

# ZONING REGULATIONS

## NEW HARTFORD

CONNECTICUT



**JULY 2011 Update of Draft Regulations**  
**New Hartford Planning and Zoning Commission**



## GUIDE TO USING THESE REGULATIONS

Article	Use this Article:
<b>1 – Introduction</b>	<ul style="list-style-type: none"> <li>✓ To understand the purpose of zoning</li> <li>✓ To review rules if a District boundary is uncertain</li> <li>✓ To determine which uses are prohibited town-wide</li> </ul>
<b>2 – Definitions</b>	<ul style="list-style-type: none"> <li>✓ To look up definitions for terms in the regulations that are <u>C</u>ase <u>C</u>apital</li> </ul>
<b>3 – Residential Districts</b>	<ul style="list-style-type: none"> <li>✓ To determine Uses allowed in residential Districts (both Principal and Accessory Uses)</li> <li>✓ To find dimensional requirements (e.g., Height, Yard Setbacks, density, etc.) in residential Districts</li> <li>✓ To find special requirements for Uses that are residential in nature or allowed in residential Districts</li> </ul>
<b>4 – Business Districts</b>	<ul style="list-style-type: none"> <li>✓ To determine Uses allowed in business Districts (both Principal and Accessory Uses)</li> <li>✓ To find dimensional requirements (e.g., Height, Yard Setbacks, density, etc.) in business Districts</li> <li>✓ To find special requirements for certain business Uses</li> </ul>
<b>5 – Special Districts</b> <b>6 – Basic Standards</b>	<ul style="list-style-type: none"> <li>✓ To determine if your Parcel or proposed Use is subject to additional requirements and standards</li> </ul>
<b>7 – Special Requirements</b>	<ul style="list-style-type: none"> <li>✓ If your existing Parcel or Use might not meet current zoning requirements (i.e., Nonconforming)</li> </ul>
<b>8 – Administration</b>	<ul style="list-style-type: none"> <li>✓ To find procedures for obtaining permits and approvals</li> <li>✓ To understand the criteria used by the Commission for approving Special Exceptions</li> </ul>

# Table of Contents

<b>ARTICLE 1 - INTRODUCTION</b>	<b>1</b>
<b>SECTION 1.1. AUTHORITY</b>	<b>1</b>
<b>SECTION 1.2. PURPOSES</b>	<b>1</b>
<b>SECTION 1.3. JURISDICTION</b>	<b>1</b>
<b>SECTION 1.4. ZONING DISTRICTS</b>	<b>2</b>
A. Districts and Boundaries	2
B. Boundary Interpretation	2
<b>SECTION 1.5. INTERPRETATION OF REGULATIONS</b>	<b>3</b>
A. Permitted Uses and Activities	3
B. Prohibited Uses	3
C. Minimum Requirements	3
D. In the Event of Conflict	3
<b>SECTION 1.6. CONFORMITY REQUIRED</b>	<b>4</b>
<b>ARTICLE 2 – DEFINITIONS</b>	<b>5</b>
<b>SECTION 2.1. USE OF TERMS</b>	<b>5</b>
A. Definitions to be Applied	5
B. Specific Terms	5
C. Terms Not Defined	5
<b>SECTION 2.2. DEFINED TERMS</b>	<b>6</b>
<b>ARTICLE 3 – RESIDENCE DISTRICTS</b>	<b>25</b>
<b>SECTION 3.1. PURPOSES</b>	<b>25</b>
A. R-4 Residence District	25
B. R-2 Residence District	25
C. R-1.5 Residence District	25
D. R-30 Residence District	25
E. R-15 Residence District	25
<b>SECTION 3.2. PERMITTED PRINCIPAL USES AND STRUCTURES</b>	<b>26</b>
A. Residential Uses	26
B. Agricultural Uses	26
C. Public or Institutional-Type Uses	27
D. Other Uses	28
<b>SECTION 3.3. PERMITTED ACCESSORY USES AND STRUCTURES</b>	<b>29</b>
A. Accessory Structures	29
B. Accessory Uses	29
<b>SECTION 3.4. AREA AND DIMENSIONAL REQUIREMENTS</b>	<b>30</b>
A. Density Requirements	30
B. Lot Requirements	30
C. Minimum Yard Setback Requirements	30
D. Building Requirements	31
E. Features that Count to Building Coverage, Floor Area Ratio, and Yard Setbacks	31
F. Accessory Structures	33
G. Corner Visibility Requirements	34
H. Exceptions to Area, Height, and Yard Setback Requirements	34
<b>SECTION 3.5. SPECIAL USE PROVISIONS</b>	<b>35</b>
A. Two-Family Conversion	35
B. Two-Family Dwelling Unit – New Construction	35
C. Multi-Family Dwelling Unit Conversion	35
D. Open Space Development	36

- E. Interior Lot ..... 38
- F. Shared Driveway Provisions ..... 39
- G. Estate Lots ..... 40
- H. Commercial Horse Stable, Riding or Training School ..... 41
- I. Housing of Livestock on a Farm ..... 42
- J. Farm Stand, Minor and Major ..... 42
- K. Nursing Home ..... 42
- L. Bed and Breakfast ..... 43
- SECTION 3.6. SPECIAL ACCESSORY USE PROVISIONS FOR RESIDENTIAL DISTRICTS ..... 45**
- A. Reserved For Future Use ..... 45
- B. Unoccupied Trailer or Camping Vehicle, temporary ..... 45
- C. Accessory Dwelling Unit ..... 45
- D. Home Office ..... 46
- E. Home Occupation ..... 47
- F. Contractor Shop and Storage ..... 49
- G. Keeping of Animals ..... 51
- H. Accessory Outdoor Storage ..... 52

**ARTICLE 4 – BUSINESS DISTRICTS..... 54**

- SECTION 4.1. PURPOSES ..... 54**
- A. Business District B ..... 54
- B. Commercial District ..... 54
- C. Industrial District ..... 54
- D. Industrial Park District ..... 54
- E. New Hartford Center District ..... 54
- SECTION 4.2. PERMITTED USES AND STRUCTURES ..... 55**
- A. Commercial Uses ..... 55
- B. Industrial and Research ..... 56
- C. Agricultural and Related Uses ..... 56
- D. Public or Institutional-Type Uses ..... 57
- E. Residential Type Uses ..... 57
- F. Other Uses ..... 58
- G. Change of Use ..... 58
- SECTION 4.3. PERMITTED ACCESSORY USES AND STRUCTURES ..... 59**
- A. Accessory to Pre-Existing Residential Use ..... 59
- B. Accessory to Business or Other Use ..... 59
- SECTION 4.4. AREA AND DIMENSIONAL REQUIREMENTS ..... 60**
- A. Area and Building Dimension Requirements ..... 60
- B. Minimum Width and Shape ..... 60
- C. Features that Count to Building Coverage and Yard Setbacks ..... 61
- D. Corner Visibility Requirements ..... 63
- E. Exceptions to Height, Yard Setback and Area Requirements ..... 63
- SECTION 4.5. SPECIAL USE PROVISIONS ..... 65**
- A. Adult Oriented Establishment ..... 65
- B. Mixed Use ..... 65
- C. Motor Vehicle Service and Gas Filling Station ..... 65
- D. Hotel ..... 66
- E. Commercial Kennel ..... 66
- F. Special Accessory Use Provisions for Business Districts ..... 66
- G. Veterinary Hospital ..... 67

**ARTICLE 5 – SPECIAL DISTRICTS ..... 68**

- SECTION 5.1. SPECIAL DEVELOPMENT DISTRICT ..... 68**
- SECTION 5.2. FLOODPLAIN OVERLAY DISTRICT ..... 68**
- A. Findings of Fact ..... 68
- B. Purpose ..... 68
- C. Flood Related Definitions ..... 69
- D. Applicability ..... 73
- E. Basis for Establishing the Areas of Special Flood Hazard ..... 73

F.	Greater Restrictions .....	74
G.	Warning and Disclaimer of Liability .....	74
H.	Administration .....	74
I.	Prohibited Uses or Structures .....	74
J.	Permit Required .....	74
K.	Application Procedures .....	75
L.	Application Requirements .....	75
M.	Standards and Requirements .....	75
N.	Post-Construction Certification Requirements .....	77
<b>SECTION 5.3. FARMINGTON RIVER PROTECTION OVERLAY DISTRICT .....</b>		<b>78</b>
A.	Purpose .....	78
B.	Applicability .....	78
C.	Greater Restrictions .....	78
D.	Delineation .....	78
E.	Activities Requiring a Zoning Permit.....	79
F.	Activities Requiring a Site Plan .....	79
G.	Standards and Requirements .....	79
H.	Modification of Buffer Requirement.....	80
<b>SECTION 5.4. PUBLIC WATER SUPPLY WATERSHED OVERLAY DISTRICT .....</b>		<b>81</b>
A.	Purpose .....	81
B.	Applicability .....	81
C.	Permitted Activities .....	81
D.	Activities Requiring a Special Exception.....	81
E.	Principal Uses Prohibited in the PWSWOD .....	83
F.	Special Exception for Accessory Uses When Permitted in the District .....	84
G.	Special Requirements for Oil/Fuel Storage Tanks Accessory to Principal Uses.....	84
<b>SECTION 5.5. AQUIFER PROTECTION AREAS.....</b>		<b>85</b>
A.	Purpose .....	85
B.	Regulations.....	85
C.	For Uses Requiring a Special Exception.....	85
<b>SECTION 5.6. PUBLIC SERVICE/UTILITY DISTRICT .....</b>		<b>85</b>
A.	Purpose .....	85
B.	Permitted Uses.....	85
C.	Site Plan Review Uses.....	85
D.	Special Exception Uses .....	86
E.	Permitted Accessory Uses and Structures.....	86
F.	Prohibited Uses .....	86
G.	Required Lot Area and Lot Width, Maximum Building Coverage, Maximum Impervious Surface Coverage, Minimum and Maximum Floor Area, Minimum Front Setback, Minimum Side Setback, Minimum Rear Setback, Maximum Height .....	86

**ARTICLE 6 – BASIC STANDARDS .....** **87**

<b>SECTION 6.1. LANDSCAPING .....</b>		<b>87</b>
A.	Purpose .....	87
B.	Applicability .....	87
C.	Submittal Requirements.....	87
D.	Landscape Standards and Requirements.....	87
E.	Maintenance .....	89
<b>SECTION 6.2. PARKING AND LOADING .....</b>		<b>90</b>
A.	Purpose .....	90
B.	Applicability .....	90
C.	Minimum Required Parking and Loading Facilities.....	90
D.	Handicap Parking Facilities.....	94
E.	Reduction of Parking Facilities.....	94
F.	Location of Parking and Loading Facilities .....	95
G.	Size of Parking and Loading Facilities.....	96
H.	Specifications for Parking and Loading Facilities .....	97
I.	Access Drives for Non-Residential Uses.....	97
<b>SECTION 6.3. SIGNS.....</b>		<b>98</b>
A.	Purpose .....	98
B.	Applicability .....	98
C.	Permit Required .....	98
D.	Signs Permitted in Residential Districts .....	98

E.	Signs Permitted in Business and Industrial Districts .....	98
F.	General Requirements for All Signs.....	101
<b>SECTION 6.4.</b>	<b>OUTDOOR LIGHTING.....</b>	<b>102</b>
A.	Purpose .....	102
B.	Lighting-Related Definitions .....	102
C.	Applicability .....	103
D.	Submission Requirements.....	103
E.	Lighting Standards .....	104
F.	Exemptions and Modifications .....	106
<b>SECTION 6.5.</b>	<b>SAND, GRAVEL AND EARTH PRODUCTS REMOVAL .....</b>	<b>107</b>
A.	Purpose .....	107
B.	Permitted by Right .....	107
C.	Permitted by Special Exception.....	107
<b>SECTION 6.6.</b>	<b>EROSION AND SEDIMENTATION CONTROL.....</b>	<b>111</b>
A.	Purpose .....	111
B.	Applicability .....	111
C.	Erosion and Sediment Control Plan.....	111
D.	Minimum Acceptable Standards.....	111
E.	Issuance or Denial of Certification .....	111
F.	Conditions Relating To Soil Erosion and Sediment Control.....	112
G.	Inspection.....	112
<b>SECTION 6.7.</b>	<b>ARCHITECTURAL REVIEW.....</b>	<b>113</b>
A.	Purpose .....	113
B.	Applicability .....	113
C.	Procedure .....	113
D.	Application.....	113
E.	Design Guidelines.....	113
<b>SECTION 6.8.</b>	<b>STORMWATER MANGEMENT STANDARDS .....</b>	<b>116</b>
A.	Stormwater Management Policy and Principles.....	116
B.	Definitions .....	116
C.	Site Stormwater Management Plan and Report.....	120
D.	Design Standards .....	122
E.	Construction Standards.....	124
F.	Maintenance Standards.....	125
G.	References.....	125

**ARTICLE 7 – SPECIAL REQUIREMENTS ..... 126**

<b>SECTION 7.1.</b>	<b>NONCONFORMING CONDITIONS.....</b>	<b>126</b>
A.	Nonconforming Uses .....	126
B.	Nonconforming Structures .....	126
C.	Nonconforming Parcels .....	127
<b>SECTION 7.2.</b>	<b>PRESERVATION OF ARCHEOLOGICAL FEATURES.....</b>	<b>128</b>
A.	Purpose .....	128
B.	When Required .....	128
C.	Investigative Report Requirements.....	128
D.	Decision Criteria .....	128
<b>SECTION 7.3.</b>	<b>TEMPORARY USES .....</b>	<b>129</b>
A.	Zoning Permit .....	129
B.	Site Plan Approval .....	129
C.	Special Exception Approval .....	129

**ARTICLE 8 – ADMINISTRATION ..... 130**

<b>SECTION 8.1.</b>	<b>GENERAL ADMINISTRATION .....</b>	<b>130</b>
A.	Application Submittal Requirements.....	130
B.	Date of Receipt .....	130
C.	Incomplete Applications.....	130
D.	Consultations .....	130
E.	Notice by Newspaper.....	131

F.	Notification of Abutting Property Owners .....	131
G.	Notification of Abutting Municipalities .....	131
H.	Notification of Water Companies and State Commissioner of Public Health.....	132
I.	Notification of Conservation or Preservation Restrictions Holders.....	132
J.	Performance and Maintenance Bonds .....	133
K.	Waiver of Site Plan Review or Special Exception.....	133
<b>SECTION 8.2. ZONING PERMIT .....</b>		<b>134</b>
A.	Applicability .....	134
B.	Application Requirements .....	134
C.	Proceedings .....	134
D.	Notice Provisions .....	135
E.	Location Improvement Surveys .....	135
F.	Zoning Sign-off Expiration.....	135
<b>SECTION 8.3. CERTIFICATE OF ZONING COMPLIANCE .....</b>		<b>136</b>
A.	Applicability .....	136
B.	Procedures.....	136
C.	Bonding.....	136
D.	Records .....	136
<b>SECTION 8.4. SITE PLAN APPLICATION .....</b>		<b>137</b>
A.	Purpose .....	137
B.	When Required .....	137
C.	Application Requirements .....	137
D.	Proceedings .....	138
E.	Decision Considerations .....	138
F.	Action Documentation .....	138
G.	Following Approval .....	139
H.	Expiration and Completion .....	139
I.	Performance Bond.....	139
<b>SECTION 8.5. SPECIAL EXCEPTION APPLICATIONS.....</b>		<b>141</b>
A.	Purpose .....	141
B.	Application Requirements .....	141
C.	Proceedings .....	141
D.	Decision Considerations .....	142
E.	Special Exception Criteria.....	143
F.	Action Documentation .....	145
G.	Following Approval .....	145
H.	Expiration of Special Exception.....	146
I.	Performance Bond.....	146
<b>SECTION 8.6. REGULATION TEXT AMENDMENT APPLICATION .....</b>		<b>147</b>
A.	Application Requirements .....	147
B.	Proceedings .....	147
C.	Decision Considerations .....	148
D.	Action Documentation .....	148
E.	Following Approval .....	149
<b>SECTION 8.7. ZONE AMENDMENT APPLICATION .....</b>		<b>150</b>
A.	Application Requirements .....	150
B.	Proceedings .....	150
C.	Decision Considerations .....	151
D.	Action Documentation .....	151
E.	Following Approval .....	152
<b>SECTION 8.8. ZONING BOARD OF APPEALS .....</b>		<b>153</b>
A.	Establishment .....	153
B.	Powers and Duties .....	153
<b>SECTION 8.9. ARCHITECTURAL REVIEW COMMITTEE.....</b>		<b>155</b>
<b>SECTION 8.10. ENFORCEMENT .....</b>		<b>156</b>
A.	Enforcement Authority.....	156
B.	Inspections .....	156
C.	Violations.....	156
<b>SECTION 8.11. ADMINISTRATIVE PROVISIONS .....</b>		<b>157</b>
A.	Severability.....	157
B.	Effective Date .....	157

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**APPENDICES..... 158**

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**APPENDIX 1. FEE SCHEDULE ..... 158**

**APPENDIX 2. APPLICATION CHECK LISTS ..... 160**

- A. Floodplain Site Plan ..... 160
- B. Sign Permit ..... 161
- C. Site Plan ..... 162
- D. Special Exception ..... 164
- E. Landscape Plan ..... 164
- F. Outdoor Lighting Plan ..... 164
- G. Sand, Gravel And Earth Excavation ..... 165
- H. Erosion and Sedimentation Control ..... 166
- I. Architectural Review ..... 167
- J. Text Amendment Application Checklist ..... 167
- K. Zoning Map Change Application Checklist ..... 167

**APPENDIX 3. MODEL SHARED DRIVEWAY AGREEMENT ..... 168**

**APPENDIX 4. TELECOMMUNICATION POLICY ..... 173**

# ARTICLE 1 - INTRODUCTION

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## SECTION 1.1. AUTHORITY

These Regulations are adopted under the authority of the Chapter 124 of the General Statutes of the State of Connecticut, as amended.

## SECTION 1.2. PURPOSES

These Regulations are adopted for the purpose of:

- Encouraging the most appropriate Use of land, in accordance with the New Hartford Plan of Conservation and Development.
- Conserving and stabilizing the value of property.
- Promoting the health, safety and the general welfare.
- Regulating and determining size and location of yards.
- Providing adequate light and air.
- Securing safety from fire, panic, flood and other dangers.
- Preventing undue concentration of population.
- Lessening congestion in the Streets.
- Facilitating adequate provisions for community utilities and facilities, such as transportation, water, sewerage, Schools, parks and other public requirements.

To carry out these purposes, these Regulations:

- Designate, regulate and restrict the location and Use of Buildings, Structures and land for agriculture, residence, commerce, trade, industry and other purposes.
- Regulate and limit the Heights, number of stories and size of Buildings and other Structures hereafter erected or Altered.
- Regulate and determine size of yards and other spaces.
- Regulate and limit the density of population.
- Divide the Town into such zoning districts for said purposes as seem best suited.
- Provide for the enforcement of such Regulations.

## SECTION 1.3. JURISDICTION

These Regulations apply to all areas within the Town of New Hartford and to the Use to which any area and any and all Buildings or Structures may be devoted. Any provision of these Regulations which is substantially the same as that contained in earlier versions of these Regulations shall be deemed to be a continuation thereof, without any gap in coverage or jurisdiction.

## **SECTION 1.4. ZONING DISTRICTS**

### **A. Districts and Boundaries**

1. For the purposes of these Regulations, the Town of New Hartford, Connecticut is hereby divided into Districts as enumerated in these Regulations.
2. The boundaries of all Districts, as established herein and amended from time to time, are those shown on the Zoning Map, Town of New Hartford, Connecticut, filed in the office of the Town Clerk, which map is part of these Regulations. Any facsimile maps, including any map printed herewith, are not official and are for convenience only.

### **B. Boundary Interpretation**

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

1. Boundaries indicated as approximately following the center lines of Streets, highways, or alleys shall be construed to follow such center lines.
2. Boundaries indicated as approximately following plotted Lot Lines shall be construed as following such Lot Lines.
3. Boundaries indicated as approximately following Town limits shall be construed as following Town limits.
4. Boundaries indicated as following railroad rights of ways shall be construed to be centerline of the right of way.
5. Boundaries indicated as following shorelines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above shall be so construed. Distances not specifically indicated in the Zoning Map shall be determined by the scale of the map.
7. In cases of uncertainty, the Commission shall determine the location of the boundary.

## **SECTION 1.5. INTERPRETATION OF REGULATIONS**

### **A. Permitted Uses and Activities**

1. Any Use of land, Building or Structure not expressly permitted by these Regulations in the various zoning districts is prohibited.
2. For a Principal Use permitted by these Regulations, Accessory Uses are permitted.
3. In the event of uncertainty as to whether a Use or activity is permitted, the Commission shall have the authority to interpret these Regulations.

### **B. Prohibited Uses**

As an aid in the interpretation of these Regulations, the following Uses are specifically prohibited in any district:

1. Horse, dog or auto tracks
2. Jai Alai frontons
3. Billboards or Outdoor Advertising Signs.
4. Outdoor drive-in theaters
5. Junk Yards and Junk or salvage businesses, except Accessory Outdoor Storage as permitted by Section 3.6.H of these Regulations.
6. Commercial slaughterhouses, excluding the Accessory slaughter of animals raised on the Premises of the Farm where the animal was raised.
7. Dumping or incineration of refuse, garbage or Junk except where controlled and operated by the Town of New Hartford or by a Regional Refuse District of which said Town is a member
8. Mobile Homes, except as Temporary Uses as permitted by these Regulations (See Section 7.3, Temporary Uses).
9. Mobile Home Parks
10. Campgrounds for Camping Vehicles, Trailers, or tents
11. Amusement parks

### **C. Minimum Requirements**

1. In their interpretation and application, the provisions of these Regulations shall be held to be minimum requirements, to fulfill the purposed of these regulations in accordance with Section 1.2 of these regulations.

### **D. In the Event of Conflict**

1. Wherever the requirements of these Regulations are in conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.
2. In the event that there are found to be conflicting requirements within these Regulations, the most restrictive provision shall be applied.

**SECTION 1.6. CONFORMITY REQUIRED**

No Building or Structure shall be erected, reconstructed, structurally Altered, Enlarged, moved or maintained, nor shall any Building, Structure or land be used for any Use, or any Use Altered or Extended, except in conformity with these Regulations and the Permitted Uses herein prescribed for the Zoning District in which such Building, Structure or land is located.

# ARTICLE 2 – DEFINITIONS

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## SECTION 2.1. USE OF TERMS

### A. Definitions to be Applied

In the interpretation and enforcement of these Regulations, the words and phrases set forth in these Regulations shall be construed as defined in this Article, unless otherwise clearly qualified by their context.

### B. Specific Terms

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

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.
2. The word "shall" is mandatory and not discretionary.
3. The word "may" is permissive.
4. The word "Lot" shall include the words "piece" and "Parcel".
5. The words "zone", "zoning district" and "district" have the same meaning.
6. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
7. The phrase "these Regulations" shall refer to the entire zoning regulations, including the Zoning Map and any Appendices to these Regulations.

### C. Terms Not Defined

In the interpretation and enforcement of these Regulations, words not defined in this Article shall be interpreted by the Commission after consulting one (1) or more of the following, which shall be used for guidance only:

1. The State Building Code, as amended.
2. The Connecticut General Statutes, as amended.
3. The Latest Illustrated Book of Development Definitions (2004, Rutgers University, Center for Urban Policy Research (Piscataway, NJ), as amended.
4. Black's Law Dictionary.
5. A comprehensive general dictionary.

## **SECTION 2.2. DEFINED TERMS**

**Accessory Structure** – See “Structure.”

**Accessory Use** – See “Use, Accessory.”

**Accessory Dwelling Unit** – see “Dwelling Unit, Accessory.”

**Accessway**- As applied to Interior Lots: A corridor of land connecting an Interior Lot with the Street, which land is owned, solely or in common with others, by the owners of the Interior Lot. See Section 3.5.E.

**Age Restricted Housing** – A residential community restricted to residents aged 55 and over. Occupancy of all units within Age Restricted Housing Development shall comply with the requirements of the “55 and over housing” exemption as set forth in the Fair Housing Amendments Act (42 U.S.C., Sec 3601 et. Seq.) , the Housing for Older Persons Act of 1955, and in accordance with Federal Law.

**Agricultural Restriction** – An encumbrance on real property filed on the land records of the Town for the protection and permanent preservation of the Use of property for Farming Uses only.

**Agriculture** – See “Farm” and “Farming.”

**Adult Oriented Establishment** – Shall include, without limitation, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters and further means, any Premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the common areas of the Premises for the purpose of viewing adult-oriented motion pictures, adult cabaret, or therein an entertainer provides adult entertainment to a member of the public, a patron or member, when such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect.

**Alter** – To change or rearrange the Use, function, intended Use, structural parts or the existing facilities of a Building, Structure or Use of land.

**Animals, Keeping of** – See Section 3.6.G.

**Archaeological Site** – A location where there exists material evidence that is not less than three hundred years (300) old of the past life and culture of human beings in the Town of New Hartford.

**Archaeological Investigation** – Any subsurface tests or Excavation or other activity resulting in the disturbance or removal of artifacts or data from an Archaeological Site.

**Archaeological Artifact** – Material evidence that is not less than 300 years old of past life and culture in the town of New Hartford that is found in connection with an Archaeological Site.

**Attic** – The space between the ceiling joists of the top story and the roof rafters.

**Awning** – A roof-like cover that projects from the wall of a Building, such as for the purpose of shielding a doorway or window from the elements.

**Balcony** – An exterior floor projecting from and supported by a Structure without additional independent supports.

**Barn** – A Building Accessory to a Farm for sheltering harvested crops, commodities and other Farm products, livestock, Farm machines and equipment.

**Basement** – That part of a Building that is partly below and partly above ground and having one-half (1/2) or more of its total Height above the Grade Plane. Compare to “Cellar.”

**Bed and Breakfast** – See “Lodging Establishments.”

**Billboard** – See “Sign, Outdoor Advertising.”

**Board** – See “Zoning Board of Appeals.”

**Bond, Performance or Maintenance**– For the purposes of these Regulations, a financial instrument deposited with the Town, in a form satisfactory to the Commission, to assure that required improvements will be constructed, installed or satisfactorily completed or maintained and in accordance with Section 8.1.J of these Regulations.

**Breezeway** – A roofed Structure, open to the air, built or used for the purpose of connecting a Building with other Buildings or Structures.

**Buffer, Buffer Area, or Buffer Strip** – An area of land unoccupied by Buildings or Structures, unless fulfilling the purposes in these Regulations. A Buffer may include landscaping, fencing, screening, and walkways, in accordance with these Regulations.

**Buildable Land** – An area of a Parcel of land excluding any area:

- determined to be an inland Wetlands soil type as defined in the New Hartford Inland Wetlands and Watercourse regulations.
- determined to be a Watercourse as defined in the New Hartford Inland Wetlands and Watercourse regulations.
- designated as 100-year Floodplain in the Flood Insurance Study (1982), as amended.
- having a pre-Development slope of twenty-five percent (25%) or greater (one [1]feet vertical in four [4] feet horizontal).
- of exposed rock or ledge in excess of two hundred (200) square feet.
- of pre-existing Conservation or Preservation Easements.

**Building** – Any Structure having a roof and intended for the shelter, housing or enclosure of persons, animals, vehicles or materials.

**Building Coverage** – see “Coverage, Building”.

**Building Line** – The rear limits of the Minimum Front Yard as specified for each District.

**Building, Temporary** – A Building which is constructed or located on a site and remains on said site for a period of time as specified in these Regulations, or as otherwise permitted in these Regulations. See Section 7.3.

**Business Service** – Establishment primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising, mailing, employment services, management and consulting services, copying and printing, and similar services.

## Section 2.2. Defined Terms

**Campground** – A plot of ground used for commercial purposes with two (2) or more tents, Camping Vehicles, or Trailers.

**Camping Vehicle** – A mobile, vehicular Structure mounted on wheels and designed as a temporary Dwelling for travel, recreation, or vacation, including collapsible tent Trailers, and truck-mounted units.

**Cellar** – That part of a Building that is partly below and partly above ground and having more than one-half (1/2) of its Height below Grade Plane. Compare to “Basement.”

**Certificate of Zoning Compliance** – A certification by the Zoning Enforcement Officer that a use, building, or structure has been established or constructed, as the case may be, issued in accordance with Section 8.3 of these Regulations. Compare to “Zoning Permit.”

**Certification** – With regard to a Soil Erosion and Sediment Plan, a signed, written approval by the Planning and Zoning Commission that a Soil Erosion and Sediment Plan complies with the applicable requirements of these Regulations.

**CGS** – The Connecticut General Statutes, as amended.

**Church** – See “Religious Institution”.

**Clinic** – See “Medical Office.”

**Commercial Horse Stable, Riding or Training School** – A business activity involving a Building, Structure or Premises where at any time:

- five (5) or more horses are boarded for compensation, or
- five (5) or more horses are available for rent or hire, or
- riding instruction or training for compensation is conducted more than once a week on a regular basis.

**Commercial Vehicle** – A vehicle registered as a Commercial Vehicle in Connecticut, or elsewhere, or used for commercial purposes regardless of vehicle registration.

**Commission** – The Town Planning and Zoning Commission of New Hartford, Connecticut.

**Community Residence** – A residential facility, licensed by the State, which houses up to six (6) persons and which provides food, shelter, personal guidance and, to the extent necessary, continuing health-related services and care for persons requiring assistance to live in the community. Such facility shall be for:

- persons with mental retardation or autism, per CGS 17a-220, or
- persons receiving mental health or addiction services, per CGS 8-3e, or
- children with physical or mental disabilities, per CGS 8-3e.

**Congregate Housing, Assisted Living** – A form of residential Dwelling Unit(s) in one (1) or more Buildings having available to the occupants of the Dwelling Unit(s) facilities and services on site including but not limited to, congregate or individual meals, housekeeping and Personal Services, and with communication to twenty-four (24) hour nursing services. Such Dwelling Units shall only be occupied by individuals and their spouses and/or others providing care to such individuals, having permanent or temporary difficulties with one or more essential activities of daily living such as feeding, bathing, grooming, dressing or transfer.

**Conservation Easement** – An encumbrance on real property filed on the land records of the Town for the protection and permanent preservation of fragile, vulnerable or valuable areas such as natural features, open space, natural habitats, Buffer zones, scenic areas, historic sites, riding and walking trails, and land devoted to other similar purposes.

**Contractor Shop and Storage, Principal Use** – A Principal Use of a Lot for a contractor or Building tradesperson. This shall include but is not limited to plumbers, electricians, carpenters, excavators, landscapers, arborists, and similar occupations. Compare to Accessory Use, see “Home-Based Business”.

**Country Club** – An establishment operated solely for recreational, social, benevolent or athletic purposes; such activities shall include but not be limited to the construction and operation of golf course facilities, tennis facilities, swimming pool facilities and, as an Accessory Use, Restaurant facilities, the latter including the sale of alcoholic beverages provided a permit for the sale of the same is obtained from the appropriate agency or department of the State of Connecticut.

**County Soil and Water Conservation District** – The Northwest Conservation District established by CGS 22a-315.

**Coverage, Building** – The total percentage of a Lot or Parcel that is covered by the areas identified in Section 3.4.E as “counts to Building Coverage.”

**Coverage, Impervious Surface** – The percentage of land area that does not readily absorb water, including but not limited to Building roofs, Parking Areas, Driveway areas, sidewalks and paved areas or other than Pervious Paving Materials or Porous Pavement. See Section 6.8 of these Regulations.

**Day Care** – The care of children or adults on a regular recurring but part-time basis.

**Day Care, Adult** – An establishment which offers community-based programs designed to meet the needs of cognitively and physically impaired adults through a structured, comprehensive program that provides a variety of health, social and related support services, including, but not limited to, socialization, supervision and monitoring, personal care and nutrition in a protective setting during any part of the day; and eligible for participation in the Connecticut Home Care Program in accordance with Regulations of Connecticut State Agencies §17b-342-2(b).

**Day Care, Center** – An establishment which offers or provides a program of supplementary care to more than twelve (12) related or unrelated people outside their own homes on a regular basis for a part of the twenty-four (24) hours in one (1) or more days in the week. "Day Care Center" includes "Child Day Care Center" as defined in CGS 19a-77.

**Day Care, Family** – An Accessory Use of a Dwelling Unit as a private Family home caring for not more than six (6) people, including the providers own children not in School full-time, where the children are cared for not less than three (3) nor more than twelve (12) hours during a twenty-four (24) hour period, where care is given on a regularly recurring basis, and where the principal provider of the service resides on the Premises. During the regular School year, a maximum of three (3) additional children who are in School full-time, including the provider's own children, shall be permitted, except that if the provider has more than three (3) children who are in School full-time, all of the provider's children shall be permitted.

Section 2.2. Defined Terms

**Day Care, Group** – An establishment which offers or provides a program of supplementary care to not less than seven (7) nor more than twelve (12) related or unrelated children on a regular basis for a part of the twenty-four (24) hours in one (1) or more days in the week.

**Deck** – A raised outdoor platform without a roof, supported by posts or columns.

**Development** – The construction, reconstruction, conversion, structural Alteration, relocation, or Enlargement of any Structure or for the purposes of erosion and sedimentation, any construction or Grading activities to improved or unimproved real estate.

**Development, Residential** – For the purposes of describing residential subdivisions, the term shall refer to the two (2) following patterns of such Development:

**Residential Development, Conventional** – A Lot configuration for Single-Family Dwelling Units resulting from a subdivision where the Lots conform to the Lot size requirement for the zoning district and where the provision of dedicated open space may be a secondary consideration.

**Residential Development, Open Space** – A Lot configuration for Single-Family Dwelling Units resulting from a subdivision where the Commission may permit Lot sizes smaller than those required for a Conventional Development in the zoning district in return for the provision of open space dedicated for conservation, recreational, and/or Agricultural purposes.

**Disturbed Area** – An area where the ground cover is destroyed, removed, or changed, which may leave the land subject to potential accelerated erosion.

**District** – The zoning districts established by Article 3, 4, and 5 of these Regulations.

**Drainage** – The controlled or uncontrolled removal or discharge of surface or ground water from land by drains, Grading or other means which may include runoff controls to minimize erosion, reduce suspended solids and maximize groundwater recharge during and after construction or Development.

**Driveway** – An area primarily on private property used by vehicles to access or exit a property.

**Driveway, Common** – See “Street, Private.”

**Driveway, Shared** – A Driveway serving more than one (1) residential Lot, but no more than three (3) residential lots

**Dwelling Unit** – A Building designed or used as the living quarters for one (1) or more persons.

**Dwelling Unit, Accessory** – A secondary Dwelling Unit on a Single-Family residential property which is an Accessory Use to the Single-Family Dwelling Unit and is a complete independent living facility with provisions within the unit for cooking, eating, sanitation, and sleeping.

**Dwelling Unit, Multi-Family** – A dwelling or group of dwellings on one (1) Lot, containing separate living units for more than two (2) Families, but which may have separate or joint entrances, services or facilities.

**Dwelling Unit, Single-Family** – A Building arranged, intended or designed to be occupied by one (1) Family.

**Dwelling Unit, Two-Family** – A Building arranged, intended or designed to be occupied by two (2) Families living independently of each other and doing their cooking upon the Premises.

**Earth** – Includes, in addition to Earth as commonly understood, soil, loam, sand, gravel, rock, stone, clay or any other material of which the ground is composed.

**Eave** – The portion of a roof overhanging the wall of a Building.

**Elderly Housing** – A Dwelling Unit exclusively designed for the needs of single people age sixty-two (62) or over, or couples with at least one (1) member over age sixty-two (62).

**Enlarge, Expand** – Any addition to the floor area of an existing Building, an increase in the size of any other Structure, or an increase in that portion of a tract of land occupied by an existing Use. "To Enlarge" is to make an enlargement.

**Extend** – An increase or amplification, as distinguished from establishment or inception. "Extension" shall be deemed to include the expansion in the seasons or periods of Use of a Nonconforming seasonal Use, or of a seasonal dwelling on a Nonconforming Lot; and any increase in the normal days or hours of operation, or any increase in the scope of services or products offered, of any Nonconforming, non-residential Use of land, Buildings, or Structures.

**Erosion** – The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

**Excavation** – The digging out, extraction, regrading or removal of Earth, whether exposed or covered by water, so as to Alter its pre-existing contour or its natural contour.

**Façade** – The face of any exterior wall of a Building facing a public Street or visible from a public Street.

**Family** – Persons related by blood, marriage, civil union, or adoption, and up to three (3) individuals occupying a Dwelling Unit who are committed to living together as a single housekeeping unit, in harmony with the surrounding neighborhood and responsible for maintaining a common household.

**Farm** – At least three (3) acres of land, including Buildings and Structures, used for Farming or agriculture.

**Farming or Agriculture** – Includes:

- The cultivation of the soil, dairying, Forestry, raising or harvesting any Agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock including horses, bees, poultry, and wildlife;
- the operation, management, conservation, improvement, maintenance of a Farm and its Buildings, tools, equipment, or salvaging timber or clearing land of brush or other debris left by a storm, as an Accessory Use to Farming;
- the production or harvesting of maple syrup or sugar, or any Agricultural commodity, including lumber as an Accessory Use to ordinary Farm operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for Farming purposes;
- the handling, planting, drying, packing, packaging, processing, transportation to market, or for direct sale any Agricultural or horticultural commodity as an Accessory Use to ordinary Farming operations, or, in the case of fruits and vegetables, as an Accessory Use to the preparation of such fruits or vegetables for market or for direct sale.

**Farm Building** – Buildings Accessory to a Farm and usually used for Farm purposes, such as animal husbandry or horticultural Uses.

**Farmers Market** – The seasonal selling or offering for sale at retail of vegetables or produce grown in New Hartford or the state, occurring in a pre-designated area, where the vendors are generally individuals who have raised the produce or have taken the same on consignment for retail sale.

**Farm Stand, Minor** – Roadside stand, which is an Accessory Use to a Farm, selling produce where:

- all of the produce for sale was grown on the Premises of the Farm Stand,
- the Farm Stand Structure is no greater than fifty (50) square feet in Gross Floor Area, and

**Farm Stand, Major** – Roadside stands, which is an Accessory Use to a Farm, selling Farm produce where:

- the produce for sale was predominantly grown on the Premises of the Farm;
- the Farm Stand Structure is no greater than three hundred fifty (350) square feet in Gross Floor Area, excluding outdoor display areas, for each three (3) acres of land under active cultivation, unless a larger retail area is approved in accordance with Section 3.5.J of these Regulations.

**Fence** – A freestanding barrier of any material or combination of materials, other than stone, masonry or trees other living plant material, erected to enclose, separate, screen or buffer areas of land. Compare to “wall.”

**Fitness Center** – A commercial operation serving the general public whether on a daily basis or by membership and providing a range of services including body building equipment, fitness classes, aerobic machinery, free weights, tanning booths, sauna rooms, steam booths, and child care services. Such centers may also include, as an Accessory Use, of a low turnover restaurant and retail sale of nutritional supplements, gym clothing and various gym gear.

**Flood-Related Definitions** – See Section 5.2.

**Floor Area, Gross (GFA)** – The total of all floor area measured from the outside surface of the exterior walls of all Stories of a Building used for human occupancy including the Basement and Attic areas at any point where the Attic is five (5) foot or more in height. In determining the Gross Floor Area of an individual store within a Building where one (1) or more of its walls are not exterior, the inside face of the interior wall(s) shall be used in the calculation.

**Floor Area Ratio** – The Gross Floor Area in square feet of all buildings on a Lot, divided by the area of such Lot in square feet.

**Forestry** – The management of timber tracts for the growth of wood products and the harvesting of timber from such tracts, but excluding saw mills, composting, shredding of mulch, and other forest products processing except by Special Exception.

**Free Standing Retail** – A single retail sales facility in a single Building that is situated independently on a Lot and for which associated parking serves that facility exclusively.

**Frontage** – The number of linear feet of a Front lot Line which abuts a Street, or in the case of an Estate Lot, abutting a Private Street.

**Garage, Commercial** – Place of business where motor vehicles are, for compensation, received for housing, storage or repair.

**Garage, Private** – A roofed space for storage of one (1) or more vehicles, Accessory to a permitted Principal Use in the District, provided no business or service is conducted for profit therein.

**Grade Plane** – A reference plane representing the average of the existing or finished ground level (whichever is a lower grade) adjoining the building at all exterior walls. Where the ground slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the Building and the Lot Line or, where the Lot Line is more than six (6) feet from the Building between the Building and a point six (6) feet from the Building. "Finished grade" shall be construed as that excavation or filling which is incidental to construction of the Building on the site, and not excavation or filling for the purposes of obtaining greater Building Height.

**Grading** – Any Excavation, grubbing, filling (including hydraulic fill) or stockpiling of Earth materials or any combination thereof, including the land in its excavated or filled condition, either permanent or temporary.

## Section 2.2. Defined Terms

**Hazardous Materials** – Substances or combinations of substances (including waste products) which present an actual or potential hazard to human health or to private or public drinking water supplies if discharged to the ground or surface water including:

- Substances which are toxic, flammable, corrosive, explosive, radioactive or infectious;
- Substances listed in the "Title III List of Chemicals Subject to Reporting Under Title III of the Superfund Amendments and Re-authorization Act (SARA) of 1986, as amended and which are used for other than normal household purposes if in quantities exceeding those identified in SARA;
- Acids and alkaloids outside the pH rating of two (2) to ten (10);
- Synthetic organic solvents; or
- Any solid material, which if exposed to water will leach or dissolve to form a hazardous material as defined above.

**Height** – The vertical distance from the Grade Plane to the Height of the mean between the peak of the highest roof surface and the lowest eave.

**Helistop** – A landing and take-off pad for the pickup and discharge of passengers by helicopter for the exclusive use of the owner of the Lot upon which the Helistop is located, and excluding passenger service to the general public. A Helistop shall be Accessory to the Principal Use of the Lot or Building upon which it is located.

**Home-Based Business** – The Use of a portion of a Dwelling Unit for business purposes by the resident occupants in the following general hierarchy of intensity:

**Home Office** – The Use of a Dwelling Unit for conducting occasional business Use as part of employment typically occurring elsewhere.

**Home Occupation** – The Use of a Dwelling Unit for a Home-Based Business, such as:

- home handicrafts
- dress making and tailoring services
- artist
- realtor
- insurance agent
- marketing services
- photographer
- professional consultant architect, engineer, surveyor, accountant, attorney or appraiser

**Contractor Shop and Storage, Residential Accessory Use** – An Accessory Use of a Lot containing a Single-Family Dwelling Unit used for a contractor or Building tradesperson who conducts his or her trade primarily away from the Dwelling Unit. This shall include but is not limited to plumbers, electricians, carpenters, excavators, landscapers, arborists, and similar occupations.

**Hospital** – An institution, licensed by the State of Connecticut, providing lodging and primary health and medical or surgical care to persons, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions. A Hospital provides its services primarily to inpatients. A Hospital includes related facilities such as laboratories, outpatient facilities or training facilities.

**Hotel** – See "Lodging Establishments."

**Impervious Surface Coverage** – See “Coverage, Impervious Surface”.

**Inspection** – The periodic review of sites, Buildings, and Uses for compliance with these regulations in general and for approved plans in particular.

**Junk** – Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or Junk, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. Farming equipment in good operating condition and located on an operating Farm is excluded from this definition.

**Junk Yard** – A Junk Yard includes:

- any area in or on which old material, glass, paper, cordage or other waste or discarded or second hand material which has not been a part, or is intended to be a part of any motor vehicle, is stored or deposited, and
- any business and any place for storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highway or used parts of motor vehicles, and
- any place in or on which old iron, metal, glass, paper, cordage or other waste or discarded or second hand material which has been a part, or intended to be a part of any motor vehicle, the sum of which parts or materials shall be equal in bulk to two (2) or more motor vehicles, is stored or deposited, and
- any place or business for storage or deposit of motor vehicles for parts or for use of the metal for scrap or to cut up parts there-to, and
- any area containing Junk.
- the outdoor storage on a lot of two (2) or more wrecked or unregistered vehicles, or vehicles otherwise not in a condition for legal use on public highways, or parts of two (2) or more such vehicles, unless a greater number is authorized by the Commission in accordance with Section 3.6.G of these Regulations.

See Section 3.6.H, Accessory Outdoor Storage.

**Kennel** – An establishment maintained for boarding or grooming dogs or cats for commercial purposes, or the keeping of more than four (4) dogs over the age of eight (8) weeks for any purpose.

**Lighting-Related Definitions** – See Section 6.4.

**Livestock** - Includes such domestic animals such as horses, cows, goats and sheep, or the like, but excluding mink, household pets, and poultry. See Section 3.6.G of these Regulations.

**Lodging Establishments –**

**Bed and Breakfast** – A Single-Family Dwelling Unit occupied by an owner of record, providing as an accessory use temporary lodging and breakfast to transient guests for compensation.

**Hotel** – A Building designed to be used as the temporary lodging to transients for compensation, with or without meals. Such food services may include, as an Accessory Use, the serving of meals to the general public and shall not be operated independently of the Lodging Establishment. An Inn or Motel shall be considered a Hotel.

**Lot** – A Parcel of land capable of being lawfully built upon in conformity with these Regulations.

**Lot, Building** – A Parcel of land occupied, or intended to be occupied, by a Building or group of Buildings, and including such Yards as are provided by these Regulations.

**Lot, Corner** – A Lot situated at the intersection of two (2) Streets which meet at an angle of not more than one hundred thirty-five (135) degrees.

**Lot, Estate** – A Lot that does not have the required Frontage on a State or Town Road and is serviced by a Common Driveway.

**Lot, Front** – A lot conforming to the Frontage requirements of these Regulations.

**Lot, Interior** – A Lot that has less than the required Frontage on a Street. See Section 3.5.E.

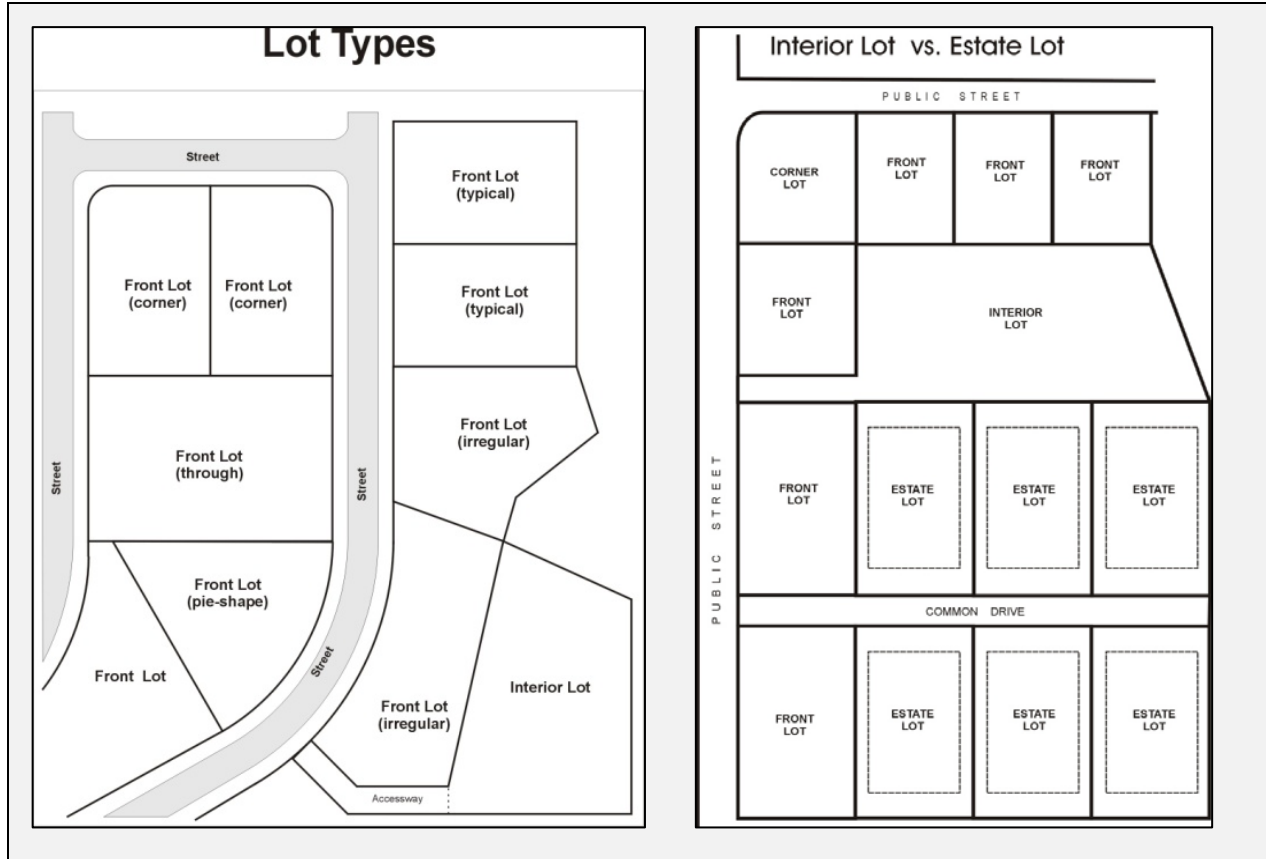
**Lot Line, Front** – That Lot Line being along the Street Line which that Lot abuts. In the case of an Interior Lot, that Lot Line being closest to the Street from which the Lot derives its principal access.

**Lot Line, Side** – Any Lot Line not a Front Lot Line or a Rear Lot Line extending directly or indirectly from the Front Lot Line.

**Lot Line, Rear** – The Lot Line which is roughly opposite of, and farthest from, the Front Lot Line, except that there should be no Rear Lot Line on a Corner Lot, Through Lot, or pie shape Lot.

**Lot, Through** – A Lot, other than a Corner Lot, having Frontage on two (2) or more Streets.

**Lot, Width** – The distance between the Side Lot Lines measured either along the front Street Line or the Building line.



**Manufacturing** – Engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials. Agricultural processing on Farms shall not be considered Manufacturing.

**Medical Office or Clinic** – An establishment where human patients are received for examination by one (1) or more physicians, dentists, surgeons and other health practitioners, psychologists or social workers and where patients are not lodged overnight. It may include as an Accessory Use for dispensing prescriptions, orthopedic equipment and general medical supplies.

**Mixed Use** – The Development of a Parcel or Building with a variety of Uses, limited to a mixture of commercial Uses, public Uses and/or housing.

**Mobile Home** – A Structure which is used as Principal living quarters and contains sleeping accommodations, a flush toilet, a tub or shower bath, kitchen facilities, and plumbing and electrical connections for attachment to outside systems; and which is designed for transportation after fabrication on Streets or highways. Manufactured Homes having as their narrowest dimension twenty-two (22) feet or more and built in accordance with federal Manufactured Home construction and safety standards shall not be considered a Mobile Home.

**Mobile Home Park** – A Lot containing two (2) or more Mobile Homes occupied for residential purposes.

**Motel** – See “Lodging Establishments.”

**Nonconforming** – The situation when a Use, activity, Building, Structure, or Lot does not conform to the requirements of these Regulations.

**Nonconforming Building** – A Building that does not conform to these Regulations with respect to size, area, Height, Minimum Yards or other requirements for the District in which it is situated.

**Nonconforming Lot** – A Lot which fails to conform to these Regulations with respect to area, Lot Width, or other requirements for the District in which it is situated.

**Nonconforming Structure** – A Structure that does not conform to these Regulations with respect to size, area, Height, Minimum Yards or other requirements for the District in which it is situated.

**Nonconforming Use** – A Use of land or of a Building that does not conform to these Regulations for the District in which it is situated.

**Nonconforming, Pre-Existing** – The situation where a Nonconforming Use, activity, Building, Structure, or Lot lawfully existed prior to the time these Regulations or amendments thereto which created the nonconformity became effective.

**Nursery School** – A type of Daycare Center.

**Nursing Home** – An establishment which furnishes, in single or multiple facilities, food and shelter to two (2) or more persons unrelated to the proprietor and, in addition, provides services which meet a need beyond the basic provisions of food, shelter and laundry. The terms “rest home” and “convalescent home” shall mean the same as Nursing Home.

**Occupy, Occupancy** - To take possession or enter upon for the purpose of using. When applied to a mobile home, to use for sleeping and dwelling purposes.

**Open Space** – Open Space is land that remains in its natural state or is used for Farming or Forestry, or a body of water or Watercourse that remains in its natural state. It is not developed for residential, commercial or government Use. The land typically provides non-facility-based passive recreational, scientific, educational, cultural or aesthetic Uses and amenities.

**Outdoor Advertising Sign** – See “Sign, Outdoor Advertising.”

**Package Liquor Store** – Any store for the retail sale of alcoholic beverages in packages, bottles, or other containers for consumption off the Premises.

**Parcel** – The land contained within one (1) continuous property line.

**Parking Area** – An area other than a Street used for the temporary parking of automobiles.

**Park** – An area set aside for active or passive recreation of the general public, to promote its health and enjoyment, and owned and operated by a government agency or a non-profit charitable entity.

**Parking Space** – The area required for the temporary storage of a motor vehicle, not including aisles and Driveways giving access thereto, located in other than a public Street and having a permanent means of access to a public Street without requiring passage through another Parking Space.

**Patio** – An outdoor area surfaced with concrete, brick or similar material placed directly on the ground.

**Patio, Open** – a Patio with no roof or other covering.

**Patio, Roofed** – a Patio with a fixed roof, including one made of canvas, plastic, or other fabric.

**Personal Services** – An establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of personal nature. Typical Uses include, but are not limited to, beauty and barber shops, shoe repair shops, and tailor shops.

**Plan of Conservation and Development** – That document or documents adopted by the Commission under the authority of Conn. Gen. Stats. Section 8-23, as the same may be amended from time to time.

**Porch** – An outdoor area attached to a Building or Structure, typically with a raised platform with a fixed roof or another platform above. It includes a roofed exterior landing. A Porch may be open air or with screened-in or glassed-in openings.

**Porte Cochere** – A roofed extension of a Building over a driveway that shelters passengers getting into and out of a vehicle.

**Premises** – The real property, either land or Buildings or both, which is being evaluated.

**Professional Office** – Any office for recognized professions such as doctors, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers and others, who through training or experience are qualified to perform services of a professional as distinguished from a business nature.

**Public Utility Facility** – Any Structure erected by a public service company, as that term is defined by Connecticut law, unless the location of said Structure is regulated by the Connecticut Siting Council. Power generating Structures or facilities are excluded from this definition.

**Religious Institution** – A place where persons regularly assemble for religious worship, and which is maintained and controlled by a religious body which is organized to sustain public worship.

**Research Laboratory** – An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development. Products are not manufactured primarily for wholesale or retail sale from the Premises; commercial servicing or repair of commercial products is not performed, and there is no display or sale of any materials or products on or from the Premises.

**Restaurant** – A business or Use where the principal function is the preparation and serving of food for the consumption on the Premises at tables, booths or similar sit-down accommodations.

**Restaurant, High-Turnover, Fast Food** – An establishment or Use where most customers order and are served their food at a counter in packages prepared to leave the Premises or to be taken to a counter or table to be consumed. The customers are served food or beverages primarily in paper, plastic or other disposable containers. This may include Drive-through windows per Sections 4.2.A and 4.5.F of these Regulations.

**Restaurant, Low Turnover** – An establishment or Use where the customers are served food or beverages when seated at tables or counters primarily in non-disposable containers.

## Section 2.2. Defined Terms

Take-out service is clearly incidental to the primary Permitted Use of serving customers seated at tables or counters. This includes taverns and other places licensed to sell alcoholic beverages. This excludes Restaurants with drive-through windows or curbside service.

**Retail Business** – A business whose primary activity is the sale of merchandise kept and displayed on the Premises to customers visiting the Premises.

**Retail Plaza** – See “Shopping Plaza”.

**Sawmill** – A facility or Premises where logs are sawn, split, shaved, stripped, chipped or otherwise processed to produce wood products for commercial purposes. See “Forestry.”

**School** – A private or public educational institution, certified by the State of Connecticut, which provides a comprehensive curriculum of academic instruction.

**Setback** – See “Yard Setback.”

**Sediment** – Solid material, either mineral or organic, that is in suspension, is transported or has been moved from its site of origin by erosion.

**Self Service Storage Facility** – A Building or group of Buildings divided into separate compartments which are leased or rented individually to meet the temporary storage needs of small businesses or residential Uses, and may include refrigerated facilities.

**Shopping or Retail Plaza** – A Building or group of Buildings on one (1) Parcel with more than one (1) Retail Business or Personal Service establishment.

### Sign Related Definitions –

**Sign** – Any letters, figures, design, symbol, trademark, or illuminating device and related background area designed as an integral part of such material which is intended to attract attention to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise whatsoever and painted, printed, or constructed and displayed in any manner whatsoever out of doors for recognized advertising purposes; any Building feature, including roof or other special illumination, special colors or effects, or Building or roof lines which serve to identify the Use or occupancy of any Building or site through a recognized motif or symbol. Interior Signs, if located on a window or within a distance equal to the greatest dimension of the window and if obviously intended for viewing from the exterior, shall be considered an exterior Sign for purposes of these Regulations.

**Sign Area** – The plane defined by one continuous perimeter of that rectangle, triangle, or circle having the smallest area which encompasses all the lettering, wording, design, or symbols together with any background different from the balance of the surface on which it is located, if such background is designed as an integral part of and related to the Sign. Such perimeter, however, shall not include any structural elements lying outside the limits of such Sign and not forming an integral part of the display. For the purposes of these Regulations, two (2) sided Signs where the sides are back-to-back and located no more than eighteen inches apart and parallel, shall be considered to have only one (1) Sign face.

**Sign, Flashing** – Any Sign in which or upon which artificial light is not maintained stationary and constant in intensity and color at all times and specifically including Signs that scroll, alternate, or otherwise move or change a message using lighting, screens, projections, or moving parts of any kind; excluding time or temperature Signs approved in accordance with

these Regulations.

**Sign, Freestanding** – Any Sign supported by uprights, braces or poles, and not attached to any part of any Building.

**Sign, Moving** – Any portion, feature, or component of any Sign, which is not fixed or stationary, or which is capable of any movement whatsoever; excluding barber poles and clocks.

**Sign, Outdoor Advertising** – A Sign, including that type of Sign commonly known as a "billboard", which directs the attention of the viewer to a business, commodity, service, entertainment, or other Use which is conducted, sold, offered, or occurring, either presently or in the future, at a location different from the Lot upon which such Sign is displayed, or only incidentally occurring upon such Lot.

**Sign, Portable** – A Sign that is not permanent and is not affixed to a Building, Structure or the ground.

**Sign, Projecting** – A Sign, other than a Wall Sign, which projects from and is supported by a wall of a Building.

**Sign, Kiosk** – Open Structure with one (1) or more sides used to house a poster Sign or Signs.

**Sign, Rooftop** – A Sign located on or above the roof or Eave line of any Building.

**Sign, Sky** – Any Sign suspended in the air by means of a balloon or other lighter-than-air device.

**Sign, Temporary** – A Sign or advertising display intended to be displayed for no more than 30 consecutive days.

**Sign, Wall or Building Mounted** – A Sign affixed directly to an exterior wall and confined within the limits thereof of any Building and which does not project from that surface more than three (3) feet and does not overhang any public right-of-way.

**Soil** – Any unconsolidated mineral or organic material of any origin.

**Small Wind Energy System** – A tower-mounted wind energy system which provides energy only to the Premises, and which has a maximum rated output of electric power production of no greater than 60 kilowatts (also referred to as the Rated Nameplate Capacity).

**Soil Erosion and Sediment Control Plan** – A scheme that minimizes soil erosion and sedimentation resulting from Development and includes, but is not limited to, a map and narrative.

**Stormwater Management Plan** – Plan in accordance with Section 6.8 of these Regulations describing the potential water quality and quantity impacts associated with a Development project both during and after construction. It also identifies selected source controls and treatment practices to address those potential impacts, the engineering design of the treatment practices, and maintenance requirements for proper performance of the selected practices. See Section 6.8 of these Regulations.

**Stormwater Management Terms, Definitions** - See Section 6.8.B of these Regulations.

## Section 2.2. Defined Terms

**Story** – A part of a Building or other Structure between any floor and the finished floor above or, in its absence, the ceiling or roof above. Unless specified elsewhere in these Regulations, a Basement shall be considered a Story if it is three (3) feet or more above the Grade Plane and an Attic is a Story if the Height of the Attic is five (5) feet or greater.

**Street** – A public roadway laid out and maintained in accordance with the laws of the State of Connecticut and the ordinances of the Town of New Hartford, used or designed to be used for travel of vehicles and including the right-of-way and the traveled way.

**Street, Arterial** – A Street that carries relatively high volumes of through traffic and may also provide access to abutting properties. In New Hartford, Arterial Streets are Route 44, Route 202 and Route 219.

**Street, Collector** – A Street that carries traffic from Local Streets to Arterials and to activity points within the Town and in neighboring communities. Collector streets in New Hartford include: West Hill Rd, Niles Rd, Cedar Ln, Bruning Rd, E. Cotton Hill, Shafer Rd, Harmony Hill, Central Ave, Steele Rd, Southeast Rd, Ratlum Rd, Holcomb Hill, Greenwoods rd (Section from 219 to Holcomb Hill only), Harrison Rd, Tarringford East, South Rd, and Cotton Hill, Stedman Rd, Behrens Rd, Richards Rd, Hoppen Rd, Gillette Rd, Black Bridge Rd, Ramstein Rd, West Rd, Maple Hollow Rd, and Dings Rd.

**Street, Local** – A Street that carries traffic from a Collector Street to individual properties. All paved and unpaved Streets in New Hartford not listed as an Arterial or Collector Street - are classified as Local Streets.

**Street, Private** – A Common Driveway approved by the Commission in accordance with Section 3.5.G (Estate Lots) or in accordance with the New Hartford Subdivision Regulations, which may serve more than three (3) residential lots.

**Street Line** – The dividing line between the Street and the Lot. Where such line has not been established, it is deemed for purposes of these Regulations to be a line parallel to and twenty-five (25) feet distant from the center line of the traveled surface.

**Structure** – A Structure is anything constructed or erected which requires location on the ground or is attached to something having a location on the ground.

**Structure, Accessory** – Structure customarily and reasonably incidental to a permitted Principal Use.

**Trailer, Hauling** – A vehicle which can be drawn by or carried on a motor vehicle, whether on temporary or permanent supports, designed to be used for hauling materials or goods. Compare to "Mobile Home."

**Trailer, Camping** – See "Camping Vehicle" and "Mobile Home."

**Trailer, Construction** – A vehicle or structure standing on wheels, whether towed or hauled by another vehicle or self-propelled, used as a temporary business or construction office—or the carrying or storage of construction-related materials or equipment, in accordance with Section 7.3 of these Regulations.

**Use** – The specific purpose for which land or a Building is designed, arranged, intended, or for which it is or may be occupied and maintained.

**Use, Accessory** – A Use subordinate and customarily incidental to the principal Building, Structure, or Use on the same Lot.

**Use, Permitted** – A Use allowed by these Regulations, but specifically excluding any Nonconforming Use.

**Use, Principal** – The primary or predominant Use of any Lot or Building.

**Veterinary Hospital** – A Building or group of Buildings dedicated to health care services for domestic animals and/or household pets.

**Wall** – A barrier constructed of stone or other masonry and may be freestanding erected to enclose, separate, screen, or buffer areas of land; or may be a retaining structure for the purpose of holding earth material in place.

**Warehousing** – A Use engaging in storage, Wholesale, or distribution of manufactured products, supplies and equipment, excluding bulk storage of materials that are inflammable or explosive or that present hazards.

**Watercourse** – “Watercourses” as defined in CGS 22a-36.

**Wetlands** – “Wetlands” as defined in CGS 22a-36.

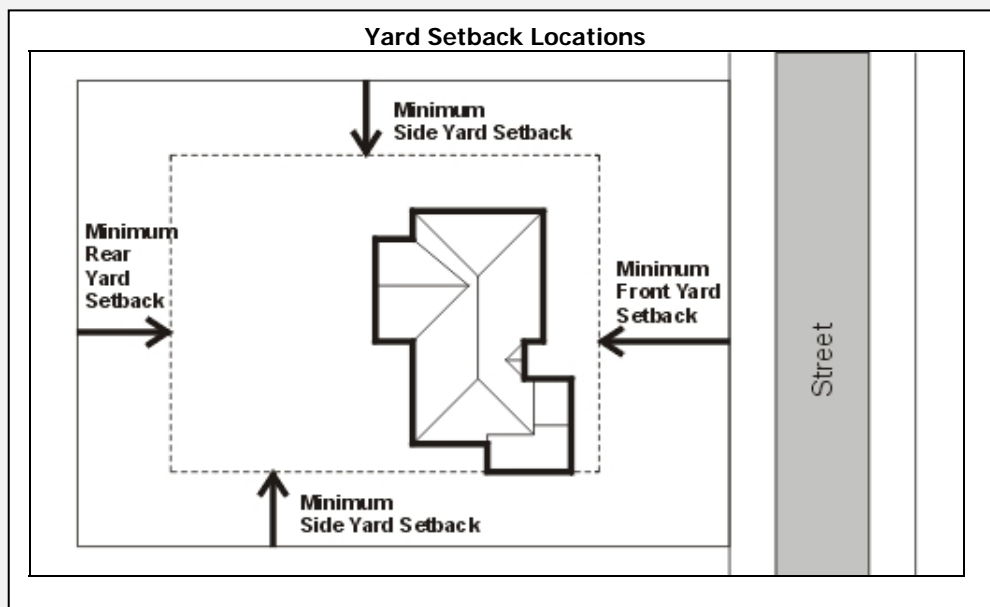
**Wholesale Business** – The sale of merchandise or other commodities solely to Retail Businesses, dealers or trades people and excluding the sale of merchandise or commodities directly to the general public.

**Yard, Minimum Setback** – An unoccupied space on the same Lot with a Building, which unoccupied space lies between the Building and the nearest Lot line.

**Yard, Minimum Front Setback** – The open unoccupied space required across the full Lot Width from the Street Line to the Building line.

**Yard, Minimum Rear Setback** – The open unoccupied space required across the full Lot Width between the rearmost Structure and the Rear Lot Line.

**Yard, Minimum Side Setback** – The open unoccupied space required between the Side Lot Lines and any Building, and extending from the Minimum Front Yard to the Minimum Rear Yard.



**Zone** – See "District."

**Zoning Board Of Appeals** – That agency exercising the powers conferred by Connecticut General Statutes Section 8-5, et. Seq., by Title 14 of the General Statutes, and by these Regulations.

**Zoning Enforcement Officer** – That person or persons, or his/her designee, exercising the powers conferred by Connecticut General Statutes Section 8-12 and by these Regulations. See Section 8.2.

**Zoning Permit** – A permit issued by the Zoning Enforcement Officer prior to the commencement of construction of a building or structure, or the establishment of any use, in accordance with Section 8.2 of these Regulations. Compare to "certificate of zoning compliance."

# ARTICLE 3 – RESIDENCE DISTRICTS

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## SECTION 3.1. PURPOSES

### A. R-4 Residence District

The purpose of this Residence District shall be to establish low housing density requirements around West Hill Pond consistent with the recommendations of the Plan of Conservation and Development.

### B. R-2 Residence District

The purpose of this Residence District shall be to establish low housing density requirements consistent with the recommendations of the Plan of Conservation and Development in areas not served by public water supply or public sanitary sewage system where there are environmental constraints for Development or the area is part of a public water supply watershed.

### C. R-1.5 Residence District

The purpose of this Residence District shall be to establish moderate housing density requirements consistent with the recommendations of the Plan of Conservation and Development in areas not served by public water supply or public sanitary sewage system

### D. R-30 Residence District

The purpose of this Residence District shall be to establish moderate density requirements consistent with historic Development patterns and with the recommendations of the Plan of Conservation and Development.

### E. R-15 Residence District

The purpose of this Residence District shall be to establish higher density requirements consistent with historic Development patterns and with the recommendations of the Plan of Conservation and Development.

## SECTION 3.2. PERMITTED PRINCIPAL USES AND STRUCTURES

### A. Residential Uses

A – Allowed without a permit  
 ZP – Requires zoning permit  
 Blank – Not permitted

SP – Requires Site Plan (may also require ZP)  
 SE – Requires Special Exception (may also require ZP)  
 SUB – Subdivision Application

Use	R-4	R-2	R-1.5	R-30	R-15	Additional Regulations
1. Single-Family Dwelling	ZP	ZP	ZP	ZP	ZP	
2. Two-Family Conversion				SE	SE	3.5.A
3. Two-Family Dwelling (new)				SE	SE	3.5.B
4. Multi-Family Conversion					SE	3.5.C
5. Multi-Family Dwelling (new)						
6. Age Restricted Housing				SE	SE	
7. Congregate Housing				SE	SE	
8. Conventional Subdivision	SUB	SUB	SUB	SUB	SUB	
9. Open Space Development	SE	SE	SE	SE	SE	3.5.D
10. Interior Lot	SE	SE	SE	SE	SE	3.5.E
11. Estate Lots	SE	SE				3.5.G
12. Community Residential Facility	ZP	ZP	ZP	ZP	ZP	
13. Community Residential Facility, within one thousand (1,000) feet of another such Facility	SE	SE	SE	SE	SE	

### B. Agricultural Uses

A – Allowed without a permit  
 ZP – Requires zoning permit  
 Blank – Not permitted

SP – Requires Site Plan (may also require ZP)  
 SE – Requires Special Exception (may also require ZP)

Use	R-4	R-2	R-1.5	R-30	R-15	Additional Regulations
1. Commercial Horse Stable, Riding or Training School	SE	SE	SE	SE	SE	3.5.H
2. Farm	A	A	A	A	A	3.5.I
3. Farm Stand, Minor	ZP	ZP	ZP	ZP	ZP	3.5.J
4. Farm Stand, Major under three hundred fifty (350) square feet	SP	SP	SP	SP	SP	3.5.J
5. Farm Stand, Major over three hundred fifty (350) square feet	SE	SE	SE	SE	SE	3.5.J
6. Farmers Market	SP	SP	SP	SP	SP	7.3.B

### C. Public or Institutional-Type Uses

A – Allowed without a permit

ZP – Requires zoning permit

Blank – Not permitted

SP – Requires Site Plan (may also require ZP)

SE – Requires Special Exception (may also require ZP)

Use	R-4	R-2	R-1.5	R-30	R-15	Additional Regulations
1. Public School	SE	SE	SE	SE	SE	
2. Public Library	SE	SE	SE	SE	SE	
3. Government Building	SE	SE	SE	SE	SE	
4. Educational / Instructional Use (other than a public School)	SE	SE	SE	SE	SE	
5. Philanthropic & Charitable Institution	SE	SE	SE	SE	SE	
6. Religious Institution	SE	SE	SE	SE	SE	
7. Nursing Home			SE	SE	SE	3.5.K
8. Public Park, Passive	SP	SP	SP	SP	SP	
9. Public Park & Playground, with improvements	SE	SE	SE	SE	SE	
10. Cemetery	SE	SE	SE	SE	SE	
11. Public Utility Facilities & Buildings, for which the location regulated by a State or Federal entity*	ZP	ZP	ZP	ZP	ZP	
12. Public Utility Facilities & Buildings, for which the location is not regulated by a State or Federal entity	SE	SE	SE	SE	SE	

\* For information on regulated utilities see Connecticut Siting Council web site ([ct.gov/csc](http://ct.gov/csc)) and Chapters 277 to 289 of the Connecticut General Statutes.

Section 3.2. Permitted Principal Uses and Structures

**D. Other Uses**

A – Allowed without a permit  
 ZP – Requires zoning permit  
 Blank – Not permitted

SP – Requires Site Plan (may also require ZP)  
 SE – Requires Special Exception (may also require ZP)

<b>Use</b>	<b>R-4</b>	<b>R-2</b>	<b>R-1.5</b>	<b>R-30</b>	<b>R-15</b>	<b>Additional Regulations</b>
1. Outdoor Recreational Use including Country Club	SE	SE	SE	SE	SE	
2. Bed and Breakfast	SE	SE	SE	SE	SE	3.5.L
3. Aircraft landing field	SE	SE	SE			
4. Heliports, private landing field and hanger	SE	SE	SE	SE	SE	
5. Day Care Center	SE	SE	SE	SE	SE	

## SECTION 3.3. PERMITTED ACCESSORY USES AND STRUCTURES

### A. Accessory Structures

A – Allowed without a permit  
 ZP – Requires zoning permit  
 Blank – Not permitted

SP – Requires Site Plan (may also require ZP)  
 SE – Requires Special Exception (may also require ZP)

Structures	R-4	R-2	R-1.5	R-30	R-15	Additional Regulations
1. Attached or Detached Accessory Structure, including ground mounted solar panels	ZP	ZP	ZP	ZP	ZP	3.4.F
2. Small Wind Energy System						
3. Hauling Trailer or unoccupied Camping Vehicle	A	A	A	A	A	Must meet setback requirements
4. Construction Trailer or Camping Vehicle or mobile home, temporary	ZP	ZP	ZP	ZP	ZP	3.6.B

### B. Accessory Uses

A – Allowed without a permit  
 ZP – Requires zoning permit  
 Blank – Not permitted

SP – Requires Site Plan (may also require ZP)  
 SE – Requires Special Exception (may also require ZP)

Uses	R-4	R-2	R-1.5	R-30	R-15	Additional Regulations
1. Accessory Dwelling Unit	SE	SE	SE	SE	SE	3.6.C
2. Accessory Dwelling Unit, affordable per CGS 8-30g	ZP	ZP	ZP	ZP	ZP	3.6.C
3. Family Day Care	A	A	A	A	A	
4. Group Day Care	SP	SP	SP	SP	SP	
5. Home Office	A	A	A	A	A	3.6.D
6. Home Occupation	SE	SE	SE	SE	SE	3.6.E
7. Contractor Shop and Storage, Accessory Residential Use	SE	SE	SE	SE	SE	3.6.F
8. Storage of one (1) Commercial Vehicle per Dwelling Unit (Agricultural vehicles are exempt)	A	A	A	A	A	
9. Accessory Use of a Religious Institution, School or library	SE	SE	SE	SE	SE	
10. Sawmill, Accessory to Forestry	SE	SE	SE	SE	SE	
11. Kennel	SE	SE				4.5.E

## SECTION 3.4. AREA AND DIMENSIONAL REQUIREMENTS

All Lots created and all Buildings erected or Altered in a residential District shall conform to the requirements in this Section in addition to additional requirements that a Use may be subject to in these and other regulations.

### A. Density Requirements

	R-4	R-2	R-1.5	R-30	R-15
<b>Maximum Density, Subdivisions*</b> (Lots per acre of buildable area)	0.18	0.35	0.46	n/a	n/a

\* Any fractional remainder is rounded down to the next lower whole number. No Parcel of land or Lot shall have the density factor reapplied once the maximum Lot yield has been reached for the Parcel of land that existed as of March 1, 2007.

Maximum Density Example:

A Parcel of land in the R-2 District with 20 acres of land total and 17 acres of buildable land:

$$17 \text{ acres of Buildable Land} \times .35 \text{ density factor} = 5 \text{ Lots maximum}$$

The preceding Density Requirements shall be applied to the parcel that is within the proposed subdivision or resubdivision, excluding prior subdivisions out of the "root" parcel or "first cuts" per Conn. Gen. Stats. Section 8-18.

### B. Lot Requirements

	R-4	R-2	R-1.5	R-30	R-15
<b>Minimum Lot Area</b> (square feet)	174,240 (4 acres)	87,120 (2 acres)	65,340 (1.5 acres)	30,000	15,000
<b>Minimum Buildable Land Area</b> (acre)	1	1	1	n/a	n/a
<b>Minimum Lot Width</b> (feet)	200	200	150	125	100

### C. Minimum Yard Setback Requirements

	R-4	R-2	R-1.5	R-30	R-15
<b>Minimum Front Yard Setback *</b> (feet)					
- Collector Street, Arterial Street	100	100	80	80	40
- Local Street	50	50	50	40	40
<b>Minimum Side Yard Setback</b> (feet)	20	20	20	10	10
<b>Minimum Rear Yard Setback</b> (feet)	50	50	50	40	40

\*A Corner Lot shall maintain the front yard setback requirements for the Street on which the principal Building faces, and 65% of the front yard setback requirements for the Street on its side.

See Section 3.4.F.1 for yard requirements for Accessory Structures.

## D. Building Requirements

	R-4	R-2	R-1.5	R-30	R-15
<b>Maximum Bldg. Coverage (%)</b>	10	10	10	10	10
<b>Maximum Bldg. Height (feet)</b>	35	35	35	35	35
<b>Maximum Floor Area Ratio</b>	.05	.10	.10	.10	.15

## E. Features that Count to Building Coverage, Floor Area Ratio, and Yard Setbacks

	Counts to Building Coverage	Minimum Yards Apply	Floor Area Ratio
<b>1. Principal Building(s)</b>			
a. the surface area covered by the Principle Structure, including attached garage on the Lot, as measured to the outside surface of the exterior walls, except for anything specifically excluded in this table.	Yes	Yes	Yes
b. cantilevered portions of the Building which extend more than twenty-four (24) inches from the outermost wall.	Yes	Yes	Yes
c. the Gross Floor Area of Cellar	Included in Main Building	Yes	No
d. the Gross Floor Area of Basement	Included in Main Building	Yes	Yes
e. the Gross Floor Area of a detached garage	Yes	Yes	No
<b>2. Building Features</b>			
<b>Roof Eaves / Overhangs</b>			
a. if the portion projects less than twenty-four (24) inches from the wall of the Building	No	No	No
b. if the portion projects more than twenty-four (24) inches from the wall of the Building	Yes	Yes	No
<b>Chimneys</b>			No
c. if the chimney projects no more than thirty (30) inches from the wall of the Building and the chimney is no more than seven and a half (7.5) feet wide	No	No	No
d. if the criteria in 2.c is not met	Yes	Yes	
<b>Bow or Bay Windows</b>			No
e. if the bow or bay window portion, including any eave overhang of the window, projects no more than twenty-four (24) inches from the wall of the Building	No	No	No
f. if the bow or bay window portion, including any eave overhang of the window, projects more than twenty-four (24) inches from the wall of the Building	Yes	Yes	No
<b>Other Building Features</b>			
g. gutters and leaders	No	No	No

Section 3.4. Area and Dimensional Requirements

	Counts to Building Coverage	Minimum Yards Apply	Floor Area Ratio
h. columns, brackets, and pilasters if:	No	No	No
i. such features are no more than twenty-four (24) inches wide, and			
ii. no portion projects more than twelve (12) inches from the wall of the Building			
i. columns, brackets, and pilasters if any of the criteria in 2.h are not met	Yes	Yes	No
j. other minor architectural features if no portion projects more than twelve (12) inches from the wall of the Building	No	No	No
k. other architectural features if any of the above criteria are not met	Yes	Yes	No
<b>3. Exterior Features</b>			
<b>Drives / Walks</b>			
a. Driveway	No	No	No
b. Porte Cocheres or covered driveways	Yes	Yes	No
c. uncovered walkways	No	No	No
d. covered walkways and Breezeways as measured to the outside surface of the exterior walls or columns	Yes	Yes	No
<b>Fences / Walls</b>			
e. fences six (6) feet or less in height	No	No	No
f. fences greater than six (6) feet in height (requires Special Exception see Section 3.4.F.2)	No	No	No
g. Wall six (6) feet or less in height	No	No	No
h. Wall more than six (6) feet in height (may require Special Exception see Section 3.4.F.2)	No	No	No
<b>Balconies / Decks / Patios</b>			
i. Balconies provided:	No	No	No
i. no portion projects more than twenty-four (24) inches from the wall of the Building, and			
ii. the balcony is not more than seven and a half (7.5) feet wide.			
j. Balconies if criteria in 3.i are not met	Yes	Yes	Yes
k. Decks	Yes	Yes	No
l. Open Patios	No	No	No
m. Roofed Patios	Yes	Yes	No
n. Awnings	No	No	No
o. Landscaped terrace including retaining walls up to six (6) feet height, walks, trellises, pergolas, etc.	No	No	No

Section 3.4. Area and Dimensional Requirements

	Counts to Building Coverage	Minimum Yards Apply	Floor Area Ratio
<b>Porches / Gazebos</b>			
p. Porches or roofed exterior landings, measured to edge of platform	Yes	Yes	Yes
q. Closed Porches	Yes	Yes	Yes
r. Gazebos	Yes	Yes	No
<b>Steps / Stoops / Entries</b>			No
s. exterior steps, stairs, landings	No	Yes	No
t. entryways for below grade access attached to the main Building (i.e. - basement hatchway doors)	No	Yes	No
<b>Recreation Facilities</b>			No
u. Swimming pools, hot tubs	No	Yes	No
v. tennis courts, basketball courts, sports courts, or similar recreation surfaces	No	Yes	No
<b>Other Features</b>			No
w. Accessory Building (s) measured to the outside surface of the exterior walls (see Section 3.4.F)	Yes	See 3.4.F	No
x. Ground-mounted solar panels	No	See 3.4.F	No
y. Minor accessory structures less than one hundred (100) square feet, such as playscapes and tree houses.	No	No	No
z. Small accessory or ornamental features such as bird baths, well casings, etc.	No	No	No
aa. dish antenna mounted off ground on a base or riser on the ground	No	Yes	No
bb. above ground propane tank	No	Yes	No
cc. emergency generator, exterior HVAC equipment, pool equipment	No	Yes	No
dd. concrete pads for emergency generator, exterior HVAC equipment, pool equipment	No	No	No

**F. Accessory Structures**

1. **Location** – Unless greater requirements are specified elsewhere in these Regulations, Accessory Structures associated with a residential Principal Use in a residential district, including solar panels, shall meet setback and building requirements for a Principal Structure except an Accessory Structure may be located within the Side Yard or Rear Yard Setback if the Structure is:
  - a. located to the rear of the Principal Building, and
  - b. located a minimum of five (5) feet from the property line, and
  - c. not used for human habitation or for housing animals.

## Section 3.4. Area and Dimensional Requirements

- d. has a height of less than fifteen (15) feet if located within the Side Yard or Rear Yard Setback.

### 2. Height

- a. See the previous section re Accessory Structures located within the Side Yard or Rear Yard Setback. Accessory Structures which comply with Side Yard and Rear Yard Setback for the District shall not exceed the height for Principal Structures in the District.
- b. Fences or walls greater than six (6) feet in Height shall require a Special Exception.
- c. A barn may be up to thirty-five (35) feet in Height. A greater Height may be allowed by Special Exception.

3. **Corner Lots** – All Accessory Structures shall maintain Front Yard requirements for both Street Frontages.

## G. Corner Visibility Requirements

No planting, Structure, Fence, walls or other obstructions to vision more than three (3) feet in Height shall be placed or maintained within the triangular area formed by the intersecting Street Lines and a straight line connecting points on said Street Lines, each of which point is twenty-five (25) feet distant from the point of the intersection.

## H. Exceptions to Area, Height, and Yard Setback Requirements

1. **Lots of Record** – A Single-Family Dwelling and Accessory Buildings may be erected in a residential District on a Lot having an area or Lot Width less than required, provided:
  - a. Such Lot shall have been recorded by deed or shall have been shown on a map approved by the Commission and filed in the Town Clerk's Office prior to the effective date of these Regulations which would otherwise make such Building unlawful, and
  - b. All other requirements of the Height, area and Yard Setback requirements are complied with, except that this provision shall not apply to any undeveloped Lot approved pursuant to the New Hartford Subdivision Regulations and Zoning Regulations as in force at the time of such approval, pursuant to Connecticut General Statutes Section 8-26a(b).
2. **Height Exceptions** – Unless otherwise provided in these Regulations, the provisions of these Regulations limiting the maximum Height of Buildings shall not apply to restrict the Height of Uses permitted by these Regulations and which may include a Church spire, tower, belfry, flagpole, radio tower, radio or television antenna, chimney, or water tank, provided that such features shall only be erected to such Heights as are necessary to accomplish the purpose they are intended to serve upon the issuance of a Zoning Permit, but in no event greater than fifty (50) feet in Height unless a greater Height is allowed by Special Exception.
3. **Exceptions to Yard Setbacks** – Nothing in these Regulations shall prohibit the planting or landscaping of such Yard Setbacks.

## **SECTION 3.5. SPECIAL USE PROVISIONS**

### **A. Two-Family Conversion**

When allowed by these Regulations, the conversion to a Two-Family Dwelling requires a Special Exception and shall meet the following requirements:

1. Only a Single-Family Dwelling Unit existing on the effective date of zoning in New Hartford, being June 3, 1957 may be converted to a Two-Family Dwelling.
2. The conversion of a Single Family Dwelling to a Two-Family Dwelling shall not be allowed on a Lot that is less than the minimum area required for the District in which it is located.
3. The minimum Lot area is thirty thousand (30,000) square feet and contain at least ten thousand (10,000) square feet of pervious surface coverage.
4. After conversion, such dwelling shall retain substantially its original character and appearance as Single-Family residence.

### **B. Two-Family Dwelling Unit – New Construction**

When allowed by these Regulations, Two-Family Dwellings require a Special Exception and shall meet the following requirements:

1. The construction of new Two-Family Dwelling shall not be allowed on a Lot that is less than the minimum area required for the District in which it is located.
2. In the R-15 District, the Lot shall have a minimum area of five thousand (5,000) square feet of Pervious Surface coverage. In an R-30 District, the Lot shall have a minimum area of ten thousand (10,000) square feet Pervious Surface Coverage.
3. Off-Street Parking Spaces shall not be located in front of the Building.

### **C. Multi-Family Dwelling Unit Conversion**

When allowed by these Regulations, Multi-Family Dwellings require a Special Exception and shall meet the following requirements:

1. The minimum Lot size is three thousand seven hundred fifty (3,750) square feet for each Dwelling Unit in the Building after conversion.
2. The Lot shall have a minimum area of five thousand (5,000) square feet of Pervious Surface Coverage.
3. A maximum of four (4) units shall be allowed.
4. The Building shall have been in existence as of the effective date of these Regulations (June 3, 1957).

## D. Open Space Development

1. **Purpose** – This Section of the Zoning Regulations is intended to accomplish the following purposes:
  - a. Encourage and enable a Residential Development which is in keeping with the overall residential density and Open Space objectives of these Regulations, but which departs from the strict application of certain of the requirements.
  - b. Permit a creative approach to the Development of residential land by avoiding the conventional gridiron pattern.
  - c. Accomplish a more desirable environment than would be possible under the strict application of the requirements of the existing residential regulations.
  - d. Provide for the most effective Use of land, and thus prevent the effects of urban congestion and monotony.
  - e. Enhance the appearance of neighborhoods through the preservation of natural features and Open Space.
  - f. Provide Structure to neighborhood design, add to the sense of spaciousness and encourage participation by all age groups in the use and care of local Open Space tracts within the new residential subdivisions.
  - g. Help promote the public health, safety, and welfare of the people residing nearby, and to aid in stabilizing property values.
  
2. **Application Requirements**
  - a. In Districts where an Open Space Development is permitted, the applicant shall submit a subdivision application and Special Exception application for Open Space Development. Such applications shall meet the standards and requirements of this Section, in addition to those of the Subdivision Regulations. The preferred development pattern is an Open Space Development. Where the applicant seeks a Conventional Subdivision, the applicant shall submit both a Conventional Subdivision plan and an Open Space Subdivision plan in order to determine the most appropriate pattern for the subject property. The Commission, after review of the alternative plans, may waive the Open Space Development requirement and may allow a Conventional Subdivision.
  - b. Where the applicant seeks or the Commission requires an Open Space Development, the applicant shall submit an application for a Special Exception in addition to a subdivision application.

### 3. Standards

- a. There shall be no minimum overall Parcel size for an Open Space Development.
- b. The minimum Lot size for Lots established in an Open Space Development shall be as stated in the table.
- c. The maximum number of Lots shall be determined for each district as specified in Section 3.4.A, Density Requirements.
- d. Interior Lots shall generally be discouraged in an Open Space Development unless the Commission finds that such Lots will help achieve the purposes of this Section.
- e. Except as provided in the following table, the Lot shall conform to all requirements of the District in which it is located.

	<b>R-4</b>	<b>R-2</b>	<b>R-1.5</b>	<b>R.30</b>	<b>R-15</b>
<b>Minimum Lot Area</b> (square feet)	60,000	40,000	30,000	15,000	10,000
<b>Minimum Buildable Land Area</b> (square feet)	30,000	30,000	30,000	Not required	
<b>Buildable Land Shape</b>	Rectangle with no side less than 100 feet			Not required	
<b>Minimum Lot Width</b> (feet)					
- Collector Street, Arterial Street	200	200	150	125	100
- Local Street	100	100	100	100	75
<b>Minimum Front Yard Setback</b> (feet)					
- Collector Street, Arterial Street	100	100	80	80	40
- Local Street	25	25	25	20	20
<b>Minimum Side Yard Setback</b> (feet)	20	20	20	10	10
<b>Minimum Rear Yard Setback</b> (feet)	25	25	25	20	20
<b>Maximum Building Coverage</b> (%)	20	20	20	20	20
<b>Minimum Open Space in Subdivision</b> (% of total land area)	50	50	50	40	30

### 4. Requirements for Open Space

- a. All land in excess of the Building Lots and rights-of-way shall be reserved as one (1) or more permanent Open Spaces for conservation, recreation, and the general enjoyment as follows:
  - i. Unless modified by the Commission, such Open Space shall be readily accessible to Dwelling Units by Street or pedestrian way.
  - ii. Where required by the Commission, such Open Space shall have adequate vehicular access for service and maintenance.
- b. Unless modified by the Commission, the land so reserved shall either be deeded to the Town, or with consent of the applicant, to the New Hartford Land Trust or another conservation organization acceptable to the Commission on such a basis as will insure that such land will be properly maintained and will remain as Open Space in perpetuity.

5. **Special Exception Decision Considerations** – Where a Special Exception is required, the Commission shall make the following findings in addition to those findings required for a Special Exception in Section 8.5:
  - a. The Open Space Development is in conformance with the requirements of this Section and the Subdivision Regulations.
  - b. There will be a significant community benefit resulting from the additional Open Space that is being preserved in perpetuity, such as:
    - i. protection of important natural or scenic resources;
    - ii. preservation of a sizable area of Open Space;
    - iii. preservation of areas along Town or State roads that will protect rural appearance or character; or,
    - iv. establishment of an Open Space corridor or greenway or interconnection of existing Open Spaces; and/or provision for public access.

## E. Interior Lot

When allowed by these Regulations, an Interior Lot requires a Special Exception and shall meet the following requirements:

### 1. Requirements for Lot

- a. The minimum Lot area for an Interior Lot shall be double the minimum Lot area of the residential District in which the Lot is located. This requirement may be waived by the Commission if the applicant can clearly demonstrate that down-sizing the Interior Lot requirement will result in preservation of a natural resource feature or other significant natural or cultural feature, view or vista that would not be so protected under the Conventional subdivision requirement. Such natural resource, significant natural or cultural feature, view or vista shall be as recommended in the Plan of Conservation and Development or as documented in the application in writing by a qualified expert. The application shall clearly delineate on the site Development plan the land, water, historic and/or other cultural feature that will be preserved and shall also include legal documentation assuring its permanent protection.
- b. In no instance shall the Lot area be less than two (2) acres.
- c. The required minimum Lot Width for the Interior Lot shall be double the Lot Width required in the residential District in which the Lot is located.
- d. No more than two (2) Interior Lots with access to the same Street may have contiguous boundaries.
- e. In a re-subdivision/subdivision the incidence of Interior Lots shall not exceed one (1) Lot or twenty-five percent (25%) of the number of Lots for which re-subdivision/subdivision approval is sought, whichever is greater.

### 2. Access Requirements

- a. The Interior Lot shall have access to a public Street by means of an unobstructed and unencumbered accessway, fee simple title to which is vested in the owner of the Interior Lot, and which accessway shall be used for the vehicular driveway serving the Interior Lot.
- b. The accessway shall be at least twenty (20) feet wide at all points and no more than five hundred (500) feet long, measured at the shortest distance between the Street Line and

the Front Lot Line of the Interior Lot. If the Interior Lot is more than four (4) times the minimum area requirements of the residential District in which the Lot is located, then such accessway shall be at least fifty (50) feet wide to provide for the possible future construction of a road meeting Town requirements and specifications.

- c. The grade and alignment of such accessway shall be adequate for a Driveway that can permit safe and convenient access to the Lot.
  - d. All Interior Lot driveways shall conform to Town Ordinance 02-2, An Ordinance Concerning Driveway Standards and Permitting.
  - e. No two (2) accessways to Interior Lots shall be closer to each other than the required minimum Frontage measured along the Street Line, unless such accessways are contiguous.
3. **Decision Considerations** – In granting such Special Exception, the Commission shall determine that:
- a. the Interior Lot provides the best Development of the land in relation to the topography and /or shape of the Parcel;
  - b. the creation of an Interior Lot will not impede the extension of the Street/utility system as provided for in the Plan of Conservation and Development or as otherwise desirable for traffic circulation, public safety access, or access to adjoining properties for future Development; and,
  - c. the location of and access to the Interior Lot or Lots in relation to other surrounding Lots and the existing and/or proposed Street system provides for safe and convenient access, especially for emergency purposes.

## F. Shared Driveway Provisions

The Commission may by Special Exception permit an Interior or Frontage Lot to share an access with no more than three (3) Lots provided that:

- 1. Such Driveway has a minimum width of eighteen (18) feet.
- 2. Such Driveway is graveled, asphalted, or otherwise constructed so as to permit access by fire apparatus or other emergency vehicles.
- 3. Along with an application for a Special Exception, the applicant shall submit an easement for the Shared Driveway. The easement shall be based upon the model language provided in Appendix 3. Easements not in accordance with Appendix 3 will be reviewed by the Commission's Attorney at the applicant's cost.
- 4. The approved deed or covenant shall be filed with the Town Clerk.
- 5. The applicant demonstrates that each lot is capable of being served by a driveway that complies with Town Ordinance 02-2, An Ordinance Concerning Driveway Standards and Permitting, but that it is preferable to have a shared driveway in order to preserve existing topography, reduce adverse impacts on natural resources, or provide better sight lines at the Street Line.

## G. Estate Lots

When allowed by these Regulations, Estate Lots require a Special Exception and shall meet the following requirements:

1. **Purpose** – The purpose of Estate Lots is to preserve the Town’s rural character by reducing the need for Town-owned Streets, provided the health and safety of the residents is protected.
2. **Requirements for Subdivisions**
  - a. Not more than six (6) Estate Lots and two (2) Front Lots shall be served by any one (1) Private Street.
  - b. The Estate Lots shall be double the minimum Lot size requirements in the Districts.
  - c. The Estate Lots shall have a minimum of two hundred (200) feet of Frontage on the Private Street.
  - d. Front Lots shall maintain the minimum Front Yard Setback requirements for the Streets they are located on in accordance with Section 3.4.C. In addition they shall maintain a minimum fifty (50) feet Front Yard Setback requirement from the proposed Private Street. The two (2) remaining sides of these Frontage Lots shall be considered Side Yards with a Minimum Yard Setback of twenty (20) feet.
  - e. The minimum Lot Width shall be measured at such Front Lot Line or at the minimum Front Yard Setback.
3. **Access Requirements**
  - a. A Private Street shall only be built in situations where a Local Street can be built and the Private Street could be constructed in lieu of a public Street that meets the Local Street requirements. The applicant’s engineer will prepare a plan demonstrating the feasibility of a Local Street being built within the Private Street right-of-way instead of the proposed Private Street. The Town Engineer shall review feasibility plan.
  - b. The Town Engineer shall review and comment on the design, layout and construction requirements of the proposed Private Street. The design and layout shall provide safe access for emergency services and shall be referred to the governing Fire District for their review and comment.
  - c. A Private Street shall be under joint ownership of the Lots it serves. The owners of Lots on the Private Street shall share in the maintenance costs of the Private Street unless and until the Private Street is improved, at no cost the Town, to the requirements of a Town Road as specified in the current Subdivision Regulations and Town Road Ordinance. The applicant shall submit an easement for the shared use of such Private Street, identifying Private Street ownership and maintenance responsibilities. The easement shall be based upon the model language provided in Appendix 3. All Easements shall be reviewed and approved by the Commission’s Attorney and the applicant shall pay for such review. The approved deed or covenant shall be filed with the Town Clerk.
  - d. The Commission shall be assured that the ownership responsibility for maintenance, improvements and liability associated with the Private Street shall remain private unless and until the Private Street is upgraded and accepted as a Town Road at no cost to the Town. Such assurance shall be in the form of documents in accordance with the Connecticut Common Interest Ownership Act, which documents shall be satisfactory to the Commission’s attorney.
  - e. Private Street Specifications:

- i. The Private Street shall be at least eighteen (18) feet in width.
- ii. The maximum length of the Private Street shall be two thousand (2,000) feet.
- iii. The Private Street shall be centered in a common access area that is a minimum Driveway of fifty (50) feet in width at all points and has at least fifty (50) feet of Frontage on an accepted Street.
- iv. The maximum grade of the Private Street shall not exceed twelve percent (12%).
- v. If the grade exceeds eight percent (8%), the sections of the Driveway exceeding eight percent (8%) shall be paved.
- vi. A turnaround with a thirty-five (35) foot radius shall be provided at the end of the Private Street. The maximum grade of the turnaround shall be five percent (5%). The Commission may allow a hammerhead turnaround of less than a thirty-five (35) foot radius based on the recommendations of the Commission's engineering consultant, public safety officials, or other qualified advisors.
- vii. A stormwater management system shall be designed in accordance with Section 6.8 of these Regulations, Stormwater Management Standards.
- viii. A plan and profile sheet of the Private Street shall be submitted containing the following minimum information:
  - Complete horizontal and vertical geometry on the centerline of the Private Street.
  - Typical Private Street sections showing pavement thickness, cross slope, dimensions, swales, curbs, shoulders, etc.
  - All other improvements and utilities including proposed stormwater facilities, storm drains, catch basins, manholes, Watercourses, culverts, curbs, gutters, swales, and bridges.
  - Plan and profile drawings shall be at a horizontal scale of not less than one (1) inch equals forty (40) feet and at a vertical scale of one (1) inch equals four (4) feet.
  - Plans shall be sealed by a Professional Engineer.
- f. The Commission will require the Private Street to be named for safety purposes, and a Sign conforming to the Town Specifications and the Manual on Uniform Traffic Control Devices (MUTCD) shall be installed and maintained.

## **H. Commercial Horse Stable, Riding or Training School**

When allowed by these Regulations, Commercial Horse Stables and Riding or Training Schools require a Special Exception and shall meet the following requirements:

1. The minimum Lot area shall be five (5) acres for up to nine (9) horses. An additional one-half (1/2) acre shall be required for each horse over nine (9).
2. Horses shall not be pastured, exercised or trained in the area of the septic leach field system or reserve area.
3. Horses shall not be stabled within a seventy-five (75) foot radius around any well on the Lot.
4. Where the Commission determines that it is necessary to protect neighboring property values and privacy, the Commission may as a condition of approval require additional landscape planting along property lines especially to screen areas of active use.

## **I. Housing of Livestock on a Farm**

1. Buildings that house animals shall be located not less than one hundred (100) feet from any property line.
2. Leasing of pasture by a Farm for the keeping of livestock shall not, in and of itself, constitute a Commercial Horse Stable, Riding or Training School as defined in these Regulations.

## **J. Farm Stand, Minor and Major**

1. **Minor Farm Stand** – A Minor Farm Stand shall require the following:
  - a. Safe entrance from and exit into the Street, adequate pickup, and off-Street loading space shall be provided.
  - b. Parking shall be in accordance with Section 6.2 of these Regulations.
  - c. A Farm Stand shall be set back from the Front Lot Line by at least thirty-five (35) feet.

2. **Major Farm Stand, Increase in Farm Stand Retail Building Gross Floor Area**

The Commission may, by Special Exception in accordance with Section 8.5 of these Regulations, allow Major Farm Stands in excess of three hundred fifty (350) square feet of Gross Floor Area per three (3) acres of land under active cultivation where the Commission finds that:

- a. The Major Farm Stand is retailing products that are predominantly grown or produced on the Farm to which the Major Farm Stand is Accessory; and
- b. Additional Gross Floor Area is required in order to adequately market the products of the Farm; and
- c. Adequate provisions have been made for parking, illumination, vehicular access, and safe pedestrian circulation to and within the site; and
- d. The Major Farm Stand, in both size and design, is in harmony with the residential character of the subject District and the neighborhood; and
- e. The Major Farm Stand building has been designed such that it may be readily reduced in Gross Floor Area if the size, including the area under active cultivation, of the Farm to which it is Accessory is reduced; and
- f. Any Special Exception issued in accordance with this Section shall expire if the Farm to which the Major Farm Stand is Accessory, or the area of active cultivation, is reduced; provided that the Commission may renew such Special Exception if the Major Farm Stand continues to be in proportion to the area of the Farm and the area under active cultivation.

## **K. Nursing Home**

1. **Site Requirements**

- a. The site shall be within three hundred (300) feet of an Arterial Street.
- b. The minimum Lot size shall be five (5) acres or one (1) acre for each fifteen (15) patient beds, whichever is greater.

- c. Adequate water shall be available and the applicant shall submit evidence that the Health Official has certified that sanitary facilities can be provided in such a way as to eliminate any possible sanitary hazard or nuisance.

**2. Standards and Requirement**

- a. No principal Building may exceed the Height of two (2) stories or thirty-five (35) feet.
- b. No Accessory Building may exceed the Height of twenty (20) feet and one (1) Story above ground.
- c. Minimum Lot Frontage shall conform to the requirements of the District in which located. In no case shall any Structure or Parking Area be located less than one hundred (100) feet from any property line.
- d. In addition to landscaping provisions contained in Section 6.1, landscape planting, including trees, shrubs and grass or ground cover, shall be provided and permanently maintained by the owner in the area required for setback from property and Street Lines, and specifically:
  - i. Any tree of more than ten (10) inches diameter at breast Height shall be shown on plot plans and shall be maintained unless it hampers utilities, Structures or reasonable working room during construction.
  - ii. All other existing natural growth shall be preserved and maintained where practicable.
  - iii. Where a property adjoins a Residence or Restricted Business District on the side or rear, a green belt shall be planted and maintained at least thirty (30) feet in depth, including conifers planted in no fewer than two (2) rows no further than fifteen (15) feet apart, with trees planted no more than fifteen (15) feet apart along each row, staggered to provide maximum screening, and using trees not less than two (2) inch caliper at time of planting.
  - iv. The Commission may require more extensive plantings, or more mature plantings, if unusual conditions demand more extensive screening and noise abatement.
- e. Suitable recreation facilities, appropriate in function and area may be required.
- f. Internal circulation shall provide for the easy movement of vehicular and pedestrian traffic and the convenient access of emergency vehicles.
- g. The predominantly residential character of the District shall be maintained

**L. Bed and Breakfast**

When allowed by these regulations, a Bed and Breakfast requires a Special Exception and shall meet the following specific standards and requirements:

- 1. The business is conducted by the owners of said Dwelling Unit and residing in same Dwelling Unit, and with no more than two (2) non-resident employees, full time or part-time.
- 2. The number of rental rooms is limited to no more than four (4) guest rooms and has a total occupant load of not more than sixteen (16) persons including the owner and Family.
- 3. Signs shall be no greater than two (2) square feet and shall meet other Sign requirements of these Regulations.
- 4. The length of stay per guest shall be limited to thirty (30) consecutive days, or sixty (60) days in any calendar year.

### Section 3.5. Special Use Provisions

5. Breakfast and incidental snacks for compensation may only be provided to overnight guests.
6. The applicant shall submit with his or her application a site plan and floor plan, drawn to scale, showing all pertinent details with respect to the Dwelling Unit location, landscaping, Parking Areas, and other information required by these Regulations.
7. The operation will not cause undue congestion in the vicinity or create hazardous conditions for sanitary sewage or other conditions affecting health and safety.

## **SECTION 3.6. SPECIAL ACCESSORY USE PROVISIONS FOR RESIDENTIAL DISTRICTS**

The following special provisions apply to Accessory Uses permitted by these Regulations.

### **A. Reserved For Future Use**

### **B. Unoccupied Trailer or Camping Vehicle, temporary**

One (1) Trailer or Camping Vehicle may be parked in the rear of a Lot occupied by a detached Single-Family Dwelling and located at least forty (40) feet from any Lot line. Such Trailer or Camping Vehicle shall not be occupied at any time while it is so parked. The storing of unoccupied Hauling Trailers and Camping Vehicles, other than Construction Trailers per Section 7.3, shall be located such that there is a Principal Building between such parked Hauling Trailer or Camping Vehicle and the Street, and shall comply with the Minimum Setbacks for Principal Uses in the subject District.

### **C. Accessory Dwelling Unit**

Where allowed by these Regulations, an Accessory Dwelling Unit shall require a Special Exception and meet the following specific standards and criteria.

1. **Purpose** – The purpose of this Regulation is to provide the opportunity for the creation of additional housing opportunities within an owner-occupied Single-Family residence, especially for elderly or disabled Family members. An Accessory Dwelling Unit shall be permitted in a manner than maintains the character and scale of adjoining residences and blends into the existing neighborhood.
2. **Standards**
  - a. One (1) of the Dwelling Units shall be owner-occupied at all times.
  - b. An Accessory Dwelling Unit on a Lot of forty thousand (40,000) square feet or less shall be served by public sewer and public water.
  - c. No more than one (1) Accessory Dwelling Unit may be permitted per Lot.
  - d. An Accessory Dwelling Unit may be located in an Accessory Structure on a Lot with a Principal Single-Family Dwelling Unit provided the Accessory Structure meets the requirements for Front, Side and Rear Yard Setbacks. The Commission may approve the conversion of an existing Accessory Structure for Accessory Dwelling Unit Use where the existing structure does not meet the Yard Setback requirements under the following conditions:
    - i. the Lot and Structure are located in an R-15 or R-30 District, and
    - ii. the Structure was constructed at least ten (10) years ago.
  - e. The exterior shall retain the appearance of a Single-Family Dwelling Unit.
  - f. The Accessory Dwelling Unit shall be clearly subordinate to the Single-Family Dwelling Unit.
  - g. Whether located within the Principal Dwelling Unit or in an Accessory Structure, the Gross Floor Area of the Accessory Dwelling Unit shall:
    - i. have a minimum Gross Floor Area of five hundred (500) square feet.

### Section 3.6. Special Accessory Use Provisions for Residential Districts

- ii. not be greater than forty percent (40%) of the total Gross Floor Area of the residence.
- h. The Dwelling Units shall share an operable door accessed either along a common wall or an interior stairway. This requirement shall not apply to an Accessory Dwelling Unit located in a detached Accessory Structure.
- i. The Commission may require that Parking Spaces for the Dwelling Unit be screened from public view or be located behind the Principal Dwelling Unit.
- j. An Accessory Dwelling Unit created without the benefit of a Zoning Permit before the effective date of this amendment, (May 20, 1998) may receive a Zoning Permit issued by the Zoning Enforcement Officer where the ZEO determines that:
  - i. A statement from the Farmington Valley Health District indicates that there is adequate water supply and sewage disposal systems.
  - ii. Documentation certifies that the owner of the Lot resides on the Premises.
  - iii. Evidence is satisfactory that the Accessory Dwelling Unit was in actual existence on May 20, 1998.

#### 3. Requirements for Affordable Accessory Dwelling Units

In addition to the standard of Section 3.6.C.2 above, Accessory Dwelling Units that qualify as affordable dwelling units may be approved by Zoning Permit and shall meet the following requirements:

- a. The rental charge for the Accessory Dwelling Unit shall not exceed thirty percent (30%) of the renter's income, after adjustment for family size, where such income is less than or equal to eighty percent (80%) of whichever of the following medians is lesser:
  - i. the median income of the area in which New Hartford is located, as the area is determined by the United States Department of Housing and Urban Development; or,
  - ii. the median income of the State of Connecticut
- b. A binding deed restriction containing covenants and restrictions in conformance with CGS 8-30g shall be recorded in the New Hartford Land Records and said covenants and restrictions shall be subject to review and approval by the Commission's attorney.
- c. Said restriction shall be for a minimum period of forty (40) years from the date of the original occupancy of the Accessory Dwelling Unit, or until the termination of the Accessory Dwelling Unit.
- d. The continued occupancy of the Accessory Dwelling Unit by a family qualifying for affordable housing such be subject to annual reporting and monitoring in accordance with regulations promulgated by the Commissioner of Economic and Community Development for set-aside developments. Compliance with the requirements of this Section shall be monitored and enforced by such agency or official as may be designated from time to time by the Board of Selectmen.

#### D. Home Office

A Home Office is allowed by Zoning Permit when the office Use involves conducting business primarily by the telephone, internet or mail, maintaining records and similar functions. Such a Home Office shall comply with the following:

## Section 3.6. Special Accessory Use Provisions for Residential Districts

1. Business is conducted entirely within the Dwelling Unit.
2. The only employees or persons involved with the Home Office Use on the Premises shall be members of the Family residing in the Dwelling Unit.
3. The Home Office Use must be clearly incidental to the Use of the Dwelling Unit as a residence.
4. There is no Sign advertising the Home Office, nor outdoor display or storage, including but not limited to materials, goods, supplies or equipment.
5. There is no change in the exterior of the Dwelling Unit nor any evidence of the Home Office Use which is visible from the exterior of the Dwelling Unit.
6. There is no additional traffic, additional Parking Spaces, nor noise or electrical interference over that which is typical for the residential Use without a Home Office Use.
7. There is no Hazardous Material stored, used, or disposed in association with a Home Office Use (other than that commonly associated with a residence.)

### E. Home Occupation

A Home-Based Business where such business Use does not comply with the requirements of Section 3.6. D, Home Office, shall require a Special Exception and shall meet the following requirements.

1. **Purpose** – The purpose of this Section is to provide the opportunity for the Use of the residence for limited business purposes, while maintaining the residential nature of the Lot and neighborhood and protecting residential property values.
2. **Procedures**
  - a. The application shall include Building plans clearly drawn to scale showing the floor area and layout of the Dwelling Unit and/or Accessory Building and Gross Floor Area devoted to the Home Occupation Use.
  - b. The applicant shall submit a business Use and activity plan. This shall consist of a written statement describing in general the type and nature of the proposed activity, the product, equipment and/or processes involved, projected typical traffic volume and type, customer/client activity and such other information as the Commission shall require to make a determination that the proposed Use complies with the standards and requirements of these Regulations.
3. **Requirements**
  - a. No retail sales shall be permitted on the Premises unless such sales are determined by the Commission to be incidental to the primary Home Occupation Use and such sales are specifically limited as a condition of the Special Exception.
  - b. The Home Occupation Use may occupy a portion of a Single-Family Dwelling Unit and/or an Accessory Structure on a Lot with a Single-Family Dwelling Unit as specified herein and as determined by the Commission.
  - c. A Home Occupation located in a Single-Family Dwelling Unit shall not occupy more than one half (1/2) of the Gross Floor Area of the Dwelling Unit. The Use, whether located in a residence or an Accessory Structure, shall be clearly secondary to the residential Use on the Lot.
  - d. The Home Occupation Use may occupy an Accessory Building if:
    - i. the location and appearance of the Accessory Building is consistent with the residential character of the Lot and the neighborhood;

### Section 3.6. Special Accessory Use Provisions for Residential Districts

- ii. it can be demonstrated that the type and intensity of the proposed Use in the Accessory Building will not Alter the primary residential character of the Lot; and,
- iii. the occupancy in the Accessory Building plus any occupancy in the Principal Dwelling Unit combined is less than half of the Gross Floor Area of the Dwelling Unit.
- e. The Home Occupation Use shall be conducted by the resident of the Dwelling Unit and by members of the Family residing on the Premises. No more than two (2) non-resident persons shall be employed, full-time or part-time, on the residential Lot in association with the Home Occupation Use.
- f. With the exception of permitted Signs and required Off-Street Parking Spaces, there shall be no display of products or exterior evidence of the Home Occupation including but not limited to, exterior evidence or storage of goods, supplies or other materials associated with the Home Occupation.
- g. The appearance of the Lot and Structures on the Lot shall not be Altered in a manner that would cause the residence to differ from its residential character either by use of materials, construction, lighting, Signs or the emission of sounds, vibrations or electrical impulses.
- h. There shall be no more than two (2) business related cars, vans or pick-up trucks (or any combination thereof) permitted on the Lot in association with a Home Occupation Use.
- i. Traffic generated by the Home Occupation Use shall not significantly exceed the volume of traffic consistent with the site and neighborhood. The number of daily vehicle trips associated with the Home Occupation Use, including delivery and pick-up of materials and commodities by a Commercial Vehicle, may be limited by the Commission as a condition of the Special Exception according to the nature and location of the proposed Home Occupation Use.
- j. No on-Street Parking Spaces shall be permitted in association with a Home Occupation Use.
- k. Off-Street Parking Spaces shall be provided to accommodate the parking needs of the Home Occupation. No additional off-Street Parking Spaces shall be created between the Dwelling Unit and the Street Line. The Commission may limit the number of Parking Spaces allowed where it is determined it is necessary to control and limit the volume of traffic.
- l. The Commission may require a landscape plan that specifies plantings and locations designed to screen the off-Street Parking Area from view from a public Street or neighbor. A landscape screen shall be required if based upon site Inspection and public hearing testimony the Commission determines that such a screen is necessary to protect neighboring residential property values and to maintain the single-family residential appearance of the neighborhood.
- m. Events for the purpose of selling merchandise or taking orders shall not be held more often than once per month.
- n. The Use shall not utilize or store Hazardous Materials, unless the Commission determines that the proposed types and quantities of the Hazardous Materials utilized or stored will pose a minimum risk to health. Home Occupation Uses which pose a significant threat to water quality shall not be permitted including but not limited to furniture stripping, auto or major appliance repair. Beauty salons may be allowed if served by public sanitary sewer.

## F. Contractor Shop and Storage

Where allowed by these Regulations, a Contractor Shop and Storage Use shall require a Special Exception and shall meet the following requirements:

1. **Standards for Contractor Shop and Storage, Principal Use Where Permitted** – A Principal Use Contractor Shop and Storage Use, where permitted in Section 4.2 of these Regulations, shall meet the following specific standards and criteria in order to protect residential property values:
  - a. There shall be no display of products or external evidence which suggests a commercial Use other than as designated on the approved site plan.
  - b. There shall be no exterior storage of goods, supplies or other material associated with the Contractor Shop and Storage Use unless fully screened from public view and adjacent properties. The area of such exterior storage of goods shall count toward the total Gross Floor Area permitted under these Regulations.
  - c. Off-Street Parking Spaces shall be provided to accommodate the parking needs of the Contractor Shop and Storage Use in accordance with Section 6.2.A of these Regulations. The Commission may limit the number of Parking Spaces allowed where it is determined to be necessary to control and limit the volume of traffic.
  - d. If Commercial Vehicle will be used, the Commission may attach conditions limiting the number and size of vehicles, the number of trips, the hours of vehicle operation and such other conditions necessary to assure compliance with the general and specific criteria of this regulation. Commercial Vehicles shall be stored/parked in a Structure or shall be completely screened from view from the Street and adjacent properties.
  - e. The use or storage of Hazardous Materials shall be permitted only where the Commission has determined that the proposed Use will not pose a threat to ground water quality. Such determination shall consider the type of Contractor Shop and Storage Use, the amount and type of hazardous material(s) involved and the adequacy of plans submitted by the applicant for hazardous material use, storage and disposal.
  - f. In making its decision, the Commission shall consider the adequacy of the town or State road access to the Lot, the size of the vehicle, the number of trips, the visual effect of the vehicle storage and the parking plan on the neighborhood, the findings from any on-site inspection and the testimony from the public hearing.
  - g. The Commission may attach conditions to a Special Exception for Contractor Shop and Storage Use to assure compliance with the purpose of these Regulations and these standards and criteria.
2. **Standards for Contractor Shop and Storage Use, as Residential Accessory Use** – A Accessory Use as Contractor Shop and Storage Use, where permitted in Section 3.3 of these Regulations, shall meet the following specific standards and criteria in order to protect residential property values:
  - a. A Contractor Shop and Storage Use in a Dwelling Unit or an attached garage shall not occupy an area greater than one half (1/2) of the Gross Floor Area of the Dwelling Unit.
  - b. A detached Accessory Structure proposed for Contractor shop and Storage Use shall be of a size, scale, and appearance that maintains the residential appearance of the Lot and blends with the surrounding neighborhood Structures. The application shall clearly specify the floor area of the detached Accessory Structure to be devoted to the Contractor Shop and Storage Use. The occupancy in the Accessory Building plus any occupancy in

### Section 3.6. Special Accessory Use Provisions for Residential Districts

the Principal Dwelling Unit combined is less than half of the Gross Floor Area of the Dwelling Unit.

- c. Work conducted on the residential Lot shall be clearly secondary to work of the contractor or tradesman off the Premises.
- d. There shall be no display of products or external evidence which suggests a commercial Use other than a single permitted Sign.
- e. There shall be no exterior storage of goods, supplies or other material associated with the Contractor Shop and Storage Use unless fully screened from public view and adjacent properties. The area of such exterior storage of goods shall count toward the total Gross Floor Area permitted under these Regulations.
- f. The Use shall be conducted by an owner-occupant of the Dwelling Unit. Only members of the Family residing in the Dwelling Unit and no more than two (2) non-family members shall work on the Lot.
- g. Off-Street Parking Spaces shall be provided to accommodate the parking needs of the Contractor Shop and Storage Use. No additional off-Street Parking Spaces shall be created between the Dwelling Unit and the Street Line. The Commission may limit the number of Parking Spaces allowed where it is determined to be necessary to control and limit the volume of traffic.
- h. If Commercial Vehicle will be used, the Commission may attach conditions limiting the number and size of vehicles, the number of trips, the hours of vehicle operation and such other conditions necessary to assure compliance with the general and specific criteria of this regulation. Commercial Vehicles shall be stored/parked in a Structure or shall be completely screened from view from the Street and adjacent properties. Commercial Vehicles shall not be stored between the Dwelling Unit and the Street Line.
- i. The use or storage of Hazardous Materials shall be permitted only where the Commission has determined that the proposed Use will not pose a threat to ground water quality. Such determination shall consider the type of Contractor Shop and Storage Use, the amount and type of hazardous material(s) involved and the adequacy of plans submitted by the applicant for hazardous material use, storage and disposal.
- j. In making its decision, the Commission shall consider the adequacy of the town or State road access to the Lot, the size of the vehicle, the number of trips, the visual effect of the vehicle storage and the parking plan on the neighborhood, the findings from any on-site Inspection and the testimony from the public hearing.
- k. The Commission may attach conditions to a Special Exception for Contractor Shop and Storage Use to assure compliance with the purpose of these Regulations and these standards and criteria.

## G. Keeping of Animals

- Where allowed by these Regulations, the following limitations and requirements shall apply to the keeping of animals as an Accessory to a residential Use. A Farm is subject to these requirements unless otherwise noted in the Table; or unless the principle Farming activity is Forestry; or unless the Farm keeps bovines with more than ten (10) acres.

Animal	Permit	Density Limitation	Other Limitations	Applies to Farms
Dogs, Cats, Rabbits, small animals	No Permit Required	No limitation on number if animals are solely housed inside the Dwelling Unit.	<ul style="list-style-type: none"> <li>• Shall not be for compensation.</li> <li>• Shall not include a Kennel</li> </ul>	No
	No Permit Required	If animals kept outside of Dwelling Unit, no more than four (4) animals over the age of eight weeks per Dwelling Unit.	<ul style="list-style-type: none"> <li>• Minimum Lot size of three (3) acres.</li> <li>• Shall not be for compensation.</li> <li>• Structures housing animals shall be located:                             <ul style="list-style-type: none"> <li>– only in the Rear Yard,</li> <li>– no less than one hundred (100) feet from the property line; and,</li> <li>– no less than two hundred fifty (250) feet from any existing Dwelling Unit other than the owners.</li> </ul> </li> </ul>	No
	Special Exception Required	More than four (4) animals over the age of eight weeks per Dwelling Unit kept outside of Dwelling Unit, including Kennels, per Section 4.5.E.	<ul style="list-style-type: none"> <li>• Minimum Lot size of three (3) acres.</li> <li>• Shall not be for compensation.</li> <li>• Structures housing animals shall be located:                             <ul style="list-style-type: none"> <li>– only in the Rear Yard,</li> <li>– no less than one hundred (100) feet from the property line; and,</li> <li>– no less than two hundred fifty (250) feet from any existing Dwelling Unit other than the owners.</li> </ul> </li> </ul>	No
Horses, Bovines, Pigs, similar large animals	No Permit Required	Minimum Lot size for one (1) animal is one and a half (1.5) acres. For each additional animal, the minimum Lot size shall be increased by half (1/2) acres.	<ul style="list-style-type: none"> <li>• All livestock shall be kept within a fenced enclosure designed to prevent animals from crossing or overhanging any property line</li> <li>• Structures that house animals shall be located no less than 100 feet away from all property lines</li> </ul>	Yes, except for keeping bovines on Farms of ten (10) acres or more.

Section 3.6. Special Accessory Use Provisions for Residential Districts

Animal	Permit	Density Limitation	Other Limitations	Applies to Farms
Sheep, Goats, similar medium size animals	No Permit Required	For Parcels containing at least one and a half (1.5) acres, one (1) animal for the first twenty thousand (20,000) square feet of Parcel area and one (1) animal for each additional ten thousand (10,000) square feet of Parcel area.	<ul style="list-style-type: none"> <li>All livestock shall be kept within a fenced enclosure designed to prevent animals from crossing or overhanging any property line.</li> <li>Structures that house animals shall be located no less than one hundred (100) feet away from all property lines</li> </ul>	Yes
Keeping of chickens, other poultry	No Permit Required	For Parcels containing at least one (1) acre, twenty (20) birds per forty thousand (40,000) square feet.	<ul style="list-style-type: none"> <li>Shall not be for compensation.</li> <li>No poultry shall be housed within fifty (50) feet of any Street or within seventy-five (75) feet of any other property line.</li> </ul>	Yes
	No permit required	Farming on Parcels containing five (5) acres or more, no limit.	<ul style="list-style-type: none"> <li>No poultry shall be housed within fifty (50) feet of any Street or within seventy-five (75) feet of any other property line.</li> </ul>	Yes
	Zoning Permit required	For Parcels smaller than one (1) acre, no more than six (6) hen chickens (roosters are not permitted)	<ul style="list-style-type: none"> <li>Shall not be for compensation.</li> <li>Such housing shall be at least six (6) feet from all property lines and at least twenty-five (25) feet from residences on adjacent Lots.</li> </ul>	Yes

- Maintaining animals (other than canines and felines) in septic or septic reserve areas shall be subject to Health Department approval.
- For animals other than canines and felines, no manure or dust-producing fertilizer shall be stored in the open within one hundred (100) feet of any property line.
- Manure disposal shall be subject to all Public Health Code regulations.
- The keeping and raising of such animal shall not create offensive odors, noise or unsightly appearance noticeable off the Premises.

**H. Accessory Outdoor Storage**

Materials, including Junk and up to two (2) unregistered vehicles, may be stored outdoors as an Accessory Use to a Dwelling Unit, provided that:

- The keeping of such materials does not pose a public health hazard, nor shall it include the keeping of Hazardous Materials.

### Section 3.6. Special Accessory Use Provisions for Residential Districts

2. The storage area is no larger than one hundred fifty (150) square feet.
3. The storage area is screened from public view.
4. The materials are not for commercial purposes.
5. The storage area is no higher than what screens it from public view, but in no event higher than six (6) feet.
6. Such storage area shall comply with the Minimum Setback Yard for Principal Buildings in the subject District.
7. Storage of more than two (2) unregistered vehicles or more than one hundred fifty (150) square feet
8. The Commission may:
  - a. by Special Exception, allow the outside storage of more than two (2) wrecked or unregistered vehicles, or vehicles otherwise not in a condition for legal use on public highways, or parts of two (2) or more such vehicles; or
  - b. may allow, By Special Exception, Accessory Outdoor Storage in accordance with the preceding section in an area larger than one hundred fifty (150) square feet; provided that:
    - i. such Accessory Outdoor Storage or vehicles are screened from surrounding properties by a fence or landscaping (existing or proposed);
    - ii. are not located within any Minimum Setback Yard for the subject District; and,
    - iii. are stored in a manner that protects surface and subsurface water resources, property values in the neighborhood, and is of such a scale and character as to be Accessory to the Principal use of the lot.

## **ARTICLE 4 – BUSINESS DISTRICTS**

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### **SECTION 4.1. PURPOSES**

#### **A. Business District B**

The B District is included in these Regulations in order to provide Use and Lot standards appropriate to Structures and Parcels of land that constitute New Hartford's earliest Development.

#### **B. Commercial District**

The purpose of the Commercial District shall be to establish general Retail Business, commercial, office, Personal Services, industrial and research, and other Uses in corridors deemed appropriate for local and regional economic Development.

#### **C. Industrial District**

The Industrial District is intended to encourage the continuation of industrial Uses and provide for new commercial or industrial operations.

#### **D. Industrial Park District**

The purpose of the Industrial Park District is to promote economic Development in a safe, planned, efficient and environmentally sound manner. The District is intended to protect these areas from intrusion by residential Dwelling Units and other inharmonious Uses.

#### **E. New Hartford Center District**

The purpose of this Section is to permit the historic New Hartford Center area to continue to develop as the Town's governmental, financial, historic, cultural, institutional, and business center; to guide the Development of the area to provide for site Development that is more efficient in terms of parking and circulation; to encourage construction and utilization of Structures in conformance with the existing scale and character of the Center; to provide for a comprehensive pedestrian system to attract a greater number of people to the Center; to allow Mixed Uses within Buildings so as to assure their continued viability; to reestablish a physical relationship between the Center and the Farmington River through the encouragement of park areas and access point to the River; to implement the recommendations for the Center as contained in the Center Study and the Plan of Conservation and Development.

**SECTION 4.2. PERMITTED USES AND STRUCTURES****A. Commercial Uses**

A – Allowed without a permit

ZP – Requires zoning permit

Blank – Not permitted

SP – Requires Site Plan (may also require ZP)

SE – Requires Special Exception (may also require ZP)

<b>Use</b>	<b>NHCZ</b>	<b>B</b>	<b>C</b>	<b>I</b>	<b>IP</b>	<b>Additional Regulations</b>
1. General Business Office	SE	SE	SE	SE	SE	
2. Medical Office or Clinic	SE	SE	SE			
3. Financial Institution						
a. Without drive-through window	SP	SP	SP			
b. With drive-through window	SE	SE	SE			4.5.F
4. Retail Business or Shopping Plaza						
a. Gross Floor Area of first floor up to fifty-two thousand (52,000) square feet per individual Building	SE	SE	SE			
b. Gross Floor Area greater than fifty-two thousand (52,000) square feet per individual Building				SE		
5. Personal Service Establishment	SP	SP	SP			Beauty Salons & Dry Cleaners Must be Connected to Public Sewers
6. Package Liquor Store	SE	SE	SP			
7. Wholesale Business					SE	
8. Restaurant						
a. High Turnover	SE	SE	SE			
b. Drive-through window	SE	SE	SE			4.5.F
c. Low Turnover	SE	SE	SE			
9. Fitness Center	SE	SE	SE		SE	
10. Funeral Home	SE	SE	SE			
11. Printing and Other Business Services	SP	SP	SP	SP	SP	
12. Adult Oriented Establishment					SP	4.5.A
13. Veterinary Hospital			SE	SE	SE	4.5.G
14. Automobile and Boat Sales		SE	SE	SE	SE	
15. Motor Vehicle Service, Gas Filling Station		SE		SE	SE	4.5.C
16. Lodging						
a. Hotel	SE	SE	SE			4.5.D
b. Bed and Breakfast	SE					3.5.L
17. Telecommunications Facilities				SE	SE	

Section 4.2. Permitted Uses and Structures

**B. Industrial and Research**

A – Allowed without a permit                      SP – Requires Site Plan (may also require ZP)  
 ZP – Requires zoning permit                      SE – Requires Special Exception (may also require ZP)  
 Blank – Not permitted

Use	NHCZ	B	C	I	IP	Additional Regulations
1. Warehousing			SP	SP	SP	
2. Self Service Storage Facility			SP	SP	SP	
3. Manufacturing			SP	SP	SP	
4. Research Laboratory			SE	SE	SE	
5. Sawmill				SE	SE	
6. Contractor Shop and Storage, Principal Use				SE	SE	3.6.F

**C. Agricultural and Related Uses**

A – Allowed without a permit                      SP – Requires Site Plan (may also require ZP)  
 ZP – Requires zoning permit                      SE – Requires Special Exception (may also require ZP)  
 Blank – Not permitted

Use	NHCZ	B	C	I	IP	Additional Regulations
1. Farm		A	A	A	A	3.5.I
2. Farm Stand, Minor (as Accessory to a Farm)		ZP	ZP	ZP	ZP	3.5.J
3. Farm Stand, Major (as Accessory to a Farm)		SP	SP	SP	SP	3.5.J
4. Farmers Market	SP	SP	SP	SP	SP	7.3.B
5. Circus, Carnival, similar public event, up to three (3) consecutive days	SP	SP	SP	SP	SP	7.3.B
6. Circus, Carnival, similar public event, more than three (3) consecutive days	SE	SE	SE	SE	SE	7.3.C

## D. Public or Institutional-Type Uses

A – Allowed without a permit  
 ZP – Requires zoning permit  
 Blank – Not permitted

SP – Requires Site Plan (may also require ZP)  
 SE – Requires Special Exception (may also require ZP)

Use	NHCZ	B	C	I	IP	Additional Regulations
1. Public Library or Other Municipal Building	SE	SE	SE	SE	SE	
2. Public School		SE	SE			
3. Educational / Instructional Use	SE	SE	SE			
4. Day Care Center, Adult Day Care	SE	SE	SE			
5. Religious Institution	SE					
6. Medical Office or Clinic	SE	SE	SE	SE	SE	
7. Public Park, Passive	SP	SP	SP			
8. Public Park or Playground, with improvements	SE	SE	SE			
9. Public Utility Facilities & Buildings, for which the location regulated by a State or Federal entity*	ZP	ZP	ZP	ZP	ZP	
10. Public Utility Facilities & Buildings, for which the location is not regulated by a State or Federal entity*	SE	SE	SE	SE	SE	
11. Municipal Parking Lot	ZP	ZP	ZP			

\* For information on regulated utilities see Connecticut Siting Council web site ([ct.gov/csc](http://ct.gov/csc)) and Chapters 277 to 289 of the Connecticut General Statutes.

## E. Residential Type Uses

A – Allowed without a permit  
 ZP – Requires zoning permit  
 Blank – Not permitted

SP – Requires Site Plan (may also require ZP)  
 SE – Requires Special Exception (may also require ZP)

Use	NHCZ	B	C	I	IP	Additional Regulations
1. Single-Family Dwelling	ZP					
2. Two-Family Conversion	SE					3.5.A
3. Two-Family Dwelling (new)	SE					3.5.B
4. Multi-Family Conversion	SE					3.5.C
5. Mixed Use	SE					4.5.B

Residential uses, as that term is used in Connecticut General Statutes Section 8-30g(g), and that term has been construed by the Connecticut Courts, are prohibited in the I and IP Districts.

## F. Other Uses

A – Allowed without a permit

ZP – Requires zoning permit

Blank – Not permitted

SP – Requires Site Plan (may also require ZP)

SE – Requires Special Exception (may also require ZP)

Use	NHC					Additional Regulations
	Z	B	C	I	IP	
1. Outdoor Recreational Use including Country Club	SE	SE	SE			
2. Theatre, Bowling Alley & Similar Public Assembly	SE	SE	SE			
3. Commercial Racquetball or Tennis Court			SE			
4. Helistop				SE	SE	
5. Commercial Kennel		SE	SE	SE	SE	4.5.E

## G. Change of Use

1. **Special Exception Requirement** – In any instance involving a Use or Uses requiring a Special Exception by these Regulations, no land or water areas shall be used, nor Uses Altered, Enlarged, Extended, or Expanded in space, time, or intensity, nor Buildings or Structures erected, Altered, enlarged, or used until the Commission shall grant a Special Exception in accordance with these Regulations or amend a previously granted Special Exception.
2. **Waiver of Special Exception Requirement** – The Commission may waive the requirement for a Special Exception where it finds that:
  - a. One Special Exception Use is being substituted for another similar Use on the same Lot which was previously granted a Special Exception by the Commission;
  - b. The new Use will require no greater number of Parking Spaces or loading space than the original Use, as set forth in these Regulations;
  - c. The new Use shall entail no exterior change to the Building or Premises; and,
  - d. The new Use shall have no impact (using the standards set forth in Section 8.5 of these Regulations) on the site, the neighborhood, or the Town which is different from the original Use.

**SECTION 4.3. PERMITTED ACCESSORY USES AND STRUCTURES**

A – Allowed without a permit  
 ZP – Requires zoning permit  
 Blank – Not permitted

SP – Requires Site Plan (may also require ZP)  
 SE – Requires Special Exception (may also require ZP)

**A. Accessory to Pre-Existing Residential Use**

This Section does not authorize new residences in industrial Districts.

Use	NHCZ	B	C	I	IP	Additional Regulations
1. Accessory Bldgs., Residential	ZP	ZP	ZP	ZP	ZP	
2. Accessory Dwelling Unit	SE	SE	SE			3.6.C
3. Accessory Dwelling Unit, affordable per CGS 8-30g	ZP	ZP	ZP			3.6.C
4. Home Office of Convenience	A	A	A	A	A	3.6.D
5. Home Occupation	SE	SE	SE	SE	SE	3.6.E
6. Family Day Care	A	A	A	A	A	
7. Group Day Care	SP	SP	SP	SP	SP	

Residential uses, as that term is used in Connecticut General Statutes Section 8-30g(g), and that term has been construed by the Connecticut Courts, are prohibited in the I and IP Districts.

**B. Accessory to Business or Other Use**

Use	NHCZ	B	C	I	IP	Additional Regulations
1. Industrial and Research Accessory Buildings and Structures	ZP	ZP	ZP	ZP	ZP	
2. Accessory Use of a Religious Institution, School or library Building	SE					
3. Attached or Detached Accessory Structure, including ground mounted solar panels	ZP	ZP	ZP	ZP	ZP	
4. Day Care Center				SE	SE	
5. Trailer, Hauling	A	A	A	A	A	Must meet setback requirements, 7.3
6. Construction Trailer, temporary	ZP	ZP	ZP	ZP	ZP	3.6.B, 7.3

## SECTION 4.4. AREA AND DIMENSIONAL REQUIREMENTS

All Lots created and all Buildings erected or Altered shall conform to the requirements specified for the District in which the Building is located.

### A. Area and Building Dimension Requirements

	<b>NHCZ</b>	<b>B</b>	<b>C</b>	<b>I</b>	<b>IP</b>
<b>Minimum Lot Area</b> (square feet)	10,000	10,000	45,000	45,000	45,000
<b>Minimum Floor Area</b> (square feet)	1,000	720	2,500	2,000	2,000
<b>Maximum Building Height</b> (feet)	40	40	40	40	40
<b>Maximum Coverage</b> (%)	50	50	25	25	25
<b>Maximum Impervious Surface Coverage</b> (%)	90%	75%	75%	75%	75%

\*The Commission may allow a maximum impervious surface coverage of up to 75% in the B, C, I, and IP Districts provided that the applicant demonstrates that Low Impact Development techniques have been used for all impervious surfaces over 65%. See Section 6.8 of these Regulations.

### B. Minimum Width and Shape

	<b>NHCZ</b>	<b>B</b>	<b>C</b>	<b>I</b>	<b>IP</b>	<b>Special Provisions</b>
<b>Minimum Lot Width</b> (feet)	100	100	150	150	150	
<b>Min. Front Yard Setback</b> (feet)	20*	20	50	75	75**	4.4.E
<b>Min. Side Yard Setback</b> (feet)***	10	10	25	25	25**	4.4.E
<b>Min. Rear Yard Setback</b> (feet)	20	20	50	50	50	

\*Or average Front Yard Setback of adjacent Lots, but not less than 10 feet.

\*\*Where the Front, Side and / or Rear Yard is across the Street from a residential district, such Setbacks shall be at least 100 feet.

\*\*\* A Corner Lot shall maintain the Front Yard Setback requirements for the Street on which the principal Building faces, and 65% of the Front Yard Setback requirements for the Street on its side.

**C. Features that Count to Building Coverage and Yard Setbacks**

	<b>Counts to Building Coverage</b>	<b>Minimum Yards Apply</b>
<b>1. Principal Building(s)</b>		
a. the surface area covered by the Principle Structure, including attached garage on the Lot, as measured to the outside surface of the exterior walls, except for anything specifically excluded in this table.	Yes	Yes
b. cantilevered portions of the Building which extend more than twenty-four (24) inches from the outermost wall.	Yes	Yes
c. cantilevered portions of the Building which extend less than twenty-four (24) inches from the outermost wall.	No	No
d. the Gross Floor Area of Cellar or Basement	Included in Main Building	Yes
e. the Gross Floor Area of Attic which is NOT used as living space, storage space per the Certificate of Occupancy.	Included in Main Building	Yes
f. the Gross Floor Area of Attic which is used as living space per the Certificate of Occupancy.	Included in Main Building	Yes
g. the Gross Floor Area of a detached garage	Yes	Yes
<b>2. Building Features</b>		
<b>Roof Eaves / Overhangs</b>		
a. if the portion projects less than twenty-four (24) inches from the wall of the Building	No	No
b. if the portion projects more than twenty-four (24) inches from the wall of the Building	Yes	Yes
<b>Chimneys</b>		
c. if the chimney projects no more than thirty (30) inches from the wall of the Building and the chimney is no more than seven and a half (7.5) feet wide	No	No
d. if the criteria in 2.c is not met	Yes	Yes
<b>Bow or Bay Windows</b>		
e. if the bow or bay window portion, including any eave overhang of the window, projects no more than twenty-four (24) inches from the wall of the Building	No	No
f. if the bow or bay window portion, including any eave overhang of the window, projects more than twenty-four (24) inches from the wall of the Building	Yes	Yes
<b>Other Building Features</b>		
g. gutters and leaders	No	No
h. columns, brackets, and pilasters if:	No	No
i. such features are no more than twenty-four (24)		

Section 4.4. Area and Dimensional Requirements

	<b>Counts to Building Coverage</b>	<b>Minimum Yards Apply</b>
<p>inches wide, and</p> <p>ii. no portion projects more than twelve (12) inches from the wall of the Building</p>		
i. columns, brackets, and pilasters if any of the criteria in 2.h are not met	Yes	Yes
j. other minor architectural features if no portion projects more than twelve (12) inches from the wall of the Building	No	No
k. other architectural features if any of the above criteria are not met	Yes	Yes
<b>3. Exterior Features</b>		
<b>Drives / Walks</b>		
a. Driveway	No	No
b. Porte Cocheres or covered driveways	Yes	Yes
c. uncovered walkways	No	No
d. covered walkways and Breezeways as measured to the outside surface of the exterior walls or columns	Yes	Yes
<b>Fences / Walls</b>		
e. fences 6 feet or less in height	No	No
f. fences greater than 6 feet in height (requires Special Exception see Section 3.4.F.2)	No	No
g. Wall 6 feet or less in height	No	No
h. Wall more than 6 feet in height (may require Special Exception see Section 3.4.F.2)	No	No
<b>Balconies / Decks / Patios</b>		
i. Balconies provided :	No	No
i. no portion projects more than twenty-four (24) inches from the wall of the Building, and		
ii. the balcony is not more than seven and a half (7.5) feet wide.		
j. Balconies if criteria in 3.i are not met	Yes	Yes
k. Decks	No	Yes
l. Open Patios	No	No
m. Roofed Patios	Yes	Yes
n. Awnings	No	No
o. Landscaped terrace including landscape walls, walks, trellises, pergolas, etc.	No	No
<b>Porches / Gazebos</b>		
p. Porches or roofed exterior landings, measured to edge of platform	Yes	Yes

	<b>Counts to Building Coverage</b>	<b>Minimum Yards Apply</b>
q. Closed Porches	Yes	Yes
r. Gazebos	Yes	Yes
<b>Steps / Stoops / Entries</b>		
s. exterior steps, stairs, landings	No	Yes
t. entryways for below grade access attached to the main Building (i.e. - basement hatchway doors)	No	Yes
<b>Recreation Facilities</b>		
u. Swimming pools, hot tubs	No	Yes
v. at grade tennis courts, basketball courts, sports courts, or similar recreation surfaces	No	Yes
<b>Other Features</b>		
w. Accessory Building (s) measured to the outside surface of the exterior walls (see Section 3.4.F)	Yes	See 3.4.F
x. Ground-mounted solar panels	No	See 3.4.F
y. Dog house, playscape, tree house, and other minor structures less than one hundred (100) square feet	No	No
z. Small accessory or ornamental features such as bird baths, well casings, etc.	No	No
aa. dish antenna mounted off ground on a base or riser on the ground	No	Yes
bb. above ground propane tank	No	Yes
cc. emergency generator, exterior HVAC equipment, pool equipment	No	Yes
dd. concrete pads for emergency generator, exterior HVAC equipment, pool equipment	No	No

### D. Corner Visibility Requirements

Except for within the NHCZ, no planting, Structure, Fence, wall or other obstructions to vision more than three (3) feet in Height shall be placed or maintained within the triangular area formed by the intersecting Street Lines and a straight line connecting points on said Street Lines, each of which point is twenty-five (25) feet distant from the point of the intersection.

### E. Exceptions to Height, Yard Setback and Area Requirements

1. See Section 3.4.H, Exceptions to Height and Area Requirements.
2. In the NHCZ, B, and C Districts minimum Front, Side, and Rear Yard Setbacks may be reduced by Special Exception, where the Commission finds that:
  - a. Adjoining lots are being developed under a common plan with shared parking, driveways, or other supporting facilities; or

#### Section 4.4. Area and Dimensional Requirements

- b. Parking is being located to the side or rear of the building and the reduced Front Yard Setback is to be landscaped; or
    - c. The Minimum Yard Setback of the adjoining lot or lots is such that the required Yard Setback is not required to achieve the purposes of these Regulations.
  3. In the NHCZ District, the Commission may, but Special Exception, allow the Minimum Side Yard Setbacks to be aggregated and allocated from one side to the other, down to a zero Setback on one (1) side, for the following purposes:
    - a. Achieve a zero Minimum Side Yard Setback between Buildings of similar use and construction;
    - b. Allow for wider and more useable corridors between Buildings for vehicular and pedestrian access to the rear of the lot;
    - c. Allow the creation of useable open space for landscaping, parks, or other public amenities.
  4. In addition, in the NHCZ, the Commission may require a reduction in the minimum Front Yard Setback to preserve the historic streetscape, and may require parking to the side or rear of the Principal Building, Structure, or Use.

## **SECTION 4.5. SPECIAL USE PROVISIONS**

### **A. Adult Oriented Establishment**

A proposed Adult Oriented Establishment shall be located at least one thousand five hundred (1,500) feet from Schools, Religious Institutions, public parks, recreational lands and another Adult Oriented Establishment as measured from any door of the proposed Adult Oriented Establishment to the property line of such designated Uses or areas.

### **B. Mixed Use**

In the NHCZ District, Multi-Family Dwelling by conversion of buildings existing on the effective date of zoning in New Hartford, being June 3, 1957 or by new construction may be permitted by Special Exception provided that:

1. Residential uses shall be located only above the first Story of the Building; and
2. Parking as required by Section 6.2 of these Regulations shall be provided for all uses on the Lot; and
3. All parking shall be located on the subject Lot, except where reduction in parking is authorized by the Commission per Section 6.2.E of these Regulations.

### **C. Motor Vehicle Service and Gas Filling Station**

Motor Vehicle Service and Gas Filling Stations shall meet the following standards, in addition to those required for a Special Exception:

1. A garage for more than five (5) motor vehicles, a motor vehicle service station, or gas filling station shall not be erected, established or Enlarged on any Lot that is located within three hundred (300) feet of a Lot containing:
  - a. A public School or a private School conducted for children under sixteen (16) years of age, and giving regular instruction at least five (5) days a week for eight or more months a year; or,
  - b. A Hospital maintaining at least fifteen (15) beds for patients.
2. A gasoline-filling appliance shall not be located within twenty (20) feet of a Street Line nor within twenty-five (25) feet of an adjacent property line.
3. The Commission shall find that the proposed Use will not:
  - a. tend to depreciate the value of adjoining property or Uses,
  - b. impair the integrity of this Regulation,
  - c. endanger the appropriate use of land in the immediate neighborhood, or,
  - d. be inconsistent with the public welfare.
4. An existing garage for more than five (5) motor vehicles, group of garages for more than five (5) motor vehicles, motor vehicle service station, or gas filling station shall not be deemed to become a Nonconforming Use through the subsequent erection of those Uses in 4.5.C.1, above, within the aforesaid prescribed area.
5. In accordance with CGS Section 14-54, applicants for dealing or repairing motor vehicles must obtain a certificate of approval of the location from the Zoning Board of Appeals.

## **D. Hotel**

When allowed by these Regulations, a Hotel shall meet the following standards, in addition to those required for a Special Exception:

1. The minimum Lot size is twice the minimum required for the District.
2. The seating capacity for food service areas for guests shall not exceed the total capacity of guest accommodations, other than for approved accessory banquet facilities or conference rooms.
3. No guest accommodation shall be offered or operated in any manner which permits the establishment of a tenant/landlord relationship or legal residence by any such occupant.
4. In all respects, the size and number of rooms available within the Hotel shall conform to:
  - a. health, fire and safety codes of the State of Connecticut and the Town of New Hartford,
  - b. limits and requirements for on-site waste disposal, and,
  - c. any other pertinent codes, regulations or licenses required for operation of multiple occupancy, food service, and/or the like.

## **E. Commercial Kennel**

Commercial Kennels shall meet the following standards, in addition to those required for a Special Exception:

1. The minimum Lot size is three (3) acres.
2. Buildings or enclosures that in which dogs are kept shall have a minimum setback of one hundred fifty (150) feet from any property line.

## **F. Special Accessory Use Provisions for Business Districts**

### **1. Drive-Through Windows**

- a. Where permitted in accordance with Section 4.2 of these Regulations, drive-through windows shall comply the criteria for Special Exceptions and with the following additional standards:
  - i. Adequate provision has been made for the stacking of adequate numbers of vehicles in a queuing lane which is separate from the traffic circulation pattern associated with the Principal Use and its parking area.
  - ii. The queuing lane shall be designed to screen adjoining properties from the glare from headlights of waiting vehicles.
  - iii. Adequate provision has been made for pedestrians to park and safely reach the entrances or exits of the Principal Use without crossing through adjacent lanes of moving traffic or stacking lanes for drive-through service.
  - iv. Order boards or exterior audio systems are designed and located to avoid adverse impacts to adjacent properties.
  - v. Provisions have been made to control and clean up litter from the drive-through facility and its queuing lane.

- b. The Commission may impose conditions on a drive-through window, including, but not limited to, hours of operation, size or illumination of order boards, volume of exterior audio systems, and monitoring of litter on and around the site.

## **G. Veterinary Hospital**

Veterinary Hospitals shall meet the following standards, in addition to those required for a Special Exception:

1. The minimum Lot size is three (3) acres.
2. Buildings or enclosures in which dogs are kept shall have a minimum setback of one hundred fifty (150) feet of any property line.

## **ARTICLE 5 – SPECIAL DISTRICTS**

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### **SECTION 5.1. SPECIAL DEVELOPMENT DISTRICT RESERVED**

### **SECTION 5.2. FLOODPLAIN OVERLAY DISTRICT**

#### **A. Findings of Fact**

The Town of New Hartford has Special Flood Hazard Areas that 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. Additionally, Structures that are inadequately elevated, Floodproofed, or otherwise protected from Flood damage also contribute to the Flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these Regulations are adopted.

#### **B. Purpose**

It is the purpose of these Regulations to promote the public health, safety and general welfare, and to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly Flood control projects;
3. Minimize the need for rescue and relief efforts associated with Flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, Streets and bridges located in Special Flood Hazard Areas;
6. Help maintain a stable tax base by providing for the proper use and Development of Special Flood Hazard Areas so as to protect property and minimize future Flood blight areas;
7. Ensure that those who occupy the Special Flood Hazard Areas assume responsibility for their actions;
8. Minimize the impact of Development on adjacent properties within and near Flood prone areas;
9. Ensure that the Flood storage and conveyance functions of the Floodplain are maintained;
10. Minimize the impact of Development on the natural, beneficial values of the Floodplain;
11. Prevent Floodplain Uses that are either hazardous or environmentally incompatible; and
12. Meet community participation requirements of the National Flood Insurance Program.

### C. Flood Related Definitions

The following definitions apply to Section 5.2 only.

#### Flood-Related Definitions

**100 Year Flood** – See “Base Flood”

**Basement** – For the purposes of the Floodplain Overlay District, a “Basement” or “Cellar” is any part of a Building having its floor below grade on all sides.

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

**Base Flood Elevation (BFE)** – The elevation of the crest of the Base Flood or 100 Year Flood. The Height in relation to Mean Sea Level expected to be reached by waters of the Base Flood at pertinent points in the Floodplains of coastal and riverine areas.

**Building** – See “Structure.”

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

**Development** – Any man-made change to improved or unimproved real estate, including but not limited to the construction of Buildings or Structures; the construction of additions, Alterations or Substantial Improvements to Buildings or Structures; the placement of Buildings or Structures; mining, dredging, filling, Grading, paving, Excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

**Federal Emergency Management Agency (FEMA)** – The agency that administers the National Flood Insurance Program.

**Finished Living Space** – Can include, but is not limited to, a space that is heated and / or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by Floodwaters and expensive to clean, repair or replace. A fully enclosed area below the Base Flood Elevation cannot have Finished Living Space and needs to be designed for exposure to Flood forces. These spaces can only be used for Parking Spaces, Building access or limited storage.

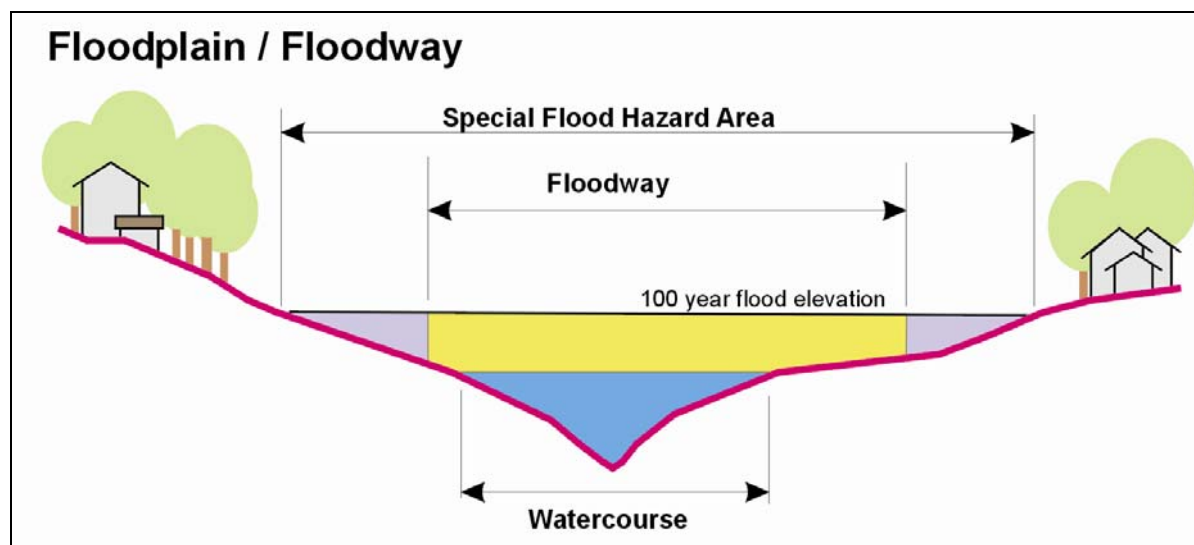
**Flood or Flooding** – A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation / runoff of surface waters from any source.

**Flood Boundary and Floodway Map (FBFM)** – The official map of a community on which FEMA has delineated the limits of the Regulatory Floodway and 100 Year Floodplain.

**Flood Insurance Rate Map (FIRM)** – An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special Flood hazard and the risk premium zones. (Zones A1-30 or numbered A Zones).

**Flood Insurance Study (FIS)** – The official report from FEMA which contains examination, evaluation, and determination of Flood hazards and if appropriate, corresponding water surface elevations.

**Floodway or Regulatory Floodway**– The channel of a river or other Watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation more than one (1) foot. The Floodway is designated on the community's Flood Boundary and Floodway Map.



**Functionally Dependent Use or Facility** – A Use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

**Historic Structure** – Any Structure that is:

- listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- individually listed on the Connecticut inventory of historic places; or
- individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

**Hydrologic and Hydraulic Engineering Analysis** – An analysis performed by a professional engineer, registered in the State of Connecticut, in accordance with standard engineering practices as accepted by FEMA, used to determine Flood elevations and/or Floodway boundaries.

**Lowest Floor** – The Lowest Floor of the lowest enclosed area (including Basement). An unfinished or Flood resistant enclosure, usable solely for parking of vehicles, Building access or storage, in an area other than a Basement area is not considered a Building's Lowest Floor provided that such an area meets the design requirements specified in these Regulations.

**Manufactured Home** – A Structure, transportable in one or more sections, which is built on a permanent chassis and is designed for Use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, Recreational Vehicles and other similar vehicles or transportable Structures placed on a site for 180 consecutive days or longer and intended to be improved property.

**Market Value** – The value of the Structure shall be determined by either an independent appraisal by a professional appraiser or the property's tax assessment minus the land value, prior to the start of the initial repair or improvement, or in the case of damage, the value of the Structure prior to the damage occurring.

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

**Motorized Camping Vehicle (Visiting Trailer)**– Includes Recreational Vehicle, park trailer, travel trailer, and similar transportable Structures and includes a vehicle which is:

- built on a single chassis,
- 400 square feet or less when measured at the longest horizontal projection,
- designed to be self-propelled or permanently towable by a light duty truck, and
- designed primarily not for Use as permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal Use.

**New Construction** – Structures for which the "Start of Construction" commenced on or after the effective date of the initial FIRM (August 3, 1981), and includes any subsequent improvement to such Structures.

**Recreational Vehicle** – see "Motorized Camping Vehicle".

**Special Flood Hazard Area (SFHA)** – The land in the Floodplain within a community subject to a one (1) percent or greater chance of Flooding in any given year. SHFAs are determined using the Base Flood Elevations provided on Flood profiles in the Flood Insurance Study for a community. Base Flood Elevations provided on Flood Insurance Rate Maps are only approximate (rounded up or down) and should be verified with the Base Flood Elevations published in the Flood Insurance Study for a specific location.

## Section 5.2. Floodplain Overlay District

SHFAs include, but are not necessarily limited to, the land shown as Zones A, A1-30, AE, AO, and AH. The SHFA is also called the Area of Special Flood Hazard.

**Start of Construction** – The date the Building permit was issued, provided the actual Start of Construction, repair, reconstruction, rehabilitation, addition, placement, 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 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 a Building.

**Structure** – For the purposes the Floodplain Overlay District, means a walled and roofed Building, including a gas or liquid storage tank, that is principally above ground, as well as a Manufactured Home.

**Substantial Damage** – Damage of any origin sustained by a Structure, whereby the Cost (see definition of Cost, above) of restoring the Structure to its pre-damaged condition would equal or exceed 50 percent of the Market Value (see definition, above) of the Structure before the damage occurred.

**Substantial Improvement** – Any combination of repairs, reconstruction, rehabilitation, Alterations, additions, or other improvement of a Structure, taking place during a 10 year period in which the cumulative Cost equals or exceeds fifty percent (50%) of the Market Value of the Structure as determined at the beginning of such ten (10) year period. This term includes Structures that have incurred Substantial Damage regardless of the actual repair work performed. 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 include either: any project for improvement of a Structure to correct existing Violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or, any Alteration of a Historic Structure, provided that the Alteration will not preclude the Structure's continued designation as a Historic Structure.

**Variance** – A grant of relief by a community from the terms of the Floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

**Violation** – Failure of a Structure or other Development to be fully compliant with these Floodplain management Regulations. A Structure or other Development without required permits, Lowest Floor Elevation documents, Flood-proofing certificates or required Floodway encroachment calculations is resumed to be in Violation until such time as that documentation is provided.

**Water Surface Elevation** – The Height, in relation to NGVD, or other datum where specified, of Floods of various magnitudes and frequencies in the Floodplains of coastal or riverine areas.

**Zone A** – The Special Flood Hazard Area shown on the FIRM which is subject to inundation by the 100-Year Flood. Because detailed hydraulic analyses have not been performed, no Base Flood Elevation is shown. Mandatory Flood insurance purchase requirements apply.

**Zones A1-30 or Numbered A Zones** – The Special Flood Hazard Areas shown on the FIRM which are subject to inundation by the 100 Year Flood determined in a FIS by detailed methods. Base Flood Elevations are shown with these zones. Insurance risk level is indicated by the number. Mandatory Flood insurance purchase requirements apply.

#### **D. Applicability**

1. These Regulations shall apply to all activities, described in this Section. A Structure already in compliance with the provisions of this Regulation shall not be made non-compliant by any Alteration, repair, reconstruction or improvement to the Structure.
2. For the purposes of these Regulations, the Floodplain Overlay District shall include all land within the boundaries of the 100-Year Floodplain (Floodway and Floodplain fringe area).
3. If any portion of a Structure, including Decks or Porches, lies within the Special Flood Hazard Area, the entire Structure is considered to be in the SFHA and the entire Structure must meet construction requirements of the Flood zone. The entire Structure includes any attached additions, garages, Decks, sunrooms or any other Structure attached to the principle Structure.

#### **E. Basis for Establishing the Areas of Special Flood Hazard**

For the purposes of these Regulations, the following studies and / or maps are adopted:

1. Flood Insurance Rate Map, Town of New Hartford, Connecticut, Litchfield County, effective February 3, 1982.
2. Flood Boundary and Floodway Map, Town of New Hartford, Connecticut, Litchfield County, effective February 3, 1982.
3. Flood Insurance Study, Town of New Hartford, Connecticut, Litchfield County, effective February 3, 1982.
4. Other studies and / or maps, which may be relied upon for establishment of the Flood protection elevation, delineation of the 100-year Floodplain, Floodways or delineation of other Special Flood Hazard Areas.
5. Any Hydrologic and Hydraulic Engineering Analysis authored by a registered Professional Engineer in the State of Connecticut.
6. Any subsequent revisions to the aforementioned maps and / or studies are hereby adopted by reference and declared to be a part of these Regulations. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment is obtained. Such maps and/or studies are on file at the Land Use Office.
7. For sites within Zone A, without Base Flood Elevation data or for Watercourses without FEMA-published Floodways, the Zoning Enforcement Officer shall obtain, review and reasonably utilize any Base Flood Elevation data available from a Federal, State, or other source in the administration of the elevation or Floodproofing standards of this Section. When such Floodway

## Section 5.2. Floodplain Overlay District

data is provided by an applicant or whenever such data is available from any other sources (in response to the Town's request or not), the community shall adopt a Regulatory Floodway based on the principle that the Floodway must be able to convey the waters of the Base Flood without increasing the water surface elevation more than one (1) foot at any point within the community.

### **F. Greater Restrictions**

1. These Regulations are not intended to repeal any existing ordinances or regulations. In the event of a conflict between these Regulations and any other ordinance or regulation the more restrictive shall be followed. These Regulations shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by the Regulations.
2. If a Structure, including a Deck or Porch, lies within two (2) or more Flood zones, the construction standards of the most restrictive zone shall apply to the entire Structure. The Structure includes any attached additions, garages, Decks, sunrooms, or any other Structure attached to the principle Structure.

### **G. Warning and Disclaimer of Liability**

The degree of Flood protection required by these Regulations 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. These Regulations do not imply that land outside of Special Flood Hazard Areas or Uses permitted within such areas will be free from Flooding or Flood damage. These Regulations shall not create liability on the part of the Town, any officer or employee thereof, or the Federal Emergency Management Agency, for any Flood damage that results from reliance on these Regulations or any administrative decision lawfully made thereunder.

### **H. Administration**

Floodplain Permit applications will be reviewed by the Zoning Enforcement Officer to determine whether proposed Building sites will be reasonably safe from Flooding. In conducting this review the Zoning Enforcement Officer may consult with the Building Official, the Town Engineer, Town Planner or other town official with knowledge of Floodplain Permit requirements.

### **I. Prohibited Uses or Structures**

The following Uses and Structures are prohibited within a Special Flood Hazard Area:

1. The outdoor storage of material which would tend to be floated by Floodwater and cause obstruction downstream
2. Temporary Buildings
3. Parking or storage of Motorized Camping Vehicles

### **J. Permit Required**

In a Floodplain Overlay District, no Structure shall be erected, expanded or structurally Altered, no land Use shall be established, and no fill shall be placed until the Commission has approved a plan and issued a Floodplain Permit.

## **K. Application Procedures**

1. Prior to any Development activities, a Floodplain permit application shall be completed and submitted on forms furnished by the Town.
2. The Zoning Enforcement Officer shall notify adjacent communities and the State DEP, Inland Water Resources Division prior to any Alteration or relocation of a Watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.
3. The Commission shall act on the Floodplain Permit by approving, disapproving or approving the Permit with modifications to proposed plans.
4. One (1) copy of the approved Permit and plan, with the approval noted thereon, shall be filed with the Commission and one (1) copy shall be made available to the applicant.
5. If an applicant has received a Variance from the Zoning Board of Appeals to build a Structure with its Lowest Floor elevation below the Base Flood Elevation, the applicant shall submit an affidavit to the Zoning Enforcement Officer that acknowledges that he or she understands that the Cost of their Flood insurance will be commensurate with the increased risk resulting from the Lowest Floor elevation.

## **L. Application Requirements**

Applicants shall submit a Floodplain Application and Site Plan, in accordance with the Floodplain Check List in Appendix 2.

## **M. Standards and Requirements**

The following general standards and requirements shall apply:

1. New construction and Substantial Improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the Structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. New construction and Substantial Improvements shall be constructed using materials resistant to Flood damage.
3. New construction and Substantial Improvements shall be constructed using methods and practices that minimize Flood damage.
4. Electrical, heating, ventilation, plumbing, and 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. New construction and Substantial Improvements shall be designed to cause the least possible impediment to the flow of Floodwater and debris.
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of Flood waters into the system.
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of Flood waters into the system.
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during Flooding.
9. For New Construction of and Substantial Improvements to residential Structures which are used or intended to be used for dwelling purposes, including but not limited to Lodging Establishments

## Section 5.2. Floodplain Overlay District

or other Uses with residential guest accommodations, the Lowest Floor (including Basement) shall be elevated at least one (1) foot above the Base Flood Elevation.

10. New Construction or Substantial Improvements to non-residential Structures shall meet the following requirements:
  - a. The Lowest Floor (including Basement) shall be elevated one (1) foot above the Base Flood Elevation or, together with attendant utility and sanitary facilities, shall be Flood-proofed to one (1) foot above the Base Flood Elevation.
  - b. A registered professional engineer or architect shall develop and/or review structural design, plans, and specifications for the construction, and shall certify that the design includes walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy resulting from Flood waters one (1) foot above the Base Flood Elevation.
11. A Visiting Trailer or Motorized Camping Vehicle as otherwise permitted in accord with the Zoning Regulations may be placed on sites within Zone A or Zone AI-30 provided such vehicle shall be permitted on site for no more than four (4) weeks in any calendar year and provided the vehicle is fully licensed and ready for highway use. A Visiting Trailer or Motorized Camping Vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
12. Since the Floodway is an extremely hazardous area due to the velocity of Flood waters which carry debris and potential projectiles, and has erosion potential, the following provisions shall apply:
  - a. All encroachments are prohibited including fill, New Construction, Substantial Improvements and other Developments unless:
    - i. certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any (0.00) increase in Flood levels during occurrence of the Base Flood discharge, and
    - ii. all other requirements applicable to Development in a Special Flood Hazard Area under this regulation are met.
  - b. Fences are prohibited unless aligned in the direction of the flow and constructed of an open design.
13. In the A1-30 Zone 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 future anticipated Development is considered cumulatively with the Development proposed as part of the application.
14. Compensatory Storage. The water holding capacity of the Floodplain 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 as follows:
  - a. Storage shall be provided on-site, unless easements have been gained from adjacent property owners and approved by the Town,
  - b. Storage shall be provided within the same hydraulic reach and a volume not previously used for Flood storage,
  - c. Storage 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, and

- d. Compensatory volume shall have an unrestricted hydraulic connection to the same waterway or waterbody.
15. Equal Conveyance. Within the Floodplain 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 Engineering 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.
16. Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the Structure shall be either elevated above the Base Flood Elevation on a concrete pad, or:
  - a. Be securely anchored with tie-down straps to prevent flotation or lateral movement,
  - b. Have the top of the fill pipe extended above the BFE, and
  - c. Have a screw fill cap that does not allow for the infiltration of Flood water.
17. New construction, Substantial Improvements and repair to Structures that have sustained Substantial Damage cannot be constructed or located entirely or partially over water.

#### **N. Post-Construction Certification Requirements**

1. The Zoning Enforcement Officer shall determine that all requirements of the Floodplain Permit have been complied with prior to issuing a Certificate of Zoning compliance.
2. For all New Construction and Substantial Improvements, once constructed, certificates which include the specific "as built" elevations (in relation to Mean Sea Level) to which such Structures are elevated or Flood-proofed shall be signed and sealed by a certified land surveyor (L.S.) submitted to the Zoning Enforcement Officer and maintained in the Town files.
3. Regular maintenance meeting the approval of the Zoning Enforcement Officer and the Building Official shall be performed by the permittee to assure that the Flood carrying capacity within the Altered or relocated portion of any Watercourse, is maintained.

## **SECTION 5.3. FARMINGTON RIVER PROTECTION OVERLAY DISTRICT**

### **A. Purpose**

This regulation establishes standards and requirements for the use and conservation of land and water within the District in recognition of the river's eligibility for designation under the National Wild and Scenic Rivers Act. The regulation also contributes to the regional conservation of the river corridor.

The purposes of the Farmington River Protection Overlay District are to:

1. Protect life, public safety and property from Flooding hazards;
2. Prevent any Alterations to the natural flow of the river in order to maintain its recreational opportunities, environmental attributes, and historic features;
3. Prevent water pollution, including thermal pollution, caused by erosion, sedimentation, nutrient or pesticide runoff, and poorly sited waste disposal facilities;
4. Enhance and preserve existing scenic or environmentally sensitive areas along the shoreline;
5. Conserve shore cover and encourage environmentally sensitive Developments;
6. Preserve and maintain the groundwater table and water recharge areas;
7. Conserve the river's Floodplain to maintain its vital ecological and Flood storage functions;
8. Protect fisheries and wildlife habitat within and along the river;
9. To preserve aesthetic values of the natural river area.

### **B. Applicability**

1. Site Alterations, regrading, filling or clearing of vegetation within the Overlay District shall be subject to the requirements of this regulation.
2. Nothing in this regulation shall prohibit the construction, installation, or maintenance of sewer pipes, storm drains, utility poles, sewer plants, bridges, or other municipal projects or utilities, provided that the construction and design of these projects or utilities is done in such a way as to minimize disturbance of vegetation and other natural features in accordance with the purposes of this Regulation.

### **C. Greater Restrictions**

All existing regulations including the Town's Floodplain Regulations and the Zoning Regulations applicable to such underlying districts, shall remain in effect, except that where the Farmington River Overlay District imposes additional regulations, such regulations shall prevail.

### **D. Delineation**

The Farmington River Protection Overlay District shall be superimposed on the other districts established by these Regulations.

The Farmington River Protection Overlay District applies to the entire length of the west branch and mainstream of the Farmington River within the Town of New Hartford and that area within one hundred (100) feet measured landward from both edges of the river bed and as more particularly described on map entitled "Farmington River Protection Overlay District". The edge of the river bed is defined as that mark along the river's edge where the presence and action of water are so common and usual, and are so long continued in all ordinary years, as to produce soil and/or vegetation types which are distinct from that of the abutting upland.

### **E. Activities Requiring a Zoning Permit**

Activities regulated under B.1 that do not require a Site Plan Application or Special Exception Application, per Sections 5.3.F and G, shall not be commenced until the Zoning Enforcement Officer has issued a Zoning Permit for such activities.

### **F. Activities Requiring a Site Plan**

Any application involving the disturbance of more than two thousand five hundred (2,500) square feet of land within the Buffer Strip, as described in Section 5.3.G below, shall require an application for Special Exception approval by the Commission under the standards of Section 8.5 of these Regulations and, in addition, the standards of this Section 5.3.

### **G. Standards and Requirements**

1. A Buffer Strip extending one hundred (100) feet landward from both edges of the river bed shall be required for all Lots within the Farmington River Overlay District.
2. No new Buildings or Structures shall be erected within, or moved into, the Buffer Strip. Buildings and Structures existing within the Buffer Strip on the effective date of this regulation may be maintained, repaired, improved and enlarged provided it is done in such a way so as to minimize disturbance of vegetation and other natural features in accordance with the purposes of this regulation. Where there is construction and/or Grading, the removal of trees or shrubs further than twenty (20) feet from the edge of a foundation, or five (5) feet from the edge of a graded area shall be considered disturbance of vegetation and other natural features.
3. New on-site septic systems, including both primary and reserve areas may not be located within the Buffer Strip. Repairs to existing septic systems may be allowed within the Buffer Strip.
4. Excavation or removal of sand, gravel, or other Earth material within the Buffer Strip shall be prohibited. Grading or other surface Alterations necessary for the primary Use of the Lot may be performed within the Buffer Strip provided that it is done in such a way as to minimize disturbance of vegetation and other natural features in accordance with the purposes of this regulation.
5. Clear cutting of trees and shrubs is prohibited within the Buffer Strip. Trees and shrubs may be selectively pruned or removed to achieve a filtered view of the river from the principal Building or Structure, and for reasonable private access to the river. Pruning and removal activities shall insure that:
  - a. the stump and root structure remain in place to provide for streambank stabilization and erosion control; and,
  - b. path to the river shall meander down to the river's edge in a manner which protects the soil and vegetation from erosion while also screening man-made Structures and vehicles where possible.

### Section 5.3. Farmington River Protection Overlay District

6. Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs may be removed upon the issuance of a Zoning Permit.
7. Planting of perennial native species in the Buffer Strip is encouraged especially where exposed soil and steep slopes exist.
8. Dredging or removals of sand, gravel, or other Earth materials, as well as dumping, filling, or other Alterations, are prohibited between the edges of the riverbed on each side of the Farmington River.
9. In no case shall removal of vegetation or Grading of land exceed that permitted by the New Hartford Inland Wetland Commission.
10. No impoundments, dams, or other obstructions to the flow of the Farmington River may be located within the District.
11. All Uses in the Farmington River Protection Overlay District are permitted as provided for in an underlying district, except as prohibited in this regulation and in accordance with standards in these Regulations.
12. In addition to other applicable approval criteria, the Commission shall consider whether the proposed Use or Uses are so located or arranged as to minimize the disturbance of vegetation and other natural features within the Farmington River Protection District.
13. In the event of any removal of vegetation in violation of this Section, the Zoning Enforcement Officer may require the submission of a restoration plan, including the planting of replacement trees and shrubs, and specifically including, but not limited, the planting of the largest trees and shrubs that are commercially available.

### H. Modification of Buffer Requirement

1. The Commission may modify the Buffer requirements by granting a Special Exception for any Lot that meets all of the following provisions:
  - a. The Parcel existed as a legal Lot of record as of October 31, 1991;
  - b. Such Lot does not contain sufficient depth, measured landward from the edge of the river bed to provide a Buffer Strip one hundred (100) feet in depth; and,
  - c. The establishment or maintenance of a Use is otherwise permitted in the underlying zoning district.
2. The Commission shall not reduce the Buffer Strip beyond an amount reasonably necessary to accommodate an otherwise permitted land Use, and in no case, shall reduce the Buffer Strip to less than fifty percent (50%) of the available Lot depth, measured landward from the edge of the river bed.
3. In considering a modification to the Buffer, the Commission shall be guided by the following:
  - a. The extent to which there are other locations on the property beyond the District limits for the Use or Structure or activity intended;
  - b. The extent to which the configuration, elevation, and location of the property enable the proposed Use to be in harmony with the purposes of the District; and
  - c. The extent to which the proposed modifications and/or exemptions are the minimal needed to accommodate an otherwise Permitted Use.

## **SECTION 5.4. PUBLIC WATER SUPPLY WATERSHED OVERLAY DISTRICT**

### **A. Purpose**

The purpose of this Section is to regulate Uses within the Drainage basin of the Nepaug Reservoir so as to protect the quality and quantity of the surface and groundwater resources located therein. Furthermore, these Regulations are directed specifically at industrial, commercial, and business Uses of property within residential zones, since it is these types of Uses that have the greatest potential for adversely affecting water quality.

### **B. Applicability**

1. These Regulations shall apply to all of that area shown on the New Hartford Zoning Map as being located within the watershed District boundary.
2. The Public Water Supply Watershed Overlay District (PWSWOD) is an overlay zone in addition to and overlapping one (1) or more of the other districts delineated on the Zoning Map.
3. Within the PWSWOD, no land shall be used and no Structures erected, constructed, reconstructed, Enlarged, Extended, moved, or structurally Altered or used except in conformance with this Section and all other requirements of these Regulations.
4. The Use of property for residential purposes, excepting standards for fuel oil containment, are unaffected by these Regulations.

### **C. Permitted Activities**

Uses permitted in the underlying Districts may be permitted within the PWSWOD provided:

1. that such Use is not expressly prohibited by Section 5.4.E; and,
2. such Use does not have a potential for adverse effects upon water quality, in accordance with Section 5.4.D - F.

### **D. Activities Requiring a Special Exception**

These activities present a risk of contamination of groundwater because of the use or storage of materials and may only be permitted if the Premises in which the activity is conducted is connected to public sewers and if the Use is demonstrated to comply with the performance standards in these Regulations.

1. Any industrial, commercial, or business Use
2. Home-Based Business
3. Change in Use

Section 5.4. Public Water Supply Watershed overlay district

4. Activities, excluding Farming activities and ordinary maintenance of residential landscaping existing on the effective date of these Regulations, in which the following chemicals of concern are used or stored in quantities more than associated with normal household use:

Chemicals of Concern	Sources
Solvents (naphthalene, toluene, benzene, tetrachloroethylene, trichloroethane, vinyl chloride)	Industry, vehicle maintenance, metal parts, degreasing, dry cleaning, furniture finishing, printing, gasoline additives, cleaning products, improper disposal in septic systems, septic tank cleaners
Petroleum Products (gasoline, motor oil, fuel oil)	Vehicle maintenance, automobile service stations, heating fuel tanks, industrial machinery
Pesticides (chlorinated hydrocarbons, carbamates, organophosphates)	Agriculture, lawn applications, pesticide manufacture, storage
Nitrates	Agriculture, lawn care, septic systems, sewage treatment and collection systems
Biological Pollutants (bacteria, viruses, parasites)	Septic and sewage systems, agriculture
Salt (sodium chloride)	Road salt storage and application, home water-softener backwash
Metals (lead, chromium, silver, mercury, aluminum, iron, manganese)	Metal finishing and metal working, photo and x-ray processing, printing, painting, automobile radiator and body shops
Acids / Bases	Industry, photo processing, printing, painting, automobile radiator and body shops
Additional Chemicals defined as "Hazardous Materials" in the Town of New Hartford Aquifer Protection Regulations, as amended	--

Source: CT Department of Environmental Protection, Bureau of Water Protection and Land Reuse, Planning and Standards Division.

5. The following information shall be submitted as part of the application:
- The amount of any industrial and or commercial wastes to be generated and the means of storage and disposal.
  - The amount and composition of any Hazardous Materials handled, transported, stored, discharged, generated, or utilized on the Premises, including but not limited to those as identified by the Connecticut Department of Environmental Protection and or the Environmental Protection Agency.
  - The extent to which the proposed Use of the property entails either activities or chemicals of concern.
  - The generation and disposal of wastewater to include stormwater and septic.
6. The following standards shall apply:

- a. No interior floor drain from any area where possible contaminants are used or handled shall be directed to any stream, storm drain, subsurface Drainage system, or sewer disposal system.
- b. Dumpsters shall be covered or located within a roofed area and shall have drain plugs intact, and placed on an impervious pad.
- c. Materials or chemical processes that have a potential for pollution shall be of a self-contained nature such that the risk of contamination is negligible.
- d. Site Development shall limit the extent of paved area to the maximum necessary for parking, and vehicular and pedestrian circulation.
- e. The discharge of stormwater shall not adversely affect water quality. The design of stormwater Drainage facilities shall be such as to minimize soil erosion and maximize absorption of pollutants by the soil. Stormwater drain pipes, except for crossing culverts, shall terminate at least one hundred (100) feet from the established Watercourse unless such termination is impractical, the discharge arrangement is so constructed as to dissipate the flow energy in a way that will minimize the possibility of soil erosion, and the Commission finds that a discharge at a lesser distance is advantageous to stream quality. Special protections shall be taken to protect stream quality during construction. All stormwater quality systems shall conform to the Stormwater Quality Manual published by the Connecticut Department of Environmental Protection, as the same may be amended from time to time.
- f. Best management practices shall be utilized to remove pollutants from stormwater.
- g. Stormwater Management Plans shall meet or exceed the criteria contained in Section 6.8.

## **E. Principal Uses Prohibited in the PWSWOD**

In addition to Uses prohibited in the underlying district, the following Uses are expressly prohibited in the PWSWOD as Principal Uses:

1. Motor vehicle filling Stations (for Retail, Wholesale or fleet use)
2. Repair or maintenance of vehicles or internal combustion engines of vehicles, involving the use, storage or disposal of hazardous materials including solvents, lubricants, paints, brake fluids, transmission fluids or the generation of hazardous wastes
3. Storage of de-icing chemicals, including road salt, unless stored within a weather-tight, water-proof Structure
4. Dry cleaning, dyeing, and/or clothes or cloth cleaning services which involve the use, storage, or disposal of hazardous materials including dry cleaning solvents
5. Printing, platemaking, lithography, photoengraving, or gravure which involves the use, storage, or disposal of hazardous materials
6. Junk Yards and Salvage Operations
7. Beauty Shops
8. Furniture stripping or finishing operations which involve the use, storage or disposal of Hazardous Materials
9. Car or truck washing facilities, unless all wash water from the building and site is collected and recycled, or wash water is discharged to a public sewer system.
10. Septage Lagoons

#### Section 5.4. Public Water Supply Watershed overlay district

11. The underground storage and distribution lines of petroleum or other hazardous products, except when the following standards are observed:
  - a. Tanks will be double walled fiberglass reinforced plastic or double walled steel cathodically protected;
  - b. piping and distribution lines shall be protected against corrosion and constructed of double walled pipe or within a secondary containment pipe or conduit;
  - c. a monitoring/failure detection system shall be provided; and
  - d. an overfill prevention device or containment area shall be provided.
12. Sanitary landfill or any other solid waste facility
13. Truck terminals
14. Mortuaries or other embalming or crematory services which involve the use, storage or disposal of Hazardous Materials
15. Storage or servicing of heavy construction equipment relative to commercial, industrial, or business Use
16. Any other commercial, industrial, or business Use involving the use, storage, transportation, manufacture, handling, disposal, or treatment of hazardous waste, or the bulk storage of Hazardous Material or waste that constitutes a threat to the quality of surface and/or ground water resources.

#### **F. Special Exception for Accessory Uses When Permitted in the District**

The Commission may, by Special Exception, allow any of the uses listed in Subsection E above as Accessory Uses, where such Uses are permitted in the subject zoning District, and where the applicant establishes that appropriate measures have been incorporated into the plans to avoid or minimize adverse impacts on public water supply watersheds.

#### **G. Special Requirements for Oil/Fuel Storage Tanks Accessory to Principal Uses.**

1. All Accessory oil/fuel storage tanks of no more than three hundred fifty (350) gallons capacity shall be located:
  - a. Above ground or on an impervious surface and roofed or covered, or
    - i. in a Basement, or
    - ii. below ground in a water proof double walled containment Structure.
  - b. Such tank, as well as the transmission lines, shall be available for visible or mechanical Inspection.
2. All Accessory oil/fuel storage tanks of more than three hundred fifty (350) gallons capacity shall require a Special Exception and be contained within a water proof double walled containment Structure or otherwise protected against escape to the groundwater by measures satisfactory to the Commission.

## **SECTION 5.5. AQUIFER PROTECTION AREAS**

### **A. Purpose**

Aquifers are an essential natural resource and a major source of public drinking water for the Town of New Hartford. Use of groundwater will increase as the population grows and opportunities for new surface water supplies diminish due to the rising cost of land and increasingly intense Development. At the same time, numerous drinking water wells have been contaminated in the State by certain land Use activities, and others are now threatened. To address this problem, New Hartford has adopted Aquifer Protection Area Regulations.

### **B. Regulations**

See Aquifer Protection Area Regulations, adopted by the Town on May 15, 2009.

### **C. For Uses Requiring a Special Exception**

Uses that require a Special Exception or Site Plan Application in accordance with these Zoning Regulations and are subject to the Aquifer Protection Area Regulations shall obtain an Aquifer Protection permit prior to or simultaneously with applying for a Special Exception or Site Plan Application.

## **SECTION 5.6. PUBLIC SERVICE/UTILITY DISTRICT**

### **A. Purpose**

The purpose and intent of the PSU District is to permit public and quasi-public agencies, publicly chartered utilities, and other agencies providing public benefits pursuant to a governmental mandate, license, franchise, or similar procedure (hereafter, "Public Agencies"), to conduct necessary and customary operations and land uses without undue restriction by these Regulations. Towards that end, the intent of these Regulations is to be broadly permissive when such Public Agencies are operating within the scope of their principal function, but to restrict or prohibit any activities not within that scope.

Accordingly, land and water areas shall be used and buildings or structures shall be erected, altered, enlarged or used only for one (1) or more of the uses or use categories listed in the lists below of Permitted uses, Site Plan Review, and Special Exception uses subject to such standards and conditions which may be required by these Regulations. See the definition, where applicable, for any use in Section 2.

### **B. Permitted Uses**

1. Uses and use categories permitted as a matter of right subject to the issuance of a Zoning Permit and all requirements of the PSU District and any applicable provisions of these Regulations.
2. Buildings, structures and uses existing on the effective date of this section of the Regulations which are designed and used to further the purposes of the Public Agency, as such purposes are set forth in its charter, by-laws, license, franchise, or other operative document.

### **C. Site Plan Review Uses**

None.

#### **D. Special Exception Uses**

1. Uses and use categories permitted subject to the issuance of a Special Exception by the Commission in accordance with Section 8.5 of these Regulations, and all requirements of the PSU District and any applicable provisions of these Regulations.
2. The expansion, extension, or alteration of buildings, structures and uses beyond those existing on the effective date of this section of the Regulations which are designed and used to further the purposes of the Public Agency, as such purposes are set forth in its charter, by-laws, license, franchise, or other operative document.

#### **E. Permitted Accessory Uses and Structures**

1. Accessory uses and structures are permitted in accordance with the list below, subject to any other applicable provisions of these Regulations.
2. Existing buildings and structures accessory to a PSU District principal use.

#### **F. Prohibited Uses**

Any industrial, commercial, or residential use that does not directly further the purposes of the Public Agency, or that is not owned or controlled by it, is prohibited.

#### **G. Required Lot Area and Lot Width, Maximum Building Coverage, Maximum Impervious Surface Coverage, Minimum and Maximum Floor Area, Minimum Front Setback, Minimum Side Setback, Minimum Rear Setback, Maximum Height**

There shall be no minimum required lot area, frontage, or depth in the PSU District. Any building, structure, or improvement (including, but not limited to, storage areas, parking lots, tanks, dikes, and the like) shall be no less than one hundred (100) feet from any property or street line.

# ARTICLE 6 – BASIC STANDARDS

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## SECTION 6.1. LANDSCAPING

### A. Purpose

The purposes of this Section are to:

1. Establish landscape standards compatible with the rural character of the Town,
2. Retain natural vegetation for scenic and water quality purposes,
3. Enhance the appearance of public areas, such as Parking Areas,
4. Visually separate different categories of land Uses,
5. Minimize the conflict between adjoining Uses of land, and
6. Mitigate site Development factors, such as noise, Glare of lights, Signs, incompatible Buildings, Parking Areas, loading areas, access ways and circulation in a visually attractive manner.

### B. Applicability

1. A Landscape Plan shall be required:
  - a. As part of the Site Plan application for Development of a Lot located in a non-residential Districts.
  - b. As part of a Special Exception application for any non-residential Use located on a Lot in a residential District.
2. A Landscape Plan may be required by the Commission:
  - a. As part of any Special Exception application, or
  - b. For any Use involving outside storage of goods, materials or machinery.

### C. Submittal Requirements

1. The Landscape Plan shall be prepared by a professional landscape architect. The applicant may request the Commission to allow a Landscape Plan prepared by a qualified landscape designer. The Commission may approve such a request where it determines that the size and complexity of the project do not require a landscape architect to prepare the plan.
2. The Landscape Plan shall include items specified in Appendix 2, Application Check Lists.

### D. Landscape Standards and Requirements

1. The Landscape Plan shall be designed to mitigate the visual impact of the proposed Development upon the existing and the probable future Development of the area surrounding the site.
2. Natural stands of trees and shrubs located within the required yards shall be preserved wherever possible. For sites that have had vegetation removed prior to the filing of an application, the Commission may require that such vegetation be replaced by the largest trees and shrubs that

## Section 6.1. Landscaping

are commercially available. The purpose of this provision is to discourage pre-application clearing of specimen trees and shrubs.

3. The portion of a Lot covered by Buildings, other Structures, outside storage or paved areas shall be suitably landscaped with trees, shrubs, lawns or other landscape materials.
4. Areas not disturbed by filling, Grading, Excavation or other construction activity, shall be wherever possible left as natural terrain.
5. Landscape materials shall be in accordance with the following:
  - a. Plant materials shall be nursery grown and conform to standards of ANSI 260-1 "American Standards for Nursery Stock".
  - b. The following sizes are minimum acceptable; larger sizes are encouraged:
    - i. Large deciduous shade trees (example: maple, oak, ash, linden) shall be single stem, three (3) inch diameter at breast height.
    - ii. Ornamental deciduous trees (example: crabapple, cherry, magnolia, flowering dogwood) shall be single stem, two (2) inch diameter at breast height.
    - iii. Evergreen trees (example: pine, spruce) shall be single stem and a minimum of six (6) feet in height.
    - iv. Deciduous shrubs shall be eighteen (18) inches to twenty-four (24) inches in size.
    - v. Broadleaf evergreen shrubs (example rhododendron) shall be twenty-four (24) inches in spread or height.
    - vi. Minimum size container grown shrubs shall be three (3) gallons.
    - vii. Ground covers shall be a minimum two (2) year old plants.
    - viii. Vines shall be a minimum five (5) leaders of six (6) inch length.
6. Screening shall be provided for any objectionable area or view which is visible from adjacent properties or from the Street, including (but not limited to) loading areas, refuse storage or ground fixed mechanical equipment. Acceptable screening materials include: evergreen hedges, Fences providing visual screening, masonry walls or any combination of the above materials.
7. The Commission may require planting of additional trees and shrubs on a Lot to provide a visual Buffer between proposed non-residential Buildings and Structures and the Street.
8. Parking Areas shall meet the following requirements:
  - a. In Parking Areas of ten (10) or more Parking Spaces, at least ten percent (10%) of the Parking Area shall be suitably landscaped with appropriate trees, shrubs and other plant materials, subject to approval of the Commission, based upon consideration of the adequacy of landscaping to provide a safe, convenient and attractive parking Lot.
  - b. Landscaped areas shall be provided in Parking Areas, distributed among end islands, interior islands and planting strips; there shall be allocated at least twenty (20) square feet of net planting per Parking Space. Shade trees shall be provided at a rate of one (1) per six (6) cars.
  - c. Existing suitable landscape materials shall be preserved where practical and shall be designed with new planting to reduce visual and audio impacts, Glare and heat.
9. A landscape Buffer shall be provided by any non-residential Use or Multi-Family Residential Use that is adjacent to Residential District in accordance with the following:

- a. The minimum width of a Buffer for a Multi-Family Residential Use shall be twenty (20) feet;
  - b. The minimum width of a Buffer for a non-residential Use shall be fifty (50) feet;
  - c. The Buffer shall be landscaped with continuous evergreen trees or hedges having a minimum height of five (5) feet to provide screening and separation.
  - d. No paving is allowed within the Buffer, except walkways approved by the Commission.
  - e. The Commission may reduce or waive this Buffer requirement and instead, authorize the substitution of landscape screening with appropriate Fencing or walls.
  - f. Clear-cutting or harvesting of trees within Buffer areas is expressly prohibited at any time without prior Commission approval.
10. The Commission may require that one (1) or all of the Yard Setbacks along a property boundary line be landscaped with evergreen shrubs or trees, or such landscaping in combination with embankments, Fences and/or walls, to provide a screen and transition from the site to the surrounding area.
  11. The Commission may require that a performance Bond be provided to ensure the completion of the Landscape Plan and survival of the plant material for a period of up to two (2) growing seasons following installation.
  12. Stormwater Facilities that are landscaped in accordance with these regulations may be used to satisfy the requirements of Section 6.1.D.8 or 6.1.D.9 if the Commission finds that the landscaping plan and the design of the facilities provide a site amenity and enhance the appearance of the development.

## **E. Maintenance**

Where a Landscape Plan is required by these Regulations:

1. The property owner is responsible for proper maintenance of all landscape areas, including maintaining the landscaping in a healthy, growing condition at all times.
2. The property owner shall be responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning and other operations necessary for proper care.
3. Any plant that dies shall be replaced with another living plant as soon as possible.
4. The Commission may require a bond for a full growing season after the planting of landscaping in order to assure that material that does not survive will be replaced.

## **SECTION 6.2. PARKING AND LOADING**

### **A. Purpose**

This Section is intended to provide adequate parking and loading facilities to serve all existing and proposed Uses, while minimizing Impervious Surface Coverage in accordance with Low Impact Development principles as described in the Stormwater Management Policy and Principles section in Section 6.8 of these Regulations.

### **B. Applicability**

1. Off-Street motor vehicle parking facilities and Off-Street loading spaces, together with adequate exits and entrances thereto and interior aisles, shall be installed and permanently maintained as provided in this Section for each Building erected, Enlarged or Altered and for any land or Premises hereafter used.
2. On any Lot which is hereafter developed for commercial, industrial, or institutional Use, there shall be provided adequate space suitably located on the Lot for the loading and unloading of goods and materials.
3. At any time that a required Parking Area shall cease to be available for the purpose of Off-Street parking, the occupancy or Use permit for the main Use served by such area shall, following notice to the property owner and the opportunity to be heard, be revoked until such time as the required Off-Street space is provided.

### **C. Minimum Required Parking and Loading Facilities**

#### **1. General**

- a. The minimum amount of parking and loading facilities required for any property shall be determined by applying the standards of this Section to the actual and proposed Uses and when the requirements result in a fractional number, the minimum requirement shall be rounded up to the next whole number.
- b. Where different Uses occur on a single Parcel of land, the Parking Spaces and loading spaces to be provided with respect to such Parcel shall be the aggregate of the requirements for each such Use.
- c. Unless noted otherwise in these Regulations, all required Parking Spaces shall be maintained for the exclusive Use of residents, patrons, employees or tenants of the Building(s) on the site and shall not be used to meet the parking requirements of any other Use.
- d. Any parking rights acquired from another Parcel shall be recorded in the land records in the deed of each Parcel involved in such agreement.

## 2. Residential Uses

Use	Minimum Parking Facilities
a. Single-Family Dwelling	2 spaces per Dwelling Unit
b. Home-Based Business	2 spaces for Dwelling Unit plus 1 space for each employee, client, visitor on site at any one (1) time
c. Two-Family (new or conversion), Multi-Family Conversion	2 spaces per Dwelling Unit
d. Multi-Family Dwellings	1.3 spaces per Dwelling Unit
e. Elderly, Age Restricted Housing	1.0 spaces per Dwelling Unit
f. Accessory Dwelling Unit	3 Parking Spaces total for principal and Accessory Unit

## 3. Commercial Uses

Use	Minimum Parking Facilities	Minimum Loading Facilities
<b>Retail:</b>		
a. Free-Standing Retail Business	2.5 spaces per 500 sq. ft. GFA	At least 1 loading space per Building
b. Retail Plaza	4 spaces per 1,000 sq. ft. GFA	At least 2 loading spaces per Building
<b>Other Services:</b>		
c. Financial Institutions	3 spaces per 1,000 sq. ft of Gross Floor Area	
d. Personal Services	3 spaces per 1,000 sq. ft of Gross Floor Area	As determined by Commission
e. Funeral Home	1 space per 250 sq. ft of Gross Floor Area.	As determined by Commission
<b>Automotive:</b>		
f. Automotive and Boat Sales	2 per 1,000 sq. ft. GFA	As determined by Commission
g. Public Garage/Motor Vehicle Service or Gas Filling Station	2 per 1,000 sq. ft. GFA	As determined by Commission
<b>Restaurant:</b>		
h. High Turnover	9 spaces per 1,000 sq. ft. of GFA	At least 1 loading space per Building
i. Low Turnover	10 spaces per 1,000 sq. ft. of GFA	At least 1 loading space per Building
<b>Office:</b>		
j. Business or Professional Office	4 spaces per 1,000 sq. ft. of GFA.	As determined by the Commission

Section 6.2. Parking and Loading

Use	Minimum Parking Facilities	Minimum Loading Facilities
k. Corporate Headquarters	4 spaces per 1,000 sq. ft. of GFA.	At least 1 loading space per Building
l. Medical Office	5 space for each 1,000 sq. ft of Gross Floor Area	
<b>Lodging:</b>		
m. Bed and Breakfast	1 space for each guest room plus 2 spaces for owner	
n. Hotel	1 space per guest room plus 1 space for each employee on site at one (1) time	At least 1 loading space per Building
<b>Other:</b>		
o. Basement and Upper Story Business Space	One-half (1/2) of the requirement listed in these Regulations	
p. Theater, Amusement, Recreation with fixed seating	1 space for each 3 seats	As determined by Commission
q. Theater, Amusement, Recreation without fixed seating	1 space for each 3 persons based on Fire Marshal's rated capacity	As determined by Commission
r. Veterinary Hospital	3 spaces per 1,000 sq. ft. GFA	As determined by Commission
s. Wholesale Business	2.5 spaces per 1,000 sq. ft. GFA	At least 1 loading space per Building

4. Industrial Uses

Use	Minimum Parking Facilities	Minimum Loading Facilities
a. Warehousing	1 space per 2,000 sq. ft. GFA	At least 1 loading space per Building
b. Industrial and Manufacturing, including Research Laboratories – based on shift with largest number of employees	1 space per employee up to 20 employees, plus, 1 space per one and one-half (1.5) employees up to 50 employees plus, 1 space per 2 employees over 50 employees.	At least 1 loading space per Building
<b>Self Storage Facility:</b>		
c. With external access to individual storage units	3 spaces at the office plus 1 space for each 30 units. Spaces per unit may be reduced or eliminated if 24 foot driveway is located in front of storage units.	
d. With internal access to individual storage units	3 spaces at the office plus 1 spaces per 30 units.	

## 5. Other Uses

Use	Minimum Parking Facilities	Minimum Loading Facilities
a. Nursing Home, Convalescent Home	1 space per every 3 beds plus 1 for every 2 employees	1 loading space per Building
b. Commercial Kennel	2 spaces per 1,000 sq. ft. GFA	
c. Commercial Horse Stable	5 spaces plus 3 spaces for every 10 stalls	
d. Horse Riding or Training School	As determined by Commission based upon the size of classes, age of students, and scheduling of classes.	
<b>Places of Assembly, including religious institutions:</b>		
e. With fixed seating	1 space per each 3 seats	
f. Without fixed seating	1 space for each 3 persons based on Fire Marshal's rated capacity	
g. School (public or private)	1 space per each 3 persons in auditorium based on Fire Marshal's rated capacity.	
h. Farm Stand - Major & Minor	3 spaces plus Dwelling requirements if Dwelling Unit on Premises	
i. Uses not listed	As determined by Commission based on a parking demand study or requirements for similar Use	As determined by Commission

## D. Handicap Parking Facilities

1. Handicap Parking Space shall be provided for all non-residential Uses in number and design as specified by the laws and regulations of the State of Connecticut (State Building Code).
2. No new Structure, addition or Use shall receive a Certificate of Occupancy until the required handicap parking has been provided, striped and signed as provided by current specification.
3. Handicap Parking Spaces shall be provided in addition to the minimum number of required Parking Spaces.

## E. Reduction of Parking Facilities

Parking requirements may, by Special Exception, be reduced as follows:

1. In the B, C, I, or IP Districts, any Use (other than Warehousing) which has more than twenty-five percent (25%) of its Gross Floor Area in the form of storage facilities may have up to fifty percent (50%) of such storage area deducted from the total Building Gross Floor Area for the purpose of computing parking requirements provided:
  - a. such storage area shall be clearly identified on any application for a Zoning Permit and shall be separated from other spaces by a permanent partition,
  - b. such storage area shall be certified by the applicant as not housing any employee rest area, office area, work area or sales area,
  - c. use of such area for purposes other than storage shall constitute a violation of these Regulations, and
  - d. required loading space shall still be based upon the total Building Gross Floor Area.
2. Parking in NHCZ – The minimum parking requires for uses other than single-family dwelling units shall be three (3) spaces per one thousand (1000) square feet of Gross Floor Area.
3. Permanent Shared Use Reduction - The Commission may, by Special Exception, allow a reduction of the provision of up to fifty percent (50%) of the required Parking Spaces in the NHCZ and up to twenty-five percent (25%) of the required Parking Spaces in all other Districts for the Uses on one (1) or more sites due to shared use of parking facilities when:
  - a. the parking facilities provided on the site(s) are interconnected with adjacent parking facilities to create a functional parking arrangement that allows for the movement of both vehicles and pedestrians within the interconnected site;
  - b. appropriate perpetual access and parking easements are executed between the adjacent properties that are satisfactory to the Commission's attorney;
  - c. the Commission is satisfied that the parking needs of the joint users on the sites occur at different hours of the day or that adequate parking will be available for the current and potential future Uses; and,
  - d. the stormwater management system for the Parking Area is designed to accommodate runoff in the event that the deferred Parking Spaces must be installed.
4. Permanent Site Use Reduction - The Commission may, by Special Exception, allow a reduction of up to fifty percent (50%) of the required Parking Spaces in the NHCZ and up to twenty-five percent (25%) of the required Parking Spaces in all other Districts on an individual site that is not interconnected with one (1) or more adjacent parking facilities when the Commission is satisfied that:

- a. the parking needs of the Uses on the site occur at different hours of the day, or
  - b. adequate parking will be available for the current and potential future Uses.
  - c. The Commission may require a fee in lieu of parking where a location for such parking will be available in the foreseeable future.
5. Temporary Installation Deferral - The Commission may, by Special Exception, defer the immediate installation of up to twenty-five percent (25%) of the required Parking Spaces where:
- a. sufficient evidence has been presented, in the judgment of the Commission, to show that the reduced parking facilities will adequately serve the proposed Use,
  - b. the applicant shall show upon the Site Plan the complete layout for the full parking requirements of these Regulations.
  - c. the applicant accepts, in writing, a requirement that the owner will file the Site Plan in the Office of the Town Clerk, stipulating that the owner, or the successor and assigns of the owner, will install as many of the deferred Parking Spaces as the Commission deems necessary within six (6) months of the Commission's request, when, in the opinion of the Commission, such Installation is needed.
  - d. the stormwater management system for the parking area is designed to accommodate the additional runoff in the event that the deferred parking must be installed.
6. Maximum Parking – The number of minimum parking spaces specified by these Regulations shall not be exceeded by more than twenty percent (20%) without the granting of a Special Exception by the Commission. When such Special Exception is granted, the Commission may, as a condition of approval, require that spaces be made available for sharing by other lots in the general area.

## **F. Location of Parking and Loading Facilities**

1. Parking Spaces shall be:
  - a. on the same Lot with the Principal Use to which it is Accessory; or,
  - b. within a radius of five hundred (500) feet of any part of the Building to which it is intended to serve, provided such spaces are owned by or encumbered by an easement in favor of the Use.
2. Park spaces shall be located on a site which shall meet any additional standards for specific land Uses contained elsewhere in these Regulations.

### G. Size of Parking and Loading Facilities

1. Parking Spaces shall have dimensions not less than nine (9) feet by eighteen (18) feet plus adequate additional space to permit ingress and egress with respect to said space and having direct access to a Street.
2. Truck loading space, passageways and Driveways shall not be included when computing area available for Parking Spaces.
3. Parking Areas shall have the minimum aisle widths and direction of flow as follows:

<b>Parking Angle</b>	<b>Minimum Aisle Width</b>	<b>Direction of Flow</b>
45°	12'3"	One way
50°	12'9"	One way
55°	13'3"	One way
60°	14'3"	One way
65°	15'2"	One way
70°	16'	One way
75°	24'	Two way
90°	24'	Two way

4. No Parking Space shall be designed to allow a vehicle to protrude or overhang a sidewalk or any landscaped area.

## H. Specifications for Parking and Loading Facilities

1. Screening – Parking Areas containing more than three (3) vehicles shall be screened by a wall, Fence, or compact planting when abutting a Side Lot Line or Rear Lot Line of residential or institutional Use or a residential District. Such screening shall be at least four (4) feet high. See Section 6.1 for additional landscaping requirements for Parking Areas.
2. Lighting - All Parking Areas having more than ten (10) spaces shall be lighted in accordance with Section 6.4.
3. Parking Spaces shall be permanently maintained, durable, adequately cleared and surfaced.
4. In an IP District, the following additional standards shall apply:
  - a. Any Parking Space for any Use shall not be closer than fifty (50) feet to the nearest property line abutting an exterior Street, road or highway or to any residential District or residential Use.
  - b. Paved loading and unloading space for motor vehicles shall be no closer than 50 feet from property lines. All vehicle-turning movements shall occur within the property.
  - c. All Parking Areas larger than fifteen (15) spaces, for any Use, shall have islands provided between and at the end of rows so that ten percent (10%) of the Parking Area is landscaped surface.
5. Stormwater Management. All parking and loading areas shall conform to the requirements of Section 6.8 of these Regulations. Prior to the issuance of a Certificate of Zoning Compliance, an as-built plan of the stormwater management system shall be submitted to and approved by the Zoning Enforcement Officer.

## I. Access Drives for Non-Residential Uses

1. An exit from or entrance to an off-Street motor vehicle parking facility or off-Street loading space shall not be laid out as to constitute or create a traffic hazard or nuisance.
2. The Commission may require a Private Street entrance to serve two (2) or more adjacent front Lots located on a State Highway or Collector Street where such Private Street entrance will benefit travel safety on the Street. Such Private Street may be required to parallel, or approximately parallel, the State Highway or Collector Street to provide combined, shared access to frontage lots.
3. Entrances and exits shall be located either at an existing intersection or a minimum of (fifty) 50 feet from an intersection.
4. No exit or entrance shall exceed a grade of three (3) percent within twenty-five (25) feet of any Street Line nor eight percent of any other point.
5. In an Industrial (I) District and Industrial Park (IP) District, Lots shall have a clear and unobstructed easement, right-of-way, or access to a public Street. Such easement, right-of-way or access shall be a minimum of fifty (50) feet in width.

## **SECTION 6.3. SIGNS**

### **A. Purpose**

This Section is intended to control the number, size, location, lighting, and type of Signs in order to protect the public safety and general welfare.

### **B. Applicability**

No Sign, as defined in these Regulations, shall be erected, attached to, or maintained on property subject to these Regulations, except as permitted by the provisions of this Section.

### **C. Permit Required**

Before any Sign is erected, an application, in accordance with the Sign Permit Check List in Appendix 2, shall be submitted to the Zoning Enforcement Officer. The Zoning Enforcement Officer shall issue a permit upon determining compliance.

### **D. Signs Permitted in Residential Districts**

The following Signs are permitted as Accessory Uses in Residential Districts:

1. An off-Premise Farm Directional Sign which meet State Traffic Commission requirements and have a Sign Area no larger than four (4) square feet.
2. One (1) Sign up to two (2) square feet in area that provides the name and address of the occupant, in addition to house numbering required by a Town Ordinance.
3. No trespassing or other Signs indicating the private nature of Premises, up to two (2) square feet in area.
4. One (1) non-illuminated Temporary Sign up to eight (8) square feet in Sign Area pertaining to sale or lease of Premises where displayed, or where construction is under way.
5. Real estate directional Sign for an open house, up to four (4) square feet in area, on the Premises or on off-site private property on the day of the open house, with permission of the owner of the Premises.
6. Town, Religious Institution or School Signs up to sixteen (16) square feet in Sign Area.
7. Other Signs as permitted in these Regulations.

### **E. Signs Permitted in Business and Industrial Districts**

1. **B and C** – The following Signs are permitted for each business located therein:
  - a. **Building Mounted Sign** - No more than one (1) Building Mounted Sign and having a maximum area, measured in square feet, equal to the number of linear feet of the front Building wall of said Building, but not to exceed thirty-two (32) square feet per sign; and
  - b. **Freestanding Sign** - No more than one (1) Freestanding Sign having a maximum area of twenty (20) square feet, nor more than twelve (12) feet in height.
  - c. **Temporary Sign** – Up to one (1) Temporary Sign, not illuminated, and not exceeding twelve (12) square feet in Sign Area. A permit for such Sign shall be obtained from the

Zoning Enforcement Officer prior to display of this Sign. The Sign may be displayed for any new business for up to thirty (30) days during a three (3) month period.

- d. **Portable Sign - Portable Sign** – No more than one (1) Portable Sign is permitted with a zoning permit provided that:
    - i. There is a sidewalk in front of the business and such business is not able to install a Freestanding Sign;
    - ii. the location, which shall be approved by the Zoning Enforcement Officer, shall not block pedestrian passage or become a vehicular hazard;
    - iii. the Sign does not obstruct vehicular circulation, bus stops, benches, fire hydrants, or other features legally in the right-of-way;
    - iv. the Sign is securely weighted and stabilized so as to not shift in the wind or present a public safety hazard;
    - v. the Sign shall only be posted during the hours the business is open;
    - vi. the Sign Area shall not exceed ten and a half (10.5) square feet; and
    - vii. the Sign Area shall be included in the maximum Sign Area allowed for Building Mounted Signs for the Lot.
    - viii. The Sign shall be no more than ten (10) feet from the main entrance to use.
2. **NHCZ** – The following Signs are permitted for each business located therein, provided each business may have a Portable Sign, a Temporary Sign, plus no more than two (2) of the following:
- a. **Building Mounted Sign** – No more than one (1) Building Mounted Sign and having a maximum area, measured in square feet, equal to the number of linear feet of the portion of the front Building wall of the space occupied by the subject use of said Building, but not more than twenty (20) square feet of Sign Area.
  - b. **Freestanding Sign** – No more than one (1) Freestanding Sign having a maximum area of twelve (12) square feet and a height no greater than eight feet.
  - c. **Portable Sign** – No more than one (1) Portable Sign is permitted with a zoning permit provided that:
    - i. There is a sidewalk in front of the business and such business is not able to install a Freestanding Sign;
    - ii. the location, which shall be approved by the Zoning Enforcement Officer, shall not block pedestrian passage or become a vehicular hazard;
    - iii. the Sign does not obstruct vehicular circulation, bus stops, benches, fire hydrants, or other features legally in the right-of-way;
    - iv. the Sign is securely weighted and stabilized so as to not shift in the wind or present a public safety hazard;
    - v. the Sign shall only be posted during the hours the business is open;
    - vi. the Sign Area shall not exceed ten and a half (10.5) square feet; and
    - vii. the Sign Area shall be included in the maximum Sign Area allowed for Building Mounted Signs for the Lot.
  - d. **Projecting Sign** –
    - i. One (1) Projecting Sign up to eight (8) square feet in Sign Area.

## Section 6.3. Signs

- ii. The bottom of the Projecting Sign shall be a minimum of eight (8) feet above the ground directly under the Sign.
  - e. **Awning Sign** – may be used in addition to the allowed Sign Area and shall conform to the following standards:
    - i. Awnings shall reflect and harmonize with the existing character of New Hartford Center.
    - ii. Lettering shall not exceed twenty percent (20%) of the awning's valance and lettering shall not exceed eight inches in height.
    - iii. The valance shall be limited to twelve (12) inches in width.
    - iv. Any Awning sign which overhangs a sidewalk shall be a minimum of eight feet above the sidewalk.
  - f. **Temporary Sign** – Up to one (1) Temporary Sign, not illuminated, and not exceeding twelve (12) square feet in Sign Area. A permit for such Sign shall be obtained from the Zoning Enforcement Officer prior to display of this Sign. The Sign may be displayed for any new business for up to thirty (30) days during a three (3) month period.
- 3. **I and IP** – The following Signs are permitted in industrial districts for each industry located therein:
  - a. **Building Mounted Sign** – No more than one (1) Building Mounted Sign and having a maximum Sign Area, measured in square feet, equal to the number of linear feet of front Building wall of said Building, but no more than thirty-two (32) square feet in Sign Area.
  - b. **Freestanding Sign** – No more than one (1) Freestanding Sign and having a maximum Sign Area of twenty (20) square feet and eight (8) feet in height.
- 4. **Shopping Plaza in B, C, NHCZ, I and IP** – The following Signs are permitted to the exclusion of any other Signs:
  - a. **Building Mounted Sign** - No more than one (1) Building Mounted Sign for each Retail Business in said Retail Plaza, having a maximum Sign Area, measured in square feet, equal to the number of linear feet of the front Building wall of said Retail Business, but no more than thirty-two (32) square feet in Sign Area.
  - b. **Freestanding Sign** - No more than one (1) Freestanding Sign for the entire shopping plaza site, having a maximum area of sixty (60) square feet.
  - c. **Temporary Sign** – Up to one (1) Temporary Sign, not illuminated, and not exceeding twelve (12) square feet in Sign Area. A permit for such Sign shall be obtained from the Zoning Enforcement Officer prior to display of this Sign. The Sign may be displayed for any new business for up to thirty (30) days during a three (3) month period.
- 5. **Special Exception**
  - a. In the NHCZ, the Commission may increase the size of Building Mounted Signs for Buildings with tenants that only have floor space on upper stories. In no case shall the Special Exception allow the square footage of the total Sign Area to exceed twice the linear footage of the front Building wall.
  - b. In B, C, I, and IP Districts:

- i. The Commission may grant a Special Exception for the size and number of Signs on a Lot with a Building greater than twenty thousand (20,000) square feet in Gross Floor Area and with more than one (1) tenant.
- ii. In no case shall a Special Exception be granted for:
  - More than two (2) Free Standing Signs per Lot
  - A Free Standing Sign that is greater than ninety (90) square feet
  - Building Mounted Signs with a square footage greater than one and a half (1.5) times the linear footage of the front Building wall, nor more than one and a half (1.5) times the maximum total sign area or maximum per sign area allowed in the subject District.

## F. General Requirements for All Signs

1. No Sign shall be placed in such a position that it will cause danger to traffic by obscuring the view of any Street.
2. Illuminated Signs shall be so shielded as not to cast light into or onto any property or Building or onto any public right-of-way.
3. Rooftop, Sky (search-lights), Flashing and Moving Signs are prohibited.
4. No Signs are allowed above the Eave line of a Building.
5. No Sign shall display intermittent lights resembling the flashing lights customarily used in traffic signals or those used by police, fire, ambulance or other emergency vehicles, nor shall any Sign use the words "stop", "danger", or any other word, phrase, symbol or character that might be misconstrued to be a public safety warning or official traffic control Sign, nor shall any beam or beacon of light resembling any emergency vehicle or facility be permitted to be erected as part of any Sign or Sign display.
6. Flashing Signs, or Signs either directly or indirectly illuminated, of a flashing or revolving nature or giving off intermittent or rotating beams, either directly or by reflection, are prohibited except Signs indicating time and/or temperature by means of white intermittent lighting.
7. Signs which are no longer functional or abandoned shall be repaired, removed or relocated by the owner or lessee of the property on which such Sign stands within one (1) month following such designation by the Zoning Enforcement Officer.

## SECTION 6.4. OUTDOOR LIGHTING

### A. Purpose

The purpose of these Regulations is to provide specific standards in regard to lighting, in order to maximize the effectiveness of site lighting to enhance public safety and welfare, to avoid unnecessary upward illumination and illumination of adjacent properties, and to reduce Glare.

### B. Lighting-Related Definitions

**Direct Light** – Light emitted directly from the Lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a Luminaire.

**Direct Light Source** – The Lamp or bulb that produces the actual light.

**Full Cut-Off Type Fixture** – A Luminaire or light fixture that by design of the housing, does not allow any light dispersion or direct Glare to shine above a ninety (90) degree horizontal plane from the base.

**Fully Shielded Lights** – Fully Shielded Luminaire light fixtures allow control of the Glare in any direction.

**Glare** – Light emitting from a Luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

**Height of Luminaries** – The Height of Luminaries shall be the vertical distance from the ground directly below the centerline of the Luminaire to the lowest direct-light-emitting part of the Luminaire.

**Indirect Lighting** – Direct Light that has been reflected or has scattered off of other surfaces.

**Isodiagram** – A graphical representation of points of equal illuminance drawn as single line circular patterns or computer generated spot readings in a grid pattern on a site plan to show the level and evenness of a lighting design and how light fixtures will perform on a given site.

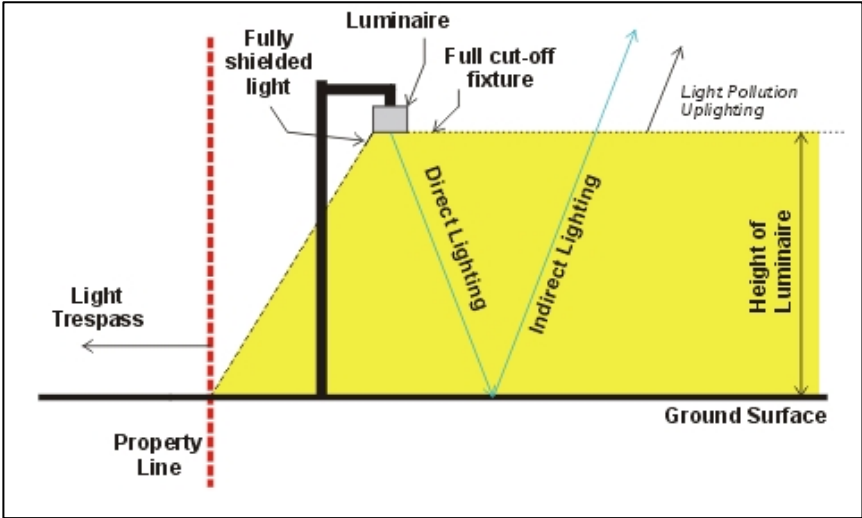
**Lamp** – The light source component of Luminaries that produces the actual light.

**Light Pollution** – Stray or reflected light that is emitted into the atmosphere, beyond the 90-degree horizontal plane and which can or does cause unwanted sky glow or which can or is seen from an abutting property.

**Light Trespass** – Light from an artificial light source that is intruding into an area where it is not wanted or does not belong.

**Lumen** – A unit of luminous flux. One-foot candle is one (1) Lumen per square foot. For the purposes of these Regulations, the Lumen-output values shall be the initial Lumen output ratings of a Lamp.

**Luminaire** – A complete lighting system, including Lamp or Lamps and a fixture.



**Outdoor Lighting** – The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

**Ratio, Uniformity (U Ratio)** – Ratio describing the average level of illumination in relation to the lowest level of illumination for a given area. For example, if a U Ratio is 4:1 for a given area, the lowest level of illumination (1) should be no less than 1/4 or 4 times less than the average (4) level of illumination.

**Uplighting** – Any light source that distributes illumination above a ninety (90) degree horizontal plane.

**C. Applicability**

A lighting plan is required when any Outdoor Lighting fixture installed, modified or refurbished, for

- 1. All sites located in nonresidential Districts,
- 2. Uses in residential Districts that require a Site Plan and / or Special Exception, and
- 3. Multi-Family Developments.

**D. Submission Requirements**

- 1. The Lighting Plan shall be reviewed pursuant to Site Plan review.
- 2. The Lighting Plan shall show items in the Outdoor Lighting Check List in Appendix 2.

### E. Lighting Standards

1. All exterior lights and illuminated Signs shall be designed, located, installed and directed in such a manner as to prevent objectionable Light Trespass at (and Glare across,) the property lines and disability Glare at any location on or off the property. The “maintained horizontal illuminance recommendations” set by the illumination Engineering Society of North America (IES) shall be observed:

Parking Lot Levels of Activity (examples)	Maintained Horizontal Illuminance (footcandles)					
	General Parking & Pedestrian Use Areas			Vehicle Use Area Only		
	Ave.	Min.	U-Ratio	Ave.	Min.	U-Ratio
<b>High</b> Major Cultural or Civic Event Regional Shopping Center (300,000 square feet +) Fast Food Restaurant Automotive Dealership Entertainment Theaters	3.6	0.9	4:1	2.0	0.67	3:1
<b>Medium</b> Community Shopping Center (5,000 to 299,999 square feet) Cultural, Civic or Recreational Event Office Park Commuter parking Lot Residential Complex	2.4	0.6	4:1	1.0	0.33	3:1
<b>Low</b> Neighborhood Shopping Center (less than 5,000 square feet) Industrial employee parking Religious Institution Educational facility	0.8	0.2	4:1	0.5	0.13	4:1

Source: Illuminating Engineering Society of North America (IESNA)

Ave.: Footcandles over the illuminated surface

Min.: Minimum footcandles anywhere within the illuminated surface

U-Ratio: Uniformity Ratio or the ratio of average footcandles to minimum footcandles

2. All lighting for Parking Areas and pedestrian areas will be Full Cut-Off Type Fixtures.
3. Floodlighting is prohibited.
4. Lighting for display, Building and aesthetics must be shielded to prevent direct Glare and/or Light Trespass and must also be, as much as physically possible, contained to the target area. All Building lighting for security or aesthetics will be full cut off or a Fully Shielded/recessed type, not allowing any upward distribution of light.
5. Adjacent to residential Uses and in all residential Districts, no Direct Light Source will be visible at the property line at ground level or above.
6. Gasoline Service Stations. Maintained illumination recommendations set by the Illuminating Engineering Society of North America will be observed and not exceeded (see table below). All area lighting will full cutoff. Lighting under canopy shall contain a lens that is flush with the bottom surface, to reduce off-site Glare for roadways.

<b>Service Stations or Gas Pump Area Average Illuminance Levels</b>	
<b>Area Description</b>	<b>Average Illumination On Described Area (Lux/Footcandles)</b>
Approach with dark surroundings	15/1.5
Driveway with dark surroundings	15/1.5
Pump island area with dark surroundings	50/5
Building Facades with dark surroundings	20/2
Service areas with dark surroundings	20/2
Landscape highlights with dark surroundings	10/1
Approach with light surroundings	20/2
Driveway with light surroundings	20/2
Pump island area with light surroundings	100/10
Building Facades with light surroundings	30/3
Services areas with light surroundings	30/3
Landscape highlights with light surroundings	20/2

7. All Street lighting shall be “cut-off” fixtures.
8. Outdoor playing areas. Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be specified, mounted and aimed so that their beams fall within the primary playing area and immediate surroundings, and so that no direct illumination is directed off the site.
9. Employ soft, transitional light levels, which are consistent from area to area. Minimize contrast between light sources, lit areas and dark surroundings.
10. All non-essential lighting, except Signs, will be required to be turned off after business hours, leaving only the necessary lighting for site security. Motion or infrared sensor lighting is encouraged.
11. Ornamental lighting designed to highlight flagpoles, sculptures or landscape feature should be targeted directly at the object and should not Extend 10% beyond the perimeter of the object.
12. The Height of Luminaries, except streetlights in public rights-of-way, shall be the minimum Height necessary to provide adequate illumination, but shall not exceed a Height of eighteen (18) feet, including the base.

## **F. Exemptions and Modifications**

1. Traditional seasonal lighting and temporary lighting used by Police, Fire Department or Emergency services are exempt from these Regulations.
2. The Commission may waive the requirement for a Lighting Plan for the replacement of lighting for existing Uses, where the new lighting installation involves no addition to or Expansion of a building or parking area existing on the effective date of these Regulations, and where the change in Use is projected to have vehicular and pedestrian activity comparable to the existing use.
3. The Planning and Zoning Commission may grant a Special Exception permit modifying the requirements of this Section, provided it determines that such modification is consistent with the purpose of these Regulations, in the following cases:
  - a. Where an applicant can demonstrate by means of a history of vandalism or other objection means that an extraordinary need for security exists.
  - b. Where an applicant can show that conditions hazardous to the public, such as steep embankments or stairs, may exist in traveled ways or areas;
  - c. Where a minor change is proposed to an existing nonconforming lighting installation, such that it would be unreasonable to require replacement of the entire installation.
  - d. Where special lighting is indicated for historic Buildings.

## **SECTION 6.5. SAND, GRAVEL AND EARTH PRODUCTS REMOVAL**

### **A. Purpose**

The purpose of this Section is to regulate the Excavation and processing of sand, gravel, and other Earth products in such a manner as to be consistent with the public health, safety and welfare. Specifically, this Section is directed at ensuring that there will be reestablishment on a site a suitable grade, that there will be reestablished upon the site a vegetative cover to prevent erosion and siltation, and that there will be proper safeguards to ensure that the Excavation and processing operations will not cause nuisance to the surrounding neighborhood via noise, dust, or vibrations.

### **B. Permitted by Right**

The following may be undertaken as of right, providing that the measures acceptable to the Town Engineer and in accordance with the Connecticut Guidelines for Erosion and Sediment Control (2002) are observed:

1. Excavation and removal of less than fifty (50) cubic yards over a period of one (1) calendar year from any single Parcel of land recorded as such in the office of the Town Clerk.
2. Excavation and removal of five hundred (500) or less cubic yards of material in conjunction with the Grading, foundation, or trench work necessary for the construction of a home, Building, or out-Building for which a Building permit has been issued.

### **C. Permitted by Special Exception**

#### **1. Uses**

- a. The excavation and removal from the Premises of sand, gravel, stone, clay, loam, dirt, mineral or other Earth products may be permitted in any District as a Special Exception.
- b. The processing of Earth products, to include screening and/or rock crushing, may be permitted through a separate application in any District as a Special Exception.

#### **2. Application Requirements**

- a. Applications shall be made on forms provided by the Commission, be accompanied by a fee(s).
- b. When two (2) or more separately owned, contiguous Parcels are proposed to be operated under one (1) permittee, such Parcels shall be consolidated under one (1) permit. Each property owner must be a party to the application and will be bound by the conditions of same, if granted.
- c. The Application shall include those requirements in Sand, Gravel and Earth Excavation Check List in Appendix 2.G.
- d. A plan demonstrating compliance with the Stormwater Management Standards in Section 6.8.

#### **3. Requirements for Operation and for Processing** – The following standards and conditions shall be met:

- a. No more than five (5) acres shall be actively being excavated, used, or without topsoil at any one time. The Commission may increase the five (5) acre maximum if the

## Section 6.5. Sand, Gravel and Earth Products Removal

Commission determines that the five (5) acre maximum does not provide sufficient space for the excavating operations. The Commission may require that an operation be undertaken in phases when warranted by the size of the site or the complexity of the operation.

- b. No processing machinery shall be erected or maintained within 200 feet of any property line.
- c. No Excavation shall take place within one hundred (100) feet of any property line. This requirement may be modified by the Commission when warranted by topographic conditions and or when the utilization of the site for other than excavation purposes requires to be closer to property lines.
- d. Plans as proposed provide that at all stages of operations Drainage and stormwater shall be controlled to prevent stagnant water, erosion, and pollution of Watercourses by silting or otherwise. Additionally, plans shall provide for the control of stormwater run-off such that there will not be damage to public or private property, Streets, or Drainage facilities.
- e. Sites across the Street from or adjacent to existing residential Uses or Districts shall be screened from such areas by vegetation, and/or Fences and barricades. Vegetative screening shall consist of evergreen trees a minimum of six (6) feet in height at the time of planting.
- f. All storage areas, yards, access roads, service roads or other untreated open areas within the Premises shall be improved, as approved by the Commission, with proper landscaping, paving or other appropriate materials to minimize dust, other windblown air pollutants or wind erosion.
- g. Truck access to the site shall be so arranged to minimize danger to traffic and nuisance to the surrounding properties.
- h. That portion of the access road within the area of operations shall be provided with a dustless surface when deemed necessary by the Commission to protect the neighborhood.
- i. Spillage on public Streets of any Earth material shall be removed daily.
- j. No equipment, processing plant, or vehicles directly or indirectly engaged in the excavation, processing, or transportation of Earth materials shall be operated, repaired, or serviced on the Premises earlier than 7:00 A.M., nor later than 6:00 P.M., Monday through Friday, nor earlier than 8:00 A.M., nor later than 5:00 P.M. on Saturdays. The Commission may further restrict hours of operation and the number of vehicle trips to and from the site when the density and proximity of surrounding Residential Development warrants same, and/or when the principle access to the site is via a residential Street. For the purpose of this Section, a residential Street shall be a Street other than an Arterial Street as listed in the New Hartford Plan of Conservation and Development. All such operations on Sunday and the legal holidays, New Years Day, Memorial Day, Labor Day, Fourth of July, Christmas Day, and Thanksgiving Day, are prohibited.
- k. The applicant shall submit a statement that machinery shall operate and be maintained to operate so as to comply with noise regulations established by the Connecticut Department of Environmental Protection pursuant to CGS 22a-69. Such statement shall provide the maximum expected sound level, in decibels, expected at property lines. The Commission may consider the noise generation of proposed machinery in evaluating an application under this Section.
  - l. All blasting shall be done by a licensed blaster.
- m. No rock face exposed due to excavation shall exceed a finished height of thirty (30) feet measured from the surface of the natural grade to the top of finished grade. Multiple

tiered rock faces shall not be permitted when the total height would exceed the maximum permitted height. The horizontal alignment of the excavated rock face shall be irregular so as to reflect the natural condition of exposed bedrock in the Farmington Valley.

- n. Fences, guardrails, or embankments may be required where necessary for the protection and safety of the public.
- o. All debris generated as a result of the excavating operation shall be removed from the site.
- p. Except for topsoil necessary for restoration, there shall be no stockpiling of materials brought in from off the site in any Residential District or in a B District.
- q. Where the Commission finds that the principal Streets to be used by the gravel trucks are below minimum town road standards, improvements may be required. In such an instance, the applicant shall first obtain approval from the Board of Selectman to make such improvements. Where the intensity of gravel truck traffic will, in the opinion of the Commission, cause accelerated wear and damage to the public road providing access to the site, the applicant may be required to provide periodic repairs to same and/or post a Performance Bond to insure such repairs.

**4. Requirements for Restoration**

The landowner shall submit a restoration plan meeting at least the following standards:

- a. Topsoil shall be stored on the property for respreading to a minimum depth of three (3) inches over the excavated area. The area for the storage of topsoil shall be shown on the plans approved by the Commission. All stockpiled topsoil shall be seeded with appropriate perennial grasses and surrounded by appropriate erosion controls.
- b. The area disturbed by the excavation is to be restored by the spreading of topsoil and the planting of trees and suitable ground cover including perennial grasses, shrubs, and legumes. Following the spreading of topsoil, the area is to be seeded with a suitable ground cover and maintained until the area is stabilized. The area is to be limed and fertilized as appropriate. Seeding is to be done between April 15 and June 30 or August 15 and September 30, unless otherwise authorized by the Zoning Enforcement Officer.
- c. Where the applicant has not submitted a land use application for the Development of the site once excavation is completed (i.e., an application for the re-use plan required in Appendix 2.G), the Commission may require the planting of six hundred (600) coniferous seedlings per acre. Such seedlings shall be six (6) to eight inches in height and 2.0 Generation or greater. The majority of the seedlings shall be white pine (*Pinus Strobus*).
- d. To the extent practical, the trees shall be hardy native species and compatible with the post-Excavation site characteristics.
- e. Finished slopes or embankments:
  - i. shall not have final grades that exceed 2:1 (Horizontal to Vertical) and the grades in fill areas shall not exceed 2:1 unless special stabilization measures are specifically approved by the Commission.
  - ii. shall comply with the CT Department of Environmental Protection’s Erosion and Sediment Control Guidelines; and,
  - iii. shall be restored such that they are covered with a minimum of four (4) inches of top soil, seeded with a suitable grass mixture containing at least fifty percent (50%) perennial grasses, and maintained by mulching, repairing, and reseeded until the area is stabilized.

## Section 6.5. Sand, Gravel and Earth Products Removal

- f. No sharp declivities, pits, or depressions shall remain after restoration. No accumulation of boulders or debris shall remain on the surface after restoration.
- g. The Performance Bond shall be in an amount sufficient to restore the area to be disturbed during the two (2) year period of the Special Exception. The amount and form of the Performance Bond shall be established by the Commission, and the form thereof shall be satisfactory to the Commission's attorney.

### 5. Standards for Approval

In addition to standards for a Special Exception, the Commission may approve only when it is demonstrated that the nature of the excavation and/or processing operation:

- a. will not be detrimental to the surrounding neighborhood; and,
- b. will not hinder or discourage the appropriate Development and use of adjacent property or impair the value thereof.

### 6. Post Approval

- a. Prior to the initiation of any operations on the site, the applicant shall file with the Commission the Performance Bond.
- b. Prior to the release of the Performance Bond, the applicant shall file an as-built plan for the operation or demonstrate in the field to the satisfaction of the Town Engineer that the conditions of the permit have been met. The Performance Bond shall run for an additional twelve (12) months beyond the permit period or twelve (12) months after completion.
- c. Permits shall expire two (2) years from the date of issuance but may be renewed upon application for Special Exception. A permit shall immediately expire and shall become null and void where the Performance Bond required herein expires or otherwise fails to be in full force or effect.
- d. Operations shall be subject to Inspection by the Zoning Enforcement Officer, Designee of Planning and Zoning, or the Town Engineer to verify on-going compliance with the terms of the permit. By filing an application under this Section, the applicant shall be deemed to have consented to such Inspections at reasonable times. Applicants shall provide coincident with such Inspections, sufficient data to aid in the Inspection process. Such data may include, when necessary, field surveys.
- e. Performance Bonds shall not be released until the applicant has filed with the Commission an as-built plan documenting compliance with the permit. As-built plans may be waived by the Commission upon the recommendation of the Town Engineer that his or her Inspection of the site found same to be in compliance with the permit.
- f. Any violation of any provision hereof may constitute grounds for revocation of a permit issued hereunder and subject the violator to such penalties as are provided by State Statute.

### 7. Time limit

- a. Each application for Special Exception granted under this article shall be valid for a period of two (2) years or for such period fixed by the Commission.
- b. Upon application made at least fourteen (14) days before the expiration of a Special Exception, the Commission may extend the time period for not more than one (1) year, provided that there exists no violation of the terms of the current Special Exception approval.

## **SECTION 6.6. EROSION AND SEDIMENTATION CONTROL**

### **A. Purpose**

This Section is intended to prevent accelerated erosion and sedimentation of land during and after Development; reduce the danger from stormwater runoff; minimize Sediment pollution from land being developed; and prevent detrimental impacts to soil and water resources.

### **B. Applicability**

1. A Soil Erosion and Sediment Control Plan shall be submitted with any application for Development when the Disturbed Area of such Development is cumulatively more than one-half (1/2) acre.
2. A Single-Family Dwelling Unit that is not a part of a subdivision of land shall be exempt from these Soil Erosion and Sediment Control regulations.

### **C. Erosion and Sediment Control Plan**

1. To be eligible for Certification, a Soil Erosion and Sediment Control Plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for Certification are found in the Connecticut Guidelines for Soil Erosion and Sediment Control (2002) as amended. Alternative principles, methods and practices may be used with prior approval of the Commission.
2. Said Plan shall contain, but not be limited to, items required in the Erosion and Sedimentation Control Check List, Appendix 2.

### **D. Minimum Acceptable Standards**

1. Soil Erosion and Sediment Control Plans shall result in a Development that: minimizes erosion and sedimentation during construction; is stabilized and protected for erosion when completed; and does not cause off-site erosion and/or sedimentation.
2. The minimum standards for individual measures are those in the Connecticut Guidelines for Soil Erosion and Sediment Control (2002), as amended. The Commission (or the County Soil and Water Conservation District) may grant exceptions when requested by the applicant if technically sound reasons are presented.
3. The appropriate method from Chapter 9 of the Connecticut Guidelines for Soil Erosion and Sediment Control (2002), as amended, shall be used in determining peak flow rates and volumes of runoff unless an Alternative method is approved by the Commission.

### **E. Issuance or Denial of Certification**

1. The Planning and Zoning Commission shall either certify that the Soil Erosion and Sediment Control Plan, as filed, complies with the requirements and objectives of this regulation or deny Certification when the Development proposal does not comply with these Regulations
2. Nothing in these Regulations shall be construed as extending the time limits for the approval of any application under CGS Chapters 124, 124A or 126.

## Section 6.6. Erosion and Sedimentation Control

3. Prior to Certification, any Plan submitted to the municipality may be reviewed by the Northwest Conservation District which may make recommendations concerning such Plan, provided such review shall be completed within thirty (30) days of the receipt of the Plan.
4. The Commission may forward a copy of the Development proposal to the Conservation Commission or other review agency or consultant for review or comment.

## F. Conditions Relating To Soil Erosion and Sediment Control

1. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified Plan, that are a condition of any Certification of any modified Site Plan may be required to be covered in a Performance Bond or other assurance acceptable to the Commission in accordance with the provisions specified.
2. The applicant shall file with the Commission a Performance Bond in the amount as the Commission, in its sole discretion, may determine is proper.
3. Site Development shall not begin unless the Soil Erosion and Sediment Control Plan is certified and those control measures and facilities in the Plan scheduled for installation prior to site Development are installed and functional.
4. Planned Soil Erosion and Sediment control measures and facilities shall be installed as scheduled according to the certified Plan.
5. All control measures and facilities shall be maintained in effective condition to ensure the compliance of the certified Plan.

## G. Inspection

1. Inspections shall be made by the Commission or its designated agent during the Development to ensure compliance with the certified Plan and that control measures and facilities are properly performed or installed and maintained.
2. The Commission may require the permittee to verify through progress reports that Soil Erosion and Sediment control measures and facilities have been performed or installed according to the certified Plan and are being operated and maintained.

## **SECTION 6.7. ARCHITECTURAL REVIEW**

### **A. Purpose**

The purpose of the Architectural Review Committee is to advise the Planning and Zoning Commission on the physical aspects of the Town's environment. Architectural Review is intended to aid applicants in ensuring that their designs are in harmony with the character of the community, encourage high quality Building and site design, and result in Development which is compatible with the character of the community.

### **B. Applicability**

The following types of applications may be reviewed as determined by the Commission:

1. Site plans and Special Exceptions,
2. Changes to Facades, expansions of building or use, or changes in the use of Sites or Buildings, other than Farms, Single-Family and Two-Family Dwelling Units; and
3. Signs, except those Signs that are:
  - a. on Single-Family Dwelling Unit,
  - b. on Two-Family Dwelling Unit,
  - c. on a Multi-Family Dwelling Unit that contains no more than three (3) Dwelling Units, or
  - d. have a Sign Area of less than fifty (50) square feet.

### **C. Procedure**

1. The Commission shall refer applications to the Architectural Review Committee.
2. Within thirty-five (35) days after being referred to the Committee, the Committee shall review and make written recommendations.
3. Any recommendations or suggestions so received from any Architectural Review Committee shall not be binding upon the Commission.
4. The Committee's actions shall not result in a delay in the time allowed for the normal processing of applications.

### **D. Application**

The applicant shall submit to the Architectural Review Committee items contained in the Architectural Review Check List in Appendix 2. The applicant shall submit such materials to the Architectural Review Committee no later than the filing of the application with the Commission.

### **E. Design Guidelines**

In acting on any application the Committee and the Commission shall consider those factors affecting the external appearance of the site. These factors include the design of the Building and other Structures, landscaping, lighting, Signs, utilities, Parking Areas, and other objects visible to the public. The criteria us contained in this Section are intended to assist the Planning and Zoning Commission and the applicant in achieving a design that is both functional and visually pleasing. The criteria are not intended to restrict

imagination, innovation or variety. The guidelines contained in this Section are intended to be a summary of the more detailed guidelines contained in Appendix 5 for the New Hartford Center District, and in Appendix 6 or other commercial or industrial Districts or multi-family residential development.

**1. Relationship of Building to Site and Adjoining Areas**

- a. A desirable streetscape and attractive landscape transitions to adjoining properties should be provided.
- b. Adequate Buffers between incompatible land Uses, and safe vehicle and pedestrian movement should be provided.
- c. The visibility of Parking Areas from Streets should be restricted by means of plantings, berms, decorative walls, Buildings, or other means.
- d. Harmony in texture, lines, and masses is recommended. Monotony should be avoided.

**2. Landscape and Site Treatment**

- a. Where existing topographic patterns and vegetation contribute to the beauty of a Development, they should be preserved. Where existing vegetation is removed prior to or during the application process, the Commission may require that it be replaced with the largest landscape material commercially available.
- b. Service yards, dumpsters, utility Structures, loading areas and other places that tend to be unsightly should be screened from public view by landscaping, berms, fencing or other means. The screening should be effective year round.
- c. Large contiguous expanses of parking should be avoided. Plantings, walls, berms and sidewalks should be placed within Parking Areas to control traffic and to reduce the Parking Area's visual impact. See Section 6.2 for additional parking standards.
- d. In areas where plantings will not thrive other materials such as Fences, berms or walls should be used. See Section 6.1 for additional landscaping standards.
- e. Exterior lighting should enhance Building design. Lighting standards and Building fixtures should be of a design and size compatible with the Building and adjacent areas. Lighting should be restrained and excessive brightness should be avoided. See Section 6.4 for additional Outdoor Lighting standards.
- f. Utility wires should be place underground where conditions permit and it is cost effective to do so.

**3. Building Design**

- a. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and its relationship to its surroundings, including the compatibility and harmony with traditional architectural forms, materials, and site plans that reflect the best of New Hartford's historic past.
- b. Buildings should have a scale that is in harmony with the neighboring Development or that will enhance the area in which it is located where existing Development does not meet the criteria of these design guidelines.
- c. Materials should be of a durable quality.
- d. Building components, such as windows, doors, Eaves and parapets, should have good proportions and relationships to one another.

- e. Mechanical equipment or other utility hardware on the roof, ground or Buildings should be screened from public view with materials harmonious with the Building. Alternatively, they should be located so as not to be visible from public areas.
- f. Monotony of design in single or multiple Building projects should be avoided. Variation in detail, form, and sitting should be used to provide visual interest.

4. **Signs**

- a. Every Sign shall be designed as an integral architectural element of the Building and site to which it principally relates and shall be coordinated with the Building architecture.
- b. The colors, materials, and lighting of every Sign should be restrained and harmonious with the Building, the site, and the adjoining properties.
- c. The number of graphic elements on a Sign should be held to the minimum needed to convey the Sign's principal message.
- d. Each Sign should be compatible with Signs on adjoining Buildings and sites and should not compete for attention.

5. **Existing Buildings and Sites**

The Commission recognizes that it may not be feasible or practical for existing buildings and sites to conform to all of the criteria of this Section 6.7, as detailed in Appendix 5 and Appendix 6. Therefore, for such existing sites or buildings which are reviewed in the context of additions, alterations, or changes in use, the Commission shall seek incremental upgrades that bring such building or site more nearly into compliance with the desiring criteria of these Regulations to the greatest extent that is reasonable under the circumstances of each application

## **SECTION 6.8. STORMWATER MANGEMENT STANDARDS**

### **A. Stormwater Management Policy and Principles**

#### **1. Policy**

- a. The Town of New Hartford seeks to maintain the natural environment of its watercourses and water bodies, to control pollution caused by Stormwater Runoff, and to control flooding caused by development.
- b. The Town encourages innovative solutions and Low Impact Development techniques.

#### **2. Principles**

These Stormwater Management Standards intend to emulate the following goals as espoused in the 2004 Connecticut Stormwater Quality Manual, as amended:

- a. Preserve pre-development site hydrology (including runoff, infiltration, interception, evapotranspiration, Groundwater Recharge, and stream base flow) to the extent possible.
- b. After construction has been completed and the site is permanently stabilized, reduce the average annual total suspended solids loadings in the post-development runoff by 80 percent. For high quality receiving waters and sites with the highest potential for significant pollutant loadings, reduce post-development pollutant loadings so that average annual post-development loadings do not exceed pre-development loadings (i.e., no net increase).
- c. Preserve and protect wetlands, stream buffers, natural drainage systems, and other natural features that provide water quality and quantity benefits.
- d. Manage runoff velocity and volume in a manner that maintains or improves the physical and biological character of existing drainage systems and prevents increases in downstream flooding/stream bank erosion.
- e. Prevent pollutants from entering receiving waters and wetlands in amounts that exceed the systems' natural ability to assimilate the pollutants and provide the desired functions.
- f. Seek multi-objective benefits (i.e., flood control, water quality, recreation, aesthetics, and habitat) from Stormwater control measures.

### **B. Definitions**

For this Section 6.8 only, these terms shall be defined as follows:

**Aquifer** – A porous water-bearing formation of permeable rock, sand or gravel capable of yielding economically significant quantities of groundwater.

**Best Management Practice (BMP)** – A BMP is a technique, process, activity, or structure used to reduce the pollutant content of a storm water discharge. BMPs include simple nonstructural methods, such as good housekeeping and preventive maintenance. BMPs may also include structural modifications, such as the installation of Bioretention measures. BMPs are most effective when used in combination with each other, and

customized to meet the specific needs (drainage, materials, activities, etc.) of a given operation.

**Bioretention** – A practice to manage and treat Stormwater Runoff by using a specially designed planting soil bed and planting materials to filter runoff stored in a shallow depression. The areas consist of a mix of elements each designed to perform different functions in the removal of pollutants and attenuation of Stormwater Runoff.

**Catch Basin Inserts** – A structure, such as a tray, basket, or bag that typically contains a pollutant removal medium (i.e., filter media) and a method for suspending the structure in the catch basin. They are placed directly inside of existing catch basins where Stormwater flows into the catch basin and is treated as it passes through the structure.

**Catch Basin** – A structure placed below grade to conduct water from a street or other paved surface to the storm sewer.

**Cisterns** – Containers that store larger quantities of rooftop Stormwater Runoff and may be located above or below ground. Cisterns can also be used on residential, commercial, and industrial sites. See also Rain Barrel.

**Disturbance** – Any clearing, grubbing, filling, grading, excavating, constructing, depositing, or removing material that could leave the ground surface subject to the potential for accelerated erosion or an increase in the rate of runoff.

**Deep Sump Catch Basins** – Storm drain inlets that typically include a grate or curb inlet and a sump to capture trash, debris and some sediment and oil and grease. Also known as an oil and grease Catch Basin.

**Dry Detention Pond** – Stormwater basin designed to capture, temporarily hold, and gradually release a volume of Stormwater Runoff to attenuate and delay Stormwater Runoff peaks. Dry Detention Ponds provide water quantity control (peak flow control and stream channel protection) as opposed to water quality control. Also known as "dry ponds" or "detention basins".

**Filter Strip** – A strip or area of vegetation for removing sediment, organic material, nutrients and chemicals from runoff or wastewater. They are typically located downgradient of Stormwater outfalls and level spreaders to reduce flow velocities and promote infiltration and filtration.

**Grass Drainage Channels** – Traditional vegetated open channels, typically trapezoidal, triangular, or parabolic in shape, whose primary function is to provide non-erosive conveyance, typically up to the ten (10) year frequency design flow. They provide limited pollutant removal through filtration by grass or other vegetation, sedimentation, biological activity in the grass/soil media, as well as limited infiltration if underlying soils are pervious.

**Groundwater Recharge** – The process by which water that seeps into the ground, eventually replenishing groundwater Aquifers and surface waters such as lakes, streams, and the oceans. This process helps maintain water flow in streams and wetlands and preserves water table levels that support drinking water supplies.

**Groundwater Recharge Volume (GRV)** – The post-development design recharge volume (on a storm-event basis) required to minimize the loss of annual pre-development

## Section 6.8. Stormwater Management Standards

Groundwater Recharge. The GRV is determined as a function of annual pre-development recharge for site-specific soils or surficial materials, average annual rainfall volume, and amount of impervious cover on a site.

**Hydrodynamic Separators** – A group of Stormwater treatment technologies designed to remove large particle total suspended solids and large oil droplets, consisting primarily of cylindrical-shaped devices that are designed to fit in or adjacent to existing Stormwater drainage systems. The most common mechanism used in these devices is vortex-enhanced sedimentation, where Stormwater enters as tangential inlet flow into the side of the cylindrical structure. As the Stormwater spirals through the chamber, the swirling motion causes the sediments to settle by gravity, removing them from the Stormwater.

**Infiltration Practices** – Stormwater Treatment Practices designed to capture Stormwater Runoff and infiltrate it into the ground over a period of days, including infiltration trenches and infiltration basins.

**Low Impact Development (LID)** – Low Impact Development is a site design strategy intended to maintain or replicate predevelopment hydrology through the use of small-scale controls integrated throughout the site to manage runoff as close to its source as possible.

**Non-Routine Maintenance** – Corrective measures taken to repair or rehabilitate Stormwater controls to proper working condition. Non-Routine Maintenance is performed as needed, typically in response to problems detected during routine maintenance and inspections.

**Oil/Particle Separators** – Consist of a subsurface structure with one (1) or more chambers designed to remove trash and debris and to promote sedimentation of coarse materials and separation of free oil (as opposed to emulsified or dissolved oil) from Stormwater Runoff. Oil/Particle Separators are typically designed as off-line systems for pre-treatment of runoff from small impervious areas, and therefore provide minimal attenuation of flow. Also called oil/grit separators, water quality inlets, and oil/water separators.

**Permeable Paving Materials** – Materials that are alternatives to conventional pavement surfaces and that are designed to increase infiltration and reduce Stormwater Runoff and pollutant loads. Alternative materials include modular concrete paving blocks, modular concrete or plastic lattice, cast-in-place concrete grids, and soil enhancement technologies. Stone, gravel, and other low-tech materials can also be used as alternative for low traffic application such as driveways, haul roads, and access roads.

**Porous Pavement** – Porous Pavement is similar to conventional asphalt or concrete but is formulated to have more void space for greater water passage through the material.

**Pretreatment** – Techniques used in Stormwater management to provide storage and removal of coarse materials, floatables, or other pollutants before the Primary Stormwater Treatment Practice.

**Primary Stormwater Treatment Practices** – Stormwater Treatment Practices that are capable of providing high levels of water quality treatment as stand-alone devices: can be grouped into five (5) major categories – Stormwater Ponds, Stormwater Wetlands, Infiltration Practices, filtering practices, and Water Quality Swales.

**Rain Barrels** – Barrels designed to retain small volumes of runoff for reuse for gardening and landscaping. They are applicable to residential, commercial, and industrial sites and can be incorporated into a site's landscaping plan. The size of the Rain Barrel is a function of rooftop surface area and the design storm to be stored. Rain Barrels capture runoff that would otherwise be lost to storm drains, divert water to the landscape, and conserve tap water. For large Rain Barrels, see “Cistern.”

**Rain Garden** – Functional landscape elements that combine plantings and a specially designed planting soil bed in depressions that allow water to pool for only a few days after a rainfall then be filtered by and slowly absorbed by the soil and plantings. Rain Gardens improve water quality by reducing the sediment, nutrients, bacteria, and chemicals from flowing into water bodies.

**Responsible Party** – The person or organization responsible for construction and/or maintenance of a Stormwater Facility.

**Routine Maintenance** – Maintenance performed on a regular basis to maintain proper operation and aesthetics.

**Secondary Stormwater Treatment Practices** – Stormwater treatment practices that may not be suitable as stand-alone treatment because they are either not capable of meeting the water quality treatment performance criteria or have not yet received the thorough evaluation needed to demonstrate the capabilities for meeting the performance criteria.

**Site Stormwater Management Plan** – A Plan in accordance with Section C below describing the potential water quality and quantity impacts associated with a development project both during and after construction. It also identifies selected source controls and treatment practices to address those potential impacts, the engineering design of the treatment practices, and maintenance requirements for proper performance of the selected practices.

**Stormwater** – Water consisting of precipitation runoff or snowmelt.

**Stormwater Runoff** – Above ground water flow resulting from precipitation or snow melt.

**Stormwater Facility** – Any device, structure, system, or practice used to improve Stormwater quality, promote infiltration, provide peak flow control, or to provide peak runoff attenuation.

**Stormwater Ponds** – Vegetated ponds that retain a permanent pool of water and are constructed to provide both treatment and attenuation of Stormwater flows.

**Stormwater Treatment Practices** – Devices constructed for Primary Stormwater Treatment, Pretreatment or Secondary Stormwater Treatment of Stormwater.

**Stormwater Treatment Train** – Stormwater Treatment Practices, as well as site planning techniques and source controls, combined in series to enhance pollutant removal or achieve multiple Stormwater objectives.

**Stormwater Wetlands** – Shallow, constructed pools that capture Stormwater and allow for the growth of characteristic wetland vegetation. These facilities provide enhanced treatment of Stormwater and peak flow attenuation.

**Stream Order** – Stream Order indicates the relative size of a stream based on Strahler's (1957) method. Streams with no tributaries are first order streams, represented as the start of a solid line on a 1:24,000 USGS Quadrangle Sheet. A second order stream is formed at the confluence of two (2) first order streams, and so on.

**Underground Detention Facilities** – Vaults, pipes, tanks, and other subsurface structures designed to temporarily store Stormwater Runoff for water quantity control and to drain completely between runoff events. They are intended to control peak flows, limit downstream flooding, and provide some channel protection.

**Underground Infiltration Systems** – Structures designed to capture, temporarily store, and infiltrate the Water Quality Volume over several days, including premanufactured pipes, vaults, and modular structures. These are used as alternatives to infiltration trenches and basins for space-limited sites and Stormwater retrofit applications.

**Vegetated Buffer** – An area or strip of land in permanent undisturbed vegetation adjacent to a water body or other resource that is designed to protect resources from adjacent development during construction and after development by filtering pollutants in runoff, protecting water quality and temperature, providing wildlife habitat, screening structures and enhancing aesthetics, and providing access for recreations.

**Vegetated Roof Covers** – Multilayered, constructed roof systems consisting of a vegetative layer, media, a geotextile layer, and a synthetic drain layer installed on building rooftops. Rain water is either intercepted by vegetation and evaporated to the atmosphere or retained in the substrate before being returned to the atmosphere through transpiration and evaporation. Also referred to as green roofs.

**Water Quality Flow (WQF)** – The peak flow associated with the Water Quality Volume calculated using the NRCS Graphical Peak Discharge Method, as defined in the 2004 Stormwater Quality Manual, as amended.

**Water Quality Swales** – Vegetated open channels designed to treat and attenuate the Water Quality Volume and convey excess Stormwater Runoff. Dry swales are primarily designed to receive drainage from small impervious areas and rural roads. Wet swales are primarily used for highway runoff, small parking lots, rooftops, and pervious areas.

**Water Quality Volume (WQV)** – The volume of runoff generated by one (1) inch of rainfall on a site, as defined in the 2004 Stormwater Quality Manual, as amended.

## C. Site Stormwater Management Plan and Report

### 1. Plan Required

- a. Where a Site Stormwater Management Plan is required, it shall be prepared by a State of Connecticut Licensed Professional Engineer or Landscape Architect where the design is allowed by their education, training, and provisions of state law. A Site Stormwater Management Plan shall be prepared for every application for subdivision, site plan approval, and special permit, where such application results in any one (1) or more of the following:

- i. One (1) or more acres of land Disturbance.

- ii. One (1) or more acres of impervious surface upon project completion. (Existing impervious surface shall be counted towards this requirement).
  - iii. Any commercial or industrial activity.
  - iv. Any application with three (3) or more dwelling units.
  - v. Any project involving a new road or common driveway serving three (3) or more lots.
  - vi. Any project where the impervious surface area after construction exceeds thirty percent (30%) of the total site area.
- b. The following activities are exempt from these standards:
- i. Development of a single family home and/or accessory uses on a lot of record. A lot of record is a lot that existed as of the effective date of these standards.
  - ii. Farming, a Farm Building, Farmers Market, or Farm Stand
  - iii. When the Commission determines that the application relates to modifications of a previous approval or to new work on existing sites, where such modification or new work does not alter the stormwater runoff characteristics of the site.

## 2. Plan Contents

The plan shall contain an executive summary, drainage area maps, calculations, descriptions, and other data sufficient to demonstrate compliance with these standards. Such plan shall provide, at a minimum, the following information:

- a. Soil characteristics of the site.
- b. Location of the closest surface water bodies and wetlands to the site, and the depth to any ground-water or Aquifer areas on or adjacent to the site.
- c. Location and description of all proposed Stormwater control Best Management Practices (BMPs) for both construction activities and post-construction long-term Stormwater control.
- d. Proposed maintenance and operation manual or schedule for any trash hoods, Catch Basins, or other BMP devices used to prevent runoff, encourage sheet flow or infiltration, or treat Stormwater.
- e. Calculations of Stormwater Runoff rates, suspended solids removal rates, and soil infiltration rates before and after completion of the activity proposed in the application.
- f. A hydrologic study of pre-development site conditions. Hydrologic studies shall be prepared to a level of detail commensurate with the probable impact of the proposed activity and should extend downstream to the point where the proposed activity causes less than a five (5) percent change in the peak flow rates after peak flow attenuation.
- g. Calculations for sizing of pipes, swales, or other conveyance devices.
- h. Calculations for sizing riprap aprons, plunge pools, or other energy dissipation devices.
- i. Identification of the party responsible for maintenance of Stormwater BMP's.

## 3. Redevelopment Projects

## Section 6.8. Stormwater Management Standards

Projects that redevelop an existing site will be exempt from meeting the requirements of these standards if they meet all of the following conditions:

- a. The total site impervious surface is reduced by at least twenty-five (25%).
- b. All existing Stormwater management controls are maintained.
- c. Runoff is managed in a way that does not cause erosion or concentration of flow.

### 4. **Plan Note**

The following note shall be placed on the design plans for each project requiring Stormwater treatment or storm water detention facilities. In cases of a subdivision, the note shall refer to individual lots that have such facilities. The design plans and/or subdivision plans containing the following note shall be filed in the town land records.

*"This property contains a stormwater treatment facility that is a condition of approval to develop the property and it shall be maintained by the property owner for the entire life of the project. The facility shall not be altered, except for maintenance as described in the facility's maintenance plan, without the approval of the regulatory agency granting the project approval."*

### 5. **Waiver of Requirements**

- a. The Commission may waive or alter any portion of these standards when the applicant demonstrates, by written request, that such standard is unnecessary or counter productive toward meeting the policies and principles.
- b. The Commission may waive or alter any portion of these standards on a redevelopment project when the applicant demonstrates, by written request, that achieving such standard(s) is not feasible.

### 6. **Aquifer Protection Area**

Projects that fall within the Town's Aquifer Protection Area are required to comply with the Aquifer Protection Regulations in addition to these standards.

## **D. Design Standards**

### 1. **General Standards**

- a. All Stormwater Facilities and conveyance facilities shall be constructed on property owned by the applicant or within suitable easements.
- b. All Stormwater discharges shall be designed and constructed in a manner that prevents erosion.
- c. Stormwater treatment shall be designed in accordance with the 2004 Connecticut Stormwater Quality Manual, as amended, or other applicable design standards such as the criteria established by the University of New Hampshire Stormwater Center.

- d. All Stormwater facilities shall be designed in a manner that minimizes the need for complicated or overly frequent maintenance.
- e. All Stormwater facilities shall be designed with adequate access for maintenance.
- f. Stormwater Facilities may include one (1) or more of the following:
  - Bio retention
  - Catch Basins
  - Catch Basin Inserts
  - Cisterns
  - Deep Sump Catch Basins
  - Dry Detention Ponds
  - Filter Strip
  - Grass Drainage Channels
  - Hydrodynamic Separators
  - Infiltration Practices
  - Oil/Particle Separators
  - Permeable Paving Materials
  - Porous Pavement
  - Pretreatment
  - Rain Barrels
  - Rain Gardens
  - Stormwater Ponds
  - Underground Detention
  - Underground Infiltration
  - Vegetated Buffers
  - Vegetated Roof Covers

**2. Stormwater Treatment**

- a. Stormwater treatment shall be provided on all projects requiring Stormwater Management Plan.
- b. Stormwater treatment shall be provided for the Water Quality Volume (WQV) as defined by the 2004 Connecticut Stormwater Quality Manual, as amended.

**3. Peak Flow Control**

Peak flow control for stream channel protection shall be provided in accordance with Section 7.6 of the 2004 Connecticut Stormwater Quality Manual, as amended.

**4. Peak Runoff Attenuation (Storm Water Detention)**

- a. Peak runoff attenuation shall be provided on all projects that meet any one (1) or more of the following criteria:
  - i. Where the runoff from a development is directed to a channel or pipe system that is undersized or at capacity for a 10-year 24 hour storm under existing conditions.
  - ii. Where post-development peak discharge rates exceed one hundred ten percent (110%) of predevelopment peak discharge rates unless the discharge is to a large river (fourth Order Stream) or waterbody where the development area is less than five (5) percent of the watershed area upstream of the development site.
- b. Peak runoff attenuation facilities (a/k/a detention facilities) shall be designed to control the peak post-development discharge rates from the 2-year, 10-year, 25-year, and 100-year storms to the corresponding pre-development peak flow rates.
- c. The emergency outlet of a peak runoff attenuation facility shall be designed to pass the 100-year storm in a controlled manner without causing erosion. At least one (1) foot of freeboard shall be provided during the 100-year storm event.

## E. Construction Standards

### 1. Construction Inspection

- a. The Town shall have the right to inspect construction of any Stormwater Facility at reasonable times during construction. The Town may charge the applicant an application fee that covers the cost of inspections when inspections are performed by an outside consultant engaged by the Town.
- b. The Town may require the permittee to have the construction of the Stormwater Facility inspected by a Connecticut Professional Engineer or Landscape Architect during construction to ensure it is constructed in compliance with the plans, specifications, and permit conditions.

### 2. Facility Construction

All Stormwater facilities shall be constructed in substantial compliance with the approved plans, specifications, and permit conditions.

### 3. Facility Certification and Record Drawings

- a. When required by the Town, the permittee shall engage a Connecticut Professional Engineer or Landscape Architect to submit the following certification prior to any issuance of Certificate of Occupancy:

*a licensed (Professional Engineer Landscape Architect) in the State of Connecticut, hereby certify with my signature and seal, that the project known as*

\_\_\_\_\_, *for owner/applicant*

\_\_\_\_\_, *at* \_\_\_\_\_

*(address) has been constructed in substantial conformance with the approved plans, specifications, and permit conditions.*

- b. For any detention facility the applicant shall submit an as-built survey prepared by a Connecticut Land Surveyor to the Town prior to any issuance of Certificate of Occupancy. The as built survey shall show the facility location, contours, and all critical elevations of the outlet control structure.

### 4. Bonding

The Town may require that the applicant provide the Town with a bond in the amount of 100% of the estimated cost of the Stormwater Facility. The estimated cost shall be based on a detailed construction estimate prepared by an engineer or other qualified person and subject to the review of the Town Engineer. Bonds shall be provided in a manner acceptable to the Commission's Attorney. The Town of New Hartford may utilize the bonds to complete the Stormwater Facility in the event that the property owner fails to do so; to repair or remedy any such facility that is improperly installed or constructed; to provide additional measures where those implemented by the owner are insufficient to achieve the goals of this regulation; to perform maintenance that, following reasonable notice, the owner fails or refuses to perform; and to otherwise assure compliance with the requirements and objectives of this section. By filing a land use application with the Town of New Hartford, the property owner shall be deemed

to have consented to access, upon reasonable notice under the circumstances, for such purposes.

## **F. Maintenance Standards**

### **1. General Requirements**

- a. The ability of any Stormwater Facility to treat or detain Stormwater shall not be removed or diminished without the approval of the Commission.
- b. The Responsible Party shall inspect Stormwater facilities on a regular basis as outlined in the maintenance plan.

### **2. Maintenance Requirements**

- a. The Responsible Party shall perform Routine Maintenance in accordance with the approved plan and permit conditions.
- b. The Responsible Party shall identify Non Routine Maintenance requirements based on regular inspection of the Stormwater facilities. The Responsible Party shall perform Non Routine Maintenance on an as-needed basis.
- c. All maintenance shall be performed in a timely manner.
- d. The Responsible Party shall submit a signed statement to the New Hartford land use office once per year indicating that the Stormwater Facility has been properly maintained and is functioning as intended. The Town may require that the statement be signed by a Licensed Professional Engineer or Landscape Architect.
- e. Failure to perform maintenance in accordance with the plan and permit conditions shall constitute a violation of the land use approval granted, and may result in enforcement action as authorized by applicable law, including the use of bonds to remedy any such violation. By filing a land use application with the Town of New Hartford, the property owner shall be deemed to have consented to inspections and remedial work by the Town or its agents following reasonable notice under the circumstances.

## **G. References**

The following references provide more information on Low Impact Development techniques.

Non-point Education for Municipal Officials  
[www.nemo.uconn.edu](http://www.nemo.uconn.edu)

U.S. Environmental Protection Agency  
[www.epa.gov/owow/nps/lid](http://www.epa.gov/owow/nps/lid)

University of New Hampshire Stormwater Center  
[www.unh.edu/erg/cstev](http://www.unh.edu/erg/cstev)

USDA Natural Resource Conservation Service  
[www.ct.nrcs.usda.gov/el-educational\\_materials.html](http://www.ct.nrcs.usda.gov/el-educational_materials.html)

## **ARTICLE 7 – SPECIAL REQUIREMENTS**

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### **SECTION 7.1. NONCONFORMING CONDITIONS**

#### **A. Nonconforming Uses**

1. Any Nonconforming Use of Buildings or land lawfully existing at the time of adoption of these Regulations, or any amendments hereto, may be continued as a Nonconforming Use.
2. No Nonconforming Use may be changed except to a conforming Use or, with the approval of a Special Exception by the Commission, to another Nonconforming Use of less objectionable character.
3. No Nonconforming Use shall, once changed to a more conforming Use, revert back or be changed to a less conforming Use.
4. No Nonconforming Use, and no portion of a Building containing a Nonconforming Use, shall be Extended or Expanded unless such Extension or expansion receives approval of a Special Exception by the Commission.
5. Alterations to a Structure containing a Nonconforming Use may be made provided the Nonconforming Use is not Enlarged or Extended and:
  - a. the Alterations do not materially Alter the characteristics or exterior appearance of the Structure, or
  - b. the Structure has been damaged by fire, explosion, accident, act of nature, or other casualty and shall be replaced in accordance with Subsection B.

#### **B. Nonconforming Structures**

1. Any Nonconforming Structure lawfully existing at the time of adoption of these Regulations, or any amendments hereto, may be continued as a Nonconforming Structure.
2. Additions may be made to a Nonconforming Structure provided such additions comply with these Regulations; provided that no such addition shall increase the height, Gross Floor Area, or other volume for that portion of a building located within a required Required Minimum Setback specified for the subject District by these Regulations. The Zoning Board of Appeals may grant a Special Exception to allow for an addition within a Required Minimum Setback that is no closer to any property line than any portion of the existing structure.
3. Any Nonconforming Structure which has been damaged by fire, explosion, accident, act of nature, or other casualty may be repaired, restored, rebuilt, or replaced to the same extent as it was immediately prior to said destruction, provided that such repair, restoration, or replacement shall not increase the Building Height, Gross Floor Area, or other volume for that portion of a building located within a Required Minimum Setback or maximum Building Height or Building Coverage specified for the subject District by these Regulations. This provision shall apply only to damage or destruction resulting from events beyond the owner's control, and shall not apply to voluntary demolition of such Nonconforming Structure. Voluntary demolition shall require that any replacement Structure comply with all applicable provisions of these Regulations unless a Special Exception is granted by Zoning Board of Appeals in accordance with the criteria of Section 8.5 of these Regulations, and, in addition, the following criteria:
  - a. There is no increase in any nonconformity as to Height.

- b. There is no increase in any nonconformity as to Minimum Yard Setback, except as may be permitted by Section 7.B.2 above.
  - c. The replacement Building or Structure shall comply with all applicable building, health, Flood Zone, and other applicable local or State regulations.
  - d. Such replacement Building or Structure is in harmony with the scale and character of the neighborhood.
4. A Nonconforming Structure may only be otherwise repaired, restored, rebuilt, replaced, or Altered if:
- a. such Alterations do not increase the nonconforming aspect of the Structure nor increase the Building Height, Gross Floor Area, or other volume for that portion of a building located within a required Required Minimum Setback or maximum Building Height or Building Coverage specified for the subject District by these Regulations., and
  - b. the owner submits as-built plans showing compliance.

### **C. Nonconforming Parcels**

Any Nonconforming Parcel lawfully existing at the time of adoption of these Regulations, or any amendments hereto, may be used as a Lot and a Building or other Structure may be constructed, reconstructed, Enlarged, Extended, moved, or structurally altered thereon, provided that the Building, Structure, or an extension thereof, complies with all applicable requirements of these Regulations as of the date of application for a zoning permit for any such improvement.

## **SECTION 7.2. PRESERVATION OF ARCHEOLOGICAL FEATURES**

### **A. Purpose**

The purpose of this Regulation is to protect important archeological resources by avoiding disturbance of archeological sensitive areas and where disturbance is unavoidable, properly identify and catalogue archeological resources.

### **B. When Required**

1. A site investigation report identifying Archaeological Sites within a specific site may be required by the Commission in connection with any Site Plan or Special Exception application for a proposed Development:
  - a. where the site has not been previously significantly disturbed; and
  - b. involves cumulative site disturbance for Development of one-half (1/2) acre or more where the ground will be dug up, regraded or otherwise disturbed.
2. The Commission, on written request by the applicant, may by resolution determine that a site investigation report is not necessary because the Parcel of land to be developed clearly does not meet the definition of Archaeological Site.

### **C. Investigative Report Requirements**

1. The investigation shall be undertaken for the applicant by or under the supervision of a professional such as a professional archaeologist or other professional with similar credentials.
2. The investigative report shall include:
  - a. an identification and location on a Site Plan of any Archaeological Artifacts;
  - b. an evaluation of the impact of the proposed Development on those Archaeological Artifacts; and,
  - c. a description of the measures to be taken to mitigate any adverse impact the Development may have on the Archaeological Site and/or on any Archaeological Artifact found therein.

### **D. Decision Criteria**

Where is it found that the project will adversely impact an Archaeological Site and/or any Archaeological Artifact found therein the Commission shall not approve the project unless and until the proposed project has been revised or modified to mitigate the adverse impact.

## **SECTION 7.3. TEMPORARY USES**

### **A. Zoning Permit**

A Zoning Permit is required from Zoning Enforcement Officer for the following Temporary Uses:

#### **1. On the Premises of Construction –**

- a. A temporary Building or Use shown to be necessary pending construction of a conforming Building or Use for which a Zoning Permit has been issued and a Building Permit application filed, for not more than one (1) year unless renewal a longer period is granted by Special Exception.
- b. A Construction Trailer located on the same lot as, a construction project for which a Zoning Permit has been issued and a Building Permit applied for. Such Construction Trailer shall not be located on the construction site for more than thirty (30) days after the issuance of a Certificate of Occupancy by the Building Official, nor for more than a total of two (2) years unless a Special Exception for a longer period is approved by the Commission.
- c. The occupancy of a Mobile Home, where a pre-existing Dwelling has been destroyed by events beyond the control of the owner or occupant. Such Mobile Home shall be located on the same lot as, a construction project for which a Zoning Permit has been issued and a Building Permit applied for. Such Mobile Home shall not be located on the construction site for more than thirty (30) days after the issuance of a Certificate of Occupancy by the Building Official, nor for more than a total of one (1) year unless a Special Exception for a longer period is approved by the Commission.

### **B. Site Plan Approval**

Site Plan approval by the Commission is required for the following Temporary Uses:

1. A circus, carnival or similar type of public event for a period of not more than three (3) consecutive days. The Commission may place restrictions on such Use, including, but not limited to, the hours of operation.
2. Farmers Market

### **C. Special Exception Approval**

1. A circus, carnival or similar type of public event for a period of more than three (3) consecutive days. The Commission may place restrictions on such Use, including, but not limited to, the hours of operation.

### **D. Conditions of Approval**

For any Site Plan or Special Exception approval in accordance with this Section 7.3, the Commission may specify time periods for which such approval shall be valid, and may renew any approval hereunder without a public hearing if there are no substantial changes, per year or cumulatively, to the temporary Use.

# ARTICLE 8 – ADMINISTRATION

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## SECTION 8.1. GENERAL ADMINISTRATION

### A. Application Submittal Requirements

1. Applications to the Commission shall be submitted to the Planning and Zoning Office.
2. Applications shall be submitted on forms obtained from the Planning and Zoning Office for the type of application being submitted.
3. Applications shall be accompanied by the appropriate fee(s) except that the Commission or the Town shall be exempt from any application fee.
4. Applications shall be submitted with such supporting plans, materials, and other information as required by these Regulations.
5. Applications shall be signed by the applicant and, if applicable, the owner of the property affected.

### B. Date of Receipt

For the purposes of calculating statutory timeframes for processing applications, the date of receipt of an application to the Commission shall be:

1. the day of the next regularly scheduled meeting of the Commission immediately following the day of submission of the application to the Planning and Zoning Office, or
2. thirty-five (35) days after submission, whichever is sooner.

### C. Incomplete Applications

1. Each application shall be reviewed by the Planning and Zoning Office to determine whether the application is substantially complete, including the submission of all fees.
2. An application requiring approval from the Commission shall not be considered actually complete until all of the information as required by these Regulations has been received.
3. An incomplete application or an application submitted without the requisite fee may be denied.

### D. Consultations

1. On any application, the Commission may seek the advice and opinion of other officials, boards, or commissions to assist it in evaluating applications.
2. On any application, the Commission may retain an architect, landscape architect, engineer, professional land use planner, attorney, or other consultant to review, comment, and guide its deliberations on any application, and require that the applicant deposit funds with the Commission for the costs of any consulting review fees.
3. If such funds are not deposited within fourteen (14) days of a request for deposit of funds, the application shall be considered incomplete.

### **E. Notice by Newspaper**

1. When a public hearing is required by these Regulations or scheduled by the Commission, the Planning and Zoning Office shall cause notice of the hearing to be published in a newspaper having a substantial circulation in New Hartford.
2. Such notice shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days, nor less than ten (10) days, and the last not less than two (2) days before the date of the hearing.

### **F. Notification of Abutting Property Owners**

1. When required by these Regulations, the applicant shall notify owners of property within one hundred (100) feet of the subject property (except in the case of a condominium in which case the management company or condominium association shall be notified), whether inside or outside New Hartford, of a pending application by mailing a notice at least ten (10) days prior to the first scheduled hearing. In accordance with CGS 8-7d(d) as amended by Public Act 06-80, the Commission is exempt from this requirement.
2. At a minimum, such notice shall consist of:
  - a. a description of the proposed activity,
  - b. notification of the date, time, and place of the first scheduled hearing, and
  - c. a copy of the application form submitted to the Commission.
3. Notices to such property owners shall be sent via the United States Mail "Certificate of Mailing" form except that where any property owner shall have listed with the Assessor an address outside the United States, the requisite notice shall be sent by International Express Mail or equivalent.
4. The latest records of the Town Assessor shall be utilized to determine the owner of each property. The applicant may rely upon the accuracy of information received from the Town Assessor.
5. Prior to the first scheduled hearing regarding the application, the applicant shall submit the following to the Planning and Zoning Office or the application shall be considered incomplete:
  - a. a copy of the complete package of information sent to abutters,
  - b. a list of the abutters to whom the notices were sent, and
  - c. "Certificates of Mailing" for each mailed piece, as issued by the United States Postal Service.

### **G. Notification of Abutting Municipalities**

1. In accordance with CGS 8-7d(f), the Commission shall notify the clerk of an adjoining municipality of any application concerning any project on any site in which:
  - a. any portion of the property affected by a decision is within five hundred (500) feet of the boundary of the adjoining municipality,
  - b. a significant portion of the traffic to the completed project shall use Streets within the adjoining municipality to enter or exit the site,

## Section 8.1. General Administration

- c. a significant portion of the sewer or water Drainage from the project shall flow through and significantly impact the Drainage or sewerage system within the adjoining municipality, or
  - d. water runoff from the improved site shall impact Streets or other municipal or private property within the adjoining municipality.
2. Such notice shall be made by certified mail, return receipt requested and shall be mailed within seven (7) days of the day of the submission to the Planning and Zoning Office of the application, petition, request or plan.
3. No hearing shall be conducted on any application, petition, request or plan unless the adjoining municipality has received the notice required under this Section.
4. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, request or plan.

## H. Notification of Water Companies and State Commissioner of Public Health

1. In accordance with CGS 8-3i, an applicant shall provide written notice to a water company and the Commissioner of Public Health when an application, petition, request or plan is filed with the Commission or Board concerning any project on any site that is within:
  - a. an aquifer protection area, provided such area has been delineated in accordance with CGS 22a-354c, or
  - b. the watershed of a water company, provided such water company or said commissioner has filed a map with the Commission and on the New Hartford land records showing the boundaries of the watershed.
2. Such notice shall be made by a Certificate of Mailing and shall be mailed not later than seven (7) days after the date of the day of the submission to the Planning and Zoning Office.
3. Prior to the scheduled meeting regarding the application, the applicant shall submit the following to the Planning and Zoning Office or the application shall be considered incomplete:
  - a. a copy of the complete package of information, and
  - b. Certificates of Mailing.
4. Such water company and the Commissioner of Public Health may, through a representative, appear and be heard at any hearing on any such application, petition, request or plan.

## I. Notification of Conservation or Preservation Restrictions Holders

1. Pursuant to CT Public Act 05-124, no person shall file a permit application with the Zoning Enforcement Officer or the Commission, other than for interior work in an existing Building or for exterior work that does not Expand or Alter the footprint of an existing Building, relating to that portion of a property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by Certificate of Mailing, to the party holding such restriction not later than sixty (60) days prior to the filing of the permit application.
2. In lieu of such notice, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction. If the applicant has provided written notice pursuant to this Subsection, the holder of the restriction may provide proof to the State or local land use agency or local building

official or director of health that granting of the permit application will violate the terms of the restriction and such agency, official or director shall not grant the permit.

3. If the applicant fails to comply with the provisions of this Section, the party holding the conservation or preservation restriction may, not later than fifteen (15) days after receipt of actual notice of permit approval, file an appeal with the State or local land use agency, subject to any rules of such agency, official or director relating to appeals. The agency, official or director shall reverse the permit approval upon a finding that the requested land Use violates the terms of such restriction.

## **J. Performance and Maintenance Bonds**

1. **Form of Bond** – Where a Performance or Maintenance Bond is required by any Section of these Regulations, it shall be in an amount determined by the Town Engineer and in a form acceptable to the Commission's Attorney.
2. **Release of Bonds**
  - a. Any required Bond shall not be released by the Commission or the Zoning Enforcement Officer, as the case may be, until:
    - i. the release has been requested, in writing, by the applicant,
    - ii. the Town Engineer, Zoning Enforcement Officer, or other Town consultant has submitted a letter stating that all required improvements have been satisfactorily completed and that all conditions and requirements of the Commission's approval have been satisfied, and
    - iii. the applicant's engineer or surveyor has certified to the Commission, through submission of a set of detailed "Record" plans on mylar, that all improvements and other work are in accordance with submitted Site Plans.
  - b. Any cost of collecting a Bond, including without limitation, attorney, bank and other collection fees and expenditures, shall be from the account of the applicant and may be deducted from amounts released.

## **K. Waiver of Site Plan Review or Special Exception**

The Commission may waive the requirement for a Site Plan Review or Special Permit for a Use that would otherwise require one where it finds that:

1. One Special Permit Use is being substituted for another similar Use on the same Lot which was previously granted a Site Plan Approval or Special Permit for a similar Use by the Commission; and
2. The new Use will require no greater parking or loading than the original, as set forth in Section 6.2 of these Regulations; and
3. The new use shall entail no exterior change to the Building or site, except as the Commission may require; and
4. The new Use shall have no impact on the site, the neighborhood, or the Town which is different from the original, such impact to be measured by the standards set forth in Sections 8.4 and 8.5 of these Regulations.

## **SECTION 8.2. ZONING PERMIT**

### **A. Applicability**

No Building or Structure, except Fences, shall be erected, Altered, Extended, or Enlarged, nor shall land be devoted to a new Use nor an existing Use Altered, Extended, or Expanded, until an application therefore shall have been approved by the Zoning Enforcement Officer and a written permit issued.

Nothing herein contained shall require any change in the plans, construction or use of a Building for which a Building permit has been issued or for which plans were filed with the Commission before the effective date of these Regulations.

### **B. Application Requirements**

1. Application for such permit shall be in writing signed by the applicant on a form approved by the Commission, which application shall include:
  - a. All information requested on said form;
  - b. Two (2) copies of the Lot plan, drawn to scale, and showing Lot lines, Minimum Yard Setbacks, site improvements, Building sizes and location on the Lot, provided, however, that this requirements may be waived by the Zoning Enforcement Officer if the proposed work is of a minor nature and provided the scope of the work is adequately described in the application;
  - c. Other drawings, documents or plans as may be required in these Regulations; and
  - d. The appropriate fee.

### **C. Proceedings**

1. A decision on a Zoning Permit Application shall be made within thirty-five (35) days of receipt.
2. If the proposed new or changed Use or if the proposed erection or Alteration of any Building or Structure is found from the application to be in compliance with these Regulations, the Zoning Enforcement Officer shall issue a Zoning Permit setting forth the date on which the permit was issued.
3. Any application for a Zoning Permit shall be rejected if the Zoning Enforcement Officer finds that:
  - a. the application is incomplete and has notified the applicant in writing of the reason(s) why the application is incomplete, or
  - b. the application is not in compliance with the Zoning Regulations and has notified the applicant in writing of the reason(s) why the application does not comply with the Zoning Regulations. The notification need not enumerate all instances of non-compliance, but can specify only illustrative or serious violations.
4. An application for a Zoning Permit may be withdrawn by the applicant at any time prior to final action by filing a formal written request to that effect with the Zoning Enforcement Officer, except that there shall be no rebate of any portion of the fees which may have been paid by the applicant for a Zoning Permit application that is subsequently withdrawn.
5. The Zoning Enforcement Officer is not authorized to approve, and shall not approve, any zoning permit for any property on which there exists a violation of zoning, Wetlands or other municipal regulation or ordinance, unless such zoning permit application will remedy such violation or such violation has been bonded in accordance with Section 8.3.C.

## D. Notice Provisions

1. In accordance with CGS Section 8-3(f), the Zoning Enforcement Officer shall inform the recipient of a Zoning Permit that notice of issuance of a Zoning Permit may be published by the recipient in a newspaper having substantial circulation in New Hartford in order to establish the appeal period per CGS 8-7.
2. Any such notice to be published by the recipient shall contain:
  - a. a description of the Building, Use or Structure,
  - b. the location of the Building, Use or Structure,
  - c. the identity of the applicant, and
  - d. a statement that an aggrieved person may appeal to the Board of Appeals in accordance with the provisions of CGS 8-7.

## E. Location Improvement Surveys

1. **Foundations**
  - a. Upon the completion of the foundation of a Building or Structure, the owner shall have an A-2 survey made by a licensed land surveyor, showing the true location of such foundation with respect to the Lot lines of the Lot.
  - b. A copy of this survey shall be filed with the Zoning Enforcement Officer before any further construction is commenced.
  - c. This requirement may be waived at the discretion of the Zoning Enforcement Officer for additions to existing Buildings or Structures or new Accessory Buildings or Structures where it is clear that no setback violation is probable.
2. **Driveways**
  - a. An as-built or location improvement survey shall be prepared for new Driveways, with a note stating that the Driveway is built in accordance with the Town of New Hartford Driveway Ordinance.
  - b. The as-built or location improvement survey for a new Driveway shall be provided prior to the issuance of a Zoning Compliance or Certificate of Occupancy.

## F. Zoning Sign-off Expiration

Any permit issued under these Regulations for which no work is commenced within six (6) months from the date of issuance shall expire unless an extension is granted in writing on the original permit by the Zoning Enforcement Officer. Any permit issued under these Regulations for which all work is not completed within two (2) years shall expire unless an extension is granted in writing by the Zoning Enforcement Officer.

## **SECTION 8.3. CERTIFICATE OF ZONING COMPLIANCE**

### **A. Applicability**

1. No land shall be occupied or Used and no Building hereafter erected, Expanded, Extended, or Altered or moved shall be occupied or Used in whole or part for any purpose until a Certificate of Zoning Compliance has been issued by the Zoning Enforcement Officer. Such certificate is required for any change, Alteration or Extension of a Use.
2. This regulation shall not affect the moving of a temporary Accessory Structure within the boundaries of the Lot on which it is situated.
3. The Zoning Enforcement Officer shall determine that the Use of the land or Building complies with all provisions of these Regulations.
4. The Zoning Enforcement Officer is not authorized to approve, and shall not approve, any Certificate of Zoning Compliance, for any property on which there exists a violation of zoning, Wetlands or other municipal regulation or ordinance, unless such zoning permit application will remedy such violation or such violation has been bonded in accordance with Section 8.3.C.

### **B. Procedures**

Upon completion of work authorized by a Zoning Permit, the Zoning Enforcement Officer shall issue a Certificate of Zoning Compliance if work has been completed in accordance with permits and plans.

### **C. Bonding**

The Zoning Enforcement Officer may issue a Certificate of Zoning Compliance where, due to weather or other conditions beyond the applicant's control, certain items required by an approved Zoning Permit, Site Plan Approval, or Special Exception remain incomplete at the time of intended Building occupancy; or where violations of zoning, Wetlands or other municipal regulation or ordinance have been identified and cannot be remedied due to weather or other conditions beyond the applicant's control; upon the filing of a bond to assure the completion of such work or the remedying of such violations. The Zoning Enforcement Officer may require professionally certified estimates to confirm the costs of such work; plans or other specifications to describe such work; a schedule for the completion of such work; and written consent to enter onto the property to complete such work in the event that the applicant fails to do so within the time period provided. The form of the bond shall be as specified by the Zoning Enforcement Officer.

### **D. Records**

A record of all certificates shall be kept on file, pursuant to the requirements of the CT State Library, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the land or Building affected for a fee (see Fee Schedule in Appendix 1).

## **SECTION 8.4. SITE PLAN APPLICATION**

### **A. Purpose**

The Site Plan is intended to provide the Commission with information which will aid in determining the conformity of a proposed Building, Use or Structure with specific provisions of these Regulations.

### **B. When Required**

1. A Site Plan, as prescribed in this Section, shall accompany the application for any Special Exception.
2. A Site Plan application shall be submitted as required in the Use Tables in Articles 3 and 4, and as required elsewhere in these Regulations.
3. A Site Plan shall not be required for a Single-Family Dwelling, a permitted Accessory Building or such other Use that is specifically exempted from submission of a Site Plan as stated in the Regulations unless otherwise specified.

### **C. Application Requirements**

1. A Site Plan Application in accordance with the Site Plan Check List in Appendix 2.
2. The Commission may, in accordance with the requirements of these Regulations require the submission of additional information as deemed necessary to make a reasonable review of the applications.
3. If a Site Plan application involves an activity regulated pursuant to the requirements of the New Hartford Inland Wetlands Regulations, the applicant shall demonstrate that an application to the Inland Wetlands Commission was submitted not later than the day such application is filed with the Planning and Zoning Commission.
4. Applicants are encouraged to submit a draft proposed Site Plan for review by the staff prior to formal submission of the Site Plan application.
5. The Planning and Zoning Commission may modify submission requirements for any particular Site Plan application, where in the opinion of the Commission, the scope and circumstances of such a proposed Development application are such that certain information is not necessary to determine compliance with these Regulations or complete its review of the proposed project.
6. The design, layout and computations relating to the construction of facilities for stormwater Drainage or improvements such as a new accessway, Parking Areas, etc., shall be prepared by a Connecticut registered engineer or, where qualified to do so, by a Connecticut registered landscape architect.
7. The applicant shall submit a copy of the application to, and meet with, the Architectural Review Committee, in accordance with Section 6.7 of these Regulations.
8. The applicant shall submit a stormwater management plan in accordance with the Stormwater Management Standards in Section 6.8.

## **D. Proceedings**

1. The date of receipt for the Site Plan Application shall be determined in accordance with Section 8.1.B, Date of Receipt.
2. Notification to adjoining municipalities, water companies and holders of conservation or preservation easements shall be made in accordance with the requirements of Sections 8.1.G through I.
3. Whenever a Site Plan is required in conjunction with another application requiring a public hearing (such as Special Exception Application or Zone Amendment Application) the time period for acting on the Site Plan shall coincide with the time period for acting on the related application.
4. Except as provided in the following paragraph, whenever approval of a Site Plan is the only approval required, a decision on the application shall be rendered within sixty-five (65) days after the date of receipt of such Site Plan application except that the applicant may consent to one (1) or more extensions of such period provided that the total period of any such extension or extensions shall not exceed sixty-five (65) days.
5. The decision of the Planning and Zoning Commission shall not be rendered on the Site Plan application until the Inland and Wetlands Commission has submitted a report with its final decision.
6. The applicant may, at any time prior to action by the Commission, withdraw such application.

## **E. Decision Considerations**

1. On a Site Plan application involving an activity regulated by the Inland Wetlands Commission, the Commission shall:
  - a. wait to render its decision until the Inland Wetlands Commission has submitted a report with its final decision, and
  - b. give due consideration to the report of the Inland Wetlands Commission.
2. On a Site Plan application involving notice to adjoining municipalities or water companies, the Commission shall give due consideration to any report or testimony received.
3. Before the Commission approves a Site Plan, it shall determine that the Site Plan is in conformance with the applicable provisions of these Regulations.
4. In approving a Site Plan, the Commission may impose conditions deemed necessary to protect the public health, safety, welfare, convenience, and property values.

## **F. Action Documentation**

1. The Commission shall send, by certified mail, a copy of any decision to the applicant within fifteen (15) days after such decision is rendered.
2. The Commission shall cause notice of the approval or denial of a Site Plan to be published in a newspaper having a substantial circulation in New Hartford within fifteen (15) days after such decision is rendered.
3. In any case in which such notice is not published within the fifteen (15) day period after a decision has been rendered, the person who submitted such plan may provide for the publication of such notice within ten (10) days thereafter.

## G. Following Approval

1. Following approval of a Site Plan, one (1) fixed-line mylar copy of the approved plan(s) shall be submitted to the Planning and Zoning Office and shall:
  - a. bear the raised seal and signature of the appropriate professionals which prepared the drawing(s),
  - b. bear a copy of the decision letter of the Commission and any other town regulatory agencies authorizing the activity,
  - c. contain a signature block where the Chair of the Commission can indicate the approval of the Commission, and
  - d. contain an approval block, which shall state the date on which the five (5) year period expires.
2. Following the signature by the Chair, the Site Plan shall be filed in the New Hartford Land Records in the Town Clerk's Office before any Building Permits are issued for the activities shown on the approved Site Plan.
3. CADD (computer aided drafting and design) files of the Site Plan shall be submitted to the Land Use Office.
4. Proposed modifications to approved Site Plans shall be submitted to the Zoning Enforcement Officer for review and such proposed modifications may be:
  - a. approved by the Zoning Enforcement Officer if minor in nature, or
  - b. submitted to the Commission for additional review if major changes are proposed.

## H. Expiration and Completion

1. All work in connection with a Site Plan shall be completed within five (5) years after the date of approval of the Site Plan (unless otherwise provided for in the Connecticut General Statutes).
2. Failure to complete all work within such required time for completion shall result in automatic expiration of the approval of such Site Plan. "Work" for the purpose of this requirement means all physical improvements required by the approved plan.
3. The Commission may grant one (1) or more extensions of the time to complete all or part of the work in connection with the Site Plan provided the total extension or extensions shall not exceed 10 years from the date of such Site Plan.
4. The Commission may condition the approval of any such extension on a determination of the adequacy of any Performance Bond.

## I. Performance Bond

1. The Commission may require a Performance Bond in an amount and in a form satisfactory to the Commission to guarantee satisfactory completion of Drainage facilities, Erosion and Sediment Control measures, parking and access features, walkways, recreation facilities, Buffer strips, stormwater facilities and any other site improvements, other than Buildings. The applicant shall provide an estimate of improvements to be guaranteed, together with a description of the basis of the estimate.

#### Section 8.4. Site Plan Application

2. Where a Performance Bond is required, no zoning permit shall be issued until the Bond is received. The Bond shall be held until the Commission votes its release. The Commission shall not release the Bond until it has certified that all of the requirements of the Special Exception and/or the approved Site Plan have been satisfied.

## **SECTION 8.5. SPECIAL EXCEPTION APPLICATIONS**

### **A. Purpose**

Special Exception Uses are declared to possess such special characteristics that each shall be considered on an individual basis subject to the standards and requirements of these Regulations, including the following general requirements and any special requirements specified for a particular Use.

### **B. Application Requirements**

1. A Special Exception shall be submitted for any activity designated in the Regulations as requiring a Special Exception.
2. Each application for a Special Exception shall be accompanied by a Site Plan unless the Commission finds that there are no physical changes proposed to the site or any Building or Structure and the submission of a Site Plan is not necessary for the Commission to evaluate the proposal.
3. An application for a Special Exception shall be made on forms provided by the Commission.
4. A Special Exception Application shall be accompanied by items specified in the Special Exception Check List, in Appendix 2.
5. The Commission may also require additional information when it determines that it needs such additional information in order to determine whether the proposed Use complies with the standards and requirements of these Regulations.
6. If a Special Exception application involves an activity regulated pursuant to the requirements of the New Hartford Inland Wetlands Regulations, the applicant shall demonstrate that an application to the Inland Wetlands Commission was submitted not later than the day such application is filed with the Planning and Zoning Commission.
7. Upon the request of an applicant, the Commission may by resolution determine that information required as part of the Site Plan or Preliminary Architectural Plan is not necessary to enable the Commission to decide upon the application and, therefore, the applicant is excused from having to submit such information.
8. The applicant shall submit a copy of the application to, and meet with, the Architectural Review Committee, in accordance with Section 6.7 of these Regulations.

### **C. Proceedings**

1. The date of receipt of the Special Exception application shall be determined in accordance with Section 8.1.B, Date of Receipt.
2. The Commission shall hold a public hearing on the Special Exception application and:
  - a. Publish a legal notice in accordance with the requirements of Section 8.1E, Notice by Newspaper, and
  - b. Require that the applicant give notice to abutting property owners in accordance with the requirements of Section 8.1.F, Notification of Abutting Property Owners. Such notice shall include the copy of the statement submitted in accordance with the Application.
3. Notification to adjoining municipalities, water companies or holders of conservation or preservation restrictions may be required in accordance with CGS 47-42.

## Section 8.5. Special Exception Applications

4. The Commission shall process the Special Exception application with the period of time permitted under CGS 8-7d:
  - a. the public hearing shall commence within sixty-five (65) days after receipt of the application,
  - b. the public hearing shall be completed within thirty-five (35) days after such hearing commences,
  - c. all decisions shall be rendered within sixty-five (65) days after completion of such hearing, and
  - d. the applicant may consent to one (1) or more extensions of any period specified herein provided the total extension of all such periods shall not be for longer than sixty-five (65) days.
5. The decision of the Planning and Zoning Commission shall not be rendered on the Special Exception application until the Inland and Wetlands Commission has submitted a report with its final decision.
6. The applicant may at any time prior to action by the Commission, withdraw such application.
7. The applicant shall bear the burden of demonstrating that any applicable Special Exception criteria in these Regulations are addressed.

### **D. Decision Considerations**

1. On a Special Exception application involving an activity regulated by the New Hartford Inland Wetlands Commission, the Commission shall:
  - a. wait to render its decision until the Inland Wetlands Commission has submitted a report with its final decision, and
  - b. give due consideration to any report of the Inland Wetlands Commission when making its decision.
2. On a Special Exception application involving notice to adjoining municipalities or water companies, the Commission shall give due consideration to any report or testimony received.
3. Before the Commission approves a Special Exception application, it shall determine that the application:
  - a. Meets all requirements for the Special Exception Use prescribed in these Regulations,
  - b. has, in the sole discretion of the Commission, satisfied any applicable Special Exception criteria in these Regulations, and
  - c. is in harmony with the purposes and intent of these Regulations.
4. Before granting a Special Exception, the Commission shall determine that any accompanying Site Plan application and any other plans required by these Regulations are in conformance with the applicable provisions of these Regulations.
5. In granting a Special Exception, the Commission may:
  - a. Attach such conditions and safeguards as may be required to satisfy the general standards and the specific standards for certain Special Exception Uses as set forth herein.
  - b. Stipulate such conditions as are reasonable and necessary to protect or promote the public health, safety or welfare; property values; the environment; sound planning and

zoning principles; improved land use, site planning and land Development; or better overall neighborhood compatibility.

- c. Impose additional requirements, conditions or safeguards as a prerequisite to the issuance of the Zoning Permit by the Zoning Enforcement Officer, if it shall be found necessary in order that the spirit of these Regulations may be observed, public safety and welfare secured or substantial justice done.
  - d. Require the applicant to periodically submit information and/or it may stipulate that a periodic review will be conducted by the Commission for the purpose of determining that the Use is in compliance with certain regulation requirements and/or permit conditions.
6. Any condition or safeguard attached to the granting of a Special Exception:
- a. shall remain with the property as long as the Special Exception Use is still in operation, and
  - b. shall continue in force and effect regardless of any change in ownership of the property.

## E. Special Exception Criteria

In considering any application for a Special Exception, the Commission shall evaluate the merit of the application with respect to the following factors:

### 1. Suitable Location For Use

- a. The location and size of the site, the nature and intensity of the operations involved in or conducted in connection with the Use, and the location of the site with respect to Streets giving access to it are such that the Use shall be in harmony with the appropriate and orderly Development in the district in which it is located and shall promote the welfare of the Town.
- b. The proximity of the proposed Special Exception Use will not have a detrimental effect upon property values in the neighborhood, Religious Institution, School, library, public playground or similar facility or Use.
- c. The number of similar existing special Exception Uses in the vicinity is such that the granting of the proposed Special Exception will not be detrimental to the public health, safety and welfare.

### 2. Appropriate Improvements

- a. The design elements of the proposed Development will be attractive and suitable in relation to the site characteristics, the style of other Buildings in the immediate area, and the existing and probable future character of the neighborhood in which the Use is located.
- b. The site design is in harmony with the neighborhood and accomplishes a transition in character between areas of unlike character.
- c. The location, nature and Height of Buildings, walls, and Fences, planned activities and the nature and extent of landscaping on the site will be such that the Use shall not hinder or discourage the appropriate Development and use of land and Buildings in the area or impair the value thereof.
- d. The proposed Use or activity shall have no adverse effect upon the neighboring area resulting from the use of Signs, exposed artificial lights, colored lights of

any nature, flashing lights, loudspeakers or other noisemaking devices.

- e. In cases where it is proposed to convert a Structure designed and built originally for other Uses, the Structure is adaptable to the proposed Use from the point of view of public health and safety.

**3. Suitable Transportation Conditions**

- a. The design, location and specific details of the proposed Use or activity shall not adversely affect safety in the Streets nor unreasonably increase traffic congestion in the area nor interfere with the pattern of vehicular circulation in such a manner as to create or augment unsafe traffic conditions.
- b. Parking Areas will be of adequate size for the particular Use, shall be suitably screened from adjoining residential Uses, and entrance and exit drives shall be laid out so as to prevent traffic hazards and nuisances.
- c. Streets and other rights-of-way shall be of such size, condition and capacity (in terms of capacity, width, grade, alignment and visibility) to adequately accommodate the traffic to be generated by the particular proposed Use.

**4. Adequate Public Utilities and Services**

- a. The provisions for water supply, sewage disposal, and stormwater Drainage conform to accepted engineering practices, comply with all standards of the appropriate regulatory authority, and shall not unduly burden the capacity of such facilities.
- b. The proposed Use or activity shall provide easy accessibility for fire apparatus and police protection and is laid out and equipped to further the provision of emergency services.
- c. The provision for disposal of waste is adequate.

**5. Environmental Protection and Conservation**

- a. Appropriate consideration shall be given to the protection, preservation, and/or enhancement of natural, scenic, historic, and unique resources including, where appropriate, the use of Conservation Easements to protect and permanently preserve natural, scenic, historic, or unique features which enhance the character and environment of the area.
- b. Adequate measures for prevention of pollution of surface and ground water supplies, and drinking water supplies.
- c. Proposed methods to foster an energy efficient layout and landscaping plan.

**6. Long Term Viability**

- a. Adequate provision has been made for the sustained maintenance of the proposed Development (Structures, Streets, and other improvements).

**7. Plan of Conservation and Development**

- a. The proposed Use or activity does not conflict with the purposes of the Regulations and facilitates achievement of one (1) or more of the goals, objectives, policies, and recommendations of the Plan of Conservation and Development, as amended.

**8. Design Criteria**

- a. The application conforms to design criteria of Section 6.7 and Appendix 5 (for the New Hartford Center District) and Appendix 6 (for other Districts.)

**F. Action Documentation**

1. The decision to grant a Special Exception shall:
  - a. state the name of the owner of record,
  - b. contain a description of the Premises to which it relates,
  - c. identify the Section and/or Subsection of the Regulations under which the Special Exception was granted, and
  - d. specify the nature of the Special Exception.
2. The Commission shall send, by certified mail, a copy of any decision on a Special Exception application to the applicant within fifteen (15) days after such decision is rendered.
3. The Commission shall cause notice of the approval or denial of the Special Exception application to be published in a newspaper having a substantial circulation in New Hartford within fifteen (15) days after such decision is rendered.
4. In any case in which such notice is not published within the fifteen (15) day period after a decision has been rendered, the person who submitted such plan may provide for the publication of such notice within ten (10) days thereafter.
5. No Special Exception shall become effective until a copy of the Special Exception documents are filed with the Town Clerk.

**G. Following Approval**

1. A Special Exception granted by the Commission shall only become effective upon the filing of a copy, certified by the Commission, in the land records of the Town, in accordance with the provision of CGS 8-3d. The applicant or record owner shall be responsible for filing and recording the Special Exception and shall pay all filing and recording fees. The copy of the Special Exception filed in the land records shall:
  - a. contain a description of the Premises,
  - b. specify the nature of the Special Exception,
  - c. state the regulation under which the Special Exception is issued,
  - d. state the names of all owners of record of the Premises.
2. The Special Exception shall authorize only the particular Use or Uses specified in the Commission's approval.
3. Failure to strictly adhere to the documents, plans, terms, conditions and/or safeguards approved by the Commission or its staff shall be a violation of these Regulations and the Commission shall have the authority, following notice to the permittee and the opportunity to be heard, to revoke the Special Exception at any time the operation is found to be in noncompliance with the original permit.
4. A Special Exception Use may be amended or modified provided an application shall be made in the same manner as the original application subject to the same procedures for approval, with

## Section 8.5. Special Exception Applications

the following exception. An amendment or modification which does not materially Alter the Special Exception as determined by the Commission, may be authorized with Commission approval, without a public hearing. As a condition of approval of a Special Exception, the Commission may require the applicant to periodically submit information and/or it may stipulate that a periodic review will be conducted by the Commission for the purpose of determining that the Use is in compliance with certain regulation requirements and/or permit conditions.

5. After approval of a Special Exception, a Zoning Permit shall be required prior to commencement of the Use or construction.

### **H. Expiration of Special Exception**

1. All work in connection with a Site Plan shall be completed within five (5) years after the date of approval of the Site Plan (unless otherwise provided for in the Connecticut General Statutes).
2. Failure to complete all work within such required time for completion shall result in automatic expiration of the approval of such Site Plan. "Work" for the purpose of this requirement means all physical improvements required by the approved plan.
3. The Commission may grant one (1) or more extensions of the time to complete all or part of the work in connection with the Site Plan provided the total extension or extensions shall not exceed ten (10) years from the date of such Site Plan.
4. The Commission may condition the approval of any such extension on a determination of the adequacy of any Performance Bond.

### **I. Performance Bond**

The Commission may require a performance Bond in an amount and in a form satisfactory to the Commission to guarantee satisfactory completion of Drainage facilities, Erosion and Sediment Control measures, parking and access facilities, Buffer strips, stormwater facilities and any other site improvements, other than Buildings. The applicant shall provide a cost estimate of improvements to be bonded, together with a description of the basis for the estimate.

## **SECTION 8.6. REGULATION TEXT AMENDMENT APPLICATION**

### **A. Application Requirements**

1. A Regulation Text Amendment Application shall be submitted for any proposal to amend, change, or repeal any Section of these Regulations.
2. The petition shall be on a form provided by the Commission and all information required therein shall be provided and certified correct by the applicant.
3. Any such application shall be accompanied by the items specified in the Regulation Text Amendment Checklist in Appendix 2.
4. The Commission may require the submission of additional information as deemed necessary to allow for a reasonable review of the application.
5. A Regulation Text Amendment Application shall only be submitted by:
  - a. an owner of real property in New Hartford
  - b. residents or persons having an interest in land in Town, or
  - c. by the Commission on its own initiative.
6. The Commission shall not be required to hear any petition or petitions relating to the same changes, or substantially the same changes, more than once in a period of twelve (12) months unless it finds, on facts presented in writing, that a material change in the situation justifies this action. A change in ownership of property or any interest therein shall not be deemed a material change in the situation for the purpose of this Section.

### **B. Proceedings**

1. The date of receipt for the Regulation Text Amendment Application shall be determined in accordance with Section 8.1.B, Date of Receipt.
2. An incomplete Regulation Text Amendment Application may be denied in accordance with Section 8.1.C, Incomplete Applications.
3. The Commission shall hold a public hearing on the Regulation Text Amendment Application and shall cause a legal notice to be published in accordance with the requirements of Section 8.1.E, Notice by Newspaper.
4. The Commission shall give written notice of the proposal to the regional planning agency or agencies of the region in which it and the other municipality are located when any portion of the land affected by a regulation change affecting the Use of a District is located within five hundred (500) feet of the boundary of another municipality and:
  - a. such notice shall be made by certified mail, return receipt requested;
  - b. such notice shall be made not later than thirty (30) days before the public hearing; and,
  - c. the regional planning agency may submit its advisory findings and recommendations to the Commission at or before the hearing but if such report is not submitted, it shall be presumed that such agency does not disapprove of the proposal.
5. Notification to adjoining municipalities, water companies, or holders of Conservation or Preservation Restrictions may be required in accordance with the requirements of Sections 8.1.G through I.

## Section 8.6. Regulation text Amendment Application

6. A copy of the proposed regulation shall be filed by the applicant in the office of the Town Clerk for public inspection at least ten (10) days before the public hearing.
7. The Commission shall process the Regulation Text Amendment Application within the period of time permitted under CGS 8-7d:
  - a. the public hearing shall commence within sixty-five (65) days after receipt of the application.
  - b. the public hearing shall be completed within thirty-five (35) days after such hearing commences.
  - c. all decisions shall be rendered within sixty-five (65) days after completion of such hearing.
  - d. the applicant may consent to one (1) or more extensions of any period specified herein provided the total extension of all such periods shall not be for longer than sixty-five (65) days.
  - e. these provisions shall not apply to any action initiated by the Commission regarding adoption or change of any Regulation.
  - f. The applicant may, at any time prior to action by the Commission, withdraw such application.

### **C. Decision Considerations**

1. Any report from an adjacent municipality or a regional planning agency shall be made a part of the record of such hearing.
2. On a Regulation Text Amendment Application involving notice to adjoining municipalities, water companies, or a regional planning agency, the Commission shall give due consideration to any report or testimony received.
3. In making its decision the Commission shall take into consideration the Plan of Conservation and Development, prepared pursuant to CGS 8-23.
4. Before approving any Regulation Text Amendment Application, the Commission shall determine that the proposed regulation change will aid in:
  - a. protecting the public health, safety, welfare, or property values, and
  - b. attaining the purposes of these Regulations.
5. Such Regulation(s) shall be established, changed or repealed only by a majority vote of all of the regular members of the Commission except that, if a protest against a proposed change is filed at or before a hearing with the Commission, signed by the owners of twenty percent (20%) or more of the area of the Lots affected by such proposed change or of the Lots within five hundred (500) feet in all directions of the property included in the proposed change, such change shall not be adopted except by a vote of two-thirds (2/3) of all of the regular members of the Commission.

### **D. Action Documentation**

1. In making its decision, the Commission shall state upon the record its findings on consistency of the proposed establishment, change or repeal of such Regulations with the Plan of Conservation and Development, as amended.
2. As part of approving a Regulation Text Amendment Application, the Commission shall establish an effective date for the Regulation change provided that a notice of the decision of the

Commission shall have been published in a newspaper having a substantial circulation in New Hartford before such effective date.

3. The Commission shall send, by certified mail, a copy of any decision on a Regulation Text Amendment Application to the applicant within fifteen (15) days after such decision is rendered.
4. The Commission shall cause notice of the approval or denial of the Regulation Text Amendment Application to be published in a newspaper having a substantial circulation in New Hartford within fifteen (15) days after such decision is rendered, and shall, within such period, file a copy of the amended text with the Town Clerk
5. In any case in which such notice is not published within the fifteen (15) day period after a decision has been rendered, the person who submitted such application may provide for the publication of such notice within ten (10) days thereafter.

### **E. Following Approval**

A Regulation Text Amendment approved by the Commission shall be filed in the office of the Town Clerk before the effective date.

## **SECTION 8.7. ZONE AMENDMENT APPLICATION**

### **A. Application Requirements**

1. A Zone Amendment Application shall be submitted for any proposal to Alter the zoning designation of any Parcel(s) of land or part thereof.
2. A Zone Amendment Application shall be:
  - a. signed by the affected property owner(s),
  - b. initiated by petition, or
  - c. commenced by the Commission on its own initiative.
3. A Zone Amendment Application shall be accompanied by items specified in the Zone Amendment Application Check List in Appendix 2.
4. The Commission shall not be required to hear a Zone Amendment Application that has been rejected within one (1) year from the date of rejection unless it finds, on facts presented in writing, that a material change in the situation justifies this action. A change of ownership of property or any interest therein shall not be deemed a material change in the situation for the purpose of this Section.

### **B. Proceedings**

1. The date of receipt of the Zone Amendment Application shall be determined in accordance with Section 8.1.B, Date of Receipt.
2. The Commission shall hold a public hearing on the Zone Amendment Application and:
  - a. shall cause a legal notice to be published in accordance with the requirements of Section 8.1.E, Notice by Newspaper.
  - b. require that the applicant give notice to property owners in accordance with the requirements of Section 8.1.F, Notification of Abutting Property Owners.
3. The Commission shall give written notice of the proposal to the regional planning agency or agencies of the region in which it and the other municipality are located when any portion of the land affected by a Zone Amendment Application is located within five hundred (500) feet of the boundary of another municipality and:
  - a. such notice shall be made by certified mail, return receipt requested.
  - b. such notice shall be made not later than thirty (30) days before the public hearing.
  - c. the regional planning agency may submit its advisory findings and recommendations to the Commission at or before the hearing but if such report is not submitted, it shall be presumed that such agency does not disapprove of the proposal.
4. Notification to adjoining municipalities, water companies and holders of Conservation and Preservation Easements may be required in accordance with Sections 8.1.G through I.
5. A copy of the proposed zone amendment shall be filed by the applicant in the Office of the Town Clerk for public inspection at least ten (10) days before the public hearing.
6. An incomplete Zone Amendment Application may be denied in accordance with Section 8.1.C, Incomplete Applications.

7. The Commission shall process the Zone Amendment Application within the period of time permitted under CGS 8-7d:
  - a. The public hearing shall commence within sixty-five (65) days after receipt of the application.
  - b. The public hearing shall be completed within thirty-five (35) days after such hearing commences.
  - c. All decisions shall be rendered within sixty-five (65) days after completion of such hearing.
  - d. The applicant may consent to one (1) or more extensions of any period specified herein provided the total extension of all such periods shall not be for longer than sixty-five (65) days.
  - e. these provisions shall not apply to any action initiated by the Commission regarding a Zone Amendment Application.
8. The applicant may, at any time prior to action by the Commission, withdraw such application.

### **C. Decision Considerations**

1. On a Zone Amendment Application involving notice to adjoining municipalities, water companies, or to a regional planning agency, the Commission shall give due consideration to any report or testimony received.
2. In making its decision the Commission shall take into consideration the Plan of Conservation and Development, prepared pursuant to CGS 8-23.
3. Before approving any Zone Amendment Application, the Commission shall determine that the proposed zone change:
  - a. is in accordance with the Plan of Conservation and Development,
  - b. is suitable for the intended location,
  - c. will aid in protecting the public health, safety, welfare, or property values, and
  - d. will aid in attaining the purposes of these Regulations.
4. Such Zone Amendment shall be established, changed or repealed only by a majority vote of all the members of the Commission except that, if a protest against a proposed change is filed with the Commission at or before a hearing, signed by the owners of twenty percent (20%) or more of the area of the Lots affected by such proposed change or of the Lots within five hundred (500) feet in all directions of the property included in the proposed change, such change shall not be adopted except by a vote of two-thirds (2/3) of all the members of the Commission.

### **D. Action Documentation**

1. Whenever the Commission acts upon a Zone Amendment Application, it shall state upon the record its findings on consistency of the proposed zone change with the Plan of Conservation and Development, as amended.
2. As part of approving a Zone Amendment Application, the Commission shall establish an effective date for the zone change provided a notice of the decision of the Commission shall have been published in a newspaper having a substantial circulation in New Hartford before such effective date.

## Section 8.7. Zone Amendment Application

3. The Commission shall send, by certified mail, a copy of any decision on a Zone Amendment Application to the applicant within fifteen (15) days after such decision is rendered.
4. The Commission shall cause notice of the approval or denial of the Zone Amendment Application to be published in a newspaper having a substantial circulation in New Hartford within fifteen (15) days after such decision is rendered, and shall cause a copy of the amended map to be filed with the Town Clerk
5. In any case in which such notice is not published within the 15-day period after a decision has been rendered, the person who submitted such application may provide for the publication of such notice within ten (10) days thereafter.

### **E. Following Approval**

1. A Zone Amendment Application approved by the Commission shall be filed in the office of the Town Clerk before the effective date.
2. Such changes shall be made on the Zoning Map with an entry on the Zoning Map as follows: "As amended to (date)".

## **SECTION 8.8. ZONING BOARD OF APPEALS**

### **A. Establishment**

There shall be a Zoning Board of Appeals pursuant to the provisions of Chapter 124 of the Connecticut General Statutes (CGS Section 8-1 et seq.).

### **B. Powers and Duties**

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

1. **Appeals** – To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the official charged with the enforcement of these Regulations.
2. **Variances**
  - a. To determine and vary the application of these Regulations in harmony with their general purpose and intent, and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a Parcel of land where owing to conditions especially affecting such Parcel but not generally affecting the district in which it is situated, a literal enforcement of such Regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and public safety and welfare secured.
  - b. No variance shall be granted by the Zoning Board of Appeals unless it finds the following:
    - i. the variance would be in harmony with the purposes of these Regulations, as set forth in Section 1.2 of these Regulations;
    - ii. the literal enforcement of these Regulations would result in unusual hardship, as the same has been defined by the courts of the State of Connecticut and as summarized:
      - The hardship recognized by the law is that of the property, due to its unique shape, topography, or other inherent condition; the personal hardship of the owner, such as age or family condition, is not a legal hardship which would support the granting of a variance; except to the extent required by the Americans with Disabilities Act.
      - The hardship must not be merely financial, such as that the owner would make more money or lose less money if the variance were granted, as financial hardship is personal, and not inherent in the property itself.
      - The hardship must be unique to the property, in the sense that it is a characteristic which is not exhibited by other properties in the area or in the District, and which makes it appropriate for special treatment. Merely being too small or too narrow is not a legal hardship unless it restricts the property from being put to a reasonable Use permitted in the subject District.
      - The hardship must not be created by the owner or his/her predecessor in title, such as by dividing a Parcel to create Lots which cannot support the desired Use; or creating a topographic condition by excavation, fill, or other measures which render the property unusable for its highest Use without a variance; or by Building a Structure which, for whatever reason, violates a current zoning regulation.

## Section 8.8. Zoning Board of Appeals

- c. In accordance with Connecticut case law, the Board is prohibited from varying any condition or requirement set forth in these Regulations for a Special Exception Use, such Uses being permitted in the subject District only when all conditions or requirements contained here are satisfied.
  - d. The burden is on the applicant to demonstrate that the requirements for a variance have been met.
  - e. Variances are to be granted sparingly, and only to the minimum extent necessary to allow property to be used for the least intense Use which is permitted in the subject District.
3. **Use Variance** – No Use variance shall be granted merely because the permitted Uses result in a particular difficulty or provide less than the highest and best return to the owner. The Zoning Board of Appeals may, upon application by the owner, grant variances authorizing otherwise prohibited uses if the applicant makes an affirmative showing that:
  - a. a dimensional variance will not relieve the exceptional difficulty or hardship,
  - b. in view of the available alternatives, the public interest would be best served by permitting such Use at the proposed location, and
  - c. the public interest cannot reasonably be served by location of such Use in a District in which it is permitted.
4. **Other Duties** – To hear and decide all matters referred to it and upon which it shall be required to pass under any provision of these Regulations or the Connecticut General Statutes.

## **SECTION 8.9. ARCHITECTURAL REVIEW COMMITTEE**

1. The Planning and Zoning Commission shall appoint an Architectural Review Committee.
2. The Committee shall consist of five (5) regular members and two (2) Alternate members, of which:
  - a. The town planner and the town engineer may, at the expense of the applicant, advise the Committee.
  - b. At least one (1) Alternate or regular member should be an architect or landscape architect.
  - c. At least one (1) Alternate or regular member should have a background in historic preservation.
  - d. No member or alternate member of the Commission shall serve on the Architectural Review Committee.
3. Term appointments for regular members shall be:
  - a. Initially two (2) members shall be appointed to a term of one (1) year, two (2) members shall be appointed to a term of two (2) years and one (1) member shall be appointed to a term of three (3) years.
  - b. Thereafter, all members shall be appointed to a term of three (3) years.
4. Term appointments for Alternative members shall be:
  - a. Initially one (1) Alternate member shall be appointed to a term of one (1) year and one (1) member shall be appointed to a term of two (2) years.
  - b. Thereafter, all Alternate members shall be appointed to a term of three (3) years.

## **SECTION 8.10. ENFORCEMENT**

### **A. Enforcement Authority**

1. These Regulations shall be administered and enforced by the Commission.
2. The Commission shall appoint an administrative agent, referred to herein as the Zoning Enforcement Officer, with full power to administer and enforce these Regulations on behalf of the Commission.
3. The Commission may designate one (1) or more Assistant Zoning Enforcement Officer to aid in the enforcement of these Regulations.
4. The Commission or Zoning Enforcement Officer may file information with the prosecuting authority upon violation of any of these Regulations.

### **B. Inspections**

The Zoning Enforcement Officer and members of the Commission shall have authority to cause an Inspection to be made of any Premises and the Building and Structures thereon and the Use of any land and any kind of work upon any Building or Structure being erected or Altered, whether or not such work is being done under authority of a Zoning Permit.

### **C. Violations**

1. If the Zoning Enforcement Officer shall find a violation of these Regulations, he or she shall serve upon the owner, lessee, tenant, architect, engineer, builder, contractor, manager, or any agent, a violation notice and an order to discontinue such work and violation and to correct or abate the condition complained of within ten (10) days from service of such notice and order, or earlier in the case of Earth removal, Grading, erosion or Sediment control, or other matters requiring more immediate attention.
2. Any person violating any of the provisions of these Regulations shall be subject to the fines, injunctive procedures, and any other penalties prescribed by CGS Chapter 124, as amended, including, when warranted, a separate violation for each day that a violation exists.

## **SECTION 8.11. ADMINISTRATIVE PROVISIONS**

### **A. Severability**

If any chapter, section, subsection, paragraph, sentence, clause or provision of these Regulations shall be adjudged invalid, such adjudication shall apply only to the chapter, section, subsection, paragraph, sentence, clause or provision so adjudged invalid, and the rest and remainder of these Regulations, as they shall now or hereafter exist, shall be deemed to be valid and effective.

### **B. Effective Date**

These Regulations shall take effect in 1957; including revisions through month, day, 2011.

# APPENDICES

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## APPENDIX 1. FEE SCHEDULE

Payment of all fees must accompany the application.

The fees set forth below are the Minimum Application Fees required. When the actual cost of processing an application exceeds the Minimum Application Fee, due to the need for outside consultant services, the Permit Granting Authority shall charge the applicant a surcharge fee to fund the approximate actual costs of processing the application.

The expenses for such outside consultants may be estimated by the Permit Granting Authority upon receipt of the application, based upon the projected expenses of reviewing, evaluating and processing the application. This reasonable estimate, together with the appropriate application fee given above, shall be paid forthwith, and the application shall be deemed incomplete until these fees have been submitted.

For the purpose of this ordinance an "outside consultant" means a professional who is not an employee of the town including, but not limited to, engineering, traffic, environmental and planning professionals.

Any portion of the surcharge fee not expended by the town on the project shall be rebated to the applicant upon completion of the review, evaluation and processing of the application.

The Commission shall bill the applicant for any costs incurred by the town in excess of the surcharge fee paid by the applicant. This bill shall be paid by the applicant prior to the issuance of any permits.

**Minimum Application Fees Required\***

<b>Minimum for Any Permit</b>	\$20.00
<b>Floodplain Permit</b>	See Site Plan, below.
<b>Sign Permit</b>	\$25.00
<b>Zoning Permit</b>	\$25.00
<b>Certificate of Zoning Compliance</b>	
- Original	\$10.00
- Copy	\$1.00
<b>Site Plan</b>	
- Site Plan	\$ 75.00 plus .10 sq. ft., \$1,000.00 maximum
- Site Plan with Special Exception	\$200.00 plus Site Plan fee (Commission may waive \$200.00 fee)
<b>Special Exception</b>	
- In a residential zone, except as noted otherwise	\$150.00
- In other zones, except as noted otherwise	\$200.00
- Accessory Dwelling Unit	\$50.00
- Open Space Development	Per subdivision regulations
- Multi-Family dwellings (New)	\$500.00 plus \$75/unit
- Nursing Home or other medical/dental use	Site Plan fee plus \$125.00 plus \$3.00 per patient bed
- Home Occupation	\$50.00
- Sand , gravel and Earth products removal	\$75.00 plus \$50/acre
<b>Amendment to Regulations</b>	\$35.00
<b>Amendment to Zoning Map</b>	\$50.00
<b>Consulting Fees</b> (see Section 8.1.D of these Regulations)	TBD based on actual cost incurred.

\*This table does not include any State fees that may be required.

## **APPENDIX 2. APPLICATION CHECK LISTS**

### **A. Floodplain Site Plan**

**Application:**

- Completed application form.
- Correct application fee.

**Site Plan Specifications:**

- Three copies of a Site Plan of the Premises, drawn to scale and certified by a licensed land surveyor and civil engineer.

**Site Plan Contents:**

- The actual shape and dimension of the Lot, the size and location of all existing and proposed Structures and land Uses.
- The layout of existing and proposed Parking Areas and loading facilities, and access thereto.
- Existing and proposed grades, delineation of the Flood Boundary limits and the elevation in relation to Mean Sea Level and base Flood level of the proposed Lowest Floor (including Basement) of all Structures.
- Elevation in relation to Mean Sea Level and base Flood level to which any non-residential Structure will be Flood-proofed.
- Description of the extent to which any Watercourse will be Altered or relocated as a result of proposed Development.
- For sites in Zones A1 30, Floodway data shall be provided by the applicant.

**Additional Items:**

- A statement as to whether or not the proposed Alterations to an existing Structure meet the criteria of the "Substantial Improvement" definition (see "Flood-Related Terms" in Section 5.2).
- Applicants for a Floodplain Permit shall be aware that additional Federal or State permits may also be required for a proposal for construction or Use of a Special Flood Hazard Area. Applicants may be required to provide copies of such permits.

## B. Sign Permit

Where a Sign permit is the only approval needed:

**Application:**

- Completed application form.
- Correct application fee.

**Accurate drawing or sketch to scale that shows:**

- Location of Sign
- Size and Height of Sign
- Type of Sign
- Any additional information necessary to determine compliance with these Regulations.

### C. Site Plan

**Application:**

- Completed application form.
- Correct Application fee.

**Site Plan Specifications:**

- Accurately drawn to a scale, not to exceed one inch = 100 ft on sheets not to exceed 24" X 36".
- Certified as Class A-2, signed by a Connecticut Registered Land Surveyor
- 12 copies

**Site Plan Contents:**

- Name of applicant and owner of property.
- Scale and North arrow.
- Key map showing the location of the property in relation to surrounding areas, including adjacent areas and the neighborhood in 500 feet in all directions.
- Property boundary, dimensions angles, area, zoning setback requirements, zoning District and the proposed Use and listing of sections of these Regulations that apply to the proposed Use.
- Names of record owners of abutting properties.
- Location of existing Fences and walls, natural and artificial water features, Wetlands, exposed ledge rock, Structures, Driveways and Drainage features.
- Locations and dimensions of all proposed Buildings, Driveways, Parking Areas, loading areas, storage areas, Drainage features, Structures, Fences and walls.
- A table listing all Yard Setbacks, Building and other dimensional requirements and parking requirements and demonstrating the application's compliance with all such requirements.
- Where Grading is required, existing and proposed contours at two foot intervals, based upon field survey.
- Existing and post construction surface Drainage patterns.
- Proposed Signs including locations, dimensions, and means of illumination.
- All exterior lighting fixtures.
- Locations and methods of water supply and sewage disposal facilities.
- Illustrations, elevations, and renderings of the proposed Buildings and project area sufficient to clearly show the proposal.
- Landscaping Plan (see separate Check List).
- Certification, on the plan or separately, by the Health District concerning satisfactory conditions for sewage disposal, consistent with the State Health Code.
- Approval block.

**Additional Items:**

- If Application involves an activity regulated pursuant to the requirements of the Inland Wetlands Regulations, evidence that an application to the Inland Wetlands Commission was submitted not later than the day such application is filed with the Planning and Zoning Commission.
- Site Stormwater Management Plan where required in accordance with Section 6.8 of these Regulations.
- The height, bulk, use and location of all buildings; typical floor plans or other plans for the use of interior spaces of proposed buildings; the exterior appearance of proposed buildings, including exterior elevations, roof plan, designation of materials, colors, and textures of exterior finishes, doors, windows, roofing, trim, and the like; location of heating, air conditioning, ventilation, and similar equipment; and special exterior features, such as building mounted signs, drive in windows, building or roof lighting, roof drainage/gutters, and features on the interior of the building designed to be capable of being seen from the exterior.
- Water Supply; Certificate for Community Wells. The location and design of the proposed water supply systems shall be provided, including design calculations, materials specifications, hydrostatic testing procedures, and flow testing procedures.

In accordance with Section 8 25a of the Connecticut General Statutes, as amended by Public Act 84 330, any development providing water by means of a "water company", as that term is defined in Connecticut General Statutes Section 16 262m(a), shall provide to the Commission a certified copy of a Certificate of Public Convenience and Necessity issued for the development by the Connecticut Department of Public Utility Control. No application for Special Permit/Exception involving such a water company shall be deemed complete without said Certificate, unless the applicant shall provide a resolution of the New Hartford Board of Selectmen waiving said Certificate and agreeing to be responsible for the operation of the subject water company in the event that the company is at any time unable or unwilling to provide adequate service to its consumers.

- Sanitary Waste Disposal Plan. For any site which is to be served, and is capable of being served, by an operational public sanitary sewer line prior to occupancy, the site plan shall depict the sewer lateral and other engineering information suitable to determine that connection to an operational sanitary sewer line is feasible. In addition, the applicant shall provide evidence from the New Hartford Water Pollution Control Authority that it is capable of providing sanitary sewer service to the subject site. If the applicant proposes to utilize a community sewerage system, as defined in Connecticut General Statutes Section 7 245, a report from the New Hartford Water Pollution Control Authority indicating that all requirements of Connecticut General Statutes Section 7 246f have been satisfied shall be provided.
- Protection of Surface and Ground Water Supply: Pursuant to Connecticut General Statutes Section 8-2, as amended by public act 85-279, every application for Special Exception shall include an evaluation of the impact of the proposed development upon existing and potential public surface and ground drinking water supplies. Such evaluation shall contain, at a minimum:
  - a. A statement describing the nature of the use of any buildings or areas of the site and their method of disposal
  - b. the nature of any discharges anticipated
  - c. the nature of any materials to be stored, processed, or otherwise present on the site, and the period of time for which, and conditions under which, such materials shall be present on the site
  - d. the nature of the ground or surface waters on and around the site, including any public or private domestic users of such waters, their classification, as designated by the Connecticut Department of Environmental Protection's Groundwater Classification System, and the depth to any groundwater, the nature of the soils surrounding the groundwater, and the like
  - e. Measures to be taken by the applicant to control any potential adverse impact on surface and ground drinking water supplies
  - f. Other information which might assist the Commission in determining that such waters will be protected from potential adverse impacts created or increased by the proposed development. Any such evaluation shall be prepared by a qualified geohydrologist or other professional who provides evidence satisfactory to the Commission may refer such evaluations to any governmental agency for review and comment.
  - g. The information described in subsections (d), (e), and (f) need only be provided when the

## Appendix 2. Application Check Lists

information set forth in paragraphs (a), (b) and (c) indicates the presence of materials or processes which have the potential to adversely impact groundwater

### D. Special Exception

#### Application:

- Completed application form.
- Correct Application fee.

#### Site Plan, in accordance with Site Plan Checklist and including:

- Identification of any abutting religious institution, School, library, public playground or similar facility or Use
- List of similar existing Special Exception Uses in the vicinity of the proposed site
- 4 copies of Site Plan

#### Additional Items:

- If Application involves an activity regulated pursuant to the requirements of the Inland Wetlands Regulations, evidence that an application to the Inland Wetlands Commission was submitted not later than the day such application is filed with the Planning and Zoning Commission.
- A written statement describing the proposed Use in sufficient detail to permit the Commission to determine whether the proposed Use complies with Section 8.5.E, Special Exception Criteria.
- Any additional requirements for a particular Use as specified in these Regulations.
- Any approval from any local, regional, state or federal agency or department having jurisdiction over any aspect of the application.

### E. Landscape Plan

- Professional assessment of the visual impact of the Development upon surrounding land uses and as viewed from public Streets serving the site, prepared by a registered Landscape Architect or Architect.
- Where required by the Commission, the Landscape Architect shall provide cross section views from various vantage points of the site showing existing and proposed Development and landscape materials, prepared by a registered Landscape Architect.
- Description of materials to be used for screening
- Plant list of all landscape materials including: English and Latin names, size branching height of trees, root form (bare root or balled in burlap), quantity of each species and remarks regarding planting and care.
- Detailed estimate of the cost of landscaping

### F. Outdoor Lighting Plan

- The location, Height and type of any Outdoor Lighting luminaries, including Building mounted.
- The Luminaire manufacturer's specification data, including Lumen output and photometric data showing cutoff angles.
- The type of Lamp: metal halide, compact fluorescent, high pressure sodium.
- The Commission may require an Isodiagram showing the intensity of illumination expressed in foot

candles at ground level.

- Any additional information to demonstrate compliance with the standards in Section 6.4, Outdoor Lighting.

## G. Sand, Gravel And Earth Excavation

Applicants for Special Exception approval for Sand, Gravel and Earth Excavation shall submit the following information as applicable, as determined by the Commission or its authorized agent:

### Site Plan, including:

- Locations and types of machinery and Buildings to be used or erected on the site.
- Proposed measures to minimize the nuisance from dust and wind erosion at storage areas, yards, access roads, service roads, or other untreated open areas on the site.
- A landscaping plan detailing the regrading and landscaping of the site at the conclusion of operations including existing ground cover and vegetation, and proposed ground cover / stabilization.
- A re-use plan illustrating an ultimate use for property, and indicating how the finished grades will support that ultimate use, including compliance with these Regulations, the Public Health Code, and other comparable State or local regulations.

### Narrative Describing:

- Proposed Excavation and or processing operations
- Location of proposed Driveways, roads, Fences, gates and topsoil storage areas
- Maximum loaded weight and the maximum number of trucks per hour and per day entering and leaving the site
- Proposed hours and days of operation
- Schedule for completion of the proposed Excavation(s)
- Restoration of Disturbed Areas
- Location and frequency of any proposed blasting
- Type of any processing operations proposed as well as machinery necessary for same

### Additional Materials:

- Estimate of the total amount of material to be excavated and removed.
- Written permission for Inspection of the site at reasonable times by the Zoning Enforcement Officer, Town Engineer, or Designee of the Commission.
- An agreement permitting the Town to enter onto the property for the purpose of any necessary restoration.
- Estimate prepared by a professional engineer of the cost of stabilizing and landscaping areas upon completion of the Excavation operations.

## H. Erosion and Sedimentation Control

### Narrative describing (12 copies):

- The Development
- The schedule for Grading and construction activities including:
  - start and completion dates
  - sequence of Grading and construction activities
  - sequence for installation and/or application of Soil Erosion and Sediment control measures
  - sequence for final stabilization of the project site
- The design criteria for proposed Soil Erosion and Sediment control measures and stormwater management facilities.
- The construction details for proposed Soil Erosion and Sediment control measures and stormwater management facilities.
- The installation and/or application procedures for proposed Soil Erosion and Sediment control measures and stormwater management facilities.
- The operations and maintenance program for proposed Soil Erosion and Sediment control measures and stormwater management facilities.

### Site Plan Map at sufficient scale to show (12 copies):

- The location of the proposed Development and adjacent properties.
- The existing and proposed topography including soil types, Wetlands, Watercourses and water bodies.
- The existing Structures on the project site, if any.
- The proposed area Alterations including cleared, excavated, filled or graded areas and proposed Structures, utilities, roads and, if applicable, new property lines.
- The location of and design details for all proposed Soil Erosion and Sediment control measures and stormwater management facilities.
- The sequence of Grading and construction activities.
- The sequence for installation and/or application of Soil Erosion and Sediment control measures.
- The sequence for final stabilization of the Development site.

### Additional Materials (12 copies):

- Any other information deemed necessary and appropriate by the applicant or requested by the Commission or its designated agent.

**I. Architectural Review**

- A plot plan prepared by a registered architect, a registered landscape architect, a registered land surveyor or a professional engineer, showing landscaping, Parking Areas, utilities, sidewalks, lighting, and Building location.
- Exterior elevations for all sides of each Building. In the case of an enlargement of a Building, the existing Building as well as the proposed addition should be shown.
- Samples of exterior Building materials including color samples.
- For Signs, the size, colors, location, and lighting should be shown.
- Information should be presented on how the proposed Building or Sign will complement the existing neighboring Structures.
- The applicant should present any other information that the applicant deems necessary to aid the Committee in evaluating the design.

**J. Text Amendment Application Checklist**

- Completed Application Form (1 copy).
- Correct Application Fee.
- 12 copies of the precise wording of the existing and proposed text.
- 12 copies of any other supporting information, including reasons for the proposed amendment.
- Additional information as deemed necessary to make a reasonable review of the application.
- A statement outlining the reasons for the proposed zoning map change.
- A statement outlining how the proposed zoning map change is in accordance with the Plan of Conservation and Development.

**K. Zoning Map Change Application Checklist**

- Completed Application Form (1 copy).
- Correct Application Fee.
- A metes and bounds description of the land included in the proposed zoning map change.
- A statement outlining the reasons for the proposed zoning map change.
- A statement outlining how the proposed zoning map change is in accordance with the Plan of Conservation and Development.
- 12 copies of a map (for non-residential applications, an A-2 survey) showing North arrow, name of the petitioner and all existing Lots, dimensions, property lines, Streets, the names of property owners that abut or are within 100 feet or are across the Street from the property, and existing and proposed zoning for the area included in and within 500 feet from the subject property. The map shall be accurately drawn to a maximum scale of 50 feet or a minimum of 200 feet to the inch. The map may show other information considered pertinent by the applicant.
- A list (1 copy) of the names and addresses of all property owners and acreage of all property located within 500 feet of the property in question.

### **APPENDIX 3. MODEL SHARED DRIVEWAY AGREEMENT**

#### DECLARATION OF EASEMENT FOR DRIVEWAY AND UTILITIES

DECLARATION (this "Declaration," made this ^ day of ^, 20^, by ^ (hereinafter referred to as "Declarant").

#### W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain premises (the "Easement Area" shown on a map or plan entitled ^ which map is on file as "^" or to be filed with the Town Clerk of the Town of New Hartford to which reference may be had and which Easement Area comprises parts of Lots ^ as shown on the aforementioned map (when specifically referred to, Lots ^ shall be referred to by their lot number and when referred to collectively all of said lots shall hereinafter be referred to as the "Burdened Lots"); and

WHEREAS, Declarant does not desire to have Lots ^ as shown on the aforementioned map (the "Easement Properties") serviced by separate driveways, but rather to establish a mutual easement arrangement which will service the Easement Properties and which will provide ingress and egress to and from ^ [street] and provide a location for the installation of utilities to service the Easement Properties or any of the aforementioned lots individually; and

WHEREAS, Declarant desires to establish this Declaration of Easement to create an easement on, over, under and through the Easement Area for the benefit of the Easement Properties; and

WHEREAS, Declarant further desires to impose certain covenants and restrictions upon the use, operation and maintenance of the Easement Area;

WHEREAS, the Burdened Lots are specifically made part of this Agreement, and the owners of the Burdened Lots shall receive the benefits and be subject to the burdens contained herein; and

WHEREAS, the Easement Properties have been approved by the New Hartford Planning and Zoning Commission as part of a subdivision, pursuant to the New Hartford Subdivision Regulations.

NOW, THEREFORE, Declarant hereby submits the Easement Area to the terms, covenants, restrictions and easements set forth herein for the benefit of the Easement Properties as follows:

#### I. GRANT OF EASEMENT.

Declarant hereby grants and declares, to the extent described herein, for the benefit of the Easement Properties, an easement and right of way over and upon the Easement Area, which easement shall be appurtenant to and for the benefit of the Easement Properties and may be used by the owners of the Easement Properties, their heirs, successors, assigns, licensees and guests.

#### II. USE OF EASEMENT AREA.

The Easement Area shall be used for the purposes of ingress and egress to and from ^[street] by vehicular and pedestrian traffic and for the installation, maintenance, repair, and replacement of utility lines (including lines for storm water discharge, electric, cable, telephone, sewer, water and other residential utilities) together with any appurtenances related thereto (hereinafter referred to as "Utilities") in order to furnish utility services to the Easement Properties.

The owners of the Easement Properties (hereinafter collectively referred to as "Owners" and individually referred to as "Owner") shall have the right in common with the other Owners to enter on, over, under and through the Easement Area for the purpose of construction, installation, maintenance, repair and replacement of the driveway and of Utilities, provided however, that any Owner/Owners who shall do any work or have any work done affecting the Easement Area upon completion of the work shall repair that portion of the Easement Area to the condition that existed prior to such Owner's entry (except for any work done pursuant to the rights created herein) and shall at all times keep so much of the Easement Area open so that vehicular and pedestrian traffic shall have access from ^[street] to the Easement Properties.

III. ACT EXPEDITIOUSLY.

When utilizing the Easement Area the Owners shall do so as expeditiously as possible and in such manner as will cause the least possible disturbance to the other Owners.

IV. OWNERS OF BURDENED LOTS MAY CONTINUE TO USE EASEMENT AREA BUT MAY NOT INTERFERE.

The Owners of the Burdened Lots may continue to use the Easement Area in any way that will not prevent the use of the Easement Area by any owner for the purposes described herein. The Owners of the Burdened Lots shall not erect or allow any structures to be erected on the Easement Area, nor shall they plant or allow to be planted or grown any large trees or any other obstructions which would prevent the use of the Easement Area by the owners. Nothing contained in this paragraph shall diminish the rights and obligations of the owners of the Burdened Lots which are established in this Declaration.

V. MAINTENANCE AND REPAIR OF EASEMENT AREA.

The Owners shall maintain the Easement Area in its present condition or in the condition to which it is improved from time to time, free and clear of obstruction, shall repair the same as necessary, shall keep the same reasonably free and clear of ice and snow, and shall keep the Easement Area insured with respect to liability. The cost of all necessary repairs, maintenance, snow and ice removal, clearing of the driveway, and insurance thereon shall be paid equally by the Owners. Each owner shall be responsible for a proportional share of such cost computed by dividing one by the number of lots served by the driveway over the Easement Area (a "Required Share"). Notwithstanding the foregoing, no owner shall be responsible for any expenses hereunder until a Building Permit has been obtained from the Town of New Hartford to construct a building upon his lot. Therefore, when computing an Owner's Required Share hereunder, the lots for which no Building Permit has been issued shall not be included in the number of lots served by the driveway over the Easement Area.

The cost of maintenance, repair and replacement of Utilities within the Easement Area shall be borne by the specific Owner/Owners whose individual lot/lots is/are benefitted by such Utilities and if more than one Owner is benefitted, then such cost shall be borne on an equal basis. Once Utilities are installed in the Easement Area, then any of the Owners shall have the right to "tie in" to the Utilities, provided that they shall do so in a good and proper manner without damage to the Utilities. (The cost of the original installation of Utilities shall be paid by the Owner desiring said installation.) The obligations created in this paragraph deal with maintenance, repair and replacement.

### Appendix 3. Model Shared Driveway Agreement

The construction material utilized in the driveway shall not be changed unless a majority of the Owners agree to install a different surface, provided no such change shall be permitted that would violate any land use permit issued by the Town of New Hartford and any such change shall conform to the requirements of any governmental authority.

The rest of this paragraph notwithstanding, any Owner who shall, through negligence or willful action, cause any damage which must be repaired hereunder, shall be responsible for the cost incurred to provide the repairs, maintenance and replacement necessitated by the negligence or willful action of that Owner, provided, however, that the Declarant and all subsequent Owners mutually waive their respective rights of recovery against each other for any loss insured by fire, extended coverage and other property insurance policies existing for the benefit of the respective parties.

The cost for repairing, replacing, maintaining or improving the Easement Area, pursuant to this Agreement, shall be shared as set forth above. Except as herein provided, no costs of any kind shall be charged to any Owner, unless that Owner has agreed in writing to pay said costs. In the event that the Owner of any lot shall decide that expenditures shall be incurred for repair and replacing, maintaining or improving the Easement Area, then said Owner shall send written notice to the other Owners which shall request that the other Owners agree to pay their Required Share of the cost of such repair, replacement, maintenance or improvement. In the event that the other Owners agree to pay their Required Shares in writing, then the cost shall be shared accordingly. In the event that one or more of the other Owners do not agree in writing to pay their Required Share, then the Owner proposing said activity and any Owners who agree to pay their Required Share may undertake said activity solely at their own cost and expense. In that event, after the work is completed, the Owner/Owners performing the work may institute legal action against the other Owners who did not contribute to the cost of such activity. In the event that a court should issue a final, non-appealable ruling that the work was necessary to maintain the Easement Area to the standard required hereunder, and if the work was done to the quality required, then the Owners who should have shared said cost shall be responsible for their Required Shares of the cost, and the Owner/Owners who performed the work shall be entitled to be reimbursed by the other Owners not only for their Required Share, but also for the expenses incurred in said collection including a reasonable attorney's fee, if a court action is instituted. All repairs, replacement, maintenance or improvements made to the Easement Area shall be made to a quality suitable to accomplish the purposes for which the Easement Area has been created.

#### VI. PERMANENT EASEMENT.

The easement created herein shall be a permanent easement, and shall bind the Declarant, all subsequent Owners, their heirs, successors and assigns.

#### VII. INTEREST DUE WITH REGARD TO UNPAID OBLIGATIONS.

In the event of a failure by any Owner to pay his Required Share of any costs or expenses incurred hereunder, such costs and expenses shall, commencing thirty (30) days after the date of billing therefor, bear interest at the rate of twelve (12%) percent per annum until paid.

#### VIII. GRANT AND RESERVATION.

Declarant hereby reserves the right to grant rights of access over the Easement Area to any utility company required by the Department of Public Utility Control of the State of Connecticut or to the Town of New Hartford for the purposes herein contained. The Owners will sign any documents required by the aforementioned utility companies or the Town of New Hartford to carry out the intent of this paragraph which is to provide utility service to the Easement Properties.

#### IX. WAIVER OF TOWN OBLIGATION TO MAINTAIN

Pursuant to the requirements of the New Hartford Subdivision Regulations, the Owners of the lots comprising the Easement Properties acknowledge and agree that the Town of New Hartford shall never be required to plow, maintain, assume ownership or provide school bus service or any other service upon or along the driveway within the Easement Area. The Easement Area is a private improvement, and owners of the Easement Properties agree that they will take no action which seeks to impose any duty or obligation upon the Town of New Hartford, or any agency, employee, contractor, or agent thereof, with respect to the Easement Area.

X COVENANTS, AGREEMENTS AND RESTRICTIONS.

The covenants, agreements and restrictions set forth herein shall be effective as of the date hereof and shall continue in full force and effect until written agreement of all of the Owners of the lots comprising the Easement Properties and all parties holding mortgages secured by any lots comprising the Easement Properties shall modify this Declaration of Easement, which modification shall be effective when recorded in the New Hartford Land Records and upon approval of the New Hartford Planning and Zoning Commission as an amendment to any Subdivision issued pursuant to the New Hartford Subdivision Regulations for any or all of the Easement Properties. The covenants, agreements and restrictions herein may not be terminated nor may any limit be imposed on the annual expenses to be paid by any owner.

XI. SUBSEQUENT MODIFICATIONS.

All modifications to this Agreement shall be in writing and signed by the Owners of all properties benefitted or burdened by the easement rights created herein. However, in the event that Declarant shall request that minor modifications be made to this Agreement, or to the rights created hereunder, which shall not substantially interfere with any of the rights or obligations created hereunder, then the Owners of said properties will sign a modification prepared by Declarant in order to accomplish said minor modifications.

XII. MISCELLANEOUS.

A. The covenants, agreements and restrictions contained herein shall be covenants running with and for the benefit of and burden upon the Easement Properties and shall be binding upon and inure to the benefit of the Owners thereof, and their respective heirs, successors and assigns. The rights granted herein shall be considered to create permanent easements.

B. In the event that the Owners desire to jointly make any decisions hereunder, they shall be made by majority vote of the Owners of the lots comprising the Easement Properties.

C. Each of the lots comprising the Easement Properties shall be treated as if it has one Owner. If any of said lots are owned by more than one person, then all of said persons must unanimously agree on any decision to which they are entitled to vote hereunder. Therefore, if all of said persons cannot unanimously agree, then the Owner of said lot shall have no vote.

D. All communications sent pursuant to this Declaration shall be sent in writing and sent by certified mail to the last known address of the recipient.

XIII. MERGER.

The easement rights created herein shall not merge with the fee ownership interest of any lot.

XIV. RESTORATION.

Appendix 3. Model Shared Driveway Agreement

At any time that any Owner shall exercise any rights hereunder, then, when said activity is completed, the Easement Area shall be restored to the condition it was in immediately prior to said activity, except to the extent permitted hereunder.

IN WITNESS WHEREOF, the designated Declarant has hereunto caused its hand and seal to be set as of the day and year first above written.

Signed, Sealed and Delivered  
in the Presence of:

^[Name of Declarant]

By:

STATE OF CONNECTICUT)

COUNTY OF ^ )

) ss. ^

, 20\_\_\_\_

Personally appeared ^, signer and sealer of the foregoing instrument and acknowledged the same to be his free act and deed as such President and the free act and deed of said corporation, before me.

Commissioner of the Superior Court  
Notary Public  
My Commission Expires:

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## **APPENDIX 4. TELECOMMUNICATION POLICY**

### **A. Statement of Purpose**

The Town of New Hartford recognizes that wireless communication services are an important part of the daily lives of many people. The Town wishes to allow for the availability of adequate wireless communications service in New Hartford while striving to find the least obtrusive means of having such services available.

### **B. Basic Program**

There are two ways that wireless telecommunications services are regulated in Connecticut:

- the Connecticut Siting Council regulates wireless telecommunications towers and associated facilities,
- the Planning and Zoning Commission regulates non-tower telecommunications facilities.

These policy preferences are intended to provide guidance to wireless telecommunications providers, the Connecticut Siting Council (CSC), and the Planning and Zoning Commission (PZC) in terms of the siting of new wireless telecommunications facilities (both tower and non-tower).

The Town of New Hartford intends to carefully review applications for wireless telecommunications facilities (whether to the CSC or the PZC) that may affect the community or its residents.

When the Town is notified (as required) of a pending application to the CSC for a wireless telecommunications tower, it is the intent of the Town to schedule a public informational meeting where the wireless telecommunications provider can explain the need for and the impact of the proposed wireless telecommunications tower and associated facilities. Based on the input received at this meeting and other information collected, the Town of New Hartford will prepare and provide testimony to the CSC for use during the permitting process.

### **C. Basic Policy Preferences**

The Town of New Hartford seeks to encourage or require the siting of wireless telecommunications facilities in ways that will:

- Allow for facilities which are found to be the least visually obtrusive.
- Establish locations least disruptive to the public health, safety, and welfare and consistent with the Plan of Conservation and Development.
- Protect the town's visual quality and minimize any adverse visual impacts through proper design, siting, and screening.
- Safeguard the community,
- Minimize potential damage to adjacent properties.
- Restrict the Height to that needed to establish opportunities for co-location of multiple carriers.
- Provide for the orderly removal of abandoned antennas and towers.

## **D. Specific Policy Preferences For Towers**

The Town of New Hartford requests that wireless telecommunications providers and the CSC consider the following issues in considering any application for telecommunications facilities in New Hartford:

### **1. Location**

- a. Towers should be located to serve areas lacking adequate wireless telecommunication service that have been identified by the CSC.
- b. Applications should include a review of Alternate locations and Alternate technologies.
- c. In order to minimize visual impacts, more short towers providing capacity in smaller geographic areas are generally preferred over fewer tall towers providing service over a larger geographic area.
- d. If a tall tower is considered necessary, it should allow for co-location of multiple carriers, including emergency services, within the service area.
- e. Parties wishing to locate telecommunications towers within New Hartford should fly a balloon from the site at the proposed tower location so that visual impacts may be evaluated from various locations.

### **2. Protection of Important Resources**

- a. The location should preserve the integrity of environmentally sensitive areas including unique wildlife habitats, historic, and archaeological resources.
- b. A location within or adjacent to any officially designated historic areas and any resource on the National Register of Historic Places should be avoided.
- c. There should be no detrimental impact to any scenic area, vista, ridgeline, or significant geologic or natural features within the Town, especially those noted in the Plan of Conservation and Development.
- d. Views from any designated scenic roads should be protected.
- e. The use of public areas including parks and recreational facilities should not be compromised.

### **3. Design Considerations**

- a. Towers should include an adequate fall zone that will protect public safety.
- b. The use of stealth technologies should be employed whenever possible.
- c. Signage and/or lighting should not be permitted except what may be clearly necessary for public safety.
- d. Site planning standards should include minimizing impervious surfaces, avoiding soil erosion and runoff problems, maintaining natural Buffers, providing for security, and safe access management.

### **4. Permitting Considerations**

- a. Provisions should be made for removal of the tower if it is no longer being used as was originally permitted.