprehensive Plan set forth in these regulations, and in harmony with the purpose and intent as expressed in the preamble hereof and in the Connecticut State Statutes.

8.2.8 In addition to these general rules of guidance and to particular requirements specified in these regulations, no permit shall be authorized by the Board if it finds in any case that the proposed building or proposed use of land or building:

- A. Will create or increase a traffic or fire hazard;
- B. Will block or hamper the pattern of highway circulation; or
- C. Will tend to depreciate the value of property in the neighborhood, or be otherwise detrimental to the neighborhood's essential character.

SECTION 9 **APPENDIX**

Section 9.1 Rules

In the construction of this regulation, the rules and definitions contained in this section shall be observed and applied, except where the context clearly indicates otherwise.

- 9.1.1 Words used in the singular shall include the plural, and the plural the singular; and words used in the present tense shall include the future.
- 9.1.2 The word "shall" is mandatory and not discretionary.
- 9.1.3 The word "may" is permissive.
- 9.1.4 The word "lot" shall include the words "piece" and "parcel".

- 9.1.5 The words "zone", "zoning district" and "district" have the same meaning.
- 9.1.6 The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for".
- 9.1.7 The phrase "these regulations" shall refer to the entire Zoning Regulation.
- 9.1.8 Use of land, buildings or structures not clearly permitted in the various zones are prohibited.

Section 9.2 Definitions

ACCESSORY BUILDING OR USE: A building or use which is subordinate to and serves a principal building or use; and is subordinate in area, extent, or purpose to the principal building or principal use served; and is located on the same zoning lot as the principal building or use served.

ACCESSORY APARTMENT: A separate living unit within the principal single-family dwelling but subordinate to the principal dwelling in terms of size and appearance. The accessory apartment shall have at least one internal doorway connection into the principal dwelling. The accessory apartment shall have common utilities with the principal dwelling and shall not have separate metering devices. The provision of a second kitchen in a single-family dwelling unit without a separate living unit is not an accessory apartment and is permitted subject to the required building permits.

APARTMENT: A residential structure containing not less than 4 dwelling units, or a group of such buildings.

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

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

BUILDING: An independent structure having a roof, and including shed, garage, stable, greenhouse, or other accessory building. A detached building is one separated on all sides from adjacent buildings by open spaces from the ground up.

BILLBOARD: A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location that may be other than the premises on which the sign is located.

BUILDING LINE: A legally established line, between which and the public right-of-way no structure may be constructed.

CEDAR MOUNTAIN TRAPROCK RIDGELINE: the line on the Cedar Mountain traprock ridge created by all points at the top of a fifty per cent slope, which is maintained for a distance of fifty horizontal feet perpendicular to the slope and which consists of surficial basalt geology, identified on the map prepared by Stone et al., United States Geological Survey, entitled "Surficial Materials Map Of Connecticut" The base map for traprock ridgeline topographic delineation shall be the current publicly available Metropolitan District Commission maps for the Town of Newington. (Effective 5-20-05)

CEDAR MOUNTAIN RIDGELINE SETBACK AREA: the area bounded by (A) a line that parallels the ridgeline (**as defined above**) at a distance of one hundred fifty feet on the more wooded area of the ridge, and (B) the contour line where a ridge of less than fifty percent is maintained for fifty feet or more on the rockier side of the slope. Manmade slopes of 50% or greater shall not be considered as a part of any traprock ridgeline. The burden of proof that such a slope area is manmade shall be on an applicant who owns or desires to use the property containing such slopes. (Effective 5-20-05)

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CERTIFICATE OF ZONING COMPLIANCE: A statement, signed by the Enforcement Officer, setting forth either that a building or structure complies with the zoning regulation or that a building, structure or parcel of land may be lawfully employed for specified uses, or both.

CLUB: An organization of persons incorporated pursuant to law, which is the owner, leasee or occupant of an establishment operated solely for the recreational, social, patriotic, benevolent or athletic purposes, but not for pecuniary gain, and includes the establishment so operated.

COMMISSION: The Newington Town Plan and Zoning Commission.

COUNTRY CLUB: A private membership organization for outdoor recreation.

DECK: A platform or floor which may be free standing or maybe attached to the principal structure shall be considered a part of the principal structure and shall comply with all yard setback requirements excluding decks constructed as part of an above or in ground pool.

DEVELOPMENT: Any manmade 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 or equipment.

DUPLEX HOUSES: Two dwellings under one roof at the same level. Each unit within a duplex structure shall have a minimum lot area of 4,000 square feet.

DWELLING: A building or portion thereof designed exclusively for residential occupancy; including one-family, two-family and multiple dwellings, but not including hotels, motels or boarding houses.

DAY CARE CENTER: Family Day Care Homes, Group Day Care Homes, Child Day Care: A place in which three or more children, not of common parentage, between the ages of six months and 14 years, who stay for a period exceeding one (1) hour during any day each week, irrespective of compensation or regards.

FAMILY: One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood or marriage, no such family shall consist of more than 5 persons.

FARM: A parcel of land containing not less than 5 acres, used for raising crops and/or livestock and poultry, and including dairy farms, plant nurseries and green houses.

FARMERS' ROADSIDE STAND: A temporary table or bench having a maximum area of 40 square feet which must be removed as soon as the produce grown on the premises has been seasonally disposed of.

FLOOR: means the top surface of an enclosed area in a building (including basement) i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

FLOOR AREA, RESIDENTIAL: The sum of the horizontal area of the several floors of a dwelling measured from the outside, excluding cellar floor areas, basement rooms, garages, porches, open attics or unfinished rooms. In split-level houses, the first 2 levels may be counted as one floor, provided the difference in floor levels is less than 5 feet.

FUELING STATION: A place where gasoline and other supplies for motorists are sold.

GARAGE: Every place of business where motor vehicles are, for compensation, received for housing, storage or repair.

GARAGE, PARKING: A multilevel structure which provides spaces for passenger vehicles and light trucks. A parking garage shall be located on the same lot with the principal use it serves or it may be an accessory use providing joint parking for two or more principal uses within a radius of 500 feet.

GARAGE, PRIVATE: An accessory building for housing not more than 2 motor vehicles, one of which may be a commercial motor vehicle of not over one ton registered capacity. Garage space may be provided for one additional motor vehicle for each 3,000 square feet of lot area in excess of 14,000 square feet.

HEIGHT OF BUILDING: The vertical distance measured from the average level of the finished grade at the 4 corners of the building to the highest point of the roof for flat roofs; the deck line for mansard roofs; and to the mean height (level) between eaves and ridge for gable, hip or gambrel roofs.

HELIPAD FACILITY: A privately owned and operated facility that is designated for the landing and take-off of noncommercial privately owned helicopters. Such facility shall comply with all applicable State and Federal laws and regulations.

HOME OCCUPATION: Any use customarily conducted entirely within a dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and carried on by the residents of the premises and no more than one non-resident employee. Such use must occupy a floor area not more than 25% of the floor area of the dwelling unit; must not create a nuisance, odor, noise, glare, vibration, or safety hazard noticeable off the premises; there shall be no outside storage of material or display of stock-in-trade; no exterior evidence of the activity carried on shall be visible from outside the building; and shall not include the sale of articles not made or assembled on the premises.

HOTEL: Any building having 10 or more sleeping rooms or where accommodations for more than 20 persons are provided; in which building, for compensation, lodging is provided with or without meals.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water from infiltrating through to the underlying soil. Impervious surfaces include paved parking lots, rooftops, driveways, patios (i.e., solid or open-joint patios or decks with an underlying impervious surface), paved roads, water surfaces (i.e., pools, ponds, fountains, etc.), and highly compacted soils. Impervious surfaces exclude permeable pavement that is designed, constructed, and maintained to allow stormwater to drain through the surface, including porous asphalt, porous concrete, permeable interlocking concrete pavers, concrete grid pavers, plastic turf reinforcing grids, and similar materials or products identified as "permeable" or "pervious" by the manufacturer, however these surfaces may be considered "impervious" by the Town when calculating a parcel's impervious coverage. An underground parking structure shall be considered an impervious surface if there is less than 3 feet of soil cover.

JUNK: Any refuse, waste, or discarded material of any type or kind.

JUNKYARD: Any land or building used in whole or in part for the collecting, storage, and/or sale of waste paper, rags, scrap metal, or other similar material and including an automobile junkyard as defined by State law, but not including Town refuse disposal areas.

LOT: A parcel of land which is or may be occupied by a building, building groups and accessory buildings, including the open spaces required under these regulations.

LOT, CORNER A lot abutting 2 or more streets at their intersection.

LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line.

LOT FRONTAGE: That portion of a lot nearest the street as measured at the street right-of-way. Where the side lines diverge from the street toward the rear of the lot, the lot frontage may be considered the distance between the side lines **measured** at the front ~~yard lot~~ line. Where the side lines converge from the street toward the rear of the lot, **the lot frontage shall be** the average width measured at right angles to the lot depth ~~shall not be less than the required frontage~~. For rear lots, the rear lot line of the front lot is the frontage of the rear lot.

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LOT, INTERIOR: A lot, the side lines of which do not abut the street.

LOT LINE: A line of record bounding a lot that divides one lot from another lot or from a public or private street or other public space.

LOT OF RECORD: An area of land designated as a lot on an approved plot or subdivision as described on a deed duly recorded according to statute.

LOT, THROUGH: An ~~interior~~ lot having frontage on two **parallel** streets.

LOT, ZONING: A single tract of land located within a single block which at the time of filing for the building permit is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under singled ownership or control, and therefore may not coincide with a lot of record. Except where specifically indicated as a lot of record, all lots referred to in these regulations are zoning lots.

LOW IMPACT DEVELOPMENT TECHNIQUES: The application of site design and stormwater management (such as, but not limited to, infiltration of rainwater, treatment of stormwater runoff, and runoff attenuation) in order to mimic the hydrologic conditions associated with an undeveloped site. Such techniques may be found in the *Low Impact Development and Stormwater Manual for the Town of Newington* (2013, as amended), the *Connecticut Stormwater Quality Manual* (2004, as amended), the *Low Impact Development Appendix to the Connecticut Stormwater Quality Manual* (2011, as amended), or other sources acceptable to the Commission.

MIXED OCCUPANCY: Occupancy of a building or land for more than one use.

MOTEL, EFFICIENCY UNIT: A dwelling unit which provides a sleeping room and a kitchen or other food preparation area which is equipped with facilities that may include but not limited to refrigerator, stove, microwave oven or hot plate intended to be used for housekeeping rather than transient occupancy. Such units are prohibited.

MOTELS, MOTOR COURTS, TOURIST COURTS: Any building having 2 or more sleeping rooms for the accommodation of transient guests, with a separate entrance for each rental unit.

NEW CONSTRUCTION: Structures for which the "start of construction" (see definition, following) commenced on or after the effective date of these regulations.

NONCONFORMING USE OR STRUCTURE: Any land, building or structure or their use which does not comply with all of the requirements of these regulations governing the zone in which it is located.

PASSENGER VEHICLE: Any automobile which is registered as a passenger vehicle by the Connecticut Department of Motor Vehicles.

PATIO HOUSES: A detached single family dwelling that is designed as part of a Residential Planned Zone development. Each patio house shall have a minimum lot area of 4,500 square feet.

PORCH: A roofed, open structure projecting from the front, side or rear wall of a building, and having no enclosed features of glass, wood or other material more than 30 inches above the floor thereof, except the necessary columns to support the roof.

RECREATIONAL VEHICLE: A vehicle which is: (a) built on a single chassis; (b) 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 temporary living quarters for recreational, camping, travel, or seasonal use.

RESTAURANT (INCLUDING CAFE AND ANY OTHER SIMILAR TYPE OF BUSINESS): A commercial structure where food is prepared and/or served for consumption within the building.

SERVICE BUILDING OR USE: A building or use which serves a principal building or use and is designed for community, health, personal and/or food service needs, provided that such uses are limited to the occupants of the principal building only.

SHOPPING CENTER: A group of three or more stores, restaurants and other businesses, in one or more buildings managed as a single entity and having a common parking lot (Effective 7-1-2013).

SIGN. Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

SIGN, WALL MOUNTED BUSINESS: A sign which is attached to or painted on the building and directs attention to a business, commodity, service or entertainment conducted, sold, or offered within the building where such sign is located.

SIGN, FREE STANDING BUSINESS A sign which is located on the premises of the business, commodity, service or entertainment it advertises and is either erected on a standard or on the ground apart from the premises structures.

SIGN, MECHANICAL AND DIGITAL: A sign which has intermittent illumination by mechanical or digital controls that produce an illusion of movements such as, but not limited to flashing, running, rotating, video graphics, changes in color and brightness. All such signs are prohibited, including signs located inside windows visible to the public, except: (1) time and/or temperature sign and (2) fuel price signs that comply with the standards set forth in Section 6.2.1 (E). (Effective 6-8-2011)

SIGN, A-FRAME OR T-FRAME: A temporary sign not permanently mounted or attached to a structure or the ground.

SIGN, DIRECTIONAL: A sign which provides a notice to motorists or pedestrians directing them to the exit or entrance of a building, parking lot or public street. Directional signs shall not contain the name of the occupant or the use of the building.

SIGN, DIRECTORY: A sign which contains the listing of five (5) or more businesses or organizations elsewhere but not on the premises where such directory is located. Such directory shall state only the names of businesses or organizations and a distance, directional or street address location.

SIGNS, ADVERTISING: A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such a sign is located or to which it is affixed. Such signs are prohibited.

SINGLE FAMILY ENTRY LEVEL HOUSING: Means housing for which persons and families pay 30% or less of their gross annual income, where such income is less than or equal to 100% of the area median income for the municipality in which such housing is located, as determined by the U.S. Department of Housing and Urban Development. Housing shall be defined to include mortgage payments, taxes and insurance.

START OF CONSTRUCTION: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 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 erection of

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temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first 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 that is principally above ground.~~ A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. This ~~definition also~~ includes a gas or liquid storage tank, as well as a manufactured home.

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

SUPERMARKET GROCERY STORE: A store primarily engaged in the retail sale of grocery items as defined by Section 30-20 of the Connecticut General Statutes. "Primarily Engaged" shall mean having sales of grocery items equaling at least fifty (50%) percent by volume sales. Volume of sales shall be determined by a fraction where the numerator is the number of grocery items sold and the denominator is the total number of products sold (Effective 7-1-2013).

STREET: Any way dedicated to public use and any way over which the public has a right of vehicular travel. The term "street" shall mean the entire public right-of-way and not the paved portion only.

STRUCTURAL ALTERATION: Any change in the supporting members of a building or structure, such as bearing wall, columns, beams or girders.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, taking place over a ten (10) year period, the cumulative cost of which equals or exceeds 50% of the market value (as determined by the Town Assessor) of the structure either

1. Before the improvement or repair is started: or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of structure to comply with existing state or local health, sanitary, or safety code specification which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

TELEPHONE EXCHANGE: A structure with its equipment used or to be used for the purpose of facilitating transmission and exchange of telephone messages between subscribers.

TERRACE: A nature or artificial embankment between a structure and its lot lines.

TOWN HOUSES: Attached dwelling units, generally having at least two floors and attached to other similar units via party walls. Townhouses designed as part of a Planned Residential Zone development shall comply with this zone's overall density standards and shall provide a minimum of 2,000 square feet lot area per unit.

TRAFFIC AUTHORITY: The Town of Newington Traffic Authority.

USE, CHANGE OF: A change in occupancy or activity on land, building or structure from one type of lawful use to another lawful use, such as a change from retail use to wholesale, warehouse use to industrial use, or industrial use to office use.

VARIANCE: ~~A variance is granted by the Zoning Board of Appeals upon the finding of hardship specifically related to a single property. Approval of the variance gives the property owner the right to use his property in a manner which does not conform to the Regulations.~~ Permission to depart from the literal requirements of the zoning regulations.

VEHICLE: Any device suitable for the conveyance, drawing or other transportation of persons or property, whether operated on wheels, runners, cushion of air between it and the surface or by any other means, except those propelled or drawn by human power, or those used exclusively upon tracks.

VEHICLE, PARKED: A car which occupies the same space for less than 24 hours.

VEHICLE, STORED: A car whether or not in operating condition, which occupies the same space, or space on the same lot or in the same building for more than 24 hours.

YARD: The open space that lies between the main exterior wall of the principal building and the nearest lot line.

SPECIAL DEFINITIONS FOR ADULT ORIENTED BUSINESS, ESTABLISHMENTS, USES, ACTIVITIES

[no changes]

Special Section Flood Insurance Program Definitions: (Effective 9-20-08)

[no changes]