

SECTION 6 **PROHIBITED USES**

6.1 Prohibited Uses: It is expressly understood that any use not listed and designated as permitted in the specified District in Section 5 of these Regulations is prohibited in such District. Nevertheless, due to their uniquely objectionable characteristics, certain uses are identified in this Section 6 for specific prohibition in any zone, as principal or accessory uses, and no use category set forth in Section 5 of these Regulations shall be deemed to include any use set forth herein. To assist in the interpretation of permitted uses, the following uses, the list of which is not intended to be exhaustive, are specifically prohibited:

- 6.1.1 No land in any district shall be used for a trailer, tent or similar structure to be occupied as a dwelling.
- 6.1.2 No land in any district shall be used for a junkyard or a junk business of any description and no rubbish, machinery, broken glass, stumps, roots, garbage, trash, refuse, debris or junk motor vehicles shall be left or stored on any lot so as to be unsightly or detrimental to nearby property.
- 6.1.3 No land in any district shall be used as the location for a Quonset hut or similar structure to be used for any purpose.
- 6.1.4 No dumping or storage of refuse shall be permitted in the Conservation Zone other than the temporary dumping or storage of small amounts of such material for brief periods pending final lawful disposition, nor shall any new public solid waste disposal facility, excluding sewage treatment facilities, be established or an existing facility be expanded in the Conservation Zone.
- 6.1.5 Except as provided in connection with a licensed motor vehicle repair garage, not more than one currently unregistered motor vehicle shall be parked on any property, and said vehicle shall not at any time be in a state of major disassembly, disrepair, nor shall it be in the process of being stripped or dismantled.
- 6.1.6 No land in any district shall be used for any of the following purposes: new or used motor vehicle dealer's establishment for the sale or storage of automobiles or other motor vehicles, including trucks, trailers, buses and farm equipment, motorcycles, snowmobiles, jet skis, all terrain vehicles or other unregistered off-road vehicles. [From former Section 6.3.6, Amended Effective 3-7-08]
- 6.1.7 No commercial establishment may have more than two (2) pinball machines or other devices operated as a game of skill.
- 6.1.8 No dwelling containing more than one (1) dwelling unit shall be constructed on any lot except as permitted by these Regulations in Sections 7.8 (Accessory

Uses), and 13, and 11.28. [From former Section 6.3.8, Amended Effective 4/3/96 and 3-7-08]

6.1.9 Anything in these Regulations to the contrary notwithstanding, no lot, or portion thereof, shall be used as a Public Parking Lot, except for Public Parking Lots under the management, supervision, and control of the Town of Old Lyme. The inclusion of this prohibition is for clarity only and does not amend the pre-existing prohibition against Public Parking Lots which arose by virtue of Section 2.1 of these Regulations. See Section 3.2, Definition of "Public Parking Lot". [From former Section 6.3.9, added effective 6/1/99 and amended effective 3-7-08]

6.1.10 Abattoir; distillation of bones, offal or rendering or dumping of dead animals; stock yards. [Added effective 3-7-08]

6.1.11 Blast furnaces or smelting of copper, iron, lead, tin or zinc. [Added effective 3-7-08]

6.1.12 Potash, coal, coke, tar, oil or other petroleum product distillation, manufacture, or derivation of byproducts, including, but not limited to, refining or manufacture of products such as gasoline, lubricating oil, kerosene, naphtha, nitrates (natural and synthetic), synthetic resins, pyroxilin, rayon or nylon yard, and plastics. [Added effective 3-7-08]

6.1.13 Manufacturing uses involving the primary production of the following products from raw materials:

asphalt, rubber (natural and synthetic), cement, charcoal, charcoal fuel briquetting, lime, gypsum, or plaster of paris;

aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black, bone black, creosote, hydrogen, oxygen, soap, paper, industrial alcohol;

carbolic, phosphoric, hydrochloric, nitric, picric, or sulfuric acid; and

linoleum, oil cloth, matches, paint, varnishes, turpentine and other solvents.

[Added effective 3-7-08]

6.1.14 Manufacture or storage of explosives. [Added effective 3-7-08]

6.1.15 Fertilizer manufacture. [Added effective 3-7-08]

6.1.16 Fat rendering in the manufacture of tallow, grease, glue, gelatin and oil. [Added effective 3-7-08]

- 6.1.17 Refining and recovery of products from fish, wood or wood pulp or fiber, bones, fat and other animal refuse or offal. [Added effective 3-7-08]
- 6.1.18 Natural, propane, or other gas manufactured by other than a public utility, and natural, propane, or other gas storage as a principal use, except that the storage for distributing purposes and the distribution of liquified petroleum gas may be permitted as a permit by the Zoning Board of Appeals provided that there is compliance with all requirements of Connecticut General Statutes Chapter 541, Part II, and any regulations adopted pursuant thereto, as the same may be amended from time to time. This provision shall not be construed to prevent the storage for use on the premises of liquified petroleum gas when installed and used in accordance with applicable Connecticut State laws. [Added effective 3-7-08]
- 6.1.19 Bulk or wholesale storage of gasoline, fuel oil, and all other petroleum products above ground, excluding such storage for on-site consumption or otherwise accessory to the principal use of the property. [Added effective 3-7-08]
- 6.1.20 Operations involving the keeping, breeding and raising of mink or other raising fur-bearing animals other than rabbits; or primates for commercial or laboratory purposes; or the keeping, breeding and raising of pigs or swine as a principal use. [Added effective 3-7-08]
- 6.1.21 Any activities dealing with automobile racetracks, snowmobile racetracks, stock car racetracks, drag strips, off-road vehicle trail racing, and all other activities involving racing of, or competitions or spectacles involving, motorized vehicles of any kind. [Added effective 3-7-08]
- 6.1.22 Nitrating of cotton or other materials. [Added effective 3-7-08]
- 6.1.23 Itinerant peddling, sales or promotions conducted from vehicles or from any other mobile or portable facility, excluding: Vendors legally operating within a public highway right-of-way; and permitted accessory uses in Section 7 (Accessory Uses, Buildings and Structures) of these Regulations. [Added effective 3-7-08]
- 6.1.24 Similar uses to the above (items 1-15) which are dangerous by reason of fire or explosion, or injurious, noxious, or detrimental to the neighborhood because of emission of dust, fumes, odor, smoke, wastes, noise, vibrations or because of other objectionable features. [Added effective 3-7-08]
- 6.1.25 Helistops [D]. [Added effective 3-7-08]
- 6.1.26 Tea Rooms. [Added effective 3-7-08]
- 6.1.27 Billboards. Anything in these Regulations to the contrary notwithstanding, billboards shall be prohibited throughout the Town of Old Lyme. "Billboards"

shall include, but not be limited to, any sign greater than 32 square feet which is a free-standing structure or any sign greater than 60 square feet which is mounted upon the roof or wall of a building and is visible from any public street or highway. "Billboard" shall expressly include any sign which is visible from a street from which the property on which the sign is located does not have direct vehicular access. "Billboard" shall not include any sign(s) approved pursuant to Section 19 of these Regulations or approved as part of a Site Plan Review or Special Permit per Section 13 of these Regulations. [From former Section 10.1, added effective 8/1/01 and amended effective 3-7-08]

6.1.28 Fast Food Restaurants [D]. [Added effective 3-7-08]

6.1.29 Drive-through service to patrons in vehicles as either a Principal Use or as an Accessory Use to a Full Service Restaurant. [Added effective 3-7-08]

6.2 Pursuant to Connecticut General Statutes Section 8-6, as amended by Public Act 77-509, the Old Lyme Zoning Board of Appeals is prohibited from granting any variance which would permit any of the foregoing uses to be established, enlarged, extended, or intensified. [Added effective 3-7-08]

[Preceding from former Section 6, Amended Effective 3-7-08, except as otherwise noted]

SECTION 7
ACCESSORY USES, BUILDINGS AND STRUCTURES

7.1 Accessory Buildings - General Requirements. Accessory Buildings customary with and incidental to a permitted use are subject to the securing of a Special Permit, Site Development Plan, or administrative approval, as required for the use to which they are Accessory and are subject to the following additional standards and conditions:

- a. the Accessory Use shall be located on the same Lot with the Use to which it is Accessory; and,

[From former Sections 21.2.3 and 22.2.3 , Amended Effective ^, Amended Effective 4-1-09]

- b. an Accessory Building attached or connected to the Principal Building by walls or roofs shall be considered a part of the Principal Building and limited by the Required Minimum Yard requirements of the Principal Building;

[Added effective ^]

- c. on any Lot in a Residence District, one (1) detached Accessory Building not used for human occupancy or for the housing of animals and not exceeding fifteen (15) feet in height and 200 square feet in Floor Area may extend into the Required Side or Rear Yard (but not the Required Front Yard) by a distance equal to one-half of the Minimum Required Side or Rear Yard for the District.

[From former Section 7.4.4, Amended Effective 2-28-97 and 3-7-08]

See, Section 7.9 for Buildings Accessory to a Farm.

- d. Accessory Buildings more than fifteen (15) feet in height and 200 square feet in Floor Area shall conform to the Required Minimum Side and Rear Yard requirements of Section 8 for Principal Buildings;

[Added effective 3-7-08]

- e. Accessory Buildings, other than Buildings Accessory to a Farm (see Section 7.9), shall not occupy more than the area of the Building Coverage of the Principal Building to which they are Accessory. For residential automobile garages, see Section 7.3.

[From former Section 9.1, Amended Effective 3-7-08]

7.2 Accessory Buildings - Use. Accessory Buildings shall be used only for Uses Accessory to a Principal Use permitted in the subject District, except for Non-conforming Uses as described in Section 9 (Non-Conforming Lots, Uses, Buildings and/or Structures) of these Regulations. Except as provided in Section 7.9 (Accessory Apartments), no

Accessory Building shall be used for Dwelling purposes, except by employees or non-paying guests of the occupant of a Dwelling on the Lot, and there shall be no provision for cooking facilities in such Accessory Building or available to such employees or guests except the principal cooking facilities of the Dwelling. See Section 7.7, Accessory Uses.

[From former Section 22.2.3 , Amended Effective 3-7-08]

7.3 Accessory Buildings - Specific Types.

- a. Roadside Shelters for School Children. In all Districts, roadside shelters for the use of school children may be permitted. Said shelter shall not exceed fifty (50) square feet in area, nor eight (8) feet in height. Its location shall be no closer than one (1) foot from the Front or Side Lot Line. Shelters may be located within the Street right-of-way with written approval of the Board of Selectmen and/or State of Connecticut Department of Transportation, as applicable; or with the right-of-way of private streets with written approval from the association having authority over it. In no case shall the shelter be located closer than ten (10) feet of the traveled portion of the Street. Said shelter shall be removed by the applicant if not used for its intended purpose for one (1) year or upon order of the Department of Transportation or the Board of Selectmen if the Building interferes with road rights-of-way.

[Added effective 3-7-08]

- b. Guest House. A Guest House is permitted in all Residential Districts by Special Permit in accordance with Section 13 of these Regulations. Regardless of the District, no Guest House shall be located on a Lot having an area of less than 30,000 square feet. A Guest House shall be used for occasional personal visitors only and shall not be rented on a commercial basis or otherwise made available for compensation in any form, including compensation for grounds maintenance or personal services to the Lot owner or occupant. A Guest House shall contain no more than fifty (50%) percent of the Floor Area of the Principal Dwelling on the Lot.

[Added effective 3-7-08]

- c. Garage. Accessory Buildings in a residential District may include automobile garages either attached to or detached from the Principal Dwelling. For parking of vehicles over 7,500 pounds gross vehicle weight, see Section 7.7.

7.4 Accessory Structures - Location.

- 7.4.1 Signs. Certain permitted Signs as specified in Section 19 may extend within lesser distances of a Lot Line.

[From former Section 7.4.5, Amended Effective 3-7-08]

7.4.2 Fences, Walls and Terraces.

- a. Fences and walls four (4) feet or less in height and located in the area required for the Required Minimum Front Yard, and in other Required Minimum Yards, fences and walls six (6) feet or less in height may be located within such Minimum Required Yard. Similarly, necessary retaining walls, Terraces, and open, unroofed stairways to the ground floor or Basement or Cellar of a Building may be located in a Minimum Required Yard;

[From former Section 7.4.6, Amended Effective 4-3-95]

- b. the Zoning Commission may grant a Special Permit to allow a fence or wall up to a maximum of six (6) feet in height in the area of the Required Minimum Front Yard if there are special circumstances of the subject property which the Commission determines make a fence taller than four (4) feet in height appropriate. The Commission shall consider conditions unique to the property, such as, but not limited to, safety, privacy, topography, traffic, light trespass, noise and sight lines.

[Added effective 3-7-08]

- 7.4.3 Decks. Decks are a permitted Accessory Structure in all Districts, but Decks shall not occupy any portion of the Required Minimum Yard for any Lot.

[Added effective 3-7-08]

- 7.5 Accessory Structures - Use. Accessory Structures shall be Used only for Uses Accessory to a Principal Use permitted in the subject District or Zone, except for Non-conforming uses as described in Section 9 (Non-Conforming Lots, Uses, Buildings and/or Structures) of these Regulations.

[Added effective 3-7-08]

7.6 Accessory Structures - Specific Types.

- 7.6.1 Handicapped Access to Residential Structures. Notwithstanding any other provision of these Regulations which would prohibit such a Structure, the Zoning Enforcement Officer may issue a Temporary Permit for a handicap access ramp to a residential structure under the following conditions:

- a. said access shall be of such size and configuration to involve the least amount of conflict with these Regulations which would otherwise be applicable;
- b. such size, location and configuration shall not be a hindrance or danger to public safety or welfare;

- c. requests for handicapped access ramps shall include written statement detailing the reason(s) why such ramp is required;
- d. said temporary permit shall be for a period of two (2) years but shall be automatically renewable by the Zoning Enforcement Officer, provided the circumstances initially requiring the handicap access still exist. When such circumstances cease to exist, the access will be removed by the end of the permit period or within sixty (60) days of notice to remove from the Zoning Enforcement Officer, whichever shall be sooner.

Preceding From former Section 7.7, Amended Effective July 3, 1995) and 3-7-08]

7.6.2 Structure- and Roof-top Mounted Antennas. Structure- or roof-mounted antennae may be considered as Accessory Uses subject to the following standards:

- a. roof-mounted antennae shall not exceed a height of fifteen (15) feet above the highest point of the structure or building;
- b. satellite and microwave dish antennae shall not exceed a diameter of six (6) feet in Commercial or Light Industrial Districts or four (4) feet in Waterfront or Residential Districts;

No Zoning Permit shall be required for antennae which are Accessory to residential uses and do not exceed fifteen (15) feet in height or four (4) feet in diameter in the case of satellite or microwave dishes.

[From former Section 6.2.8, Amended Effective 4-1-97 and 3-7-08]

7.6.3 Propane Tanks, Above-Ground Oil Tanks, Air Conditioning Compressors, Auxiliary Generators. Propane tanks thirty (30") inches or less in diameter may be located within a Required Rear and/or Other Yard, provided that they are located immediately adjacent to the Principal Building. Propane tanks more than thirty (30") inches in diameter shall conform to the Required Yard for the subject District. Above-ground oil tanks, air conditioning compressor units and auxiliary electric generators shall conform to the Required Yard for the subject District.

[Added Effective 4-1-09]

7.7 Accessory Uses. Accessory Uses customary with and incidental to a permitted Use are subject to the securing of a Special Permit or administrative approval of a Site Development Plan as required for the use to which they are Accessory and are subject to the following additional standards and conditions:

- a. the Accessory Use shall be located on the same Lot with the Use to which it is Accessory;

- b. except as provided in Section 7.8.2, no accessory building shall be used for dwelling purposes, except by employees or non-paying guests of the occupant of a Dwelling on the Lot, and there shall be no provision for cooking facilities in such Accessory Building or available to such employees or guests except the principal cooking facilities of the Dwelling; notwithstanding the provisions of Section 3, Definition of Accessory Building, the Building may be attached to the Principal Building;

[From former Section 21.2.6.b , Amended Effective 4/3/95, 6/1/98, 3-7-08 and 4-1-09]

- c. an Accessory off-street parking space outdoors or in a garage may be provided on any lot for only one (1) commercial vehicle, and such vehicle shall not exceed 7,500 pounds gross vehicle weight (weight empty plus rated load capacity), provided, however, that off-street parking spaces for more than one (1) such commercial vehicle and for greater gross vehicle weight may be provided on any lot containing one or more of the following:
 - (i) a permitted agriculture, farming, forestry, truck or nursery gardening use;
 - (ii) a permitted earth excavation, removal or deposit activity authorized under Section 43;
 - (iii) a use or facility operated by the Town of Old Lyme, Regional School District No. 18, State of Connecticut, or the Federal Government;
 - (iv) a maintenance facility in support of a multiple dwelling project on the lot or in support of a Special Permit use if authorized under such Special Permit;
- d. no land in a Residence District shall be used for access to a Use permitted only in a Commercial or Light Industrial District.

[Except As Noted, From former Section 21.2.6, Amended Effective 3-7-08]

7.8 Accessory Uses - Specific Types.

7.8.1 Business Uses Accessory to A Dwelling.

7.8.1.1 Dwelling Unit – Professional or Business Office. A professional or business office in a dwelling unit located in a Residence District shall conform to the following standards and is an additional Use for which a

Zoning Permit and Certificate of Zoning Compliance are required. The following requirements shall be met:

- a. the person or persons conducting the office shall occupy the Dwelling Unit as a permanent place of residence;
- b. there shall be no more than two (2) nonresident persons employed on the Premises in connection with such office;
- c. the Floor Area used for the office shall not exceed 25% of the floor area of the Dwelling Unit;
- d. the office and the conduct thereof shall not change or impair the residential character of the Premises, and there shall be no evidence of the office outside the Dwelling, except one (1) identification sign of the type permitted under Paragraph 19.5.1(a) identifying only the name of the office and the activity conducted.

[Preceding From former Section 21.2.1, Amended Effective 3-7-08]

7.8.1.2 Dwelling Unit – Customary Home Occupations. A customary home occupation conducted in a Dwelling Unit located in a Residence District shall conform to the following standards and is an additional Use for which a Zoning Permit and Certificate of Zoning Compliance are required:

- a. the Person or Persons conducting the customary home occupation shall occupy the Dwelling unit as a permanent place of residence;
- b. the home occupation shall consist of preparation and sale of products customarily produced in the home, such as dressmaking, millinery, food products, and arts and crafts, or consist of the private workshop of a skilled trade or personal service, such as the workshop of a plumber, electrician, carpenter, watchmaker or televisions and radio repairer, but expressly excluding motor vehicle repair or service and the use or repair of internal combustion engines at such workshop;
- c. there shall be no more than two (2) nonresident persons employed on the Premises in connection with such occupation;
- d. the Floor Area used for the occupation shall not exceed 25% of the Floor Area of the Dwelling Unit but may also include Floor Area in an Accessory Building;

- e. no finished consumer goods shall be acquired outside the Dwelling Unit for sale on the Premises in connection with a home occupation, and the occupation shall not include the sale of food or beverages for consumption on the Premises. See Sections 7.8.4, Bed & Breakfast;
- f. the home occupation and the conduct thereof shall not change or impair the residential character of the Premises, and there shall be no evidence of the occupation outside the Dwelling or Accessory Building, except one (1) identification sign of the type permitted under paragraph 19.5.1(a) identifying only the name of the proprietor of the occupation and the activity conducted.
- g. home occupations may include sale of fruits, vegetables, landscape materials, flowers, or other farm products actually grown on the Lot, provided the total sales area, whether located inside or outside of the building, does not exceed four hundred (400) square feet in area.

[Preceding From former Section 21.2.2, Amended Effective 3-7-08, Amended Effective 4-1-09]

7.8.2 Accessory Apartments.

7.8.2.1 Purpose and Requirements. The purpose of this Section is to promote the general welfare of the Town by providing more affordable housing, both for older citizens who wish to live independently but in close proximity to family members and for younger citizens as they establish themselves in the community. The intent of the Section is to balance the need for affordable housing in Accessory Apartments with the need to preserve and protect the character of the Town's single family, residential neighborhoods by preventing the congestion and drain on community resources that may occur if Accessory Apartments are allowed to proliferate unregulated in single family neighborhoods.

One (1) Accessory Apartment may be created in either: (i) single family dwellings; or, (ii) in Accessory Buildings within the footprint of a Dwelling or Accessory Building which such footprint and Dwelling or Accessory Building were in existence on January 1, 1997, upon issuance of a Special Permit in accordance with Section 13 of the Regulations and subject to the following additional provisions:

- a. the Single Family Dwelling unit to which the Accessory Apartment is subordinate shall be located only on conforming Lots in Rural Residential Districts RU-40 and RU-80;

- b. the Single Family Dwelling Unit or Accessory Apartment shall be occupied by an owner of the Premises as that owner's principal residence except for bona fide temporary absences;
- c. the Accessory Apartment shall have a minimum living space of 500 square feet of Floor Area and a maximum living space of: (i) 800 square feet of Floor Area; or, (ii) 25% of the total living space of the Single Family Dwelling, whichever is less. No more than three (3) persons shall occupy the Accessory Apartment;
- d. the Accessory Apartment shall have a kitchen and complete bathroom separate from such facilities of the Single Family Dwelling unit. It shall have a separate outside door for ingress and egress. No Accessory Apartment and no part thereof shall be located in a Cellar or above the second Story;
- e. two (2) off-street Parking Spaces shall be provided in addition to the Parking Spaces required for the Single Family Dwelling. No Accessory Apartment shall be used for a professional office or home occupation;
- f. no alterations shall be made to the exterior of the Single Family Dwelling unit or to the Accessory Building to enable the Accessory Apartment to comply with these Regulations, except to provide the required means of egress. If the Accessory Apartment is contained within the Single Family Dwelling, there shall be only one (1) outside door along the front facade unless more than one (1) such door existed prior to the establishment of the Accessory Apartment. Stairways to an Accessory Apartment, other than handicapped access ramps, shall be located within the Dwelling or Accessory Apartment or fully enclosed and such stairway and any handicapped access ramp serving the Accessory Apartment shall be located on the side or rear of the Building. Such stairway shall not be included in the calculation of the Floor Area of an Accessory Apartment. All Building modifications and site development to accommodate the Accessory Apartment shall maintain the appearance of the Premises as a single family use;
- g. no Accessory Apartment shall be created or allowed in a Dwelling or Accessory Building which does not conform to all applicable setback and coverage requirements for the District in which the Lot is located;
- h. Applications for Special Permits shall comply with the requirements of Section 13 and the stated purposes of this Section.

[Preceding From former Section 21.2.7, Amended Effective 3-7-08]

7.8.2.2 Application Procedures.

- a. In addition to the requirements of Section 13, the application for Special Permit shall be accompanied by:
 - (i) an affidavit of ownership and occupancy signed by the owner of the Premises that the owner shall occupy one (1) of the Dwelling Units as the owner's principal residence except for bona fide temporary absences;
 - (ii) a floor plan showing proposed rooms and alterations to the Building, if permitted under this Section 7.8.2. The floor plan shall show the living area of both the Accessory Apartment and the Dwelling Unit and the percentage difference between them;
 - (iii) a site development plan showing all existing and proposed structures or renovations, off-street parking, and utility systems, in accordance with Section 13A.2, which may be waived in accordance with Section 13B.3.4;
 - (iv) a certification from the Director of Health of the Town of Old Lyme or his/her Agent that the water supply and sewage disposal systems serving the premises, either existing, or as proposed with such modifications thereof, conform to current State Sanitary Code requirements and are adequate to serve both the single family dwelling unit and the Accessory Apartment;

[Preceding From former Section 21.2.7.1, Amended Effective 3-7-08, Amended Effective 4-1-09]

7.8.2.3 Issuance and Renewal of Certificate of Zoning Compliance.

- a. Upon satisfactory compliance with the requirements of these Regulations and upon approval of the Special Permit, the Zoning Enforcement Officer shall issue a Certificate of Zoning Compliance renewable as provided in paragraph (b) below.
- b. The continuing validity of the Certificate of Zoning Compliance is conditioned upon the following:

- (i) on or before the fifth (5th) anniversary of the issuance of a Certificate of Zoning Compliance, the owner of the Premises shall file with the Zoning Enforcement Officer a new affidavit of ownership of the Premises and of occupancy of either the single family dwelling unit or the Accessory Apartment by such owner as required by Section 7.8.2.1(b);
- (ii) The Commission shall terminate the Special Permit at any time that the then current owner ceases to occupy either the Accessory Apartment or the single family dwelling unit. Such termination shall be accomplished by holding a public hearing, with notice by certified mail, return receipt requested, to the current owner(s) and occupant(s) of the property. At the public hearing, the Commission shall receive evidence and testimony concerning the current ownership and occupancy of the Accessory Apartment and the single family dwelling unit. If, based on substantial evidence received into the record, the Commission determines, by vote, that the premises is in violation of the provisions of Section 21.2.7(b), it shall publish notice of its decision and provide notice to the owner in the same manner as an action on a Special Permit application and shall file a notice of such action in the land record of the Town.

[From former Section 21.2.7.2, Amended Effective 3-7-08, Amended Effective 4-1-09]

7.8.2.4 Existing Accessory Apartments.

[Intentionally blank.] [Former Section 21.2.7.3, Deleted Effective 3-7-08]

7.8.3 Boarding House/Letting of Rooms.

The letting of rooms and/or furnishing of table board in a Single Family Dwelling Unit located in a Residence District shall conform to the following standards and is a use for which an Application for Zoning Permit and Certificate of Zoning Compliance are required:

- a. the Persons or Persons letting the rooms shall occupy the Dwelling Unit as a permanent place of residence;
- b. The letting of rooms in any Dwelling Unit shall be limited to not more than two (2) bedrooms;

- c. Except as provided in Section 7.8.2, no Accessory Building shall be used for rooms to let, and there shall be no provisions for cooking facilities in or available to such rooms except the principal cooking facilities of the Dwelling Unit.

[From former Section 21.2.3, Amended Effective 6/1/98 and 3-7-08]

7.8.4 Bed & Breakfast.

Bed & Breakfast shall be permitted as an Accessory Use to a Single Family Dwelling by Special Permit in Residence Districts subject to the following criteria, in addition to those of Section 13 (Special Permit and Site Development Plans):

- a. the use shall preserve the architectural style and integrity of the building as a dwelling and shall comply with all applicable fire and sanitary codes;
- b. The maximum occupancy per room shall be two persons;
- c. The maximum length of consecutive stay by any one patron shall be fourteen (14) days;
- d. The owner of the premises on which the use is conducted must reside on the premises: if the owner is a corporation, partnership, limited liability company or other entity, a natural person being the owner of not less than a 25 percent interest in the premises must reside on the premises and be actually in residence during any period when rooms are let;
- e. The area of the lot on which the use is to be conducted shall be not less than the minimum lot size permitted in the District for new construction;
- f. A minimum of two parking spaces for the owner(s) of the premises, plus one additional parking space for each bedroom proposed for Bed and Breakfast use, shall be provided on site. Parking areas and drives shall be reasonably screened so as to prevent glare from automobile headlights onto adjoining residential uses;
- g. Expansion of existing structures to accommodate additional bedrooms for the Bed and Breakfast use shall be prohibited and modifications of structures to comply with fire and building codes shall not adversely affect the architectural style, residential appearance or character of the dwelling. In an Historic District, modifications shall be in keeping with the character of the district, and in the case of an historic structure, shall not preclude the structure's continued designation as an historic structure;

- h. There shall be a minimum separating distance of one thousand five hundred (1,500) feet between properties which contain Bed and Breakfast use;
- i. Bed and Breakfast use shall be prohibited on cul-de-sacs or dead-end streets;
- j. The foregoing criteria shall be deemed to be minimum requirements, and the Commission may deny, modify or condition an application for Special Permit for Bed and Breakfast use where necessary to ensure that the proposed use is in harmony with the existing neighborhood and with other applicable standards of these Regulations.

See Section 11.29, Special Regulations.

[From former Section 32.5.1, Amended Effective 4-1-09]

7.8.5 Boarding of Horses. Keeping of horses owned and used by the occupants of a Dwelling is a permitted Accessory Use. Such Use shall not include the renting of stalls or boarding of horses for compensation, nor the giving of lessons for compensation, nor other uses within the definition of the term, "Commercial Livery and Boarding Stables; Riding Academies." See Section 3 of these Regulations. [Added effective 3-7-08]

7.8.6 Recreational Trailers and Similar Vehicles or Vehicle Parts.

The parking or storage of a recreational camper trailer, motor home, camping tent-trailer, or other similar vehicle or device to be attached to a vehicle and used for camping or other recreational temporary occupancy, shall be permitted in all Residence Districts subject to the following conditions:

- a. there shall be no Use of such recreational vehicle as a Dwelling nor any other occupancy of the recreational vehicle on the subject Lot, be it transient or permanent;
- a. there shall be no more than one (1) such recreational vehicle stored outside on a Lot;

[Preceding Added effective 3-7-08]

7.8.7 Keeping of Pets as Accessory Use to a Dwelling

The keeping of customary pet animals is permitted as an Accessory Use to a Dwelling in any District. [Preceding Added effective 4-1-09]

7.9 Accessory Structures and Uses Accessory to a Farm.

- 7.9.1 Except as provided in Section 6 (Prohibited Uses), Farm Buildings Used for the storage, processing and manufacture of agricultural products, and the housing of animals, are permitted as an Accessory Use on a Farm.
- 7.9.2. Temporary roadside stands for the seasonal sale of Farm products and homemade articles are permitted when Accessory to the Principal Use of the premises on which they stand of not more than two hundred (200) square foot area with not more than two (2) Signs aggregating twelve (12) square feet in area advertising such produce. Such stand and Signs shall be not less than ten (10') feet from any Street Line and not less than fifty (50') feet from any Street intersection. Their temporary permitted use shall not constitute the establishment of a Non-Conforming Use.
- 7.9.3 The slaughtering of livestock and poultry as an Accessory Use to a commercial Farm is permitted on a Farm, provided that in normal operation all stock slaughtered is raised on the Farm.
- 7.9.4 Buildings used for the storage on a Farm of any number of motor vehicles and equipment when Accessory to such Farm Use are permitted. Also permitted is the repair of such vehicles on a Farm, but this shall not permit operation of a repair garage for the general public.

[Preceding Added effective 3-7-08]

Rev. February 20, 2008 to add reference to Rear Yard in Sec. 7.1.c.

SECTION 8
AREA, YARD, AND HEIGHT REQUIREMENTS

8.0 Purpose and General Provisions.

- a. General. The regulations which follow apply to the area, shape and Frontage of lots and the location and Bulk of Buildings and other Structures in the Districts specified in Section 2. Standards applicable in each district are specified on SCHEDULE A-2 and SCHEDULE B-2 in this Section.

[From former Section 7.1, Amended Effective 3-7-08, Amended Effective 4-1-09]

- b. Division or Conveyance of Land. No Lot or Parcel of land as defined in these Regulations existing on the effective date of these Regulations shall be divided nor shall any easement be granted to any private person which has the effect of creating a new parcel which will be non-conforming under the provisions of these Regulations. Similarly, no Lot or Parcel shall be decreased in size by sale, gift, devise, descent or otherwise so that it or any part of it will be non-conforming under the provisions of these Regulations. See, Section 9 (Non-Conforming Lots, Uses, Buildings, and/or Structures).

[Added effective 3-7-08]

- c. Yards and Lot Coverage. Except as provided for non-conforming uses in Section 9 no land, Building, or Premises, or part thereof, or other Structure shall be constructed, reconstructed, Extended, Enlarged, moved or Altered, except in conformity with the Regulations herein prescribed for the District in which it is located. No part of any Yard or other Open Space required about any Building may be counted as part of a Yard or other Open Space required for any other Building.

[Added effective 3-7-08, Amended 4-1-09]

8.1 Permitted Area, Frontage, Yards or Lot Coverage; Measurement.

Building Bulk and Coverage. The total Floor Area of all Buildings and other Structures on any Lot, the aggregate ground coverage of all Buildings and other Structures on any Lot, and the total ground coverage on any Lot shall not exceed the percentages of the Lot Area as specified in the District. The following exceptions and limitations are also applicable to Building bulk and coverage:

- 8.1.1 Measurement of Total Floor Area. In determining total Floor Area of Buildings and other Structures, measurements are taken to the outside surfaces of exterior walls enclosing the Floor Area. Floor area of Attics less than six (6') feet in height and of Cellars used solely for storage, mechanical equipment and services in support of uses on other floors of the Building shall not be counted in total Floor Area. Basements shall be included in the calculation of Total Floor Area. That portion of an Attic or Half Story which is over six (6') feet in height shall be included in the calculation of Total Floor Area. Covered porches, whether or not enclosed, will be included in the calculation of Total Floor Area. Any portion of the floor area having a height greater than twelve (12') feet shall be considered as two Stories for measurement of Total Floor Area. [From former Section 7.5.1, Amended Effective 3-7-08, Amended Effective 4-1-09]

- 8.1.2 Measurement of Building Coverage. The ground coverage of a Building or Structure is measured from the outermost edge of the Building or Structure projected to nadir but excluding any architectural projections of the type that are permitted under Paragraph 8.2.3 to extend into the area required for setback and also excluding Buildings and Structures that are completely below the finished Grade of the Lot. Building Coverage shall also include a Deck, but not a Terrace. [From former Section 7.5.2, Amended Effective 3-7-08]
- 8.1.3 Measurement of Total Ground Coverage. Total ground coverage on a Lot consists of the aggregate ground coverage of all Buildings and Structures, outside storage areas, mechanical equipment on permanent foundations, all areas of off-street parking and loading spaces and access aisles and circulation driveways, and Terraces consisting of asphalt, concrete, or other Impervious materials; but excluding pedestrian sidewalks, Decks and Terraces, ornamental plazas and Terraces consisting of paver blocks or other pervious materials, signs and landscaped islands within parking areas, and, for residential uses, excluding off-street parking or driveway areas. [From former Section 7.5.3, Amended Effective 9/1/96 and 3-7-08]
- 8.1.4 Wetlands and Water Course Restriction. Areas consisting of Wetlands and Watercourses shall be excluded from Lot Area when computing eligible total floor area and eligible Total Ground Coverage of Buildings and other Structures. [From former Section 7.5.4, Amended Effective 3-7-08]

[Preceding From former Section 7.5, Amended Effective 3-7-08, except as otherwise noted]

8.2 Permitted Area, Frontage, Yards or Lot Coverage; Building Projections; Height Requirements; Minimum Floor Area.

- 8.2.1 Lot Area, Shape and Frontage. Each Lot shall have at least the minimum area as specified in the District. In a PRCD, each Lot to be used for a Dwelling Unit shall have at least the minimum area for each Dwelling Unit specified in Section 12, Planned Residential Cluster Development. Each Lot shall be of such shape that a square having the minimum dimension specified in the District will fit on the Lot. Each Lot shall have a minimum Lot Frontage of 25 feet. The following exceptions and limitations are also applicable to Lot area, shape and frontage:

[From former Section 7.2, Amended Effective 7/3/95 and 3-7-08]

- a. Wetlands and Water Course Restriction. Area consisting of Wetlands and Watercourses may be used for compliance with minimum Lot Area and minimum Lot shape requirements only to the percent specified in the District. See Section 5, Use Regulations.
- b. Rights-of-Way and Easements. Land subject to Easements for drainage facilities, underground public utilities and above-ground public utility distribution lines may be included in determining compliance with minimum Lot Area and shape requirements, but no Street, Easement of vehicular access, private right-of-way for vehicles or Easement for above-ground public utility transmission lines may be included.

[Preceding from former Section 7.2, amended Effective 3-7-08, except as otherwise noted]

8.2.2 Height. No Building or other Structure shall exceed the number of Stories and the maximum height specified in the District. The following exceptions and limitations are also applicable to height:

8.2.2.1 Building Height. No Building or other Structure shall be constructed, reconstructed, Enlarged, Extended, moved or Altered in such a manner as to exceed the maximum Building Height specified in the District.

[From former Section 7.3.1, Amended Effective 3-7-08]

8.2.2.2 Measurement of Height.

- a. Within the Conservation Zone the height of a Building or Structure is measured as the vertical distance between a horizontal plane drawn through the highest point of a building or structure, excluding chimneys, and the lowest point of a Building or Structure which is visible above existing natural Grade prior to site grading. The height of any retaining wall constructed to create a site platform, and of any backfill along the foundation in excess of the natural grade shall be included as a part of the measured height. The foregoing shall not apply in a Planned Residential Conservation Development. See Section 4.10, Conservation Zone, of these Regulations.
- b. Outside the Conservation Zone the height of a Building or Structure is measured as the vertical distance between a horizontal plane drawn through the average elevation of the existing natural Grade prior to site grading, measured at the base of the Building, and its uppermost point, excluding chimneys. The foregoing shall apply in a Planned Residential Conservation Development.

[From former Section 7.3.2, Amended Effective 3-7-08]

8.2.2.3 Ornamental and Mechanical Features. Spires, cupolas, towers, chimneys, flagpoles, tanks, chimneys, accessory antennas, penthouses for mechanical equipment, ventilators and other similar structural features occupying no more than ten (10%) percent of the Building Floor Area and not intended for human occupancy may be constructed, reconstructed, Enlarged, Extended, moved or Altered to a reasonable and necessary height, provided, however, that for residential uses such structures shall not exceed eight (8') feet above the maximum Building Height for the subject District and shall require the issuance of a Certificate of Zoning Compliance from the Zoning Enforcement Officer; for non-residential uses, any such structure which exceeds the maximum Building Height for the subject District shall require the granting of a Special Permit by the Zoning Commission after due notice and public hearing as required by law.

[From former Section 7.3.3 , Amended Effective 2/28/97 and 4/1/99 and 3-7-08]

8.2.3 Setbacks, Required Yards. No Building or other Structure shall extend within less than the minimum distances of any Required Yard as specified in the District nor shall any commercial use extend within less than the minimum distance from a Residential District

boundary line, provided, however, that pilasters, columns, belt courses, sills, cornices, marquees, canopies, Awnings, eaves and similar architectural features may project into the area required for a Required Yard or Residence District boundary line for not more than one (1) foot. Terraces may project into Required Yard by no more than fifty (50%) percent of the requirement for the District.

[From former Sections 7.4 and 7.4.1, Amended Effective 3-7-08, Amended 4-1-09]

8.2.3.1 Special Setbacks within the Conservation Zone. See Section 4.10, Conservation Zone, of these Regulations.

8.2.4 Minimum Floor Area- Dwelling Unit. Except as otherwise provided in Multiple Family Dwellings in the MFR District, no Building intended for Dwelling purposes shall be constructed or occupied unless the living space is not less than 800 square feet if on one floor or 1,200 square feet if on two (2) floors. Enclosed rooms shall not be included as living space unless the height from floor to ceiling averages at least seven (7) feet, and, where located above the first floor, only if accessible by a permanent stairway complying with the State Building Code. Porches, Cellars, garages, utility rooms or other attached Accessory Buildings, shall not be included as living space. Basements shall be included. Existing Buildings in use for Dwelling purposes at the effective date of this Paragraph which have less than the required living space may only be Extended, Enlarged, moved and/or Altered in order to increase the size of the living space provided that the Lot meets the minimum area required in the District where located and that the other Bulk requirements of these Regulations are met. [From former Section 7.6 , Amended Effective 3-7-08]

8.2.5 Total Ground Coverage: In addition to the requirements of Section 17A pertaining to the Water Resource District, total ground coverage as defined in Paragraph 8.1.3 of these Regulations shall not exceed the percentage of the lot area specific as follows for each district:

<u>District</u>	<u>% of Lot Area</u>
* Residence	30%
** Rural	30%
WF-20	60%
C-30S	55%
C-30	55%
C-10	60%
* Residence Districts include Multi-Family Residence Districts.	
** Rural Districts include Multi-Family Rural Districts.	

The Zoning Commission or other agency responsible for approval of a SITE DEVELOPMENT PLAN pertaining to a lot located in the C-30 and C30S District may, after due notice and public hearing as required by law, grant a SPECIAL EXCEPTION authorizing increase in total ground coverage from the 55% specified to not more than 75% of the area of the lot when the Commission or other agency finds that: 1) the additional coverage is provided in units or areas set apart from other covered areas in an effective manner by natural or landscaped areas or buildings so that the appearance of a continuum of covered area is mitigated; 2) the additional coverage includes sidewalks and other paved areas for use by pedestrians; 3) provision is made on the lot for storm water detention; and, 4) all specific landscaped area requirements of Section

13A.3.17 are met. Such additional total ground coverage shall not be deemed to authorize building floor area or ground coverage by buildings and structures in excess of the percent of lot area specified therefor in the C-30 and C-30S Districts. [From former Section 31.3.15, Amended Effective 4-1-99, 8-1-01, and 3-7-08].

8.2.6 Residential Structures in the Gateway Conservation Zone. See Section 4.10

8.3 Multiple Frontage (Corner Lots).

Each Lot shall meet the minimum Lot Frontage on at least one Street and Front Yard requirements on each Street, and a Building or Structure thereon shall be set back the required distance from each Street. [Added effective 3-7-08]

8.4 Minimum Area of Buildable Land.

In order to reduce the threat of pollution to the surface and ground waters of the Town and to protect the public health and safety of present and future residents, no Lot as defined in Section 3 of these Regulations (hereinafter in this Section 8.4 called a "Lot") shall, after June 15, 1990, be created by the division of any Lot or Parcel, unless such resulting Lot(s) contains a Minimum Area of Buildable Land as defined in Section 8.4.a, provided, however, that this restriction shall not apply to new Lots created in any Waterfront Business District. Lots created on or prior to June 15, 1990, shall not be subject to the restrictions of this Section. The following are applicable to requirements for Minimum Area of Buildable Land:

[From former Section , Amended Effective 4/3/95 and 3-7-08]

a. Definition. The term "Minimum Area of Buildable Land" is hereby defined to mean an area within a Lot ("the MABL Area") which contains at least 30,000 square feet of contiguous land which meets all of the following criteria:

- (i) the MABL Area shall be capable of containing within its boundaries a piece of land in the shape of a square no less than 125 feet long on a side;
- (ii) the MABL Area shall not include any land determined by a certified soils scientist to be Inland Wetlands, Watercourses, or Tidal Wetlands or any land located in a Special Flood Hazard Area as identified on the latest Flood Insurance Rate Map for the area in which it is located or that floods frequently as a result of tides or streams or other watercourses overflowing their banks, where frequent is defined as at least once every two (2) years;
- (iii) no more than 15% of the MABL Area shall be comprised of topography exceeding a 20% slope in grade as measured in 40-foot increments throughout the Area;
- (iv) the MABL Area shall not include any land having ground water higher than 18 inches below the undisturbed ground surface as determined by mottling or seasonal high water, whichever is higher; [This subsection amended effective January 1, 1996, and 3-7-08]
- (v) the MABL Area shall not include any land where soil test holes indicate the presence of ledge rock located within 24 inches below the undisturbed ground surface; [This subsection amended effective January 1, 1996, and 3-7-08]

- (vi) a total of no more than 10% of the MABL Area shall be encumbered by Easements, including, but not limited to, Easements for vehicular access, drainage and utilities; and,
 - (vii) the MABL Area may include land within Required Yard areas.
- b. Determination of Ground Water and Ledge Rock Elevations. The depth of ground water and ledge rock below the surface of the ground shall be determined by soil test holes. At least five (5) test holes (exclusive of deep test holes and percolation test holes required for septic suitability determination and septic system design) shall be dug in a dispersed pattern within the MABL Area for each proposed Lot in order to accurately characterize the depth to ground water and ledge rock on the Parcel. The Planning Commission may require that additional soil test holes be dug to facilitate characterization of the Parcel;
 - c. Determination of Compliance. For all Lots created after June 15, 1990, except in Waterfront Business Districts, the Planning Commission shall determine compliance with the requirements of this Section 8.4 relating to Minimum Area of Buildable Land. Such Lots shall include any Lots created under a plan of subdivision approved by the Planning Commission, and, also, any Lot created by the division into two parts of a Lot or Parcel in existence prior to the date of adoption of the Town's Subdivision Regulations;
 - d. Authorization of Additional Easements. In connection with approval of a Lot in a subdivision or at any time after granting such approval, the Planning Commission may authorize the establishment of additional Easements affecting such Lot which encumber more than 10% of its area but do not interfere with the ability of the land to: 1) provide adequate absorption and dispersal of anticipated sewage effluent generated on the Lot; and, 2) otherwise support planned building development on the Lot;
 - e. Location of Septic Systems. The primary and reserve septic system leaching fields shall be located within the identified MABL Area as approved by the Planning Commission.

See special provisions in Section 8.7.2.

[Preceding From former Section 7.2.4, Amended Effective 3-7-08, except as otherwise noted]

8.5 Lots in More Than One Zone.

8.5.1 Satisfaction of Bulk Requirements. Land in two or more zoning Districts may be used to satisfy a minimum Lot area or shape requirement, but no land in a Residence District may be used to satisfy a Lot area or other Bulk requirement in any other District. [From former Section 7.2.3, Amended Effective 3-7-08]

8.5.2 District Regulations to Apply to Portions of Lots in Each Zone.

Each portion of any Lot or Parcel shall be governed by the provisions of these Regulations which are applicable to the District in which that portion is located.

8.6 Lots on Narrow Streets.

The required Required Front Yard from a Street Line of a Street having a width of less than 50 feet shall be increased by one-half of the difference between 50 feet and the actual width of the Street. [From former Section 7.4.2, Amended Effective 4/3/95, 3-7-08 and 4-1-09]

8.7 Reductions in Required Yards for Lots Adjacent to Railroad Lines or Limited Access Highways; and Lots in the WF-20 (Waterfront Business) Zone.

8.7.1 Lot Adjacent to Railroad. Where a Lot in a Commercial or Light Industry District is adjacent to a railroad right-of-way, no setback is required from such right-of-way for a Building or Structure that is used for loading or unloading of materials from railroad cars. [From former Section 7.4.3 , Amended Effective 3-7-08]

8.7.2 Lot Area, Shape and Frontage in WF-20. The Commission acting on a Site Development Plan or Special Permit submission in the Waterfront Business District (WF-20) may authorize a reduction in the required setback from a Required Rear Yard to not less than 20 feet or to zero if the rear of the Lot abuts on navigable waters and/or a reduction in the Required Yard to not less than 10 feet when the Commission determines that all of the following criteria are met:

- a. such reduction would further the policy of the plan of development to seek improved public access to beach and riverine resources in the Town and encourage water-dependent uses at appropriate locations;
- b. such reduction would not result in Building Coverage on the Lot in excess of 25%;
- c. such reduction would not cause an adverse impact on abutting property owners as to such owner's rights to adequate light, air and privacy; and,
- d. the required setback from a Residence District is not reduced.

[Preceding From former Section 31.4, Amended Effective 3-7-08]

8.7.3 Lot Adjacent to a Limited Access Highway. Where a lot located within the LI80 District abuts the right of way for Interstate 95, excluding access ramps, the Commission may allow, by Site Development Plan Review under Section 13A of these Regulations, the reduction in the Required Yard abutting said highway to 25% of the Required Yard under these Regulations, but in no event less than ten (10') feet. In considering an application under this Section, the Commission shall consider:

- a. The use, architecture, illumination, height, and overall character of the building or site for which the reduction in Required Yard is sought in order to protect the character of Old Lyme as viewed from the highway and to prevent glare or blight. The Commission may require screening, such as landscaping, fences, berms, or other combination thereof; shielding of light fixtures; modifications or upgrades to existing or proposed buildings or structures; or other conditions or modifications to protect the character of Old Lyme.
- b. Emergency access to the site and building, especially with regard to that portion of the site and building for which the reduction in Required Yard is sought. The

Commission may request advisory reports from the Fire Chief or other public safety officials of the Town or the State.

- c. Signs: The Commission may prohibit, or limit the size, of any sign(s) proposed for the subject building which may be visible from the highway, even if such sign would otherwise be permissible under these Regulations. The intent of this provision is that buildings in proximity to limited access highways not be exploited to advertise goods or services to the general motoring public.

Where the subject site or building is subject to Site Plan Review or Special Permit under any other provision of these Regulations, the application under this Section may be heard concurrently with such Site Plan Review or Special Permit application.

[Preceding From former Section 7.4.3.1, Adopted Effective 2/1/07, Renumbered Only Effective 3-7-08]

- 8.8 Table of General Bulk Regulations, Residential Districts. For the Bulk required for each Residential District, see Schedule A-2.
- 8.9 Table of General Bulk Regulations, Non-Residential Districts. For the Bulk required for each Non-Residential District, see Schedule B-2.

Rev. February 20, 2008 to rename Section 8.7; add clarifying language to 8.2.2 about PRCD building height measurement.

SECTION 9
NON-CONFORMING LOTS, USES, BUILDINGS, AND/OR STRUCTURES

9.0 Intent and General Rules

- 9.01 Intent: It is the intent of these Regulations that non-conformities are not to be Expanded, Altered, or Enlarged, that they should be changed to conformity as quickly as the fair interest of the owners permits, and that the existence of any present nonconformity anywhere in the Town shall not in itself be considered grounds for the approval of a variance for any other use, building or other structure or lot. (For the definitions of terms relative to this Section 9, see Section 3, Definitions). [From former Section 8.1, Amended Effective 3-7-08]
- 9.02 Nonconformity: Any Use, Building or other Structure, Lot or site development, or part thereof, which existed lawfully, by variance or otherwise, on the date these Regulations, or any amendment hereto, became effective and fails to conform to one or more of the provisions of these Regulations, or such amendment hereto, may be continued subject to the provisions and limitations of this Section 9. [From former Section 2.2]
- 9.03 Casualty–Building or Structure: If any Nonconforming Building or Structure, or Building or Structure on a Nonconforming Lot, shall be damaged or destroyed by fire or other casualty outside the control of the owner, such Building or Structure may be restored to the extent that such Building or Structure existed at the time of the casualty, provided that such restoration is completed within one (1) year from such casualty. In the event of failure to complete such restoration within the one (1) year period, or within such additional periods, not exceeding two (2) years, as the Zoning Commission may grant upon written application made to it. Upon a finding by the Zoning Commission, following a public hearing with notice to the property owner and occupant of the Premises, that such Nonconforming Building or other Structure, or Building or Structure on a Nonconforming Lot, has been abandoned, the right under this Paragraph to restoration of such Nonconforming Building or other Structure, or such Building or Structure on a Nonconforming Lot, shall be lost and terminated. Such restoration when made within the Zone A or Zones V 1V30 portions of the Flood Plain District shall conform to the requirements of Section 4.4 of these Regulations. To the extent said reconstruction does not conform to the standards set forth in Schedule A-2 of these Regulations or Schedule B-2 of these Regulations, as applicable, said reconstruction shall be allowed within same Building footprint and pre-existing actual cubic area occupied or less, with no increase in pre-existing non-conformities. [From former Section 8.4 , Amended Effective 4/3/95 and 3-7-08]
- 9.04 Casualty–Uses: If any site development not involving a Building or Structure, or any Building or Structure containing a Nonconforming Use, shall be damaged or destroyed by fire or other casualty outside the control of the owner, any such Nonconforming Use may be resumed to the extent that such site development or

use existed at the time of the casualty, provided that such restoration is completed within one (1) year from such casualty. In the event of failure to complete such restoration within the one (1) year period, or within such additional periods, not exceeding two (2) years, as the Zoning Commission may grant upon written application made to it. Upon a finding by the Zoning Commission, following a public hearing with notice to the property owner and occupant of the Premises, that said site development or Use has been abandoned, the right under this Paragraph to restoration of site development, and the right to resume any such Nonconforming Use, shall be lost and terminated. Such restoration when made within the Zone A or Zones V 1V30 portions of the Flood Plain District shall conform to the requirements of Section 4.4 of these Regulations. To the extent said reconstruction does not conform to the standards set forth in Schedule A-2 of these Regulations or Schedule B-2 of these Regulations, as applicable, said reconstruction shall be allowed within such same Building footprint and pre-existing actual cubic area occupied or less, with no increase in pre-existing non-conformities. [From former Section 8.4 , Amended Effective 4/3/95 and 3-7-08]

9.05 Repair: Nothing in this Section shall be deemed to prohibit work on any Nonconforming Building or other Structure, or any Building or Structure on a Nonconforming Lot, or site development, when required by law to protect the public health or safety, provided that such work does not increase the Nonconformity. Nothing in this Section shall be deemed to prohibit work on ordinary repair and maintenance of a Nonconforming Building or other Structure, or site development, or replacement of existing materials with similar materials. [From former Section 8.5, Amended Effective 4/3/95 and 3-7-08]

9.06 Title: No change of title, possession or right of possession shall be deemed to affect the right to continue a Nonconforming Use, Building or other Structure, or Building or Structure on a Nonconforming Lot, or site development. [From former Section 8.6, amended 4-3-95]

9.07 Voluntary Demolition: The voluntary demolition by the owner of any Building or Structure containing a Nonconforming Use shall constitute evidence of wilful abandonment of such Use. Similarly, the voluntary demolition by the owner of any Building or Structure that is nonconforming as to Bulk shall constitute evidence of wilful abandonment of such legal nonconformity, and the construction of any Building or Structure on such Lot shall conform to all applicable provisions of these Regulations.

[From former Section 8.5, Amended Effective 4/3/95, 3-7-08 and 4-1-09]

9.1 Non-Conforming Lots

The following provisions and limitations shall apply to Nonconforming Lots, but not Parcels which are not Lots, except as otherwise noted: [From former Section 8.9, Amended Effective 4/3/95 and 3-7-08]

9.1.1 Use of Nonconforming Vacant Lots: Any vacant Nonconforming Lot, meaning a Lot upon which no Principal Building exists, having less than the minimum Lot Area required under these Regulations is not required to conform to such minimum Lot Area requirement and any permitted Building or other Structure may be erected or placed, and any permitted Use may be made thereon only if all of the following requirements are met:

- a. Such Lot shall have an area equal to or greater than 90% of the minimum Lot Area required under these Regulations, provided such lot is 18,000 square feet or larger; and
- b. Such Lot has abutted no other Lot under the same ownership since the adoption of Zoning Regulations in the Town of Old Lyme (effective August 12, 1958). See Section 9.1.2. [From former Section 8.9.1.b, Amended Effective 3/1/98 and 3-7-08]
- c. Except for Lot Area and Frontage, all other bulk requirements of Schedule A-2 or B-2, as the case may be (minimum setbacks, maximum coverage, etc.) shall apply, except as varied by the Zoning Board of Appeals. [From former Section 8.9.1.c, Amended Effective 3/1/98 and 3-7-08]

9.1.2 Merger of Non-Conforming Lots: If title to a non-conforming Parcel or Lot, whether improved or not, was, at any time after the adoption of Zoning Regulations in the Town of Old Lyme (effective August 12, 1958), or is now, vested in any person(s) that own(s) any Parcel or Parcels of land contiguous to it, then said contiguous land together with the Non-conforming Parcel as is required to conform to these Regulations shall be deemed to be a single Lot or Parcel for zoning purposes, and thereafter may not be divided, sold, transferred, or improved in any manner which would create or result in a Non-conformity or in an increased or further Non-conformity. In the event that all contiguous lands of said person(s) are together insufficient to meet the minimum requirements of these Regulations, then all said contiguous land shall be considered as a single non-conforming Lot or Parcel for the purposes of this Section. The foregoing merger provisions shall not apply to any Lot approved pursuant to the Old Lyme Subdivision Regulations as in force at the time of such approval, pursuant to Connecticut General Statutes Section 8-26a(b), or to Parcels of land, each of which are improved with legal Principal Buildings existing prior to the effective dates of the regulations which rendered them Non-conforming.

The preceding provision is intended to continue and clarify the provisions of Section 9.1.1(b), requiring the merger of non-conforming parcels under single ownership. [From former Section 8.9.2, Amended Effective 3/1/98 and 3-7-08]

9.1.3 Expansion of Existing Building or Structure on Nonconforming Lot

9.1.3.1 General Rule. Except upon the issuance of a Special Permit as provided herein, or a Certificate of Zoning Compliance in accordance with Section 9.1.4, no Building or other Structure located on a Lot which does not conform to the requirements of these Regulations shall be Enlarged or Extended, and no additional Buildings or Structures shall be constructed on such Lot; nor shall any Building or Structure be Altered so as to increase the extent of its Nonconformity. These prohibitions specifically include the following: [From former Section 8.9.3, Amended Effective 7/1/96, 3-7-08 and 4-1-09]

- a. the Occupancy of a Seasonal Use beyond the period of April 1 to November 15 and the winterization, refurbishment or remodeling of a Seasonal Use to accommodate other than a Seasonal Use. [From former Section 8.9.3(a), Amended Effective 3-7-08]
- b. the conversion of any garage, outbuilding or other Accessory Building or Structure to habitable living space. [From former Section 8.9.3(b), Amended Effective 6/1/96 and 3-7-08]
- c. The construction of any additional Building for habitable living space.

9.1.3.2 Exceptions to General Rule by Special Permit by the Commission. The Commission may issue a Special Permit for an Enlargement, Extension, or additional Building or Structure otherwise prohibited by this Section for a Lot containing a Single Family Dwelling and located in the R-10 District, provided that the septic system is in compliance with the current Public Health Code without the use of any exceptions provided by such Code; and also provided that there is no new nonconformity, nor increase in any existing nonconformity, with respect to setback, coverage, and other Bulk requirements; and also provided that, in addition to the criteria of Section 13B, the Commission may consider: [Amended Effective 4-1-09]

- a. the density or intensity of the Lot and the surrounding area, including the area and topography of the Lot, its coverage by Buildings, the height and volume of such Buildings, the number of Dwelling Units or bedrooms, and the ratio of impervious surfaces;
- b. the natural resources on the Lot and in the vicinity of the Lot which may be adversely impacted;
- c. the access to the Lot, including whether access roads are public or private, their surface condition, width, grade, flood hazard, drainage, existing traffic volume, and suitability for increased traffic or population to be served;

- d. Access to the existing or proposed Building(s) or Structure(s) on and Abutting the Lot for emergency vehicles and public safety personnel;
- e. the character of the neighborhood, including the scale of other Buildings or Structures in the area, the streetscape, impact on marine or coastal vistas as viewed from public Streets or other public viewing areas;
- f. the goals of the Connecticut Coastal Management Act, despite the exemption from such Act for Single Family Dwellings; and specifically including a consideration of the protection of the coastal resources on or adjacent to the site; and impacts to such coastal resources shall be found to be acceptable for the proposed application. Such review shall also include a recognition that many areas of the R-10 District are within coastal flood hazard areas and that the potential danger to life and property shall be reduced or minimized by the proposed application.
[Amended Effective 4-1-09]
- g. privacy, light, and air for the subject Lot and Abutting Lots;
- h. increased effluent disposal volumes, the condition of the existing septic system on the Lot, and the impact on potential future repair or expansion of any such septic system.
- i. An A-2 Survey shall be provided in support of any application under this Subsection.

9.1.3.3 Exceptions to General Rule by Certificate of Zoning Compliance by the Zoning Enforcement Officer. In addition to the preceding Section 9.1.3.2, the following may be permitted by Certificate of Zoning Compliance on a Nonconforming Lot in the R-10 District containing a Single family Dwelling only, provided all other setback and Building bulk and coverage requirements are met; and also provided that the septic system is in compliance with the current Public Health Code including the use of any exception provided by such Code. [From former Section 8.9.4, Amended Effective 10/6/95, 4-1-09]

- a. a detached Accessory Building not exceeding 100 square feet in size, 10 feet in height;
- b. a Deck.
- c. a Terrace.
[Added c. effective 4-1-09]

An A-2 Survey shall be provided in support of any application under this Subsection.

- 9.1.4 Exceptions for Other Single-Family Residential Districts: For a Lot containing a Single Family Dwelling and located in single family zone other than the R-10 District, the Zoning Enforcement Officer may issue a Certificate of Zoning Compliance for an Enlargement, Extension, or additional Building or Structure, provided that the septic system is in compliance with the current Public Health Code without the use of any exceptions; and also provided that all other setback and Building Bulk and coverage requirements are met.

An A-2 Survey shall be provided in support of any application under this Subsection.

[From former Section 8.9.4, Amended Effective 3-7-08, except as otherwise noted]

- 9.1.5 No Reduction of Nonconforming Lot. No Lot or Parcel shall hereafter be decreased in size, by sale, devise, descent, gift, or otherwise, so that it or any part of it, or so that any Structure or Building thereon, shall fail to comply with these Regulations or shall increase the extent of any non-conformity. [Added effective 3-7-08]

9.2 Non-Conforming Uses

The following provisions and limitations shall apply to a Nonconforming Use of land, Building or other Structure:

- 9.2.1 Enlargement: No Nonconforming Use of land shall be Enlarged, Extended or Altered, and no Building or other Structure or part thereof devoted to a Nonconforming Use shall be Enlarged, Extended, reconstructed or Altered, except where the result of such changes is to reduce or eliminate the Nonconformity. This prohibition specifically includes the occupancy of a Seasonal Use beyond the period of April 1 to November 15 and the winterization, refurbishment or remodeling of a Seasonal Use to accommodate other than Seasonal Use. No Nonconforming Use of a Building or other Structure shall be extended to occupy land outside such Building or other Structure or space in another Building or other Structure. [From former Section 8.7.1, Amended Effective 3-7-08]
- 9.2.2 Change: No Nonconforming Use of land, Buildings or other Structures shall be changed to any Use which is different in nature and purpose from the former Nonconforming Use except such Uses that are permitted uses in the District in which they are to be located. No Nonconforming Use of land, Buildings or other Structures if once changed to conform or to more nearly conform to these Regulations shall thereafter be changed so as to be less conforming again. This Section shall not be construed to waive any Commission or administrative review (Site Development Plan, Special Permit, Certificate of Zoning Compliance, etc.) which any new or altered use would require under these Regulations. [From former Section 8.7.2]

- 9.2.3 Moving: No Nonconforming Use of land shall be moved to another part of a Lot or outside the Lot, and no Nonconforming Use of a Building or other Structure shall be moved or Extended to any part of the Building or other Structure not manifestly arranged or designed for such Use at the time the Use became Nonconforming, and no Building or other Structure containing a Nonconforming Use shall be moved, unless the result of any such move is to terminate the Nonconformity. [From former Section 8.7.3 Amended Effective 3-7-08]
- 9.2.4 Performance Standards: Any Use of land, Buildings or other Structures, or site development, which does not conform to one or more of the performance standards of Section 4.5 shall not be changed to increase such Nonconformity but may be changed to decrease or eliminate such Nonconformity. Any such Nonconformity so reduced or eliminated shall not be resumed. [From former Section 8.7.4, Amended Effective 3-7-08]
- 9.2.5 Exceptions: Notwithstanding the above, a Structure devoted to a Nonconforming Use may be cosmetically changed or may be internally changed or remodeled if:
- a. In the case of a non-residential Use, the change/remodeling does not Expand, Extend, or Alter the Nonconforming Use, except to one that is permitted, and does not increase the level of permitted occupancy of the Nonconforming Use, and does not increase the area within the Structure devoted to the Nonconforming Use;
 - b. In the case of a residential Use, the change/remodeling does not change the Use, except to one that is permitted, and does not increase the total number of rooms, and does not increase the number of bedrooms or rooms classifiable as bedrooms under state building or health codes, and does not increase the number of Dwelling Units.

Any such changes shall be allowed only within the existing Structure footprint and existing cubic area of the Structure or less, with no increase in existing Non-conformities.

[Preceding From former Section 8.7.5, Amended Effective 11/10/95 and 3-7-08]

9.3 Non-Conforming Buildings and Structures

The following provisions and limitations shall apply to Nonconforming Buildings and other Structures and site development:

- 9.3.1 Enlargement: No Building or other Structure which does not conform to the requirements of these Regulations regarding Height limitations, or Building bulk and coverage, or required setbacks shall be Enlarged or Extended unless such Enlarged or Extended portion conforms to these Regulations. These prohibitions specifically include the occupancy of a Seasonal Use beyond the period of April 1 to November 15 and the winterization, refurbishment or remodeling of a Seasonal Use to

accommodate other than Seasonal Use. [From former Section 8.8.1, Amended Effective 4/3/95 and 3-7-08]

9.3.2 Change: No Nonconforming Building or other Structure, or site development, if once Altered to conform or to more nearly conform to these Regulations shall thereafter be Altered so as to be Nonconforming or less conforming again. [From former Section 8.8.2, Amended Effective 3-7-08]

9.3.3 Moving: No Nonconforming Building or other Structure, or site development shall be moved unless the result of such moving is to reduce or eliminate the Nonconformity. [From former Section 8.8.3]

9.3.4 Signs: Signs of a size or type not permitted in the District in which they are situated, or which are improperly located or illuminated, or which are Nonconforming in any other way, shall be considered Nonconforming Structures under this Section, and any increase in size, illumination or flashing of such Signs shall be deemed to be an Enlargement or Extension constituting an increase in Nonconformity. When the support structure, panel or illumination facility of a Nonconforming Sign is voluntarily Altered or removed, that element of the Nonconforming Sign is deemed to be discontinued or terminated. [From former Section 8.8.4, Amended Effective 3-7-08]

9.3.5 Off-Street Parking and Loading: Any Lot, Use, Building or other Structure, or site development, which does not conform to one or more of the Parking and loading provisions of Section 18 shall continue to conform to such provisions to the extent that it conforms on the effective date of such Section. Any Use of land, Buildings or other Structures which does not conform to one or more of the provisions of Section 18 shall not be changed to a Use which would need additional off-street Parking or loading spaces to comply with the provisions of Section 18 unless such spaces are provided as required for the new Use under Section 18. [From former Section 8.8.5 , Amended Effective 3-7-08]

9.3.6 Site Development and Landscaping: Site development, including landscaping, which fails to conform to requirements of these Regulations under Section 13 shall be deemed a Nonconformity. No Use for which such site development and landscaping are required shall be Enlarged, Extended, Altered or moved and no Building or other Structure for which such site development and landscaping are required shall be Enlarged, Extended, Altered, moved or reconstructed unless such Nonconformity is eliminated, provided that the Zoning Commission may, in accordance with action under the provisions of Section 13, authorize continuation or reduction of the Nonconformity. [From former Section 8.8.6, Amended Effective 1/1/96, 4/1/99, and 3-7-08]

[Preceding From former Section 8.8 , Amended Effective 3-7-08, except as otherwise noted]

9.4 Modification Of Non-Conformity To Achieve Improvement

The Zoning Commission may, after due notice and public hearing as required by law, grant a Special Permit in accordance with Section 13 of these Regulations authorizing construction, reconstruction, Enlargement, Extension, moving or Alteration of Buildings and Structures on a Lot having site development which fails to conform to the standards of Section 8 of these Regulations, and/or authorizing continuation, Enlargement, Extension, moving or Alteration of existing site development which fails so to conform if the Commission or other agency finds that the following standards are met:

- a. the proposed construction shall result in a general improvement of the Lot with regard to safe access, suitable drainage and adequate landscaping;
- b. Nonconforming Signs and lighting shall be brought into a conforming or more nearly conforming condition;
- c. adequate provision shall be made for landscaping in the area required for setback from a Residence District boundary line; and
- d. there shall be no increase in the Nonconformity of Buildings and other Structures and site improvements.

[Preceding From former Section 31.3.22, Amended Effective 3-7-08]

9.5 Illegal Use

Nothing in these Regulations, including the provisions of this Section 9, shall be interpreted as authorization for or approval of the continuation of the Use of land, Buildings or Structures which are in violation of any Zoning Regulations in effect prior to the effective date of these Regulations. [Added effective 3-7-08]

9.6 Zoning Permits, Certificates of Zoning Compliance, Special Permits and Variances, Amendments to Regulations or Zones

9.6.1 Approved Zoning Permits and Certificates: Unless otherwise specifically provided in this Section, nothing in these Regulations shall require any change in the Use of any land, Buildings or other Structures, or part thereof, in the area, location, Bulk or construction of any Building or other Structure or in site development for which an application for a Zoning Permit has been filed, even though such Use, Building or Structure or site development does not conform to one or more provisions of these Regulations or any amendment hereto. [From former Section 8.2, Amended Effective 3-7-08, Amended Effective 4-1-09]

9.6.2 Change of Regulations as They Affect Plans: Subject to the time limitations of Section 9.7.3, nothing in these Regulations shall be deemed to require any change in the proposed use of any land, Building or other Structure, in the area, location, Bulk or construction of any Building or other Structure, or as respects site development for which an application for a Zoning Permit has been filed, even though such proposed

Use, Building or other Structure, or site development does not conform to one or more provisions of these Regulations or any amendment hereto. [From former Section 8.3, Amended Effective 3-7-08]

9.7 Expiration of Special Permits and Variances; Zoning Permit

For any Special Permit, or any Variance where filing of plans on the land records is a condition of such variance, final plans on mylar shall be submitted for signing by the Chairman of the Commission or the Board, as the case may be, no more than sixty-five (65) days after the approval of such Special Permit or variance; and such plans shall be filed with the Town Clerk no later than ninety (90) days after the signing thereof. Any plans not submitted or filed as provided herein shall be null and void.

9.7.1 Time Limit for Zoning Permits: An approved Zoning Permit authorizing a proposed Use, Building or other Structure that does not conform to one or more provisions of these Regulations or any amendment hereto, as described in Section 9.6, shall become null and void unless a) the Use authorized thereby shall have been established within one (1) year from the effective date of such Regulations or any amendment thereto when such Use does not involve the construction of a Building or other Structure for which a Building Permit must be approved or b) the construction and Use of a Building or other Structure, and its site development authorized thereby shall be established and completed within two (2) years from the effective date of such Regulations or any amendment thereto. The Zoning Commission may grant extensions of such period for additional periods not to exceed one (1) year after public hearing for good cause demonstrated to the satisfaction of such Commission. [From former Section 8.3.1, Amended Effective 3-7-08]

9.7.2 Previous Regulations: The provisions of Sections 9.6 and 9.7 shall apply to Zoning Permits and Certificates of Zoning Compliance issued under the Zoning Regulations in effect prior to these Regulations. [From former Section 8.3.2, Amended Effective 3-7-08]

9.7.3 Commencement and Completion of Work on Site Development Plan Approvals:

9.7.3.1 Commencement of Work: Work in connection with an approved Site Development Plan shall be commenced within eighteen (18) months after approval of the Plan, or within a lesser period as may be determined by the Zoning Commission, at the time of such approval, to be necessary to protect the public health and safety or to carry out other purposes of these Regulations. "Commencement" of work shall mean excavation and preparation for the foundation of a Building and the issuance of a Zoning Permit and a Building Permit for Site Development Plans involving Building construction; or the issuance of a Zoning Permit and the excavation and grading for the installation of utilities and parking areas and other site work, for Site Development Plans not involving Building construction. Failure to commence the work within such eighteen (18) month period shall result in expiration

of approval of the Site Development Plan following a hearing with notice to the owner and permit holder; provided, however, that the Zoning Commission may extend such approval for additional eighteen (18) month periods for good cause shown.

- 9.7.3.2 Completion of Work: Notwithstanding the provisions herein for renewal of any Site Development Plan, in accordance with Connecticut General Statutes §8-3(i), any such Plan issued under Section 13 of these Regulations after October 1, 1984 shall become null and void unless all physical improvements required have been completed five (5) years from the date of the approval of such Plan except that, in the case of any site plan approved on or after October 1, 1989, the Commission may grant one or more extensions of the time to complete all or part of the work in connection with the Plan, provided the total extension or extensions shall not exceed ten (10) years from the date of approval; provided, however, that, in accordance with §8-3(j) of the Connecticut General Statutes, for any such Plan issued after June 19, 1987 for a project consisting of four hundred (400) or more dwelling units shall become null and void unless all physical improvements required have been completed ten (10) years from the date of the approval of such Plan; and further provided, however, that, in accordance with §8-3(j) of the Connecticut General Statutes, for any such Plan issued after October 1, 1988 for a project consisting of a commercial, industrial, or retail project having an area equal to or greater than four hundred thousand square feet shall become null and void unless all physical improvements required have been completed within no less than five (5) years, nor more than ten (10) years from the date of the approval of such Plan. The approval of the Site Development Plan, including any extension of time provided in this Subsection, shall state the date on which such five (5) year period or lesser period expires, but failure to specify such date shall not create any approval which exceeds the time limits contained in this Subsection. Failure to complete all work within the time limits set forth in this Subsection, or lesser period as may have been specified, results in automatic expiration of approval of the Site Development Plan, provided, however, that any such lesser period may, for good cause shown and for work progressing in accordance with these Regulations, be extended by the Zoning Commission for periods up to the aforesaid time periods. "Work" for the purposes of this Subsection 9.6.3 means all physical improvements required by the approved Plan.

[Preceding From former Section 31.5.8, Amended Effective 3-7-08]

- 9.7.4 Commencement and Completion of Work for Special Permit: Work in connection with the Special Permit shall commence within 18 months and shall be completed and the Use established within three (3) years from the date the Special Permit was

granted, unless otherwise restricted by the Commission at the time of approval, or extended at the time of approval or thereafter. Failure to complete the work and establish the Use results in expiration of the Special Permit following a hearing with notice to the owner and permit holder, provided however that the Commission/Board may extend such period of 18 months to enable completion of work progressing in accordance with the Special Permit and these Regulations. "Commencement" of work shall mean excavation and preparation for the foundation of a Building and the issuance of a Zoning Permit and a Building Permit for Special Permits involving Building construction; or the issuance of a Zoning Permit and the excavation and grading for the installation of utilities and parking areas and other site work, for Special Permits not involving Building construction. "Work" for the purposes of this paragraph means all physical improvements required under the Special Permit. [From former Sections 32.9.5 and 52.3, Amended Effective 3-7-08]

- 9.7.5 Commencement and Completion of Work for Variance: Work in connection with a variance shall be commenced with eighteen (18) months and substantially completed and the Use established within three (3) years of the date the variance was granted. Failure to complete the work and establish the Use results in expiration of the variance following a hearing with notice to the owner and permit holder, provided however that the Zoning Board of Appeals may extend such periods of three (3) years to enable completion of work progressing in accordance with the variance and these Regulations. "Commencement" of work shall mean excavation and preparation for the foundation of a Building and the issuance of a Zoning Permit and a Building Permit for variances involving Building construction; or the issuance of a Zoning Permit and the excavation and grading for the installation of utilities and parking areas and other site work, for variances not involving Building construction. "Work" for the purposes of this paragraph means all physical improvements required under the variance. See Section 21.3. [From former Section 52.3, Amended Effective 3-7-08]

Rev. February 20, 2008 to correct 9.1.3.f reference to CAM and add language requested by OLISP.

SECTION 11
SPECIAL REGULATIONS

11.0 Special Regulations. The following uses may be allowed in the Zones indicated in Section 5 (Use Regulations) of these Regulations, only in accordance with the special conditions, requirements, or standards set forth in this section.

11.1 RESERVED

11.2 Golf Courses. The Commission may grant a Special Permit in accordance with Section 13.B (Special Permit) for a golf course, provided that all standards and requirements of that section are met, and, in addition, in compliance with the following provisions:

- a. golf Courses shall be approved only in those Zones where they are permitted in Section 5 (Use Regulations) of these Regulations;
- b. for purposes of these Regulations, compatible recreational facilities, such as outdoor swimming pools and tennis courts, may be considered accessory uses to a golf course, provided that such uses are of such character, size, and intensity as to conform to the definition of accessory uses as set forth in these Regulations;
- c. service of food and the sale of alcoholic beverages from a service bar only for consumption on the premises shall be considered accessory uses to a golf course, provided that such uses are of such character, size and intensity as to conform to the definition of Accessory Uses as set forth in these Regulations, and, provided further that such golf course consists of at least nine (9) holes;
- d. sale or rental of golf clubs, golf accessories, clothing, and similar items in a "pro shop" shall be considered accessory uses to a golf course, provided that such uses are of such character, size and intensity as to conform to the definition of Accessory Uses as set forth in these Regulations;
- e. in considering an application for a golf course, the Commission shall treat the use as a non-residential activity in a Residential Zone and shall take into consideration the size and location of the proposed use, the nature and intensity of the operations involved, the size of the site with respect to the existing or future street(s) giving access to it, and other factors, so as to insure that the proposed golf course shall be such that it will be in harmony with the orderly development of the area. The location, nature and height of buildings, walls and fences shall not discourage the appropriate development and use of adjacent residential land and buildings for residential uses nor impair the value thereof;
- f. the applicant shall provide detailed information concerning the sources of irrigation waters, and volumes required, and the method of distribution and application. The applicant shall also provide detailed information concerning the

fertilizers, herbicides, pesticides, and other chemicals to be employed in the facility, the quantities to be stored on site and the precautions to be taken in their storage and handling, the methods of application and a monitoring plan to ensure early detection of groundwater contamination. In considering an application for a golf course, the Commission shall consider: the potential impacts on the volume of surface and subsurface waters available to surrounding or down-gradient properties and shall require the efficient use of irrigation waters; the use of best management practices for the storage, handling, and application of lawn care chemicals to minimize adverse impacts to ground and surface waters; and, the adequacy of the applicant's long-term groundwater monitoring program.

[Added effective 3-7-08]

11.3 Community Residence for Mentally Ill Adults. A community residence as permitted by State Statutes which houses staff and not more than eight (8) mentally ill adults which is licensed as such by the Connecticut Commissioner of Health Services may be permitted in those Districts indicated in these Regulations upon receipt of a Certificate of Zoning Compliance and a Certificate of Use and Occupancy, provided:

- a. there is no other community residence within one thousand (1,000') feet of its location;
- b. application has been made to the State Department of Health Services with copies to the Regional Mental Health Board, the Regional Mental Health Director, and the Old Lyme Board of Selectmen;
- c. if there are other community residences in Town, the total population of such facilities shall not exceed one (1%) percent of the population of the Town;
- d. All fire code requirements are complied with, including safe exit and fire alarm provisions as recommended by the Fire Marshal.

[Added effective 3-7-08]

11.4 Community Residence for Mentally Retarded Persons. A community residence as permitted under State Statutes which houses not more than six (6) mentally retarded persons and necessary staff persons which is licensed as such by the Connecticut Commissioner of Mental Retardation may be permitted in those zones indicated in these Regulations upon receipt of a Certificate of Zoning Compliance and a Certificate of Use and Occupancy, provided:

- a. all fire code requirements are complied with, including safe exit and fire alarm provisions;
- b. there is no other community residence within one thousand (1,000') feet of its location;

[Added effective 3-7-08]

11.5 Vending Machines. In any application for Site Development Plan or Special Permit under these Regulations, there shall be no vending machines located outside of any principal building, except in a location or locations designated on the site plan submitted in support of such application and approved by the Commission or the Board, as the case may be. For all uses of land which have not received such Special Permit pursuant to these Regulations, no vending machine shall be located on any premises, except immediately adjacent to a principal building on the premises; "adjacent" being defined for the purposes of this subsection as not to exceed one (1') foot from such building. In addition, no vending machine shall have any form of internal illumination.

[Added effective 3-7-08]

11.6 Inns. An Inn shall be located on a lot having an area of at least 5,000 square feet of gross land area for each guest room, in addition to paragraph (b) below.

In addition to the requirements of Section 11.29 below, each Inn shall comply with the following requirements:

- a. the Commission may require or permit that an Inn have a separate dwelling unit with adequate living space for a resident manager to provide for full-time supervision of the facility;
- b. the number of guest rooms permitted on a lot shall be determined as follows: 4,000 square feet of Buildable Land (see Section 8.4) per room if all rooms are on one (1) floor; 2,500 square feet per room if rooms are on two (2) or more floors. For Inns and other transient lodging facilities, a "room" shall be defined as a space separated by walls, full or partial, from other spaces and containing sleeping or sitting accommodations. A so-called "suite" shall be deemed to contain the number of "rooms" indicated on the floor plans and not as a single "room";
- c. each room shall have a minimum liveable floor area of two hundred seventy-five (275) square feet or, alternatively, two hundred twenty-five (225) square feet for fifty (50%) percent of the rooms, provided the remaining fifty (50%) percent contain a minimum of three hundred twenty-five (325) square feet;
- d. the application for Special Permit shall be accompanied by a written report from the Town Sanitarian indicating that the septic system and water supply (existing or proposed) are adequate for the size and intensity of the use proposed;
- e. the site shall be designed to allow safe and adequate access for guests, service vehicles, emergency vehicles and equipment, and safe pedestrian circulation;
- f. the site shall be in a location which is convenient to major arterial roads, fire and other emergency services, and adequate stormwater drainage facilities;

- g. parking and loading shall be in accordance with the requirements of Section 18 (Off-Street Parking and Truck Loading) of these Regulations;
- h. alcoholic beverages may be permitted in accordance with the requirements of Section 14 (Alcoholic Liquor) of these Regulations;
- i. the site shall be designed so as to protect bedroom windows from glare from automobile headlights, street lights, driveway/parking lot lighting, and other light sources on or off the site;
- j. accessory swimming pools shall be adequately enclosed and screened by fencing and landscaping;
- k. all buildings shall be designed to be compatible with the traditional architecture of New England inns, especially with regard to roof pitch, exterior materials and detailing. The objective of this Regulation is to allow new inns which are representative, in architecture, use, scale, and location, of traditional New England inns found in this region.

[From former Section 32.5.4, Amended Effective 3/1/05, and amended effective 3-7-08]

11.7 Reserved.

11.8 Motor Vehicle Gasoline and Service Stations. Any retail dealer's station for the sale of motor fuels, any motor vehicle service facility or repairer's garage or any garage for more than five (5) motor vehicles, or any conversion of any Premises for such purposes or parking spaces accessory to such uses (hereinafter, "motor vehicle service or garage uses") shall be established, except in accordance with the following requirements:

[From former Section 22.2.2, Amended Effective 3-7-08]

11.8.1 No motor vehicle service or garage uses shall be established on a Lot, any part of which is located within 200 feet, as measured by the shortest distance along the public street right-of-way, of any public school or a duly organized school other than a public school, hospital, church, theater or public library.

[From former Section 22.2.2, Amended Effective 3-7-08]

11.8.2 No entrance or exit for motor vehicles in connection with such motor vehicle service or garage uses, and no parking space pertaining thereto, shall be located within 100 feet, as measured by the shortest distance along the public right-of-way, from any part of the residential property of another owner located on the same public street.

[From former Section 22.2.2, Amended Effective 3-7-08]

11.8.3 Any such motor vehicle service or garage uses, and parking spaces in connection therewith, conforming to the above provisions on the effective date of this provision or its predecessor Paragraph 22.2.2 (September 27, 1991), shall be considered conforming even though there may be subsequent establishment of such school, hospital, church, theater or library within the prescribed distances.

[From former Section 22.2.2, Amended Effective 3-7-08]

11.8.4 The location shall be approved by the Zoning Board of Appeals in accordance with the provisions of Connecticut General Statutes Sections 14-321 through 14-322. Such approval shall not be in lieu of the Special Permit required by these Regulations.

[Added effective 3-7-08]

11.8.5 No unregistered motor vehicle and no motor vehicle registered to a dealer shall be stored or parked nearer to the street line than the building line. No motor vehicle parts, wrecked or dismantled vehicles, or equipment, shall be stored outside.

[Added effective 3-7-08]

11.8.6 No gasoline pumps shall be located in front of the building line. All other structures, such as canopies and trash receptacles, but excluding signs, shall be set back at least twenty-five (25') feet from the street line, ten (10') feet from each side lot line, and twenty (20) feet from the rear lot line, unless the Commission shall require larger setbacks pursuant to Section 13.B (Special Permit). All buildings and structures shall be located at least fifty (50') feet from the side line of a contiguous lot in a Residential Zone. A landscaped buffer no less than ten (10') feet in width and a six (6') foot high wooden solid fence shall be placed along any lot line contiguous to a Residential Zone. All lighting on buildings or canopies shall be enclosed and recessed below a horizontal surface of the structure, with lenses or other measures to reduce the visibility of the light source and to prevent glare. No lighting shall be located on any vertical surface of a building or structure, nor directed upward or outward, horizontally, from any such vertical surface.

[Added effective 3-7-08]

11.8.7 Motor vehicle car washes shall be permitted as accessory uses, provided that:

- a. adequate traffic flow patterns are established which prevent conflict with gasoline and service patrons and which prevent waiting traffic from extending into the street;
- b. the site is to be served by public sanitary sewers or approved washwater recycling equipment, and there is no discharge of washwater into or onto the ground or into the septic system;

- c. all site and floor surfaces which may receive washwater shall be pitched to drains connected to public sanitary sewers or approved washwater recycling equipment, and such drains shall be equipped with oil separators and such other equipment as the Commission may require to prevent contamination of the waters of the Town;
- d. no service bay shall face the street line, except on a corner lot where service bays may face one (1) street line. Canopies shall be architecturally compatible with the service station and the design of buildings in the area and lighting shall be recessed and shielded so as to prevent glare from any point outside the area covered by such canopy.

[Preceding Added effective 3-7-08]

11.8.8 Convenience store retail trade shall be permitted as an accessory use, provided that:

- a. adequate vehicular and pedestrian traffic flow patterns are established which prevent conflict with gasoline and service patrons;
- b. Adequate parking for the additional retail trade use is provided in accordance with Section 18 (Off-Street Parking and Truck Loading);
- c. to insure adequate supervision for both the gasoline sale and retail trade uses, there shall be at least one (1) employee on duty for the sale of gasoline and one (1) additional employee for the retail trade use. Depending on the size of the facility and the anticipated volume of vehicular traffic and public activity the Commission may require additional security measures as a condition of the retail trade use;
- d. there shall be no seats, stools, tables, or other facilities for the on-site consumption of food;
- e. restroom facilities shall be provided for employees and may be required by the Commission for customers. To insure adequate supervision for both the gasoline sale and retail trade uses, there shall be at least one (1) employee on duty for the sale of gasoline and one (1) additional employee for the retail trade use;
- f. there shall be no overnight parking associated with the retail trade use, other than for employees.

[Preceding Added effective 3-7-08]

11.9 Motor Vehicle Limited and General Repair and Service.

- 11.9.1 The location shall be approved by the Zoning Board of Appeals in accordance with the provisions of Connecticut General Statutes Sections 14-51 through 14-55. Such approval shall not be in lieu of the Special Permit required by these Regulations.
- 11.9.2 No unregistered motor vehicle and no motor vehicle registered to a dealer shall be stored or parked within the Minimum Required Front Yard. No motor vehicle parts, wrecked or dismantled vehicles, or equipment shall be stored outside.
- 11.9.3 No vehicle entrance or exit to a site shall be located within two hundred (200') feet, measured along the Street, of any entrance to a public playground or a park.
- 11.9.4 No gasoline pumps shall be located in within the Minimum Required Front Yard. All other Structures, such as canopies and trash receptacles, but excluding Signs, shall be set back at least twenty-five (25') feet from the Street Line, ten (10') feet from each Side Lot Line, and twenty (20) feet from the Rear Lot Line, unless the Commission shall require larger setbacks pursuant to Section 13B (Special Permit). All Buildings and Structures shall be located at least fifty (50') feet from the side line of a contiguous lot in a Residential District. A landscaped buffer no less than ten (10') feet in width and a six (6') foot high wooden solid fence shall be placed along any lot line contiguous to a Residential District. All lighting on Buildings or canopies shall be enclosed and recessed below a horizontal surface of the Structure, with lenses or other measures to reduce the visibility of the light source and to prevent glare. No lighting shall be located on any vertical surface of a Building or Structure, nor directed upward or outward, horizontally, from any such vertical surface.
- 11.9.5 Motor vehicle car washes shall be permitted as accessory uses, provided that:
- a. adequate traffic flow patterns are established which prevent conflict with gasoline and service patrons and which prevent waiting traffic from extending into the Street;
 - b. the site is to be served by public sanitary sewers or approved washwater recycling equipment and there is no discharge of washwater into or onto the ground or into the septic system;
 - c. All site and floor surfaces which may receive washwater shall be pitched to drains connected to public sanitary sewers or approved washwater recycling equipment and such drains shall be equipped with oil separators and such other equipment as the Commission may require to prevent contamination of the waters of the Town;
 - d. No service bay shall face the street line, except on a corner lot where service bays may face one (1) street line. Canopies shall be architecturally

compatible with the service station and the design of buildings in the area and lighting shall be recessed and shielded so as to prevent glare from any point outside the area covered by such canopy.

11.9.6 All driveways, outdoor storage areas, and other areas to be used by vehicles shall be paved with a Dustless Surface and shall be landscaped with perimeter and interior islands to direct traffic flow and screen working or storage areas.

[Preceding added effective 3-7-08]

11.10 Motor Vehicle and Motor Equipment Storage and Sales. Prohibited in all Districts. See Section 6.1.6 of these Regulations.

[Preceding added effective 3-7-08]

11.11 Reserved for Future Use.

11.12 Restaurants.

11.12.1 Food service shall be primarily to customers seated at tables or at counters within an enclosed Building. There shall be no outdoor seating or eating, provided, however, that the Commission may permit outdoor café service as an Accessory Use to a Full Service Restaurant where the applicant establishes that adequate provisions have been made for litter, public health, insect/pest control, unauthorized access or use, and where the site is suitable for such Accessory outdoor café service.

11.12.2 Drive-through service to patrons in vehicles, as either a Principal Use or as an Accessory Use to a Full Service Restaurant, is prohibited. See Section 6.1.29 of these Regulations.

11.12.3 Take-out service of food to be consumed off the premises may be permitted as an Accessory Use to a Full Service Restaurant, but, in no event, shall use be made of take-out windows to deliver food or beverages to persons in motor vehicles.

[From Former Section 22.2.1, amended effective 3-7-08]

11.12.4 No Full Service Restaurant located as the Principal Use of a Building on a separate Lot shall have fewer than thirty (30) seats for the service of patrons, excluding counter seats, and table seats in a separate bar or tap room. A Full Service Restaurant which is part of a unified shopping center or other multi-use (i.e., more than two Principal Uses) shall have no fewer than ten (10) seats for the service of patrons, excluding counter seats, and table seats in a separate bar or tap room.

- 11.12.5 The foregoing restrictions shall not apply to a Take-Out Restaurant in which the retail sale of specialty foods to be consumed primarily off the premises, with only incidental on-premises consumption, such as ice cream and donut shops, delicatessens, gourmet and health food stores, and the like.
- 11.12.6 High volume, short duration Restaurants, usually referred to as "fast food" Restaurants, are prohibited. See Section 6.1.28 of these Regulations.
- 11.12.7 See Section 14, Alcoholic Liquors, regarding the service of alcoholic beverages in Full Service Restaurants.

[Except as noted, preceding added effective 3-7-08]

11.13 Alternative Energy Systems. The Zoning Commission, after due notice and public hearing as required by law, may grant a Special Permit authorizing alternate energy systems, such as solar collectors and wind turbines, to exceed maximum height subject to the following considerations, standards and conditions:

- a. the proposed alternate energy system shall not have a detrimental effect on present and future Dwellings in the vicinity;
- b. the proposed site shall be of adequate size and location to accommodate the alternate energy system, exclusive of supporting guy wires, if any, without encroachment into open space setback requirements; and,
- c. wind turbines shall be located on a Lot of 30,000 square feet or more, and: 1) the tower height shall not exceed 80 feet measured from its base (ground level) to the centerline of the wind turbine; 2) the tower shall be engineered and commercially available; 3) the wind turbine shall be commercially available; and, 4) the setback from any Lot Line shall be at least one tower height, which setback requirement pertains to the tower and not to any supporting guy wires.

[From former Section 7.3.4]

11.14 Hospital, Rest Home and Convalescent Home. The minimum Lot Area shall be five (5) acres, or one-fifth (1/5) of one (1) acre, for each person accommodated, whichever is greater. Required Yards shall be twice those applicable to single family dwellings in the Residence and Rural RU Districts.

[Added effective 3-7-08]

11.15 Commercial Propagation and Growing of Flowers, Plants, Nursery Stock and Berries; Commercial Greenhouses.

11.15.1 Minimum Parcel Size. A commercial greenhouse shall not be permitted on a Parcel less than three (3) acres in area.

11.15.2 Buffering. For the purposes of Section 4.6 (General Regulations), the uses specified in this Section 11.15 shall not be deemed to be non-residential Uses and need not comply with the buffering requirements of Section 4.6, provided, however, that the Commission may require screening and buffering of outdoor storage areas, parking lots, and other components of the Use which are commercial in character.

[Added effective 3-7-08]

11.16 Commercial Cattery, Dog Kennels, Veterinary Hospitals, Veterinary Outpatient Clinics, and Dog Training Facilities.

11.16.1 Commercial Cattery. A commercial cattery shall be located on a lot of not less than two (2) acres. Any Building or enclosure for cats shall be located within the Required Yard for the subject District. The cattery shall meet all of the requirements for operation of a pet shop under State and local law.

[From former Section 32.5.1, amended effective 3-7-08]

11.16.2 Commercial Kennel or Veterinary Hospital. A Commercial Kennel, or a Veterinary Hospital where animals are given medical or surgical treatment and may be boarded and cared for overnight, shall be located on a lot of not less than 15 acres. Any Building or enclosure for dogs shall be located not less than 200 feet from any Lot Line or Street Line. In the case of a Commercial Kennel, the operator of the Kennel shall reside on the Lot where the Kennel is located and enclosed runs shall be provided when site conditions would not restrict noise as a possible nuisance condition affecting another Lot.

[From former Section 32.5.2, Amended Effective 3-7-08]

11.16.3 Veterinary Outpatient Clinic. A veterinary outpatient clinic shall be a Use where small animals are given medical or surgical treatment and such clinic shall be located completely within an enclosed Building with no outside facilities or Accessory Structures for animals. The clinic shall provide no boarding of animals except as required for medical treatment, and the boarding so provided shall be Accessory to the Principal Use as a clinic, shall occupy no more than 20% of the Total Floor Area of the Use, shall provide space for no more than 14 animals, shall be soundproofed and mechanically ventilated to preclude objectionable noise from being audible from off the premises and shall have floor drains, if any, that connect to a sewage disposal system of adequate capacity and not to a

storm drain. No Building other Structure or Use shall be considered a permitted Veterinary Outpatient Clinic if it has obtained a commercial kennel license issued by the State of Connecticut.

[From Former Section 32.5.8, amended effective 3-7-08]

- 11.16.4 Dog Training Facilities. In the C-30 Districts, a Dog Training Facility as defined in these Regulations shall be permitted by Special Permit. Dog owners shall accompany their dogs at all times, and no dogs shall be boarded on the Premises. The Building or that portion of the Building in which the Use is conducted shall contain a minimum of 600 square feet of Total Floor Area as defined in these Regulations with no less than 100 square feet of Total Floor Area for each dog on the Premises at any given time.

[From Former Section 32.5.9, added effective 9/1/99, and amended effective 3-7-08]

11.17 Commercial Livery and Boarding Stables; Riding Academies

- 11.17.1 Minimum Parcel Size. Commercial livery and boarding stables and riding academies shall be permitted on a parcel of five (5) acres or more in area.
- 11.17.2 Setback. All areas where horses are to be pastured, exercised, or otherwise maintained shall be fenced so as to contain the horses within the property.
- 11.17.3 Waste Control. All manure and stable sweepings from horses in Buildings shall be enclosed in a watertight enclosure designed to prevent the escape of odor or access by insects or other pests. Such container shall be emptied regularly or otherwise disposed of so as to control odor or risks to the public health. No such container shall be located less than one hundred (100') feet from any property line or from any Inland or Tidal Wetland or Watercourse.
- 11.17.4 Maximum Resident Horses. The maximum number of resident horses shall be thirty (30).
- 11.17.5 Use of Buildings. The use of temporary Buildings, Trailers, or tents for the stabling of horses is prohibited. All materials, supplies, and feed, excluding hay, shall be enclosed within a permanent Building.
- 11.17.6 Noise. The premises shall be designed and used so as to avoid noise levels which are a nuisance to surrounding property owners. Public address systems are prohibited.
- 11.17.7 Lighting. There shall be no floodlighting which transmits light outside the Lot upon which it originates.

- 11.17.8 Fire. All Buildings and Structures shall be reviewed and approved by the Fire Marshal to insure the adequacy of fire prevention measures.

[Added effective 3-7-08]

11.18 Trailers.

- 11.18.1 No occupancy of Trailer. No Trailer or recreational vehicle may be Occupied as a Dwelling or Used for human habitation on any Lot in any District.

11.18.2 Storage Trailers, Permanent.

- 11.18.2.1 Any Storage Trailer located on the same lot for more than 90 consecutive or non-consecutive days in a calendar year shall be considered a Permanent Storage Trailer.

- 11.18.2.2 In any Commercial, Light Industry, or Waterfront Business District, a Site Development Plan for the Use of a Permanent Storage Trailer may be granted by the Zoning Commission when found to be in compliance with the following provisions:

[From Former Section 49.2.2, amended effective April 1, 1999]:

- a. Permanent Storage Trailer(s) must be located on the same lot as the Principal Structure and no more than one (1) Storage Trailer in the Commercial and Waterfront Business Districts and two (2) Trailers in the Light Industry Districts will be allowed on any Lot.
- b. A Zoning Permit is obtained pursuant to the conditions of Section 20 of these Regulations, Administration and Enforcement.
- c. Proposed Trailer(s) must be suitably screened so as not to be visible from any Lot Line or Street Line, must meet all the Required Yard requirements and must be located to the rear of the Principal Building. Should suitable screening not be possible, a Permanent Storage Trailer may be enclosed with walls and a roof of a design which is weatherproof, structurally sound, and complementary to the Principal Structure.

- d. In no case shall a Permanent Storage Trailer be located in any Residential District.
- e. In no case shall Permanent Storage Trailers be used for human habitation.

11.18.3 Storage Trailer, Temporary.

11.18.3.1 In any Commercial, Light Industry, or Waterfront Business District, a Site Development Plan for a temporary storage Trailer may be granted by the Zoning Commission when found to be in compliance with the following provisions:

[From Former Section 49.3.1, amended effective April 1, 1999]:

- a. One (1) temporary storage Trailer may be located on the same lot as the main structure in the Commercial, Light Industry, or Waterfront Business Districts;
- b. A temporary storage Trailer may not be located on the same lot for a period exceeding 90 days in a calendar year;
- c. Application must be accompanied by a drawing to scale of not more than 40 feet to an inch showing all existing structures, proposed location of temporary Trailer, and the location of buildings on neighboring lots;
- d. Adequate screening must be provided such that the temporary storage Trailer will not create an unsightly condition that would set it apart in its surroundings or reduce property values in the neighborhood;
- e. In no case shall a temporary storage Trailer be located in a Residential District;
- f. In no case shall a temporary storage Trailer be used for human habitation;

11.18.4 Storage Trailers, Construction/Office. In any District, a Zoning Permit for a construction storage or construction office Trailer may be

granted by the Zoning Enforcement Officer when found to be in compliance with the following provisions:

- a. Trailer(s) must be located on the project site;
- b. Application must be accompanied by a drawing to a scale of not more than 40 feet to an inch showing all existing and proposed structures, proposed location of Trailer(s) and the location of buildings on neighboring lots;
- c. No Trailer shall be placed in a manner which would create a hazardous or unsafe condition;
- d. No construction Trailer shall be placed at an approved location prior to 2 weeks before the start of construction or site development nor shall it remain for a period greater than 2 weeks after completion of construction or site development;
- e. The Zoning Enforcement Officer may require the relocation or removal of a Trailer(s);
- f. In no case shall a construction storage/construction office Trailer be used for human habitation.

[From former Section 49, Adopted Effective April 3, 1995, Amended Effective 3-7-08 except as otherwise noted]

11.19 Conversion of Seasonal Dwellings to Year Round Dwellings.

- a. No dwelling located in the Town of Old Lyme, which on the effective date hereof is a seasonal use dwelling, shall be converted to a year-round use dwelling unless an application for such conversion has been approved by the Zoning Enforcement Officer and other appropriate Town officials under the application requirements and standards set forth in subparagraph c. hereof;
- b. For the purpose of administration of this section, the Zoning Enforcement Officer of the Town of Old Lyme may designate from time to time those properties on which he/she has made an affirmative determination that there is located thereon a seasonal use dwelling. Notice of said designation shall be filed by owner's name and Town Assessor's map and lot number in the Old Lyme Land Records and notice of said designation shall be sent by certified mail, return receipt requested, to the owner of said property as appears on the Town Assessor's records, updated from the Land Records to the date of said mailing. The absence of such designation shall merely mean no determination has been made by the Zoning Enforcement Officer of the Town of Old Lyme and shall not be deemed to be evidence that a dwelling is a year-round use dwelling;

Nothing in this Regulation shall be deemed to preclude a landowner from contesting such designation by demonstrating to the Zoning Enforcement Officer that the designated seasonal used dwelling was a lawfully pre-existing nonconforming use or, prior to January 1, 1992, was a lawfully existing single detached dwelling for one family located on a lot with not more than one such dwelling and that such dwelling was continuously absent of a designation by the Zoning Enforcement Officer as to whether this dwelling is determined to be a seasonal use dwelling or a year-round use dwelling. The Zoning Enforcement Officer shall make such decisions under this subparagraph in writing. Said written Notice shall advise the recipient that the decision may be appealed to the Zoning Board of Appeals under the provisions of these Regulations and the Connecticut General Statutes, which appeal must be filed within thirty (30) days of the date of said written notice of the decision;

Any such designation by the Zoning Enforcement Officer that a dwelling is a seasonal use dwelling or a year-round dwelling is a determination made under the Zoning Regulations only and is not intended to determine compliance with any other applicable code or regulation such as the Public Health Code, Fire Code or Building Code;

- c. An application to convert a seasonal use dwelling to a year-round use dwelling shall be subject to the following application requirements and standards:
- (i) The lot shall contain a minimum of 10,000 square feet and there shall be no more than one dwelling unit located on the lot;
 - (ii) The application shall be accompanied by a site plan of the subject premises, prepared and certified in accordance with A-2 standards and in compliance with the requirements of Section 13 of these Regulations, showing the existing house location and the proposed or as-built location and design of the existing subsurface sewage disposal system, as appropriate. The site plan shall, as applicable, demonstrate that the provisions of the Public Health Code of the State of Connecticut regarding Building Conversion, Well Permits and the required separating distances, as the same may be amended from time to time, are complied with;
 - (iii) The structure's insulation, electrical system and heating system shall comply with the minimum standards then in effect established for a year-round dwelling by the State Building Code and other applicable standards;
 - (iv) In other than flood hazard zones, the space below the structure's lowest floor shall be enclosed with a suitable foundation wall. In flood hazard zones, such enclosure shall be in accordance with the construction and engineering standards then in effect established for new construction within such zones;

- (v) The dwelling shall be served by a year-round water supply complying with all applicable State of Connecticut Health Department standards then in effect and which shall have been approved and granted a permit for year-round use by the Director of Health of Old Lyme or the Director's authorized agent;
- (vi) The on-site sewage disposal system serving the dwelling shall comply with applicable State of Connecticut Health Department standards then in effect and shall have been approved for year-round use by the Director of Health or the Director's authorized agent who will issue a permit to discharge sewage as required by State Statute. No Certificate of Zoning Compliance shall be issued until such septic system has been completed, inspected and approved for use by the Director of Health or the Director's authorized agent, and a copy of the as-built system and its location, certified by the designing sanitarian or engineer, has been provided to the Zoning Enforcement Officer;
- (vii) No grading, filling or other site development for the proposed dwelling or appurtenant structures or facilities shall cause ponding, flooding or adverse drainage conditions on any adjacent property;
- (viii) In the determination of compliance with this subparagraph, the Director of Health, the Sanitarian, Building Official, Zoning Enforcement Officer or his/her authorized agent, shall make site and structure inspections and/or require the applicant to submit written reports prepared by the suitable professional individual(s) providing information regarding compliance with the noted requirements;
- (ix) The dwelling and associated lot shall not contain violations of the Old Lyme Zoning Regulations or the Town of Old Lyme's Housing Ordinance of April 28, 1966;
- (x) A Certificate of Zoning Compliance shall be issued only upon full compliance with these Regulations and with respect to the conversion of a seasonal use dwelling to a year-round use dwelling, a notation shall be made in the Town Land Records releasing the seasonal use dwelling designation upon the issuance of a Certificate of Occupancy upon completion of the conversion in accordance with these requirements.

[From former Section 21.2.5, Amended Effective June 5, 1995]

11.20 Construction or Reconstruction of Year-round Dwelling in R-10 Zone.

- a. No year-round use dwelling shall be constructed on a vacant lot in the R-10 Zone unless an application for such construction has been approved by the Zoning

Enforcement Officer and other appropriate Town officials under the application requirements and standards set forth in subparagraph b. hereof;

- b. An application to construct a year-round use dwelling on a vacant lot in the R-10 Zone shall be subject to the following application requirements and standards:
- (i) The lot shall contain a minimum of 10,000 square feet and there shall be no more than one dwelling unit located on the lot;
 - (ii) The application shall be accompanied by a site plan of the subject premises, prepared and certified in accordance with A-2 standards and in compliance with the requirements of Section 13 of these regulations, showing the proposed house location and the proposed location and design of the subsurface sewage disposal system. The site plan shall demonstrate that the applicable provisions of the Public Health Code of the State of Connecticut, as the same may be amended from time to time, are complied with;
 - (iii) The structure's insulation, electrical system and heating system shall comply with the minimum standards then in effect established for a year-round dwelling by the State Building Code and other applicable standards;
 - (iv) In other than flood hazard zones, the space below the structure's lowest floor shall be enclosed with a suitable foundation wall. In flood hazard zones, such enclosure shall be in accordance with the construction and engineering standards then in effect established for new construction within such zones;
 - (v) The dwelling shall be served by a year-round water supply complying with all applicable State of Connecticut Health Department standards then in effect and which shall have been approved and granted a permit for year-round use by the Director of Health of Old Lyme or the Director's authorized agent;
 - (vi) The on-site sewage disposal system serving the dwelling shall comply with applicable State of Connecticut Health Department standards then in effect and shall have been approved for year-round use by the Director of Health or the Director's authorized agent who will issue a permit to discharge sewage as required by State Statute. New construction shall be required to meet the one hundred percent reserve area requirement for septic systems. No Certificate of Zoning Compliance shall be issued until such septic system has been completed, inspected and approved for use by the Director of Health or the Director's authorized agent, and a copy of the as-built system and its location, certified by the designing

sanitarian or engineer, has been provided to the Zoning Enforcement Officer;

- (vii) No grading, filling or other site development for the proposed dwelling or appurtenant structures or facilities shall cause ponding, flooding or adverse drainage conditions on any adjacent property;
 - (viii) In the determination of compliance with this subparagraph, the Director of Health, the Sanitarian, Building Official, Zoning Enforcement Officer or his authorized agent shall make site and structure inspections and/or require the applicant to submit written reports prepared by the suitable professional individual(s) providing information regarding compliance with the noted requirements;
 - (ix) A Certificate of Zoning Compliance shall be issued only upon full compliance with these Regulations.
- c. The provisions of subparagraph b. hereof shall be applicable to the partial or total reconstruction of a pre-existing, lawfully existing year-round use dwelling, including such a dwelling damaged or destroyed by fire or other casualty, subject to the following exceptions and limitations:
- (i) To the extent said reconstruction does not conform to the requirements of the Standards in Residence and Rural Districts set forth in Section 8 of these Regulations (Area, Yard, and Height Requirements), said reconstruction shall be allowed within such same pre-existing dwelling footprint and pre-existing actual cubic area occupied or less, with no increase in pre-existing non-conformities;
 - (ii) compliance with other provisions of subsection b. shall be required and shall be applicable insofar as possible taking into consideration the physical dimensions and limitations of the lot as determined by officer having jurisdiction of the subject Code.

[From former Section 21.2.4, Amended Effective June 5, 1995]

11.21 Conversion of Single Family Dwellings to House More Families.

[This Section intentionally left blank.]

[Former Section 32.5.3, deleted effective 3-7-08]

11.22 Telecommunications Facilities.

Purpose. The intent of this section is to provide, to the extent permitted by current law, for the location of wireless telecommunications facilities which shall consist of towers, antennae and accessory telecommunications equipment buildings within the Town of Old Lyme while protecting neighborhoods and minimizing the adverse visual, environmental and operational effects of towers and antennae through careful design, siting and screening. Its purpose is also to provide guidance to the Connecticut Siting Council in its review of wireless telecommunications facilities.

11.22.1 General Standards – Towers.

- a. Towers not requiring FAA painting/markings shall have either a galvanized finish or be painted a non-contrasting blue, gray or black;
- b. No signs shall be permitted on any tower or antenna;
- c. No tower, antenna or other accessory structures or equipment shall exceed the height requirement of the district unless the applicant can demonstrate to the satisfaction of the Commission that such service can only be provided at the location and at the height requested, but in no event shall the total height exceed 199 feet. Further, any proposed tower shall be designed in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional personal wireless service as defined in Section 704 of the Telecommunications Act users if the tower is over 100 feet or for at least one additional user if the tower is over 50 feet but less than 100 feet in height. The Commission may require the tower to be of such design as to allow for future rearrangement of antennas upon the tower and to accommodate antennas mounted at varying heights;

[From Former Section 22.2.5.1(c), amended effective September 15, 1997]

- d. No lights or illumination shall be permitted unless required by the FCC or FAA;
- e. Towers shall be set back at least five hundred (500) feet from any existing residential structure and shall be set back at least seventy-five (75) feet from a property line, or such greater distance as may be determined necessary for safety by the Commission in accordance with fall-zone analysis information provided for the structure proposed;
- f. Monopoles shall be encouraged over lattice structures;

- g. Satellite and microwave dishes attached to monopoles may be permitted only when providing a service to a public agency or when the applicant can demonstrate to the satisfaction of the Commission that such placement shall not have an adverse visual, environmental or operational effect on the neighborhood. In no instance shall any such dish exceed six (6) feet in diameter;
- h. Telecommunication Tower sharing shall be encouraged. Applicants shall provide a description of existing telecommunication towers in the service area and a statement indicating why their telecommunication antennae cannot be mounted on these towers. Such documentation shall include demonstration that the shared use is not technically, legally, or environmentally feasible; or, for telecommunication towers constructed prior to the effective date of this section, that shared use is not economically feasible or that the owner of such facility/facilities has/have refused permission for the shared use. The owner of any telecommunication tower approved under this Section 11.2.5 shall be required to make space available for additional telecommunication antennas to the maximum feasible number of other users, including competitors. Such availability shall be made under commercially reasonable terms and conditions;

[From Former Section 22.2.5.1(h), amended effective September 15, 1997]

- i. Telecommunication facilities shall be placed on existing structures such as building and/or communication towers, or upon the telecommunications equipment building itself, unless the applicant can demonstrate that such placement is not feasible;
- j. Telecommunications facilities shall be placed in locations on the lots where the existing topography, vegetation, buildings or other structures provide adequate screening as determined by the Commission;
- k. Amateur radio operators' equipment as licensed by the Federal Communications Commission (FCC) shall be exempt from this regulation.

11.22.2

General Standards – Antennae.

- a. Antennae shall be attached to a building or structure which is the principal building or structure on the lot or to a tower which has been constructed in accordance with these regulations for such a purpose;

- b. Satellite and microwave dish antennae shall not exceed a diameter of six (6) feet.

11.22.3 General Standards – Telecommunications Equipment Buildings.

- a. No such equipment building shall exceed seven hundred fifty (750) square feet gross floor area;
- b. All such equipment buildings shall comply with all setback and buffer requirements for the district in which they are located;
- c. All such equipment buildings shall be designed so as to be compatible with other buildings in the area;
- d. Multiple equipment buildings for a shared facility shall be attached structures or shall be clustered around the facility;
- e. An equipment building located on the roof of a building shall not occupy more than 15% of the roof area.

11.22.4 The Commission may request the applicant to provide both a description and a map of the provider's proposed network within the Town and in adjacent towns, including the area served by this facility, the location of other facilities, and the overall coverage plan.

11.22.5 All applications shall include a statement as to whether alternative sites were considered and why this site was selected.

11.22.6 If required by the Commission, the applicant shall provide one or more of the following:

- environmental analysis of facility site;
- environmental analysis of access road;
- profile analysis;
- balloon simulation;
- radio frequency power density modeling and/or testing data;
- analysis of facility compatibility;
- fall-zone analysis;
- propagation and antennae separation analysis.

11.22.7 All towers and antennae shall comply with the provisions of Section 46.9 of these Regulations and no location, or co-location for a shared tower, shall exceed interference levels established by the FCC.

11.22.8 As a condition of any Special Permit granted under the provisions of this section, the applicant shall be required to remove all towers, antennae and ancillary equipment within fifteen (15) months of the date of cessation of use of such equipment for transmission purposes. Upon removal of the equipment, and within six (6) months of said removal, the site shall be restored to such condition as has been approved by the Commission. Each application shall include a plan for such facility removal and site restoration for approval by the Commission as part of the Special Permit.

[From former Section 22.5, Added Effective March 3, 1997, Amended Effective September 15, 97 and 3-7-08]

11.23 Commercial and Non-Commercial Cutting: Cutting and Removal of Forest Tree Species.
[From former Section 44, Effective 3-7-08, per Conn. Gen. Stats. § 23-65k]

11.23.1 General. Except as provided in Section 11.23.4 for Non-Commercial Cutting and forest practices as defined below, cutting or removal of forest tree species is permitted in the Town of Old Lyme only by Site Development Plan in accordance with Section 13A and in accordance with the provisions of this Section. In the administration of this Section, the Commission and the applicant may consult with the Tree Warden of the Town of Old Lyme. Special definitions applicable under this Section are as follows:

- a. Commercial Cutting. Any cutting or removal of forest tree species which is not covered under the definition of “non-commercial cutting,” or any cutting or removal of forest tree species which constitutes a “forest practice,” as defined in Conn. Gen. Stats. §23-65f if the Connecticut Department of Environmental Protection has promulgated forest practices in accordance with Conn. Gen. Stats. §23-65j. Upon the promulgation of such forest practices, forest practices shall be under the exclusive jurisdiction of the Old Lyme Inland Wetlands and Watercourses Commission, per Conn. Gen. Stats. §23-65k. Until such forest practices have been promulgated by the Connecticut Department of Environmental Protection, forest practice as defined in Conn. Gen. Stats. §23-65f shall be governed by this Section 11.23.
- b. Commercial Cutting Plan. A plan showing the applicant’s property and the abutting property owners, a description of the activity to be undertaken, and a certification by a public or consulting forester acceptable to the Commission that the plan is consistent with the “Minimum Standards for the Cutting of Timber” set forth in Paragraph 11.23.3;

- c. Non-Commercial Cutting. The minimum cutting or removal of forest tree species on a Lot necessary for the purpose of preparing a site for the construction. Sale of cordwood or other incidental forest products resulting from such maintenance and Lot improvement shall not constitute “commercial cutting.”
- d. Non-Commercial Cutting Plan. A plan containing the information set forth in Section 11.23.4.
- e. Slash. The residual tree tops and branches left on the ground after logging.

11.23.2 Commercial Cutting Permit. Commercial cutting is permitted only after a commercial cutting plan therefor has been submitted to and Site Development Plan approval obtained from the Commission. The cutting or removal activities in connection with the following are exempt from the requirement to obtain a permit:

- a. land used for agricultural purposes and cultivation of crops other than forest products;
- b. thinning and clearing in connection with public improvements;
- c. land used for access to abutting land;
- d. cultured Christmas tree area; and
- e. as noted above, cutting or removal of forest tree species which constitutes a “forest practice,” as defined in Conn. Gen. Stats. §23-65f, if the Connecticut Department of Environmental Protection has promulgated forest practices in accordance with Conn. Gen. Stats. §23-65j.

11.23.3 Minimum Standards for Commercial Cutting. Approval for commercial cutting may be granted by the Commission after the commercial cutting plan has been submitted, has been found to be consistent with the following minimum standards and has been approved by the Commission:

11.23.3.1 Stream Protection.

- a. All possible care will be taken to protect continuously flowing streams (which are defined as perennial streams indicated on U.S.G.S. Topographic Maps, scale 1:24,000) and other Inland Wetlands and Watercourses from siltation and other damage during harvest operations. Partial cutting, designed to create uneven-aged stands, will

normally be used within 100 feet of these areas. No more than 5% of the merchantable volume will be removed, taking care in the selection of leaf trees to minimize water temperature increases and visual impact; Care should be taken not to fall trees into or across Watercourses. Logging debris accidentally dropped into Watercourses shall be promptly removed;

- b. Harvesting equipment will not ordinarily be allowed in a Watercourse, and the channel should not be altered. All Inland Wetlands and Watercourses crossing shall be as close to a right angle as possible;
- c. After the completion of a harvest operation, banks at Inland Wetlands and Watercourses crossing will be graded and restored to approximately their original condition. Re-seeding with an appropriate grass mixture may be required;
- d. Any and all temporary structures in or across Inland Wetlands and Watercourses shall be removed upon completion of operations.

11.23.3.2 Haul Roads. Careful consideration should be given to the planning and location of main haul or skid roads. All road locations, including alternate routes where advisable, shall be planned prior to harvesting operations. Outstanding considerations are the following:

- a. Location so as to minimize construction or use impact on the land;
- a. Grades in excess of 10%, or 0% gradients, shall be avoided except for short distances;
- c. For each road, landing or skid trail, drainage control systems or stabilization shall be provided and maintained to control water flow;
- d. Unless otherwise stipulated, all roads, main skid trails, landings and sawmill sites shall be stabilized. Temporary culverts shall be removed, water bars installed where necessary, ruts filled or graded out and gutters cleaned;
- e. Where required for erosion control, or were desirable for wildlife conservation, major skid

roads, landings and/or sawmill sites shall be limed, fertilized and seeded with an appropriate mixture of grass and legumes.

11.23.3.3 Border Strips.

- a. Within approximately 100 feet of any automobile road, recreation trail or other recreation area, or lot line in proximity to any dwelling, harvesting of trees shall be partial cuttings. Not more than 50% of the merchantable volume should be removed, except in salvage operations, to open up scenic vistas, or in forestry demonstration areas. In high-visibility areas, it will be desirable to create uneven-age stands to provide change and variety in scenery;
- b. Special attention shall be given to leaving unique tree specimens, flowering shrubs and trees, or those species that have value as food producers or den sites for wildlife;
- c. Undesirable sprout growth or brush may be controlled using approved herbicide treatments. Chemicals used in performing this practice must carry a Federal registration and be applied strictly in accordance with authorized uses, label directions, and Federal and state regulations;
- d. Special consideration shall be given to those border strips in the following situations:
 - (i) Screen clear-cuts, shelterwood cuttings or other heavy cuts that would be deleterious to the natural landscape aesthetics;
 - (ii) Screen yarding and loading areas. Debris removal or control is especially important to these locations.

11.23.3.4 Slash.

- a. No slash will be left within 25 feet of any automobile road, established recreation trail, pond, lake or stream;

b. Within the remaining width of a border strip, all slash shall be chipped or lopped and scattered, and severely bent,

On all other harvest areas, slash, severely bent, or broken trees shall be cropped and/or loped to a height not to exceed six (6) feet.

11.23.3.5. Harvest Methods.

- a. Because of the wide variation in forest types, stand size classes, stocking levels and timber volumes which exist in Connecticut woodlands, there are a variety of methods that can be used either singly or in combination in harvesting and reforestation to meet the stated purpose. These methods include clear-cutting with natural reproduction; direct seeding or planting; seed-tree cutting; selection cutting, including diameter limit harvesting, shelterwood cutting, and such other methods as shall be consistent with good forestry practice;
- b. Although even-age management is an accepted silvicultural practice, particularly with hardwood species, its use should be practiced judiciously. A clear-cut area presents a severe visual impact to those unfamiliar with this harvest method. Therefore, clear cutting will have the following restrictions:
- (i) maximum of five (5) acres in size;
 - (ii) irregular in shape – avoid linear cutting bounds;
 - (iii) soften edges by partial cutting within 50 to 100 feet of clear-cut boundaries;
 - (iv) leave ridge tops uncut, which areas are the most visible; and,
 - (v) in most cases, even-aged management may be accomplished through shelterwood cuttings rather than clear-cutting.

11.23.3.6. Wildlife. The applicant shall evaluate the impact on observed wildlife, especially for any species identified as

“threatened,” “endangered,” or “of special concern” by the Connecticut Department of Environmental Protection. The Zoning Enforcement Officer may require special measures to be taken to protect wildlife, including the restriction or prohibition of activities during certain seasons of the year, in certain portions of the site, or in proximity to particular breeding, foraging, or nesting sites.

11.23.3.7 Tree Reproduction. Harvest procedures, properly applied and executed, shall provide for adequate tree reproduction. However, there will be instances where regeneration may be deficient or there are undesirable tree species. In these cases, steps should be taken to provide the desired stocking.

11.23.3.8 Access Roads.

- a. Access roads and fire lanes shall be left clear of slash when a cutting job is completed. Designated roads shall be graded so as to be passable by fire suppression equipment;
- b. Where access road construction is included in a harvest operation, considerations should be given to construction of loading docks and fire water-holes at strategic locations.

11.23.4 Non-Commercial Cutting. No non-commercial cutting shall be conducted until the approval of a non-commercial cutting plan in accordance with this Section 11.23.4. Non-commercial cutting in connection with a Use for which a Site Development Plan or Special Permit is required shall include a non-commercial cutting plan in accordance with this Section 11.23.4. See Sections 13A.2.3(I) and 13B.3.3(b). No Zoning Permit shall be issued in connection with a use for which a Site Development Plan or Special Permit is *not* required unless a non-commercial cutting plan showing the following information has been submitted to and approved by the Zoning Enforcement Officer:

- a. the existing mix of forest tree species and their approximate height, age and density;
- b. the approximate location (estimated dimensions are satisfactory) of each tree proposed to be cut which is nine (9) inches or more in diameter, measured at a point on trunk four (4) feet above ground;
- c. a description of the cutting or removal activity to be undertaken; and,
- d. any other information that may be necessarily and reasonably required by the Zoning Enforcement Officer.

[From former Section 44, Amended Effective 3-7-08]

11.24 Adult Entertainment.

11.24.1 Purpose and Intent. The purpose of this section is to regulate uses which, because of their nature, are recognized as having potentially serious objectionable operational characteristics, particularly when concentrated under certain circumstances, thereby having a deleterious effect upon surrounding areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood.

Persons under the age of eighteen may be attracted to adult-oriented establishments and seek to enter or loiter about them without the knowledge or permission of their parents or guardians. Closed booths, cubicles, studios and rooms within adult-oriented establishments have been used by patrons, clients and customers of such adult-oriented establishments for the purpose of engaging in certain sexual acts. Male and female prostitutes have been known to frequent such establishments in order to provide sex for hire to the patrons, clients or customers of such establishments within such booths, cubicles and rooms.

It is not the intent of the Zoning Commission, in enacting these Regulations, to deny any person rights to speech protected by the United States Constitution and/or the Constitution of the State of Connecticut, nor is it the intent of the Zoning Commission to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually-oriented films, video, tapes, books and/or other materials protected by the United States Constitution and/or the Constitution of the State of Connecticut, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually-oriented materials may have to sell, distribute or exhibit such materials.

These Regulations prevent clustering of these uses in any one location and thereby protect health, safety, general welfare, and property values in the Town of Old Lyme.

11.24.2 Definitions.

(i) "Adult entertainment business" shall mean any establishment which is customarily not open to the public generally but only to one or more classes of the public, thereby excluding any minor by reason of age. These include, but are not limited to, one or a combination of the following types of businesses: adult amusement machine, adult arcade,

adult bookstore, adult cabaret, adult entertainment enterprise, adult machine, adult motion picture theater, adult novelty business, adult-oriented establishment, adult personal service business;

- (ii) "Adult amusement machine" shall mean any amusement machine that is regularly used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined below, for observation by patrons therein;
- (iii) "Adult arcade" means any establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons, each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;
- (iv) "Adult bookstore" means an establishment which has as a principal activity the sale of books, magazines, newspapers, periodicals or other printed matter or photographs, videotapes, video discs and motion picture films, slides, or other photographic reproductions which are characterized by their emphasis on portrayals of human genitals and pubic areas or acts of human masturbation, sexual intercourse or sodomy or any other "specified sexual activity" or "specified anatomical area", as defined below, or devices or paraphernalia that are designed for use in connection with "specified sexual activities" defined below;
- (v) "Adult cabaret" means a cabaret which features nude and/or partially nude dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers and which excludes minors by virtue of age;
- (vi) "Adult entertainment enterprise" means any exhibition of any motion pictures, video tapes, live performances, displays or dances of any type, which have as a significant or substantial portion of such performances any actual or simulated performance of "specified sexual activities" or exhibition and viewing of "specified anatomical areas" defined below;
- (vii) "Amusement machine" means any machine which upon the payment of a charge or upon the insertion of a coin, slug, token, plate or disk, may be operated by the public for use as a game, entertainment or amusement, whether or not registering a score and whether or not electronically operated;

- (viii) "Adult motion picture theater" means any establishment having as a principal activity displaying motion pictures, video cassettes, slides or other photographic reproductions characterized by their emphasis on portrayals of human genitals and pubic regions or actions of human masturbation, sexual intercourse, or sodomy for observation by patrons therein and from which minors are excluded by virtue of age;
- (ix) "Adult novelty business" means a business which has as a principal activity the sale of devices of simulated human genitals or devices designed for sexual stimulation and which excludes minors by virtue of age;
- (x) "Adult-oriented establishment" 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 entertainment, when such establishment is operated or maintained for a profit, direct or indirect;
- (xi) "Adult personal service business" means a business having as a principal activity a person, while nude or partially nude providing personal services for a person of the same or other sex on an individual basis in an open or closed room and which excludes minors by virtue of age. It includes, but is not limited to, the following activities: massage parlors, exotic rubs, modeling studios, body painting studios, wrestling studios, individual theatrical performances. It does not include activities performed by persons pursuant to, and in accordance with, licenses issued to such persons by the State of Connecticut;
- (xii) "Partially nude" means having any or all of the following bodily parts exposed: buttocks, genitals, pubic area, or female breasts;
- (xiii) "Specified anatomical areas" means less than completely or opaquely covered: (a) human genitals and pubic region; (b) buttocks; (c) female breasts below a point immediately above the top of the areola; and (d) human male genitals in a discernibly turgid state even if completely opaquely covered;
- (xiv) "Specified sexual activities" means: (a) human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse, or sodomy; (c) fondling or erotic touching of human genitals, pubic region, buttock or female breasts;

- (xv) “Specified anatomical areas” and “specified sexual activities” as used in these Regulations do not include materials depicted in any medical publications, or films, in any bona fide educational publications or films, in any art or photography publications which devote at least 25 percent of the lineage of each issue to articles and advertisements dealing with subjects of art or photography, in any news periodical which reports or describes current events in which, from time to time, publishes photographs of nude or semi-nude persons in connection with the dissemination of news, or in publications or films which describe and report different cultures which, from time to time, publish or show photographs or depictions of nude or semi-nude persons when describing cultures in which nudity or semi-nudity is indigenous to the population;
- (xvi) “Principal activity” means a use accounting for more than 10 percent of a business’ gross revenues, stock in trade, display space, floor space, or movie display time per month.

11.24.3

Specific Conditions. An adult entertainment business may be approved in the Commercial District only, provided the following standards and criteria are met in addition to any other applicable standards, criteria and requirements of these Regulations:

- (i) No such adult entertainment business shall be located within 300 feet of a residential use or district which, pursuant to these Regulations and the Zoning Map of the Town of Old Lyme,, is classified R, MFR, RU or MFRU. If the adult entertainment business is within a shopping plaza, having a developed building of 5,000 square feet in size or larger, then the distance shall be measured from all entrances to such shopping plaza;
- (ii) No such adult entertainment business shall be established within 1,000 feet of another such business;
- (iii) No such adult entertainment business shall be established within 1,000 feet of the property line of any public, private or parochial school, day care center, library, museum, park, playground or other recreational facility, whether commercial or nonprofit, or any other area where numbers of minors regularly travel or congregate, in any zone. Nor shall any such adult entertainment business be located within 1,000 feet of the property line of any church, convent, monastery, synagogue, or similar place of worship, or cemetery;

- (iv) For purposes of this section, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest boundary of the property containing or proposing to contain an adult entertainment use to the nearest boundary of the uses specified in (i), (ii) and (iii) above;
- (v) No accessory apartment or apartments or other dwelling units shall be permitted on the premises of an adult entertainment business;
- (vi) (No adult entertainment business shall be conducted in any manner that permits the observation of any material depicting or describing any sexually explicit activities or anatomical areas from any public way. This provision shall apply to any display, decoration, sign, show window or other opening;
- (vii) In accordance with Connecticut General Statutes Section 8-6, these adult entertainment business regulations shall not be varied by the Zoning Board of Appeals to permit an adult entertainment business nor shall such a use be permitted by way of variance;
- (viii) No adult entertainment business shall include the installation of any enclosed booths, cubicles, rooms or stalls within such adult entertainment business for the purpose of viewing adult entertainment;
- (ix) Any adult entertainment business shall state on any Site Plan submitted that any room or other area used for the purpose of viewing adult entertainment shall be well lighted and readily accessible at all times and shall be continuously open to view in its entirety. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.

11.24.4 Application Procedure. Application for a permit for an adult entertainment business shall be made to the Zoning Commission demonstrating compliance with this adult entertainment business regulation. Such permit may expire upon any of the events listed in subsection 11.24.5 below, unless and until such permit is renewed as provided.

11.24.5 Required Renewal. Renewal of a permit for an adult entertainment business must be obtained under the following circumstances:

- (i) Purchasers of buildings that have had permits for adult entertainment businesses who want to continue such permits, must

- obtain a Zoning Permit by demonstrating that all conditions prerequisite to obtaining the original permit continue to be met;
- (ii) Any such renewal must be referred to the Zoning Commission for consideration. Where a change in circumstance is identified which may create a noncompliance with these Regulations or any permit issued hereunder, the Zoning Commission may require a new application and a demonstration of compliance with all conditions necessary for a approval hereunder.

11.24.6 Savings Clause. Should any court of competent jurisdiction declare any section, clause or provision of these Regulations to be unconstitutional or statutorily illegal, such decision shall affect only such section, clause or provision so declared unconstitutional or illegal and shall not affect any other section, clause or provision of these Regulations.

[From former Section 22.2.4, Adopted Effective July 3, 1995, Amended Effective 3-7-08]

11.25 Septage Storage and Transfer Facility.

- 11.25.1 The maximum on-site storage capacity of a septage waste transfer station shall not exceed 100,000 gallons.
- 11.25.2 The operator of a Septage Storage and Transfer Facility shall provide a cash bond of at least \$10,000 (which amount may be increased at the discretion of the Planning Commission) to benefit the Town in the event that the operator shall default in the requirements of this section or applicable law.
- 11.25.3 All septage storage shall be permitted only in sealed in containers with intake and outlet valves designed to prevent any release of odors or uncontrolled release of effluent.
- 11.25.4 The site shall provide landscaping and ground cover satisfactory to the Planning Commission to minimize any adverse effect on surrounding properties. The Applicant's plans shall depict precautions to be taken to control accidental spills of effluent, either directly, or through the washing of trucks and equipment, and other potential sources of contaminated discharge.
- 11.25.5 A Septage Storage and Transfer Facility shall not operate unless the facility has all licenses and permits required by the Public Health Code, the DEP, the OLWPCA, or other cognizant governmental agency having jurisdiction over such facility.
- 11.25.6 All applications shall include a plan for site restoration and the removal of storage tanks should either of the following conditions occur:

- (i) Violation of the provisions of this regulation so that the site is closed for septage waste storage or transfer; or,
- (ii) closing of the site for septage waste storage and transfer.

[From former Section 22.2.6, Adopted Effective June 1, 1998]

11.26 Assembly Halls, Dance Halls, Bowling Alleys and Other Indoor & Outdoor Recreation Uses. Any building or structure used for assembly halls, dance halls, bowling alleys, and indoor and outdoor recreational facilities (including tennis, handball, paddleball, squash, swimming, skating and similar such activities) shall be located not less than 100 feet from any Residence or Rural District.

[From former Schedule B-2, Item #7, Amended Effective 3-7-08]

11.27 Outside Storage of Goods. Outside storage includes the following when not located within an enclosed building: sales, storage and/or display of merchandise, supplies, equipment or machinery; storage of wastes; and manufacture, processing or assembling of goods; but not including the parking of registered motor vehicles in daily use. Outside storage provided in connection with a use for which a Site Development Plan, Special Permit, or a Zoning Permit is required to be submitted under these Regulations shall be located in areas on the lot as shown on such the approved site plan and shall be limited and screened as follows:

- a. No outside storage area shall extend into the area required for building setback from a street line, property line or Residence or Rural District boundary line;
- b. Outside storage areas shall be limited in extent on any lot, either as a percent of the area of the lot or as a percent of the ground floor area of all buildings on the lot, in accordance with the district where located, as follows:

<u>District</u>	<u>% of Lot Area</u>	<u>% of Ground Floor Area of Buildings</u>
* Residence	-	10%
** Rural	-	10%
WF-20	25%	-
C-30	-	10%
C-10	-	10%
LI-80	25%	-

- c. All outside storage areas shall be enclosed, except for necessary access drives, by buildings and/or fences, walls, embankments or evergreen shrubs or trees so as to screen the storage area from view from any other lot, from any street and from any portion of a Residence or Rural District, provided, however, that the Board/Commission, in connection with approval of a Site Development Plan or Special Permit under its jurisdiction, may determine that such enclosure is not necessary for all or a portion of necessary and reasonable outside storage that is an adjunct to retail sales.

[From former Section 31.3.14, Amended Effective 3-7-08]

11.28 Special Standards for Multiple Dwellings.

Special Standards – Multiple Dwellings. Multiple dwellings and multiple dwelling projects in Multi-Family Residence and Multi-Family Rural Districts, and the buildings, structures and site development proposed in connection therewith, shall also conform to the following SPECIAL STANDARDS:

- 11.28.1 Number of Units. No multiple dwelling building shall contain more than six (6) dwelling units, and no multiple dwelling project shall contain more than a total of 24 dwelling units.

[From Former Section 32.6.1.a, amended effective July 3, 1995]

- 11.28.2 Minimum Lot Area. The minimum lot area per dwelling unit in a multiple dwelling project shall be 20,000 square feet for each of the first six (6) dwelling units and 15,000 square feet for each additional dwelling unit, exclusive of any wetlands and watercourses, any areas of impervious paving, or any land having a topography exceeding a 30% slope in grade as measured in 40-foot increments.

[From Former Section 32.6.1.b, amended effective July 3, 1995]

- 11.28.3 Number of Projects. No Multi-Family or Multi-Family Rural District, regardless of the number of lots, parcels or tracts that may be encompassed by such District, shall contain more than one (1) multiple dwelling project.

[From Former Section 32.6.1.c, amended effective July 3, 1995]

- 11.28.4 General Setback Requirements. Except for roadways covered in Section 11.28.5, no Structure, parking or service area within a multiple dwelling project shall be located within 100 feet of the multiple dwelling project boundary line, unless said multiple dwelling project boundary line is contiguous to another multiple dwelling project in another Multi-Family

District, in which event the minimum setback shall be thirty (30) feet. The Zoning Commission may increase the 100 foot setback requirement where additional setback is required to avoid a significant adverse affect on adjacent property or on public health and safety. Where conditions exist which affect the subject land and are not generally applicable to other land in the area, a reduction of the 100 foot setback requirement of up to 25 feet may be granted by the Zoning Commission. No reduction may be granted if it has a significant adverse effect on adjacent property or on public health and safety.

[From Former Section 32.6.1.d, amended effective July 3, 1995; effective April 1, 1999; and effective 3-7-08]

- 11.28.5 Setback Requirements for Roadways. No roadway, including means of ingress and egress within a multiple dwelling project shall be located within fifty (50) feet of the multiple dwelling project boundary line (except where said roadway accesses a public highway) unless the multiple dwelling project is contiguous to another multiple dwelling project in another Multi-Family District, in which event there shall be no roadway setback. The Zoning Commission may increase the fifty (50) foot setback where additional setback is required to avoid adverse impact on adjacent property or on public health and safety. Where conditions exist which affect the subject land and area not generally applicable to other land in the area, a reduction of the 50 foot setback requirement of up to 25 feet may be granted by the Zoning Commission. No reduction may be granted if it will have an adverse impact on adjacent property or on public health and safety.

[From Former Section 32.6.1.e, amended effective July 3, 1995; effective April 1, 1999; and effective 3-7-08]

- 11.28.6 Setback Design Requirements. For the purposes of maximizing the effectiveness of the setbacks specified in Sections 11.28.4 and 11.28.5., the following requirements shall be met:

[From Former Section 32.6.1.f, amended effective July 3, 1995]

- a. At least 75 feet of the setback specified in Section 11.28.4 and 35 feet of the setback specified in Section 11.28.5 shall be left in its natural state, if wooded, or landscaped for visual buffering is not wooded. However, in order to promote sound forest management, clearing of dead or dying trees will be permitted;
- b. In the event that setback areas are disturbed during construction, they shall be restored and supplemented with natural screening;

- c. The Zoning Commission shall require the submission of a landscape plan which demonstrates the visual impact of the project on adjacent dwellings has been minimized.

[From Former Section 32.6.1.f(iii), amended effective April 1, 1999]

- 11.28.7 Minimum Floor Area. Each dwelling unit in a multiple dwelling shall have a minimum floor area for dwelling purposes of 500 square feet for a one-bedroom unit, plus 120 square feet for each additional bedroom, which floor areas expressly exclude halls, stairways, foyers, closets, porches, bathrooms and basements from eligibility to be counted. The number of bedrooms in each dwelling unit shall not exceed two (2). No floor space having a floor level above the second floor level above the finished grade shall be used for dwelling purposes and no floor space having a floor level below the finished grade shall be used for dwelling purposes except as a recreation, storage or utility room.
- 11.28.8 Occupancy Limitations. No more than two (2) persons shall occupy any Dwelling Unit consisting of only one (1) room (a so-called "efficiency apartment") as a regular place of abode. In addition, no more than two (2) persons shall occupy any dwelling unit containing only one (1) bedroom as a regular place of abode, and no more than a single Family, as defined in these Regulations, shall occupy a Dwelling Unit as a regular place of abode. In determining whether or not a Dwelling Unit consists of only one (1) room or bedroom, halls, stairways, foyers, closets, porches, bathrooms and basements shall not be counted as rooms or bedrooms.
- 11.28.9 Storage Space. In addition to closet space in a Dwelling Unit, each Dwelling Unit shall be provided with usable enclosed storage space having a minimum floor area equal to 10% of the Dwelling Unit. Hall stairways, foyers, closets, porches, bathrooms and basements shall not be counted in determining floor area for computation of the 10%.
- 11.28.10 Service Area. Service areas and other service facilities shall be provided as follows:
 - a. One (1) or more paved service areas for use as a drying area and for temporary storage of garbage and rubbish shall be provided at the rear of each multiple dwelling. Such areas shall be enclosed and protected by suitable fencing or shrubbery;
 - b. Storage of rubbish and garbage shall be in one or more suitable vermin and rodent proof containers having at least a 40-gallon capacity per each Dwelling Unit;

- c. Radio and television facilities shall be served by a master antenna only. No external individual radio or television antennae shall be permitted;
- d. The distance between each Dwelling Unit and the nearest driveway, parking space and garage serving such unit, shall in each instance be not more than 100 feet.

11.28.11 Water Supply. Each Dwelling Unit shall be connected to a water supply meeting the requirements of Section 13A.3.11 and furnishing a minimum daily supply of not less than 450 gallons under adequate pressure. Conn. Gen. Stats. § 16-262m shall be complied with if the water is furnished by a “water company” as defined in that Section.

11.28.12 Garages, Parking Areas, Driveways and Access Roads. Parking, driveway and access facilities shall be provided as follows:

- a. At least one (1) parking space, 11 feet by 22 feet, shall be provided in an enclosed garage for each dwelling unit;
- b. In addition, paved parking areas shall be provided to accommodate one (1) automobile for each dwelling unit, but no single parking area continuum shall contain more than eight (8) parking spaces;
- c. One-way access aisles in a parking area shall have a width of not less than 12 feet, and two-way access aisles in a parking area shall have a minimum width of 24 feet;
- d. Parking areas and driveways serving parking areas and garages shall be suitably paved with a two (2) inch thickness of dense graded bituminous concrete placed on two (2) four-inch layers of compacted gravel sub-base, or equivalent paving;

- e. Bituminous concrete lip curbing or other curbing similar in quality shall be used on all parking areas and driveways where necessary for drainage;
- f. The main access road or roads leading to the multiple dwelling or multiple dwelling project shall be planned and designed in accordance with the "Design and Construction Standards, Town of Old Lyme, Connecticut" and any applicable provisions of the Subdivision Regulations of the Town of Old Lyme.

11.28.13 Minimum Distance Between Dwellings. The minimum distance between any two (2) multiple dwellings shall be 60 feet.

11.28.14 Open Space: The preservation or creation of Open Space (as applied to Use of land for public benefit), as defined in Section 3 of these Regulations, shall be provided by a unified design which:

- a. protects flood plains, inland and tidal wetlands, watercourses, ponds, future public water groundwater sources, steep slopes, and the coastal resources identified in Section 22a-97(7) of the Connecticut General Statutes and preserves, where practicable, unusual rock formations and tree stands;
- b. preserves sites of historic, archeological or scenic value;
- c. promotes the open space programs of the Town Plan of Conservation and Development, the Connecticut River Gateway Commission, the Coastal Area Management Act, the recommendations of the Planning Commission and those private organizations which are acceptable to the Zoning Commission; and
- d. fosters opportunities for formal and informal recreational activities.

Land to be kept as open space, including but not limited to land to be used for parks, playgrounds and recreation areas, shall be provided and reserved in conformity with Section 5.10 of the Subdivision Regulations except that (i) the quantity of land to be devoted to such purpose shall be as stated below, and ii) at least 25% of the open space land shall be part of the Net Buildable Area within the tract as determined by the Zoning Commission pursuant to the provisions of Section 12.8.2. The Zoning Commission

shall require that a land area be set aside for open space equal to or greater than a) 40% of the entire area covered by a multiple dwelling development located in one or more underlying Zoning Districts classified as MFR-80 or MFRU-80 and b) 30% of the entire area covered by a multiple dwelling development located in one or more Underlying Zoning Districts classified as MFR-40 or MFRU-40. The required amount of land area to be devoted to open space for a development located partially in one or more of the Zoning Districts listed in the former group and partially in one or more Zoning Districts listed in the latter group shall be computed separately for the development area located in each of the foregoing two (2) groups of Zoning Districts and the required amounts of open space land areas so obtained added together to determine the total quantity of land area within the boundaries of the development to be set aside for open space.¹

[Added effective 3-7-08]

- 11.28.15 Multiple Dwellings for Non-Profit Elderly Housing. The standards of Paragraph 11.28.1 through 11.28.12 are applicable to Multiple Family Dwellings for non-profit elderly housing except as follows:
- a. The limitations on number of Dwelling Units in a Multiple Family Dwelling and Multiple Family Dwelling project and the number of Multiple Dwelling projects in a Multi-family Residence or Multi-Family Rural District are not applicable. For Non-Profit or Subsidized Elderly Housing in a Planned Residential Cluster Development in a Multi-Family Residential Zone, reference Section 12, Planned Residential Cluster Development, for the allowable number of Dwelling Units;
 - b. Each Dwelling Unit shall be occupied by no more than two (2) persons, at least one of whom is 62 years of age or older;
 - c. Each one-bedroom dwelling unit shall contain not less than 550 square feet of enclosed floor space and each two-bedroom dwelling unit shall contain not less than 650

¹This is taken from Section 36.14, except that I changed references to the "Planning Commission" to the "Zoning Commission;" references to the "PRCD" to "the development;" I deleted references to the "Underlying" Zoning District (since this is a multifamily district already); and I deleted references to zones other than MFR zones.

square feet of enclosed floor space, including the space used for halls, stairways, foyers, closets, and bathrooms, but excluding covered porches and other roof portions and basements;

- d. The Multiple Family Dwelling Unit may include accessory community rooms and facilities for the use of the occupants of the Multiple Family Dwellings, as well as utility and maintenance buildings and facilities necessary for support of the Multiple Family Dwellings on the lot;
- e. Enclosed garages are not required. If no garages are included, one and one-half (1.5) paved off-street parking spaces shall be provided for each dwelling unit;
- f. The storage space requirements of Paragraph 11.28.9 are not applicable;
- g. The water supply requirement of Paragraph 11.28.11 may be reduced to 160 gallons per day under adequate pressure to each dwelling unit.
- h. The open space requirements of Section 11.28.14 shall not apply. [Added effective 3-7-08]

[From former Section 32.6, Amended Effective 3-7-08, except as otherwise indicated]

11.29 Special Regulations for Transient Lodgings. The following regulations shall apply to any Inn, Bed & Breakfast, or other lodging for Transients:

- a. Limitation on Occupancy. The purpose of Transient lodging is to provide lodging for Transients, not to constitute *de facto* Dwelling Units. Transient occupancy shall be limited to no more than two (2) weeks followed by absence from the Transient lodging by no less than two (2) weeks. The Zoning Enforcement Officer may require Transient lodgings to maintain and disclose records of occupancy sufficient to demonstrate compliance with this provision; provided such records need not disclose the name of the occupant(s), but only a numeric or other identification to distinguish among occupants;
- b. No Cooking Facilities. No guest room, or portion thereof, shall have any facilities for cooking of food, specifically including stoves, ovens (microwave or otherwise), hot plates, or the like; provided, however, that a room may have a single refrigerator having a capacity of no more than five (5) cubic feet;

- c. Definition of "Guest Room". A "guest room" shall be defined as a space separated by walls, full or partial, from other spaces and containing sleeping or sitting accommodations. A so-called "suite" shall be deemed to contain the number of "guest rooms" indicated on the floor plan, and not shall not deemed to be a single "guest room";
- d. Minimum Lots Size. The Lot shall contain no less than 5,000 square feet of land for each guest room;
- e. Accessory Restaurants and Entertainment Areas. Restaurants and rooms for public entertainment shall have an aggregate capacity at one time not in excess of four (4) times the number of guest rooms.

[Preceding from former Section 32.5.4, amended effective 3/1/05, and renumbered and further amended effective 3-7-08]

Rev. February 20, 2008 to remove reference to LI-80S in 11.27.b.

SECTION 12
PLANNED RESIDENTIAL CONSERVATION DEVELOPMENT

12.1 General. The regulations which follow establish the procedures, standards and conditions for establishment of "Planned Residential Conservation Developments" (PRCD) in the MFR-80, MFR-40, RU-80, and RU-40 Districts. [From former Section 36.1, Amended Effective 3-7-08]

12.2 Definitions. The following terms for purposes of this Section 36 shall have the meanings specified as follows:

12.2.1 Planned Residential Conservation Development (hereinafter called "PRCD") means the development, maintenance and use, in compliance with the provisions of this Section and pursuant to a Special Permit granted by the Planning Commission, of an area of land (hereinafter called a "PRCD Area") in the Town as a single entity for Dwelling Units according to a plan which does not conform in one or more respects to the standards governing the size and dimensions of lots and the type of improvements that may be constructed thereon as provided for in other sections of these Regulations.

12.2.2 Net Buildable Area means the number of square feet of ground area within the perimeter of the land covered by a PRCD determined by the Planning Commission pursuant to the provisions of Paragraph 12.8.2. of this Section to be suitable for use as a building site.

12.2.3 Underlying Zoning District means the zoning district classification shown on the Zoning Map for the land or for segments of the land within the PRCD area.

[From former Section 36.2, Amended Effective 3-7-08]

12.3 Objectives. The purpose of this Section is to permit a PRCD providing Dwelling Units in detached, semi-detached or attached structures (or a combination thereof) not more than 35 feet in height located on a tract of land having the capability of supporting such structures and of achieving the following objectives in a mode consistent with the Plan of Conservation and Development:

12.3.1 The creation of common open space for recreation or visual benefits or both.

12.3.2 The location of such units in an imaginative and not stereotype manner in harmony with natural site features and so as to promote the preservation of agricultural, forest, conservation and coastal resources and the avoidance of an adverse impact on water resources and other features of the natural environment.

12.3.3 The achievement of architecture and site development of design merit enhancing the appearance and beauty of the Town.

- 12.3.4 The creation of a building and site layout contributing to the convenience of residential living and having a relationship to adjoining properties and neighborhoods which is harmonious with their character and serves to protect their values.
- 12.3.5 The establishment of PRCD structures in districts where authorized, each limited to a single detached dwelling for one (1) family except in Multi-Family Districts, where structures containing up to, but not more than, three (3) Dwelling Units may be permitted subject to the provisions of this Section.
- 12.3.6 The fostering of a method of land development permitting a variation in lot lines and the reduction of lot area, lot widths, setbacks (front, side and rear) and building coverage restrictions without increasing the number of units that could be legally constructed on a particular tract of land under these Regulations as read without this Section 36 and taking into account i) the Underlying Zoning District or Districts wherein such tract lines, ii) the Subdivision Regulations, and iii) any and all other regulations affecting the PRCD tract.

[From former Section 36.3, Renumbered but not revised effective 3-7-08]

12.4 Special Permit. No PRCD shall be built or its Dwelling Units occupied unless its construction has been approved by the Planning Commission as evidenced by the granting of a Special Permit. To be eligible for such approval, a proposed PRCD shall a) meet the objectives specified in Section 12.3. and b) comply with all of the requirements, standards, criteria and conditions set forth in this Section for such a project. [From former Section 36.4, Renumbered but not revised effective 3-7-08]

12.5 Permitted Location of PRCDs. PRCDs may be constructed only within the boundaries of the following classes of Underlying Zoning Districts:

The following Residence Districts: RU-80 and RU-40

Multi-Family Residence Districts: MFR-80 and MFR-40

[From former Section 36.5 Amended Effective 3-7-08]

12.6. Permitted Uses Within PRCD Areas. PRCD Areas shall be used only for the following purposes:

12.6.1 Residential use, including a PRCD designated for Non-Profit Elderly or Subsidized Elderly Housing.

12.6.2 Accessory uses and structures customary with and incidental to residential use, including a private garage for each Dwelling Unit, but excluding the following: (Amended Effective April 3, 1995)

- a. buildings for home occupations; and
- b. storage of commercial vehicles other than one (1) commercial vehicle of not more than 7,500 pounds gross vehicle weight for each Dwelling Unit.

12.6.3 The construction, maintenance and use of supporting facilities approved by the Planning Commission of the following types designed to serve the residents of the PRCD:

- a. recreational facilities for residents of the PRCD; and
- b. facilities providing community services such as meeting rooms, administrative office space for PRCD associations, storage space for recreational equipment, trash removal facilities, and school bus pickup shelters.
- c. the construction of fire ponds for public safety, recreational use, and wildlife habitat;
- d. trails and walkways as an integral part of the overall design of the PRCD.

It is the intent of this Paragraph to permit recreational and service facilities which do not adversely affect neighboring properties to the extent required to meet the needs of the particular PRCD being proposed based on its location, overall size and ultimate number of residents.

[From former Section 36.6, Renumbered but not revised effective 3-7-08]

12.7 Types of Dwellings Allowed Within PRCD. The following types of Dwelling Units are permitted within PRCDs:

12.7.1 Within Underlying RU-80 and RU-40 Districts, each separate and detached PRCD building providing residential living space shall contain only one (1) Dwelling Unit, shall be a separate structure detached from any other dwelling structure, and shall not exceed 35 feet in height.

12.7.2 Within Underlying MFR-80 and MFR-40 Districts, each separate and detached PRCD building providing residential living space may contain up to but not more than three (3) Dwelling Units. In the case of attached or semi-detached PRCD buildings providing residential living space, the total number of Dwelling Units in each structure composed of such attached or semi-detached buildings shall likewise be limited to three (3) Dwelling Units. All such separate and detached, attached, and semi-detached buildings shall not exceed 35 feet in height. The placement of multi-family dwellings in the Underlying Zoning Districts listed at the beginning of this paragraph shall be subject to the restriction imposed by

Paragraph 11.28.3 of these Regulations that no multi-family district shall contain more than one (1) multiple dwelling project.

[From former Section 36.7, Amended Effective 3-7-08]

12.8 Area Requirements. A proposed PRCD shall conform to the following area requirements:

12.8.1 A PRCD shall be located on a single tract of contiguous, predominantly undeveloped land of not less than 20 acres, provided, however, that the Planning Commission may, if it deems the location and terrain suitable and does not find that there are any factors making such use inappropriate for the neighborhood, permit a PRCD to be built upon a parcel of at least 10 acres situated in an Underlying RU-80 Zoning District.

12.8.2 A PRCD tract shall contain a Net Buildable Area determined by the Planning Commission as being not less than 25% and not more than 75% of the total area of such tract. In determining Net Buildable Area, the Planning Commission shall exclude i) water bodies, both inland and tidal; wetlands, both inland and tidal; and special flood hazard areas; ii) all planned and existing paved and graveled areas; iii) ledge outcrops; iv) land having topography exceeding a 30% slope in grade as measured in 40-foot increments; v) landfill areas and former dumps (including stump dumps unless the stumps and other material so disposed of have been thoroughly removed); and vi) any land which if included would result in a Net Buildable Area larger than 75% of the total PRCD tract. The following sources shall be availed of by the Planning Commission in applying the provisions of this paragraph:

- a. Soil Survey of New London County, Connecticut, U.S. Soils Conservation Service, U.S. Department of Agriculture; as amended;
- b. Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency;
- c. Tidal Wetlands Maps prepared by the Connecticut Department of Environmental Protection;
- d. Old Lyme Inland Wetlands Map;
- e. Maps and data prepared by Coastal Area Management and the Connecticut River Gateway Commission; and
- f. Other sources which reveal the environmental characteristics of the proposed site.

[From former Section 36.8, Amended Effective 3-7-08]

12.9 Density. Eligible density of Dwelling Units shall be based on the number of Dwelling Units that could feasibly be constructed in a conventional subdivision under the applicable provisions of these Regulations for the Underlying Zoning District, which shall be determined by the Planning Commission in accordance with Section 12.9.4.b below.

[From former Section 36.9.2.a, Amended Effective 3-7-08]

12.9.1 RESERVED

12.9.2 RESERVED

12.9.3 Application of Provisions. Irrespective of the number of dwelling or Dwelling Units allowed in any PRCD, each lot containing a PRCD structure providing residential living space shall conform to the requirements set forth in Paragraph 12.11.1. of this Section, including, but not limited to, minimum lot area and minimum lot area per Dwelling Unit. [From former Section 36.9.3, Amended Effective 3-7-08]

12.9.4 Alternative Conceptual Site Plans – Preliminary and Formal Submissions. Submission of conceptual and alternative plans is recommended and required as follows:

- a. It is recommended that before submitting a formal application for a PRCD Special Permit the applicant prepare and present to the Planning Commission for informal review at least two (2) alternative conceptual site plans. One plan shall show the proposed PRCD project and at least one shall show how the same land might be developed as a standard subdivision under the Subdivision Regulations without use of a PRCD Special Permit. These conceptual plans should show the lots that can reasonably be created on the tract, the location of proposed roads complying with Town ordinance, regulations and standards, and the proposed location of all open space areas. The purpose of this informal review is to provide guidance to the applicant on the best approach to meet the objectives of the Subdivision Regulations and this Section 12. Preliminary plans have no official status, and an opinion expressed by the Planning Commission that a conceptual plan appears to be feasible in no way implies approval of a formal plan.
- b. As part of the formal application, the applicant shall submit alternative plans as described in Paragraph 12.9.4a. above. The Planning Commission shall have the right to verify whether the building lots shown on the standard subdivision plan can in fact be legally and feasibly used for construction of buildings. For purposes of determining the suitability of the lots so shown for the installation of subsurface sewage disposal

systems, the Planning Commission may require the applicant to make soil tests and submit the results of such tests to the Commission. The number of Dwelling Units that may be permitted within the boundaries of a proposed PRCD shall be limited to the number of such units that can reasonably be built on the applicant's tract pursuant to a standard subdivision as shown on the conceptual plan for that type of development after the Planning Commission shall have eliminated any lots it finds to be unsuitable for building purposes.

[From former Section 36.9.4, Amended Effective 3-7-08]

12.10 Design Standards of General Application. In addition to the standards of Sections 13A and 13B of these Regulations, the following standards are of general application to PRCD projects:

12.10.1 Implementation of Objectives. Each PRCD shall have a design which conforms to and implements the objectives set forth in Paragraph 12.3 of this Section.

12.10.2 Provision for Open Space. The preservation or creation of open space shall be accomplished by a unified design which:

- a. protects flood plains, inland and tidal wetlands, watercourses, ponds, future public water groundwater sources, steep slopes, and the coastal resources identified in Section 22a-93(7) of the Connecticut General Statutes and preserves, where practicable, unusual rock formations and tree stands;
- b. preserves sites of historic, archeological or scenic value;
- c. promotes the open space programs of the Town Plan, the Connecticut River Gateway Commission, the Open Space Plan of 1997, as amended, and plans of private organizations which are acceptable to the Planning Commission; and
- d. fosters opportunities for formal and informal recreational activities.

12.10.3 Site Layout and Architecture. Site layout and architectural design shall take advantage of topography, furnish visual and acoustic privacy between Dwelling Units and provide for landscaping of all areas disturbed by the project. Consistency of scale and architectural design throughout the various structures of the PRCD shall be maintained.

[From former Section 36.10, Amended Effective 3-7-08]

12.11 Specific Design Criteria. The following specific design criteria are applicable to PRCD projects:

12.11.1L ot Size, etc. Unless the entire PRCD is developed pursuant to the Common Interest Ownership Act (Conn. Gen. Stat. 47-200 et seq.) (8/1/97), each PRCD structure providing residential living space (whether separate and detached from any other dwelling structure or composed of attached or semi-detached buildings containing separate Dwelling Units) shall be situated on a separate lot. In approving a PRCD plan, the Planning Commission, if it determines that the total plan complies with the spirit and intent of this Section, may reduce to the extent it deems advisable the requirements under these Regulations pertaining to minimum lot area, minimum dimension of square on the lot, minimum lot area per Dwelling Unit, minimum setbacks, and maximum allowable building coverage percentage, applicable to the Underlying Zoning District or Districts wherein the proposed PRCD buildings are to be located insofar as they relate to such structures, provided, however, that such requirements shall not be reduced below those indicated in the following table for structures providing residential living space located in the Underlying Zoning Districts listed in the left column:

Underlying Zoning District	Min.* Lot Area Square Feet	Minimum Dimension Of Square on Lot	Min. Lot Area Per Dwelling Unit Sq. Feet	Minimum Setback From Street Line	Minimum Setback From Side Property Line	Minimum Setback From Rear Property Line	Maximum Bldg. Coverage of Lot
R-80, R-40, RU-80, RU-40	30,000	100'	30,000	30'	20'	35'	15%
MFR-80, MFR-40, FMRU-80, MFRU-40	40,000 30,000**	100'	20,000 10,000**	30'	20'	35'	15%

* All new building lots created after June 15, 1990, shall comply with the requirements of Paragraph 7.2.4. establishing a Minimum

[From former Section 36.11, Amended Effective 3-7-08]

If a PRCD is developed pursuant to the Common Interest Ownership Act on a single lot, the PRCD shall comply with the spirit and intent of this section and the requirements set forth in the

table below as well as other applicable requirements hereunder. [Amended effective 8/1/97 and 3-7-08]

Underlying Zoning District	Min. * Lot Area Square Feet	Density	Min. Setback from Interior Property Line	Minimum Setback From Interior Street Line	Minimum Distance Between Buildings	Maximum Building Coverage of Lot	Minimum Building Area of Cluster
R-80, R-40, RU-80, RU-40	Section 12.3	Section 12.9	100'	30'	40'	15%	5 acres

12.11.2 [Reserved.]

12.11.3 Other Design Requirements: The following design requirements are also applicable to PRCDs:

- a. No Building within a PRCD Parcel shall be located within 100 feet of the boundary of I) any inland or tidal wetland, ii) any electrical or gas transmission line easement, or iii) the PRCD Parcel on which it is situated, nor shall such a structure be located within 200 feet of any single-family dwelling located outside such PRCD tract.
- b. The minimum distance between detached Dwelling Buildings shall not be less than 40 feet.
- c. PRCD Dwelling Buildings each of which is located within 200 feet of another such Dwelling Building shall be deemed to comprise a cluster of such Buildings. Any such cluster shall contain no more than 10 Dwelling Buildings, and shall be located at least 200 feet from any other such cluster within the PRCD as measured in a straight line between the exteriors of the Dwelling Buildings in neighboring clusters which are located the closest to each other.
- d. Each group of Building lots containing a cluster of up to 10 Dwelling Buildings, each of which is located within 200

feet of another such structure, shall be surrounded on all sides by a strip of land which measures 100 feet or more in width throughout and does not constitute part of any building Lot, provided, however, that the presence of such a strip shall not be required on any such side marked by a Lot line coinciding with a boundary of the PRCD tract. Any such strip of land may be used for roads, sidewalks, or other types of installations which would be part of the common facilities serving the residents of the PRCD.

- e. The architectural designs of Buildings and other Structures, including the building materials, color and exterior elevations, shall be of such character as to harmonize with the neighborhood, to accomplish a transition in character between areas of unlike character, to protect and enhance property values in the neighborhood, and to preserve and enhance the appearance and beauty of the community.

12.11.4 Design Requirements Specific to Non-Profit or Subsidized Elderly Housing in a PRCD:

- a. Each Dwelling Unit shall be occupied by no more than two (2) persons, at least one of whom is either 62 years of age or older.
- b. Each Dwelling Unit shall contain only one bedroom and not more than 800 square feet of enclosed floor space, including the space used for halls, stairways, foyers, closets and bathrooms, but excluding covered porches and other roof portions, basements, and common areas within the structure. Typical floor plans shall be provided as part of the PRCD submission.
- c. The multiple Dwelling Unit may include accessory community rooms and facilities for the use of the occupants of the multiple dwellings, as well as utility and maintenance buildings and facilities necessary for support of the multiple dwellings on the lot.
- d. Enclosed garages are not required. If no garages are included, one and one-half (1 ½) paved Off-Street Parking spaces shall be provided for each Dwelling Unit.
- e. The storage space requirements of paragraph 11.28.9 are not required.

- f. The water supply requirement of Paragraph 11.28.11 may be reduced to 160 gallons per day under adequate pressure to each Dwelling Unit.
- g. A deed restriction requiring said Dwelling Unit to be limited to one bedroom and no more than two occupants, as provided in a. and b. above, and used for Subsidized Elderly Housing in perpetuity shall be recorded on the Land Records. Such deed restriction shall be subject to the review and approval of the Planning Commission's legal counsel prior to filing of the Special Permit or the deed restriction.
- h. For Subsidized Elderly Housing in a PRCD, the boundary setback may be reduced to no less than 30 feet with the approval of the Planning Commission when it determines that such reduction would result in a development plan which better meets the specific needs of future elderly residents while preserving the intent and purpose of the PRCD regulations.

[Preceding From former Section 36.11, Amended Effective 3-7-08]

12.12 Authority to Increase Setbacks or Require Screening. For the purpose of ensuring privacy for dwellings adjoining the PRCD tract, the Planning Commission in approving a PRCD plan is hereby authorized to increase setback distances beyond those provided for in these Regulations or to require natural screening, but such increased setback or screening shall no exceed 100 feet in depth. [From former Section 36.12, renumbered but not revised effective 3-7-08].

12.13 Zoning and Subdivision Regulations – General Applicability.

12.13.1 Zoning Regulations. All of the other Sections of these Regulations are applicable to a PRCD except insofar as the Planning Commission, pursuant to express authority granted it in this Section 12, may modify, reduce or relax their requirements in approving a proposed PRCD plan. Particular attention is called to the following provisions of these Regulations: Section 11.28, Special Standards – Multiple Dwellings; Paragraph 13B.5, Action on Special Permit Applications, Section 13 – Site Development Plans and Section 8.2., Minimum Floor Area – Dwelling Unit.

12.13.2 Subdivision Regulations. The Subdivision Regulations shall apply to a proposed PRCD to the same extent as to a proposed subdivision except insofar as express authority is granted in this Section to the Planning Commission to approve a proposed PRCD which does not in certain

respects conform to the requirements, standards and criteria set forth in the Subdivision Regulations.

- 12.13.3 Possible Conflicts. If the requirements of this Section 12 are in conflict with other Sections of these Regulations, the requirements of this Section shall prevail. In the event of a conflict between any provision of these Regulations and any provision of the Subdivision Regulations, these Regulations shall take priority as respects a PRCD.

[Preceding From former Section 36.13, renumbered but not revised effective 3-7-08]

- 12.14 Open Space. Land to be kept as open space, including but not limited to land to be used for parks, playgrounds and recreation areas, shall be provided and reserved in each PRCD in conformity with Section 5.10 of the Subdivision Regulations except that i) the quantity of land to be devoted to such purpose shall be as stated below, and ii) at least 25% of the open space land shall be part of the Net Buildable Area within the PRCD tract as determined by the Planning Commission pursuant to the provisions of paragraph 12.8.2. The Planning Commission shall require that a land area be set aside for open space equal to or greater than a) 40% of the entire area covered by a PRCD located in one or more underlying Zoning Districts classified as RU-80 or MFR-80 and b) 30% of the entire area covered by a PRCD located in one or more Underlying Zoning Districts classified as RU-40 or MFR-40. The required amount of land area to be devoted to open space for a PRCD located partially in one or more Underlying Zoning Districts listed in the former group and partially in one or more Underlying Zoning Districts listed in the latter group shall be computed separately for the PRCD area located in each of the foregoing two (2) groups of Underlying Zoning Districts and the required amounts of open space land areas so obtained added together to determine the total quantity of land area within the boundaries of the PRCD to be set aside for open space. [From former Section 36.14, revised effective 3-7-08]

12.15 Access, Circulation, Streets and Parking.

- 12.15.1 Access. The PRCD area shall be served from, and have access to, an accepted, improved Town road or State highway which provides adequate access to other sections of the Town. Ease of entrance to, and exit from, the development with minimum impact on normal traffic flow shall be of prime importance.
- 12.15.2 Circulation. Interior streets and driveways shall be designed to eliminate through traffic, reduce traffic speeds, and provide for adequate circulation within the PRCD and to its facilities and open space. Walkways, courts and paths shall provide pedestrian access to and between residential structures, supporting facilities and community open space and shall be separated from vehicular traffic wherever reasonably possible.

12.15.3 Interior Streets. All interior streets and roads within a PRCD tract shall be either public streets planned and designed in accordance with the "Design and Construction Standards of the Town of Old Lyme, Connecticut", as amended, or private roads complying with the requirements of Sections 5.1.3. through 5.1.7. of the Subdivision Regulations pertaining to streets within a subdivision, provided, however, that a private road providing access to more than 30 Dwelling Units shall be surfaced with bituminous concrete or other suitable hard surface material acceptable to the Planning Commission. The Planning Commission in approving a proposed PRCD may require that there be installed in conjunction with any street or road in the PRCD a foot path running parallel thereto and located from six (6) to 10 feet from the edge of the pavement and that deciduous shade trees be planted at intervals of from 50 to 60 feet wherever feasible in the area between the street or road and the footpath. Any permitted cul-de-sac shall have an open, unpaved planted area in its center.

12.15.4 Parking. Off-Street Parking spaces shall be provided at the rate of not less than 1.5 nor more than 3.5 spaces per Dwelling Unit, subject to the limitation that no lot in an Underlying RU-80 or RU-40 Zoning District shall contain more than two (2) such parking spaces per Dwelling Unit which are located outside an enclosed garage. Parking may be provided beneath Dwelling Units, in separate parking garages, or in open parking areas. For permitted supporting facility uses, Off-Street Parking shall be provided at a minimum of one (1) space for each 200 square feet of Public ground floor area and one (1) space for each 400 square feet of Public second floor area. Parking facilities shall be designed as an integral part of the site development design and arranged to avoid undue concentration of parking facilities and shall be screened through ample use of trees, shrubs, hedges or walls. Access to Dwelling Units from parking facilities shall be by walkway or within structures.

[Preceding From former Section 36.15, revised effective 3-7-08]

12.16 Sewage Disposal and Water Supply.

12.16.1 Sewage Disposal. Each PRCD Building or parcel providing residential living space shall be served by an on-site sub-surface disposal system. The design, construction and program for the operation of such sewage disposal system shall meet the requirements of the Connecticut Public Health Code, all other applicable laws and regulations, and any other requirements deemed necessary by the Planning Commission and the Town Sanitarian to protect public health and safety. If the applicant proposes to utilize a community sewage system, as defined in Connecticut General Statutes 7-245, the applicant shall submit a report from the Old Lyme Water Pollution Control Authority indicating that all requirements of Connecticut General Statutes Section 7-246f have been satisfied; and

absent such report, no development utilizing community sewerage disposal system shall be approved by the Commission. Said report shall address, among other things: easements of rights of way in favor of the Town which assure the Authority of the right to access the community sewerage system when and if necessary to perform inspections, maintenance, repairs, or other work necessary to assure the continued operation of the system; authority to compel the performance of any maintenance, repairs, or replacements deemed required by the Authority; creation by the applicant and control by Authority of sufficient cash reserves to assure that any system is capable of normal repair, maintenance, and long-term capital replacement or repair; replenishment of such capital reserves following the expenditures from such fund; authority to enforce repair or maintenance orders, to perform such work by the Authority, if required, and the authority to obtain reimbursement for any costs incurred by the Authority, including, but not limited to, consulting and legal fees; provision for assignment of the obligations imposed by any such agreement and continuity of that obligation upon the assignee(s); maximum annual assessments to be imposed upon unit owners to insure adequate funds for routine maintenance and to provide capital reserves as recommended by the Authority's consulting engineer; authority to adjust and, if necessary, require an increase in any such minimum annual assessment. [From former Section 36.16.1, Revised effective 8/1/97, renumbered only effective 3-7-08.]

12.16.2 Water Supply. Each PRCD building providing residential living space shall have a potable water supply on a continuous long-term basis meeting the requirements of the Connecticut Public Health Code, all other applicable laws and regulations, and any other requirements deemed necessary by the Planning Commission and the Town Sanitarian to ensure the public health and safety. Act. In accordance with Section 8-25a of the Connecticut General Statutes, as amended by Public Act 84-330, any PRCD development providing water by means of a "water company," as that term is defined in C.G.S. Section 16-262m(a), shall provide to the Commission a certified copy of the Certificate of Public Convenience and Necessity issued for the subdivision by the Connecticut Department of Public Utility Control; or in the alternative, a certified copy of the resolution from the Board of Selectmen waiving such Certificate and agreeing that the Town of Old Lyme shall 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 customers. [From former Section 36.16.2, Revised effective 8/1/97, renumbered only effective 3-7-08.]

12.17 Lighting. All outdoor illumination facilities shall be designed to prevent light from intruding directly into Dwelling Units, and no exterior lighting facility shall be placed so as to shine directly outside the PRCD area. Street lighting shall be designed to complement the overall design concept and shall be limited in intensity to that required

for vehicular and pedestrian safety. All lighting shall be in compliance with “Dark Sky” specifications. [From former Section 36.17, renumbered only effective 3-7-08.]

12.18 Signs. Sign designs shall be compatible with the PRCD design concept and shall be approved by the Planning Commission. A sign complying with the restrictions applicable to land development signs set forth in Section 19. of these Regulations may be constructed at the entrance road to a PRCD tract. [From former Section 36.18, renumbered only effective 3-7-08.]

12.19 Management of PRCDs.

12.19.1 General. Each PRCD shall be established with suitable legal organization and arrangements for ownership and management of common properties and facilities, open space and utility systems, including provision for financing and maintenance. The management system shall be established prior to the filing of the Special Permit on the Land Records; shall be reviewed and approved by the Planning Commission’s legal counsel; and shall support the criteria for the issuance of a Special Permit under this Section.

12.19.2 Method of Ownership: Dwelling Units may be for sale or rental, in individual, public, cooperative, or condominium ownership. Documentation as to the organization and incorporation of applicable ownership associations shall be submitted to the Planning Commission for approval. All open space and supporting facilities of the type described in Section 12.6.3. shall be owned in fee by an association of lot owners incorporated under Connecticut law, with provision in form acceptable to the Planning Commission for maintenance, liability, financing, and rights of access and use by residents of the PRCD, except as certain open spaces may be conveyed to the Town or a nonprofit corporation approved by the Planning Commission or as facilities may be conveyed to the Town. Any open space to be retained by an association of lot owners shall be subject to a conservation easement in favor of the Town of Old Lyme, which easement shall contain provisions granting the Town the right to inspection the open space from time to time, with reasonable notice, to insure compliance with the terms of the conservation easement. All documentation of ownership association shall be reviewed and approved by the Planning Commission’s legal counsel prior to the filing of the Special Permit on the Land Records.

[From former Section 36.19, Revised effective 3-7-08]

12.20 Authorization Procedures. Every proposed PRCD plan shall be brought before the Planning Commission for its approval. The Planning Commission shall hold a public hearing before granting or denying the proposed PRCD Special Permit in accordance

with these Regulations. Appropriate conditions and safeguards in addition to those provided by these Regulations may be specified by the Planning Commission to promote public health, safety, convenience, welfare and the property values of surrounding areas. The application requirements, standards and procedures shall be in accordance with Section 13B – Special Permits and Planning Commission requirements for approval of a subdivision. [From former Section 36.20, renumbered only effective 3-7-08]

Rev. February 20, 2008