



# TOWN PLAN AND ZONING COMMISSION

SPECIAL MEETING  
Wednesday, July 22, 2015

Town Hall Conference Room L-101  
131 Cedar Street, Newington, CT 06111

6:00 p.m.

## A G E N D A

I. ROLL CALL AND SEATING OF ALTERNATES

II. REVIEW OF ZONING REGULATIONS

- a. Section 6.3: Flood Plain Regulations
- b. Section 6.4: Removal of Earth Products
- c. Section 6.5: Filling of Land
- d. Section 6.6: Regulations Governing Uses Which Sell Alcoholic Beverages
- e. Section 6.7: Interior Lots and Single Family Homes (deleted effective 8/15/2007)
- f. Section 6.8: Open Space Subdivisions

III. ADJOURN

Submitted,

A handwritten signature in black ink, appearing to read "Craig Minor".

Craig Minor, AICP  
Town Planner

RECEIVED & RECORDED IN  
NEWINGTON LAND RECORDS

2015 JUL 17 PM 4:01

BY *Tanya D. Lane*  
TOWN CLERK

**STAFF REPORT**  
*Complete Review of Zoning Regulations*

July 17, 2015.

**Petition #02-15:**  
**Zoning Amendments**  
**Town-wide**  
**Town Plan and Zoning Commission, applicant**

**Description of Petition #02-15:**

This is a complete review of the current zoning regulations, looking for fairly simple items that need minor adjustments.

**Staff Comments:**

1. Section 6.3: Flood Plain Regulations: These regulations are very complex and engineering-driven, so I do not recommend making any changes.
2. Section 6.4: Removal of Earth Products: This section allows the excavation of a basement and related incidental grading “as of right”, and allows the (commercial) removal of soil, sand, gravel, etc. by special permit. There are two problems with this.
  - a. The regulation doesn’t say what the review and approval process is for “as of right” excavation. There has been at least case where a homeowner wanted to significantly increase the level area of his yard by removing a large amount of earth material, to the consternation of his neighbors. When the Zoning Enforcement Officer told him to provide a professionally prepared site plan for the Town Engineer to review, he questioned the ZEO’s authority to do so. This would rectify that.
  - b. The requirements and approval process described in Sections 6.4.3 (Conditions) and 6.4.4 (Approval) probably apply only to Section 6.4.2 (the special permit removal of earth material), but it is not clear. And if it does, then there are no requirements and approval process for Section 6.4.1 (as of right removal). I have proposed some amendments to address this.
3. Section 6.5: Filling of Land: Unlike the “Removal of Earth Products” section, this section does not clearly say whether a landowner can bring in fill – it is stated in a negative way, in the “special permit” section. Also, like the “Removal of Earth Products” regulations, it is not clear if Section 6.5.4 (Approval) applies also to “as of right” filling. The attached amendment addresses that.
4. Section 6.6: Regulations Governing Uses Which Sell Alcoholic Beverages: I have not proposed any changes.
5. Section 6.7: Interior Lots and Single Family Homes (deleted effective 8/15/2007): If the Commission wants to re-allow rear lots, this would be the place to do it.
6. Section 6.8: Open Space Subdivisions: This section is so rarely used that I don’t think it warrants much review by the Commission. I have not proposed any changes to it.

cc:  
file

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## 6.3 Flood Plain Regulations

### 6.3.1 Purpose

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

These flood losses are aggravated by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and, when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

It is, therefore, the purpose of this regulation to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruption;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To insure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

### 6.3.2 Reducing Flood Losses

In order to accomplish its purpose, this regulation includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

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- C. Controlling the alteration of natural flood plain stream channels, and natural protective barriers which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters which may increase flood hazards in other areas.

6.3.3 Establishment of Areas of Special Flood Hazard – (Effective 9-20-08)

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS), dated 9-26-08, with accompanying Flood Insurance Rate Maps (FIRM) 9-26-08 and other supporting data, and any subsequent revision thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence until such time as a map amendment is obtained. The Flood Insurance Study is on file at the Office of the Town Planner.

6.3.4 Warning and Disclaimer of Liability

The degree of flood protection required by this regulation is considered reasonable for regulatory purposes, and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This regulation does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This regulation shall not create liability on the part of the Town of Newington, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this regulation or any administrative decision lawfully made hereunder.

6.3.5 Coordination

Before the issuance of a permit, the Commission will determine that the requirements of this regulation are satisfied, that all necessary permits have been obtained from federal and state agencies and the Greater Hartford Flood Commission from which prior approval is required, and shall find that the permit will not adversely affect the flood-carrying capacity of the area of special flood hazard. The applicant shall be responsible for submitting an application to the Newington Conservation Commission, acting as the Town Inland Wetlands Agency. The Commission will not take any action on an application submitted until after the Conservation Commission has rendered a decision. The Commission will consider the report of the Inland Wetlands Agency when deciding activities affecting flood hazard areas. For the purposes of this regulation, "adversely affect" means that the cumulative effects of the proposed development when combined with all other existing and anticipated development increases the water surface elevation of the base flood more than one foot at any point. The applicant shall be responsible for submitted supporting technical data, certified by a Professional Engineer, that no adverse affects will result.

6.3.6 Permit Required

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A special permit shall be obtained before construction or development begins within any area of special flood hazard established in these regulations. Application for a development permit shall be made on forms furnished by the Commission and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
- B. Elevation in relation to mean sea level to which any structure has been flood proofed.
- C. Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in Section 6.3.7.
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- E. A statement as to whether or not the proposed alterations to an existing structure meets the criteria of the substantial improvement definition.
- F. When base flood elevation data or floodway data has not been provided in accordance with this section, the Town shall obtain, review, and utilize any base flood elevation and floodway data available from a Federal, State, or other source in order to administer the specific standards of these Regulations.

#### 6.3.7 General Standards

In all areas of special flood hazard, the following standards are required.

- A. Anchoring
  - 1. All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. (Effective 9-20-08)
  - 2. The storage of materials and supplies that would block the flow in any area of Special Flood Hazard is not permitted.
- B. Construction Materials and Methods
  - 1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - 2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- C. Utilities

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1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into the flood waters.
  3. On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
  4. Electrical, heating, ventilation, plumbing, air conditioning, equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  5. Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water (Effective 9-20-08)
- D. Compensatory Storage – The water holding capacity of the floodplain, except those areas that are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction, or substantial improvements involving an increase in footprint to the structure shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality. (Effective 9-20-08).
- E. Equal Conveyance – Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity. (Effective 9-20-08).
- F. Specific Standards

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1. Residential Construction

New construction and substantial improvement of any residential structure shall have the lower floor, including basement, elevated to at least one (1) foot above the base flood elevation.

2. Non-Residential Construction

New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to at least (1) foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
- b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied.

3. Manufactured Homes - (Effective 9-20-08)

All manufactured homes to be placed or substantially improved in an area of special flood hazard shall be elevated so that the lowest floor is at least one (1) foot above the base flood elevation.

All manufactured homes within a special flood hazard area shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement and hydrostatic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors.

4. Recreational Vehicles – (Effective 12-4-02)

Recreational vehicles, trailers, campers and similar type vehicles are prohibited from the special flood hazard area unless the vehicle is registered and ready for highway use so that it can be quickly relocated.

5. New Construction or Substantial Improvements (Effective 9-20-08)

For fully enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade.

G. Maintenance of Flood Carrying Capacity

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Should data be requested and/or provided, adopt a regulatory floodway based on the principal that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1) foot at any point along the watercourse.

#### 6.3.8 Records

The Building Code Administrator shall maintain records of all permits issued, including:

- A. The actual elevation (in relation to the mean sea level, National Geodetic Vertical Datum (NGVD)) to the lowest habitable floor (including basement) of all new or substantially improved structures.
- B. For all new or substantially improved flood proofed structures:
  - 1. Verify and record the actual elevation, in relation to mean sea level, National Geodetic Vertical Datum (NGVD); and
  - 2. Maintain the flood proofing certifications required in this regulation.
- C. Maintain for public inspection all records pertaining to the provisions of this regulation.

#### 6.3.9 Alteration of Watercourses

Adjacent communities, the Newington Conservation Commission, the Department of Environmental Protection Water Resources and the Greater Hartford Flood Commission shall be notified of any proposed alteration of watercourses and evidence of such notification shall be made part of the record and hearing.

- A. A maintenance agreement of surety shall be required within the area of the altered or relocated watercourse so that the flood carrying capacity is not diminished.

#### 6.3.10 Interpretation of FIRM Boundaries

The Commission shall determine, where needed, the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The Commission shall refer such interpretation questions to the Town Engineer for technical advice and shall use such base maps and other data which are available to it in making such interpretations.

#### 6.3.11 Floodways

Located within areas of special flood hazard established in this regulation are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. There shall be no encroachment, including fill, new construction, substantial improvements or other developments within the floodway, except for duly

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authorized and approved flood control measures by state, federal or regional agencies.

- B. In A zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevations more than one (1) foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.
- C. The Town may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or whenever such data is available from any other source, the Town shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1) foot at any point along the watercourse.

6.3.12 Uses Permitted and Interpretation (Effective 9-20-08)

- A. Nothing in these restrictions shall prevent the use of land under flood plain designation for parks, playgrounds, wildlife sanctuaries, any farming use, and for unpaved areas for parking of motor vehicles as accessory to a permitted use.
- B. If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The Structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.
- C. If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)
- D. New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water.

6.3.13 Variance Procedures (Effective 9-20-08)

The Newington Zoning Board of Appeals, established under Article VI, Section 602 of the Town Charter, and authorized by Section 8-6 of the Connecticut General Statutes, shall hear and decide appeals for variances of the requirements of these Flood Plain Regulations in accordance with Section 8.1 of the Zoning Regulations.

6.3.14 Severability (Effective 9-20-08)

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

## 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~~ 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.

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- 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.~~
- ~~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.~~

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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 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:

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.

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## 6.6 Regulations Governing Uses Which Sell Alcoholic Beverages

### 6.6.2 General

Permitted uses which sell or serve alcoholic beverages are declared to possess such special characteristics that each must be considered an individual case.

### 6.6.3 Special Permit

The Commission may grant a permit to sell or serve alcoholic beverages in buildings permitted in non-residential zones, subject to the following conditions, and the provisions of Section 5.2 and 5.3.

### 6.6.4 Conditions

- A. No use on a lot shall be permitted which is within a 500-foot radius of any part of a lot used for a college, school, church or hospital. No college, school, church or hospital shall be located within a 500' radius of any part of a lot of a business with a valid liquor permit. (Effective 12-01-01)
- B. A building in which alcoholic beverages are sold under any class of liquor permit shall meet the following distance requirements in relation to any other location with the same class of permit. Distance shall be measured from the radius of the front door to front door of each establishment. (Effective 12-01-01)

|   |               |                         |
|---|---------------|-------------------------|
| 1 | B Zone        | 1,500 feet              |
| 2 | B-TC Zone     | 100 feet                |
| 3 | B-BT Zone     | 500 feet                |
| 4 | PD & CD Zones | 500 feet                |
| 5 | I Zone        | 1,500 feet              |
| 6 | PL Zone       | No Distance Requirement |

- C. Class of permit is to be regulated with distance requirement

|   |                         |
|---|-------------------------|
| 1 | Restaurant and the like |
| 2 | Club and the like       |
| 3 | Store and the like      |
| 4 | Bar and the like        |

- D. A retail use or outlet selling alcoholic liquor having a lawfully existing location may be relocated within 1,000 feet of its existing location even though the new location is within 500 feet of other locations of such use in a building licensed under the same class of permit.

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- E. Nothing contained herein, however, shall authorize any use serving or selling alcoholic beverages located in a residence zone.
- F. No other sale, service or public consumption of alcoholic beverages is permitted.

#### 6.6.5 Approval

In passing upon applications for permits under this section, the Commission shall consider the effect of any individual permit on the maintenance of public order, safety and the protection of property.

The Commission may vary or waive the minimum distance requirements by a vote of two-thirds of the full membership if the Commission finds that such decrease

- A. Will not cause undue concentration of liquor outlets in the area;
- B. Will be in harmony with the general purpose of the zoning plan for the area;
- C. Will not result in such proximity of the proposed outlet to schools, churches, public playgrounds or residential zones so as to adversely affect the health, safety and morals of people in the area; and
- D. Will not create traffic hazards.

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

[If the TPZ wants to go back to allowing interior (rear) lots, this would be the place to do it]

### **Section 6.8** Open Space Subdivisions

The purpose of this section is to provide for controlled flexibility of lot sizes in single-family residential zones so the number of dwelling units contemplated by the minimum lot requirements is maintained on an overall basis and desirable open space, tree cover, scenic vistas and other natural features are preserved. At the discretion of the Commission, a sub-divider may be allowed to reduce the lot requirements in the R-20 Zone, provided the requirements of Section 5.2 and 5.3 as well as following conditions are met.

- 6.8.1 The maximum number of lots to be permitted on a given piece of land is determined by dividing the area by the minimum lot area requirements of the R-20 Zone. Land utilized by utilities or others for easements for major facilities such as electric transmission lines and water mains, where such land is not available to the owner for development, regulated inland wetlands, and land classified as special flood hazard areas shall not be considered part of the gross acreage in computing the maximum number of lots permitted under this section.
- 6.8.2 The lots approved under this section shall conform to no less than the lot requirements of the R-12 Zone.

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- 6.8.3 For a subdivision to be approved under this section, the sub-divider must dedicate for public purposes a minimum of 5 acres or the same percentage of the entire tract as that by which the lot area has been reduced, whichever figure is greater.
- 6.8.4 The area so dedicated shall be in a location, shape, topography, nature of growth and site approved by the Commission.
- 6.8.5 Such dedication shall be accomplished in accordance with any one of the following methods, and no final approval of a subdivision hereunder shall be granted, or any permit issued, until all documents required by these regulations have been submitted to and accepted by the Commission.
- A. Such land may be dedicated to the Town of Newington in an acceptable condition and, unless said subdivision is amended as provided in Subsection B(9) or C(2), shall thereupon be retained for public use for a period of not less than 35 years. If any such land is disposed of by the Town after the expiration of said period, the Town shall provide an equivalent amount of open space elsewhere within the Town of Newington.
- B. Such land may be deeded to a qualified homeowners' association subject to the following conditions:
1. The association shall be a non-profit corporation organized under the non-stock corporation law of the State of Connecticut.
  2. Membership in the association shall be limited to lot owners within the subdivision.
  3. It shall be mandatory for the owner of any lot within the subdivision to be a member of the association, and such requirement shall be reflected in the deed conveying title to such lot.
  4. The deed conveying title of such open space land to the association shall contain permanent open space restrictions similar to those provided in Subsection C.
  5. The association shall be responsible for liability insurance, local property taxes and maintenance of such land in accordance with such open space restrictions.
  6. The association may make such recreational improvements and provide such recreational facilities on such land as shall not be inconsistent with such open space restrictions.
  7. The members of such association shall be required by its by-laws to contribute their pro rata share of the costs above-mentioned, and said by-laws shall provide that upon the failure of any member to do so, the association shall have the right to file a lien upon the property of such member.
  8. The constitution or by-laws of said association shall provide that in the event of dissolution, such open space land shall be first offered to the Town of Newington.

New text proposed by staff is shown in **bold underline**. Text proposed by staff to be deleted is shown in ~~**bold strikethrough**~~.

9. If the method of dedication described in this section is proposed after final approval of a subdivision and as an alternative to the methods provided in Subsections A or C, the Commission, after causing a map to be prepared showing the land proposed to be deeded to said association, and after giving notice by certified mail to the owners of all lots within said subdivision, shall hold a public hearing on the amendment of said subdivision in accordance with this subsection.
- C. Such land may be added to abutting lots within the subdivision, or deeded to abutting property owners within the subdivision in such manner as the Commission may determine provided that:
1. If the method of dedication described in this section is adopted as part of the original subdivision application, open space segments added to building lots shall be separately designated on the subdivision map as "open space" and shall be permanently subject to the restrictions herein set forth.
  2. If the method of dedication described in this section is proposed after final approval of a subdivision, and as an alternative to the methods provided in Subsections A or B, the Commission, after causing a map to be prepared showing such proposed distribution, and after giving notice by certified mail to the owners of all lots within said subdivision, shall hold a public hearing on the amendment of said subdivision in accordance with this subsection.
  3. No such amendment or subsequent plan of distribution of open space land shall be adopted unless each property owner to whom it is proposed to convey a portion of said land has consented in writing thereto.
  4. Each deed conveying an interest in said open space land shall make reference to said map and said public hearing and shall contain permanent restrictions reserving the premises therein described as open space land, prohibiting the erection of fences and permanent structures thereon, requiring the grantee to keep said premises in a neat and orderly condition and free from the accumulation of rubbish, requiring the grantee to keep the channel of any stream, brook or open drainage ditch thereon free from obstruction, reserving to the Town of Newington the right of access for its agents, vehicles and equipment, prohibiting any change of grade thereon which would materially restrict or interfere with natural drainage, and giving the Town of Newington the right to enforce said restrictions by way of injunction.