

## **Chapter 177**

### **ZONING**

#### **GENERAL REFERENCES**

**Hearing procedure for citations — See Ch. 1, § 1-10.**

**Housing Partnership — See Ch. 20.**

**Land use and planning — See Ch. 25.**

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ARTICLE I  
**General Provisions**

**§ 177-1. Statement of purpose.**

The purpose of this chapter is to guide the growth and development of the Town of West Hartford in accordance with a Comprehensive Plan, so as to promote beneficial and convenient relationships among residential, commercial, industrial and public areas within the Town, considering the suitability of each area for such uses, as indicated by existing conditions, trends in population and mode of living, and future needs for various types of development, and to achieve the purposes more particularly described as follows:

- A. Provide for adequate light, air and privacy.
- B. Prevent the overcrowding of land and undue concentration of population.
- C. Provide for the beneficial circulation of traffic throughout the Town, having particular regard to the avoidance or lessening of congestion in the streets.
- D. Secure safety from fire, panic, flood and other dangers.
- E. Protect and conserve the existing or planned character of all parts of the Town and thereby aid in maintaining their stability and value and to encourage the orderly and beneficial development of all parts of the Town.
- F. Provide a guide for public policy and action that will facilitate economical provisions of public facilities and services and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the Town.
- G. Minimize conflicts among uses of land and buildings and to bring about the gradual conformity of uses of land and buildings throughout the Town to the Comprehensive Plan herein set forth. **[Added 10-28-1969]**

**§ 177-2. Definitions and word usage.**

- A. Word usage. All words used in the present tense include the future tense; all words used in the singular include the plural, and all words used in the plural include the singular, unless the natural construction of the wording indicates otherwise. Unless the context plainly requires a different interpretation or would lead to unworkable results, terms which are used in this chapter but which are not defined herein shall be construed in a manner consistent with the provisions of Connecticut law including, but not limited to, the State Building Code as that code may be amended from time to time. **[Amended 9-24-2013; 6-24-2014]**

- B. Definitions. For the purpose of this chapter, certain words and terms used herein are defined as follows:

ABUT OR ABUTTING — Having a common boundary.

ADJACENT — Near; close by. The term "adjacent" includes the meaning of the terms "abut" and "adjoin," as defined; however, it is not intended to imply any definite distance or boundary.

**ADJOIN OR ADJOINING** — Having a common boundary, with or without the intervention of a street. Thus the term "adjoin" includes the meaning of the term "abut," as defined.

**ADULT DAY-CARE CENTER** — A non-residential facility in which custodial care is provided for more than 12 adults, related or unrelated, who are in need of supervision and/or assistance with routine daily functions but who are not in need of regular medical attention, where the adults are receiving said care on a regular and recurring basis during a part of the twelve-hour period between 7:00 a.m. and 7:00 p.m., for not less than three and not more than 12 hours. Such a facility shall comply with all state and local codes and/or ordinances regarding zoning, building, fire, health and housing. **[Added 10-24-2006]**

**ADULT DAY-CARE HOME** — A nonresidential facility consisting of a private family home in which custodial care is provided for not more than six adults, related or unrelated, who are in need of supervision and/or assistance with routine daily functions but who are not in need of regular medical attention, where the adults are receiving said care on a regular and recurring basis during a part of the twelve-hour period between 7:00 a.m. and 7:00 p.m., for not less than three and not more than 12 hours. Such a facility shall comply with all state and local codes and/or ordinances regarding zoning, building, fire, health and housing. **[Added 10-24-2006]**

**ADULT GROUP DAY-CARE FACILITY** — A nonresidential facility in which custodial care is provided for not less than seven nor more than 12 adults, related or unrelated, who are in need of supervision and/or assistance with routine daily functions but who are not in need of regular medical attention, where the adults are receiving said care on a regular recurring basis during a part of the twelve-hour period between 7:00 a.m. and 7:00 p.m., for not less than three and not more than 12 hours. Such a facility shall comply with all state and local codes and/or ordinances regarding zoning, building, fire, health and housing. **[Added 10-24-2006]**

**AMUSEMENT ARCADE** — A building or room, the main use of which is the storage and operation of amusement devices. **[Added 5-25-1982]**

**AMUSEMENT DEVICE** — Any mechanical, electric or electronic device used or designed to be operated for entertainment or as a game by the insertion of a piece of money, coin, token or other article or by paying money to have it activated. For purposes of this definition, each station of a device which provides multiple stations, each of which allows separate games to be played, shall be considered one amusement device. This definition does not include: **[Added 5-25-1982]**

- (1) A jukebox.
- (2) Rides.
- (3) Bowling alleys.
- (4) A pool table.
- (5) Any device maintained within a residence for the use of the occupants thereof and their guests.
- (6) Any device, the possession or use of which is prohibited by law.

APARTMENT — A segregated portion of an apartment house, which apartment is provided with bathroom and toilet facilities and with kitchen facilities in a kitchen or kitchen alcove.

APARTMENT HOUSE — A building arranged, intended or designed to be occupied by three or more families living independently of each other and doing their cooking upon the premises or by three or more individuals or groups of individuals living independently but having a common heating system and a general dining room.

BOARDINGHOUSE — A dwelling occupied by three or fewer persons who are lodged with or without meals, in which there are provided such services as are incidental to its use as a residence for the occupants and for which compensation is paid, either directly or indirectly.

BUILDING — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING, ACCESSORY — A subordinate building, the use of which is customarily incidental to that of a main building on the same lot.

BUILDING COVERAGE — That percentage of total lot area covered by the combined area of all buildings on the lot. "Building coverage" is also known as "lot coverage."**[Amended 9-24-2013; 6-24-2014]**

BUILDING LINE — A line on a lot or parcel of land establishing the minimum setback for structures from a street line. Building line may or may not be coterminous with a street line. In the case of a rear lot, the building line shall be established parallel to the front lot line.**[Amended 8-22-1989]**

BUILDING, MAIN — A building in which is conducted the main or principal use of the lot on which said building is situated.

BUILDING PERMIT — A permit issued by the Building Inspector upon application, certifying that a proposed land use or structure, or any extension or structural alteration thereof, conforms with the requirements of this chapter and all other regulations or codes which are specified in the building permit.**[Amended 5-10-2005]**

CAR WASH FACILITY — A commercial establishment for the washing of vehicles, whether performed by automated or manual means.**[Added 9-14-2004]**

CHILD DAY-CARE CENTER — A facility as defined pursuant to Subsection (a)(1) of C.G.S. § 19a-77, as amended, which offers or provides a program of supplementary care to more than 12 related or unrelated children outside of their own homes on a regular basis for a part of the 24 hours in one or more days in the week, which is licensed by the State of Connecticut pursuant C.G.S. § 19a-80, as may be amended, and which complies with all state and local zoning, building, fire and housing code requirements.**[Added 4-21-1987; amended 6-28-1994]**

CLUB — An organization catering exclusively to members and their guests, provided that the purpose of the club is not conducted primarily for gain and that there are not conducted any commercial activities, except as required generally for the membership and purposes of this club.

COMMERCIAL MOTOR VEHICLE — A commercial motor vehicle shall include any vehicle registered for the transportation of merchandise or freight or of employees of the registrant, which is propelled or drawn by any power other than muscular, except such as

run only on rails or tracks. Such registrations include but are not limited to commercial, combination, repair, transport, heavy-duty trailer or construction equipment, public service and/or commercial truck, tractor and/or semitrailer. **[Added 1-13-1981]**

CONVALESCENT HOME — A home for the aged or any establishment, other than hospitals, where three or more persons suffering from or afflicted with or convalescing from any infirmity, disease or ailment are habitually kept, boarded or housed for remuneration. **[Added 4-27-1971]**

COURT — A horizontal open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by opposite walls of one or more buildings.

DRIVEWAY — Any vehicular travelway serving not more than two contiguous lots. **[Added 8-22-1989]**

DWELLING — A building designed and used exclusively as living quarters for one or more families. The terms "dwelling," "attached dwelling," "detached dwelling" and "dwelling unit" shall not be deemed to include hotel, motel, boarding- or rooming house, convalescent or nursing home, mobile home trailer, tourist home or tent. In the case of buildings having two or more portions divided by party walls forming a complete separation above the basement, each such portion shall be considered to be a separate dwelling.

DWELLING, ATTACHED — A dwelling having any portion of a wall in common with another dwelling.

DWELLING, DETACHED — A dwelling with open spaces on all sides.

DWELLING, MULTIFAMILY — A dwelling containing more than one dwelling unit.

DWELLING, ONE-FAMILY — A dwelling containing one dwelling unit only.

DWELLING UNIT — A dwelling or portion thereof providing complete housekeeping facilities for one family only.

FAMILY — Any number of individuals related by blood or legal adoption or by marriage, living and cooking together on the premises as a single housekeeping unit. Customary domestic servants or foster children are an adjunct to the term "family." However, when three or fewer individuals not so related do live and cook together on the premises as a single housekeeping unit, such individuals, exclusive of domestic servants, shall be considered a family. Four to six unrelated individuals functioning as a single housekeeping unit shall obtain a special use permit as set forth at item 1A of § 177-6C. **[Added 10-13-1970; amended 4-12-1977; 5-10-2005; 6-24-2013; 9-24-2014]**

FAMILY DAY-CARE HOME — A facility as defined pursuant to Subsection (a)(3) of C.G.S. § 19a-77, as may be amended, which consists of a private family home caring for not more than six children, including the provider's own children not in school full time, where the children are cared for not fewer than three nor more than 12 hours during a twenty-four-hour period and where care is given on a regularly recurring basis and which has been licensed by the State of Connecticut pursuant to C.G.S. § 19a-87b, as amended. Such a facility shall be maintained as the operator's main residence and shall comply with all state and local codes and/or ordinances regarding zoning, building, fire, health and housing. **[Added 4-21-1987; amended 6-28-2004; 5-10-2005]**

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real

estate or improved real property, water and sanitary facilities, structures and their contents.[**Added 6-27-1978**]

**FLOOR AREA RATIO** — The ratio of the total gross area of all buildings on one lot to the total area of the lot. (The floor area ratio of a building of 4,000 square feet on a lot of 10,000 square feet will be expressed as "FAR equals 0.4.") Structured parking facilities located below the level from which the height of the building is measured shall be excluded from Floor Area Ratio calculations.[**Amended 9-24-2013; 6-24-2013**]

**FRONTAGE** — A one-dimensional line, measured at the front lot line.[**Added 8-22-1989**]

**GOLF COURSE RESTAURANT** — A restaurant, defined pursuant to this section of the Code, which is located on the same parcel of land as a golf course.[**Added 4-30-1985**]

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

**GROSS FLOOR AREA** — The sum of the horizontal area of all floors of a building, measured by exterior dimensions.

**GROUND COVER** — A medium used in a confined area to check or prohibit the growth of undesirable plant materials. Ground cover may consist of plants, such as pachysandra and myrtle, or of materials, such as white gravel, brick or stone pavings.

**GROUP-CARE FACILITY** — A supervised residence facility which houses not fewer than six persons who are handicapped, aged or disabled or in need of rehabilitation but are not acutely ill and are provided services to meet their needs. It does not include an institution as defined in C.G.S. § 19a-490 and required to be licensed pursuant to the provisions of C.G.S. § 19a-490 et seq.[**Added 3-11-1975; amended 6-25-1994**]

**GROUP DAY-CARE HOME** — A facility, as defined pursuant to Subsection (a)(2) of C.G.S. § 19a-77, as amended, which offers or provides a program of supplementary care to not fewer than seven nor more than 12 related or unrelated children on a regular basis for a part of the 24 hours in one or more days in the week, which is licensed by the State of Connecticut pursuant to C.G.S. § 19a-80, as may be amended, and which complies with all state and local zoning, building, fire and housing code requirements.[**Added 4-21-1987; amended 6-28-1994**]

**HANDICAPPED RAMP** — An inclined structure installed for the primary purpose of allowing ingress to and egress from a building by a disabled person and constructed in accordance with applicable ANSI standards for handicapped ramps.[**Added 9-27-1994**]

**HEDGE** — A hedge shall provide complete visual screening and consist of evergreens at least four feet in height at the time of planting, and it shall be maintained at a height of at least six feet.

**HEIGHT OF BUILDING** — The vertical distance to the level of the highest point of a flat roof or, if the roof is of any other shape, to the mean level between the eaves and the highest point of the roof, measured from the average level of the finished grade along the exterior walls of the building.

**HOME FOR THE AGED** — An establishment, other than a hospital, which furnishes, for remuneration, food, shelter, laundry and other nonmedical services to three or more persons over the age of 60 years.[**Added 4-27-1971**]

**HOME OCCUPATION** — An accessory use conducted within a dwelling unit by the person who occupies the dwelling unit as his or her principal residence, which use is clearly secondary to the use of the dwelling unit for living purposes. As used herein, the term "dwelling unit" shall be defined as the same building and unit of occupancy in which the person conducting the business resides. A home occupation may not be conducted in an accessory building or a unit of occupancy in a multifamily dwelling other than the unit in which the person conducting the home occupation resides. Home occupations shall comply with either the performance standards established in § 177-49C(1), as amended, or § 177-49C(4), as amended. **[Added 10-28-1969; amended 1-24-1995]**

**HOSPITAL** — Any establishment for the diagnosis, treatment or other care of human ailments.

**HOTEL** — A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where general kitchen and dining facilities are provided within the building or in an accessory building. The term "hotel" shall be deemed to include the term "motel." **[Amended 9-24-2013; 6-24-2014]**

**INTERMEDIATE-CARE FACILITY** — A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide but who, because of mental or physical conditions, require care and services which can be made available to them only through institutional facilities. **[Added 10-26-1976]**

**JUNKYARD** — Includes motor vehicle junk business and motor vehicle junkyard, as defined in the General Statutes of the State of Connecticut; any place of storage or deposit, whether in conjunction with a business or not, for two or more unregistered, inoperable, used motor vehicles; and any place of storage or deposit of used parts of motor vehicles and old metals, iron, glass, paper, cordage and other waste materials which, on any lot, have an aggregate bulk equal to one automobile. **[Added 1-13-1981]**

**KENNEL** — The keeping of three or more dogs over the age of six months.

**LANDSCAPING OR LANDSCAPED** — That an area shall be at least covered with grass or ground cover. Any additional planting is either specifically required by this chapter or left to the discretion of the property owner.

**LOT** — A parcel of land, not divided by streets, devoted or to be devoted to a particular use or occupied or to be occupied by a building and its accessory buildings together, and having adequate access so that a permit for a building or land use could be issued in accordance with this chapter. A lot may or may not be the land shown as a single lot on a duly recorded map.

**LOT AREA** — The total horizontal area within the lot lines, except that no portion of the lot which is less than 25 feet wide shall be counted as lot area, and, in the case of a rear lot, the private right-of-way leading to the lot shall not be counted as lot area.

**LOT DEPTH** — The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines. In determining the required depth of a lot, any portion of said lot which is in excess of the minimum lot area need not be included.

**LOT LINE** — The property lines bounding a lot as defined herein. In the case of a rear lot, the lot lines shall not include, for any purpose, the lines bounding the right-of-way

or the fee title area which is used to provide access to the lot from the street.[**Amended 8-22-1989**]

**LOT LINE, FRONT** — In the case of a lot abutting upon only one street, the line separating the lot from the street. In the case of a rear lot, the front lot line shall be designated as the longest lot line abutting the private driveway which provides access to the lot, and in no case shall this line be less than 40 feet in length. In the case of any other lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street lot line as the front lot line.[**Amended 8-22-1989**]

**LOT LINE, REAR** — The lot line which is generally opposite the front lot line; if the rear lot line is less than 10 feet in length or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than 10 feet long, lying wholly within the lot and farthest from the front line.

**LOT LINE REVISION** — An adjustment or reallocation of property between two or more lots or parcels of land which does not create a new lot or parcel of land and which is not subject to Chapter A184, Subdivision Regulations, of the Code of the Town of West Hartford.[**Added 7-25-1989**]

**LOT LINE, SIDE** — Any lot line which is not a front lot line or a rear lot line, as defined herein.

**LOT, REAR** — A lot on which the buildable area is located generally to the rear of other lots having access to the same street or streets as said lot and having access to the street via a private driveway of at least 12 feet in width if serving one lot or 18 feet in width if serving two lots. Such driveway may be laid upon property owned in fee simple by the owner of the rear lot or upon an easement or right-of-way provided for access and utility purposes, which property, easement or right-of-way shall be at least 18 feet where a twelve-foot driveway is required and 24 feet where an eighteen-foot driveway is required. The standards for minimum lot area per dwelling unit shall be 1 1/2 times that established for other lots in the same zone, and the standards for side yards shall be two times that established for other lots in the same zone. In addition to the findings required by § 177-42 of this chapter, the Town Plan and Zoning Commission shall, when reviewing an application for a special use permit for a rear lot, find that there is adequate drainage for the access driveway, as certified by the Director of the Department of Community Services.[**Amended 8-22-1989; 9-24-2013; 6-24-2014**]

**LOT SPLIT** — A division of an existing lot, whether developed or not, into two lots, unless such division is subject to Chapter A184, Subdivision Regulations, of the Code of the Town of West Hartford or requires a special use permit.[**Added 7-25-1989**]

**LOT WIDTH** — The horizontal distance, measured at right angles and in the center of the depth of the lot. "Average lot width" is the average horizontal distance between the side lot lines, measured at right angles to the depth of the lot. In determining the required width of the lot, any portion of the lot which is in excess of the minimum lot area need not be included. The required lot width shall not include any area of the driveway which is used to provide access to a rear lot from the street.[**Amended 8-22-1989; 9-24-2013; 6-24-2014**]

**MAIN BUILDING** — See "building, main."

**MAIN USE** — See "use, main."

**MEDICAL MARIJUANA DISPENSARY FACILITY** — A place of business where medical marijuana may be dispensed or sold at retail to qualifying patients and primary



caregivers and for which the Connecticut Department of Consumer Protection has issued a dispensary facility license under Public Act 12-155 and Sections 21a-408 of the Regulations of Connecticut State Agencies.[Added 6-24-2014]

**MEDICAL MARIJUANA PRODUCTION FACILITY** — A secure, indoor facility where the production of medical marijuana occurs and that is operated by a person to whom the Connecticut Department of Consumer Protection has issued a producer license under Public Act 12-155 and Sections 21a-408 of the Regulations of Connecticut State Agencies.[Added 6-24-2014]

**MONUMENT OR STATUE** — A permanent monument or statue commemorating a notable person, group or event deemed by the Council to be of significance to the community, excluding, however, any burial or sarcophagus.[Added 9-28-1976]

**MOTOR VEHICLE** — Any vehicle which is propelled or drawn by any power other than muscular, suitable for the conveyance, drawing or other transportation of persons or property, whether operated on wheels, runners, cushion of air between it and the surface or by any other means, except those used exclusively upon tracks.[Added 1-13-1981]

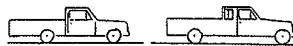
**NONCONFORMING USE** — A use of land or a structure which does not conform to the regulations of the use district in which it is located and which was a lawful use at the time this chapter or any amendment thereto became effective.

**NURSING HOME** — See "convalescent home."

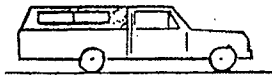
**OPPOSITE WALL** — For the purpose of defining the term "court," walls shall be deemed "opposite" wherever the projection of one wall falls on another wall.

**OWNER OF RECORD** — Wherever used in conjunction with a public hearing or public notice, the owner whose name is recorded in the street books of the Department of Assessment at the time when the mailing lists for said hearings and notices are prepared.

**PICKUP TRUCK** — A four-wheeled motor vehicle with a chassis length comparable to a passenger motor vehicle, which has an open body with low sides. When the body of the pickup truck is enclosed by a removable cap, the height of which does not exceed the height of the cab, it is within this definition. (See illustrations below.)[Added 7-14-1981]



**Pickup Truck With Cap**



**PLAN OF DEVELOPMENT** — The plan of development referred to in Chapter XIII, Sections 4 and 5, of the Town Charter, as adopted and amended.

**PLANT SALE** — The sale, by charitable and philanthropic organizations, of small plants, potted in a soil medium. "Plant sale" does not include the sale of Christmas trees, greens and decorations; and the sale of trees, shrubs and plants in containers over six inches in diameter; and the sale of sod.[Added 5-10-1988]

PORCH — An open, unenclosed extension from a structure, usually serving as part of the entrance; may be large enough for relaxation on outdoor furniture and most often has its own roof rather than a part of the main structure roof. **[Added 6-23-1998]**

PORTICO — An open colonnade space at the front of the building forming an entrance, with the roof supported on at least one side by columns. **[Added 6-23-1998]**

RESTAURANTS WITH OR WITHOUT ALCOHOLIC DRINK AND OTHER ESTABLISHMENTS SERVING FOOD AND NONALCOHOLIC DRINK — "Restaurant" means a space in a suitable and permanent building kept, used, maintained, advertised and held out to and known by the public as primarily a food-service establishment where hot meals are regularly served. If alcoholic drink is served in any restaurant, it shall be as an adjunct to the primary function of serving food and operate under a restaurant liquor permit as provided in C.G.S. § 30-22, as amended, and comply with all Liquor Control Commission regulations appertaining thereto. The sale of alcohol or spirits by the bottle to a patron or patrons shall be prohibited. Sales of wine or beer by the bottle to a patron or patrons shall be permitted pursuant to Town Ordinance or Chapter 545 of the Connecticut General Statutes. "Restaurant" also includes other establishments serving food and nonalcoholic drink in an enclosed structure, providing seats for its customers whether at a counter or at separate tables. Restaurants shall be open during regularly posted hours which are clearly marked and shall have no regular and recurring unusual barriers to entry such as cover charges or age restrictions. Except as provided in § 177-6C, Item 11 and Item 17, as amended by ordinance of June 25, 1991, outdoor service, drive-up, window-counter service and curb service is prohibited. Any type of service of food and drink intended for consumption on the premises outside of the enclosed structure is prohibited, except as provided in § 177-6C, Item 16. **[Added 6-24-1969; amended 6-24-1975; 4-30-1985; 6-25-1991; 6-13-1995; 4-11-2011]**

RETAIL FIREARM STORE — A space in a suitable building, with necessary licenses or permits pursuant to any requirements of state or federal law, used, maintained, advertised and/or held out to the public to be a place from which firearms, including but not limited to machine guns, rifles, shotguns, pistols, revolvers or other similar devices which are permitted to be sold at retail by state and federal law and which are capable of discharging by any force bullets, cartridges, balls or other projectiles or explosive devices, are sold. **[Added 6-9-1987]**

SCREENING FENCE OR SCREENING WALL — Devices for complete visual screening. They shall be at least six feet in height and 3/4 solid.

SIGN — Any device for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, including the devices displayed within three feet behind windows and visible from outside of the building. Merchandise or facsimile merchandise shall not be considered a sign.

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

SIGN, MOVABLE — Any sign used or intended to be used in different locations.

SIGN PERMIT — Same as a zoning permit. **[Amended 9-24-2013; 6-24-2014]**

STORY — That portion of a building which is between the surface of a floor and the surface of the next floor above or, in its absence, the next ceiling above. A basement shall be counted as a story if the ceiling is more than five feet above the level from which the height of the building is measured. In a structure with attic space located beneath a pitched

roof and serviced by a stairway, the attic space shall be considered to be a full story if the area of a plane established at a height of seven feet above the attic floor (or joists where the floor is unfinished) equals or exceeds more than 1/3 of the finished floor area of the story immediately below the attic. Attic spaces which do not meet the definition of a full story shall be deemed to be a half-story. **[Amended 9-24-2013; 6-24-2014]**

**STREET** — Any vehicular travelway, exclusive of driveways. An approved street is any street whose location has been approved by official action of the Plan and Zoning Commission. An accepted street is any street which has become public by virtue of official acceptance by the Town Council. **[Amended 8-22-1989; 9-24-2013; 6-24-2014]**

**STREET LINE** — A line separating a parcel of land from a street.

**STRUCTURE** — Anything constructed or erected, including a building, the use of which requires location on or under the ground or attachment to something having location on the ground.

**SUBSTANTIAL IMPROVEMENT** — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. **[Amended 6-27-1978]**

**TAG SALE (COMMONLY REFERRED TO AS "GARAGE SALE" OR "YARD SALE")** — The sale of used household or personal items, by the resident of the dwelling unit. "Tag sale" does not include the sale of items purchased or obtained for the purpose of resale. **[Added 10-22-1985]**

**TOWN DEVELOPMENT PLAN** — Same as "plan of development."

**TREES, FLOWERING** — Trees, such as dogwood, redbud or crabapple.

**TREES, LARGE** — Deciduous shade trees, such as sugar maple, red oak or London plane, and conifers, such as white pine, Austrian pine or Canadian hemlock. Three-fourths of the required large trees shall be at least 2 1/2 to three inches in caliper at the time of planting and 1/4 shall be at least four to 4 1/2 inches in caliper at the time of planting.

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

**USE, ACCESSORY** — A use customarily incidental and subordinate to a main use and located on the same lot with such main use.

**USE, MAIN** — The specific purpose for which land, water or a structure is designed, arranged or intended or for which it is or may be occupied or maintained.

**VAN** — A box-shaped four-wheeled motor vehicle designed to carry up to 15 passengers or to carry light merchandise or freight. A motor vehicle designed to permit an average-sized adult to stand upright inside it is not a van. Thus, motor vehicles, such as those

commonly called "walk-in vans" or "step-up vans," are not included within this definition. (See illustrations below.)[Added 7-14-1981]

#### Vans



#### Step-Up or Walk-In Vans



**VEHICLE-INTENSIVE BUSINESS** — A business, the primary purpose of which is to provide services to the public involving vehicles or mechanical equipment off the business premises, such as transport, hauling, common freight carriers or construction, but which involves the parking of said vehicles on the business premises during nonbusiness hours. Examples of such businesses include but are not limited to bus or other private commercial business vehicle fleet yards, such as taxicab companies, parcel delivery services or freight hauling companies, construction companies, refuse haulers and furniture moving companies. "Vehicle-intensive business" shall not include agencies limited to the rental of passenger automobiles or passenger vans but shall include enterprises solely in the business of renting or leasing commercial vehicles, such as trucks or trailers and/or other mechanical equipment.[Added 2-14-1989]

**VERANDA** — An open, unenclosed porch or portico along the front and side of a building; usually covered by a roof for protection from weather.[Added 6-23-1998]

**VERANDA LINE** — A line on a lot or parcel of land establishing the minimum setback for porches or verandas from the street line.[Added 6-23-1998]

**VISUAL SCREENING, COMPLETE** — A type of screening which affords a year-round effect and through which the screened object is obscured.

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

**WAITING POSITION** — A space in a line of approach nine feet wide by 20 feet long.[Added 10-28-1969]

**YARD** — An open space on the same lot with a structure, which lies between said structure and the nearest lot line and which is unoccupied except as may be specifically authorized in this chapter. In measuring a yard, as hereafter provided, the "line of structure" shall be deemed to mean a line parallel to the nearest lot line, drawn from a point of a structure nearest to such lot line. Such measurement shall be taken at a right angle from the line of the structure, as defined herein, to the nearest lot line.

**YARD, FRONT** — A yard extending across the full width and/or length of the lot and lying between the front lot line and the nearest line of a structure.

**YARD, REAR** — A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building.

**YARD, SIDE** — A yard between the side line of a lot and the nearest line of the building and extending from the front yard to the rear yard or, in the absence of either such yards, to the front or rear lot line as the case may be.

**ZONING PERMIT** — A permit issued upon application, certifying that a proposed land use, or any extension or alteration thereof, conforms to the requirements of this chapter.**[Added 3-11-1975; amended 5-10-2005]**

**ARTICLE II  
Establishment of Districts**

**§ 177-3. Types of districts; purposes. [Amended 10-28-1969; 4-27-1971; 11-15-1977; 2-27-1979; 11-14-1989; 2-13-1990; 11-10-1992; 8-14-2001; 7-23-2013; 5-13-2014]**

The following types of districts, as shown on the Zoning Map referred to in § 177-4 and the Zoning Map, Town of West Hartford, Connecticut, are hereby established for the purposes described generally below as part of the Comprehensive Plan for the Town of West Hartford:

A. The predominant character of the Town as it exists and as planned is one-family residential, but it is the intent that there be a variety of types of residential environments to meet the variety of needs and desires of the Town's residents and also to recognize the prevailing character of certain existing residential areas which fit into the Comprehensive Zoning Plan. The variety of residential characters is intended to be accomplished through a range of one-family district densities and standards, as well as by a limited amount of area set aside for multifamily residential structures.

(1) One-family residence districts.

(a) The purpose of the following types of one-family residence districts is to provide areas for those residents who desire individual dwelling structures surrounded by open space which can be landscaped and developed with facilities for outdoor family living and where there is generally less traffic and relatively greater quiet. In keeping with these purposes, it is intended that nonresidential uses in such districts be limited to those which are primarily necessary or desirable to serve the residents of these districts and are compatible with residential uses when located in their midst. Only those nonresidential uses listed as permitted in each district are considered to be compatible.

(b) The types of one-family residence districts, which vary only in the minimum requirements for lot area, dimensions and other spatial standards, are as follows:

<b>District</b>	<b>Square Feet of Lot Area Per Dwelling Unit</b>
R-80	80,000 (may be developed only as open space development as set forth in §§ 177-13 and 177-14)
R-40	40,000
R-20	20,000
R-13	12,750
R-10	10,500
R-6	6,000

(2) Multifamily residence districts.

(a) The purpose of the multifamily residence districts is to provide areas for those residents who cannot or do not wish to have personal responsibility for the maintenance of residential property or who cannot assume financial obligations of owning or maintaining individual residential dwellings or who, for other reasons, prefer the more urbanized environmental character associated with multifamily residential areas. As in one-family residential areas, it is intended

that nonresidential uses be limited to those necessary or desirable and compatible in the midst of residential areas and only those uses listed as permitted and as regulated in such districts are considered to be compatible.

- (b) The types of multifamily residence districts, which vary primarily in minimum requirements for lot areas, dimensions and other spatial standards, are as follows:

<b>District</b>	<b>Square Feet of Land Area Per Dwelling Unit</b>
RM-4 Multifamily Residence	4,000
RM-3 Multifamily Residence	3,000
RM-3R Multifamily Restricted Residential	3,000 and a maximum of 2 dwelling units per lot
RM-2 Multifamily Residence	2,000
RM-1 Multifamily Residence	1,000
RM-MS Multifamily, Multistory Residence	1,000
RO Residence-Office District	1,000
RP Residence-Parking	3,000

- B. Business districts. The business districts contained in this chapter are established in order to provide for a variety of areas to serve the diverse needs of the Town's population and business community. Only such uses are permitted in the business districts which are mutually compatible and which serve best the specific functions which the various districts are intended to fulfill.

- (1) Office District (BO). The purpose of this district is to permit office development generally on the periphery of larger business centers and thereby to create a gradual transition from the activities of the business center to the relative quiet of the surrounding residential areas. Since this district will generally be established in what have been residential areas adjacent to business districts, residential uses are permitted. Parking of motor vehicles is also permitted as a principal use in proper locations for parking facilities serving an adjacent business center.
- (2) Office-Laboratory District (BOL). The purpose of this district is to permit the development of selected office and laboratory uses on large tracts, generally not available in the other business districts. Whereas such tracts are usually found in the vicinity of residential neighborhoods, particularly high standards are required in this district to assure the harmonious integration of this type of development into the surrounding neighborhoods. Relatively low intensity of land usage and a park-like setting are primary characteristics of this district. This district is intended to be properly related to the major road system of the Town.
- (3) Neighborhood Business District (BN) and Neighborhood Business Design District (BND). The purpose of these districts is to provide convenience goods and services for the neighboring residential areas. Accordingly, the commercial uses permitted are intended to be those which provide for the daily needs of neighboring residents and

which do not depend on market areas substantially larger than the neighborhood the district is intended to service. Residential uses are also permitted, recognizing the existing development in these districts. The area of each Neighborhood District is intended to be limited to fulfill this function of local service.

- (4) Shopping Center District (BS). The purpose of this district is to encourage the concentration of a wide variety of stores, services and activities serving the entire Town as major shopping and community centers. This district is intended to be properly related to the major road system and, if possible, served by public transit. Residential uses are permitted only as far as they are compatible with the activities of this district. Shopping Center Districts are subject to higher standards than the Retail Business Districts because they are usually new developments on larger, single-owner tracts where the application of such higher standards is practical and desirable to achieve a high quality of development.
  - (5) General Business District (BG). The purpose of this district is to provide areas for the development of such commercial uses which are considered necessary to serve the residents and businesses of the Town but incompatible with the functions of the other business districts. Wholesaling, storage and other uses which do not normally attract the general public and automobile sales and services are the characteristic uses of this district. Recognizing historical development patterns and the desire to promote mixed uses which will bring vitality to business districts after the end of the traditional work day, the permitted uses of the Central Business Districts are also permitted in the General Business Districts. Additionally, while ground floors are to be reserved for permitted commercial uses, dwelling units are permitted on upper floors.
  - (6) Central Business District (BC) and Central Business District-High Intensive (CBDH). The purpose of these districts is to encourage the concentration of a wide variety of stores, services and activities, including large stores offering comparison shopper's goods, specialty stores, business services, banks, offices, theaters, hotels and government buildings. This area serves all areas of West Hartford as well as surrounding communities. The use of land is intensive, and this intensity of use is one of the main determinants of the vitality of the Central Business District. Pedestrian-oriented uses are encouraged on the street level to ensure this intensity of use. Residences, professional offices and other uses compatible with the retail nature of the Central Business District are permitted, although it is recommended that these uses occur on upper floors of buildings. The Central Business District-High Intensive designation is to be applied to areas adjoining the Central Business District where more dense development can take place than in the BC Zone. Factors relevant to the designation of the CBDH Zone are the nature of the land uses surrounding the proposed zone, the presence of infrastructure to support a more intensive use, especially parking facilities and traffic control capabilities, and the Plan of Development's determination that the scale of West Hartford Center itself not be changed.
- C. Industrial districts. The industrial districts contained in this chapter are established in order to encourage the best possible use of the limited amount of industrial land in the Town, in order to increase the opportunity for employment and to broaden the tax base and in order to achieve a logical and orderly separation of land uses.



- (1) Industrial Park District (IP) and Exclusive Industrial District (IE). The purpose of these districts is to reserve for industrial development areas which have predominantly been developed industrially, so that modern industrial development will not be impaired by the presence of nonindustrial uses. The district regulations provide for minimum lot area requirements in order to preserve the generally large tracts, which are typically found in these districts and which are considered essential for modern industrial development. Higher standards apply for the Industrial Park District because this district is largely adjacent to existing residential areas.
- (2) General Industrial District (IG) and Restricted Industrial District (IR). These districts recognize development patterns prevailing in several sections of the Town's older industrial areas. Mixed residential, commercial and industrial land uses are characteristic for these areas, as well as the relatively small size of a majority of the properties. The purpose of these districts is to provide for the continued coexistence of the residential, commercial and industrial uses while continuing to emphasize that these districts are primarily commercial and industrial in nature. The residential and commercial uses are considered essential to support and serve the industrial uses in these districts as well as in the Industrial Park and Exclusive Industrial Districts, where no residential or commercial uses are permitted. To further these objectives, residential uses are permitted only as a component in development projects which contain a mix of residential and nonresidential uses. Higher standards apply to the Restricted Industrial District for the purpose of protecting the numerous dwellings found in this district.

D. Other districts.

- (1) Residence Parking District (RP). The purpose of this district is for the development of parking facilities adjacent to business and industrial districts, where the extension of other business activities would be detrimental to adjacent residential areas. A high degree of control over the parking layout is necessary because of the proximity of parking and residential uses.
- (2) Residence-Office District (RO). This district is established in recognition of areas where residential, institutional and office uses coexist. These areas are typically in a stage of transition from one-family dwellings to a use of higher intensity and density. The standards established by the regulations of this district are intended to make the various uses mutually compatible.
- (3) Residence-Institutional District (RI). This district is established in recognition of the areas where residential and institutional uses may coexist. The purpose of this district is to provide a transitional area of relative quiet and light traffic which would be advantageous to institutions, such as convalescent homes, homes for the aged and public, private or parochial schools or colleges.
- (4) Residential/Multifamily-Office District (RM/O). This district is designed for land where residential structures in close proximity to major business zones have been converted to mixed office/residential uses and along and near major traffic arteries in primarily residential areas. In order to maintain the primarily residential character and uses of these areas in spite of these factors, certain types of professional offices may be established with a special use permit as set forth in § 177-16.3 of this chapter.

Maintaining the residential character also requires owners to limit the changes to buildings and to keep signs muted in tone.

- (5) Residential Character-Office District (RCO). This district is established in recognition of areas where residential structures coexist with institutional, office and business uses. These areas are typically in a stage of transition from one-family dwellings to a use of higher intensity and density. The standards established by the regulations of this district are intended to make the various uses mutually compatible. To further enhance compatibility, professional offices may be established subject to the provisions of § 177-16.3 of this chapter requiring the preservation of the residential character of the building.
- (6) Elizabeth Park Zone (EP). This district is established in recognition of the unique recreational opportunities which may be afforded to the public in Elizabeth Park. It is appropriate to permit food service and public or private meetings, including the provision of outdoor dining opportunities and walk-up window service within Elizabeth Park. If these uses are established within the zone, they shall be held to higher standards and subjected to stricter review than would be applied to similar uses in commercial zones. Food service and public/private meeting facilities together with accessory outdoor dining and walk-up window food service shall, therefore, be permitted in the EP Zone only upon approval of a special development district plan pursuant to § 177-44. The standards applicable within the EP Zone shall be those set forth in § 177-6D with respect to property located within the R-10 Zoning District.

#### **§ 177-4. Zoning Map.**

The districts established under § 177-3 of this chapter are bounded and defined as shown on a map entitled "Zoning Map, Town of West Hartford, Conn.," and adopted by the Town Council.<sup>1</sup>

#### **§ 177-5. District boundaries. [Amended 1-14-2014]**

##### **A. Rules of interpretation:**

- (1) District boundary lines are intended to follow lot lines or center lines of streets, rights-of-way and watercourses or be parallel or perpendicular thereto unless such district boundary lines are fixed by dimensions as shown on the Zoning Map.
- (2) In unsubdivided property or where a district boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on said map, shall be determined by the use of the map scale shown thereon.
- (3) Where district boundaries are so indicated that they approximately follow the edge of lakes, ponds, reservoirs or other bodies of water, the mean high-water lines thereof shall be construed to be the district boundaries, except that the regulations of the most restrictive district on the edge of such a body of water shall apply to the area within the mean high-water line and the body of water thereof.
- (4) All dimensions to or from the roads shown on the Zoning Map shall be taken from the edge of the right-of-way of such roads.

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1. Editor's Note: The current Zoning Map is on file in the Town offices.

- (5) Measurements shown to the intersection of two or more roads shall be deemed to be taken from the intersection of the center lines of these roads.
  - (6) All district boundaries shown parallel to roads shall be considered parallel to and a distance away from the center line of these roads equal to  $1/2$  of the width of the right-of-way of such roads plus the minimum lot depth derived from the minimum lot width and minimum lot area required in the district within which the road lies.
  - (7) All intersecting lines with the symbol 94 shall be considered perpendicular.
- B. Notwithstanding any construction of the term "lot" contained in § 177-2 of this chapter to the contrary, where two or more parcels of land within the Town of West Hartford are consolidated such that a zoning district boundary which previously followed a parcel boundary line or lines now crosses through the consolidated parcel, the zoning district boundary lines shall remain in full force and effect. The portions of the consolidated parcel within each separate zoning district shall be required to demonstrate compliance with each provision of this chapter separately as if each such portion constituted a separate lot. Because of the unique nature of the RP Zoning District, this subsection shall not apply to parcels of property which are partially located in that district.

ARTICLE III  
**District Use Regulations**

**§ 177-6. Schedules.<sup>2</sup> [Amended 9-28-1976; 6-23-1981; 8-14-2001; 9-14-2004; 5-10-2005; 8-2-2005; 10-25-2005; 12-13-2005; 3-28-2006; 5-25-2010; 6-28-2011; 7-23-2013; 5-3-2014; 10-28-2014; 1-13-2015; 9-8-2015]**

- A. No structure shall be used, erected or expanded, and no land use shall be established or expanded, except in accordance with this chapter. The schedules contained in this article list permitted uses of land and buildings and the maximum height of buildings, the required yards, open space, area of lots and other requirements for the various districts in this chapter.
- B. Schedule of Permitted Main Uses.
- C. Schedule of Permitted Accessory Uses.
- D. Standards for the One-Family Residence Districts.
- E. Standards for Multifamily Residence Districts.
- F. Standards for Business Districts.
- G. Standards for Industrial Districts.

**§ 177-7. BOL Office-Laboratory District: detailed regulations.**

In any Office-Laboratory District (BOL), the following main uses are permitted, subject to § 177-42A:

- A. Office buildings and laboratories for business and professional use, including administration, research, development, statistical, financial, training and other functions directly related to the office building and laboratory use.
- B. The following main uses are specifically excluded:
  - (1) The manufacturing or fabrication of products for sale.
  - (2) Pilot plants producing or manufacturing products.
  - (3) Warehouse facilities or systems for the storage of goods or materials for present or future sale.
  - (4) Radio or television towers, radar screens or water towers, unless specifically granted by the Town Plan and Zoning Commission after a finding by the Town Plan and Zoning Commission that they will be in harmony with the approved overall layout of the main use and that they will not interfere with the health, safety or convenience of the general public.
  - (5) Any use which causes the dissemination of noise, vibration, odor, dust, smoke, gas or fumes or atmospheric pollution of any kind, observable or otherwise detectable beyond the boundaries of the site.

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2. Editor's Note: The schedules noted below are included as attachments to this chapter.

- (6) Any use which may be hazardous by reason of the possibility of fire, explosion, nuclear radiation or other hazard.
  - (7) The use of equipment causing interference with radio or television reception beyond the boundaries of the site.
  - (8) Testing of instruments which may require the flying of aircraft in the vicinity of the use in such manner as to cause a public nuisance.
  - (9) The disposal into the public sanitary sewer system of any harmful or deleterious matter, such as volatile oil, acid and caustic wastes, toxic substances, suspended solids or extremely hot water, which would impede or render inoperative the proper treatment of sewage.
  - (10) Any residence or accessory building, except as permitted under Item 9 of the list of accessory uses.
- C. In any Office-Laboratory District, the following accessory uses are permitted, subject to § 177-42A:
- (1) Garage for storage and maintenance of company motor vehicles and the storage of supplies for use in connection with such motor vehicles.
  - (2) Off-street parking and loading facilities.
  - (3) Maintenance and utility shops for the upkeep and repair of structures on the site and equipment on and off the site.
  - (4) Central heating and air-conditioning plants.
  - (5) Power substations.
  - (6) Facilities for the storage of water or for the pretreatment of harmful or deleterious matter which cannot be disposed of directly into the public sewerage system.
  - (7) Building for the storage of documents, records and other personal property.
  - (8) Communication facilities.
  - (9) Clinics, dining facilities, recreational facilities, stores and transient guest lodges, none of which shall be maintained or designed for or used by the general public but shall be used only by those actually employed on the premises or by business visitors to the building on the premises. All accessory uses under this subsection shall be designed and planned as an integral part of the office or research facility, shall be located on the same site therewith and shall be set forth and shown on the application for the zoning permit.
  - (10) Signs, as specified in § 177-33.

**§ 177-8. Special flood hazard area. [Amended 10-28-1969; 11-11-1975; 6-27-1978; 2-24-1987; 1-26-1988; 9-23-2008]**

- A. Statement of purpose. The following standards are intended to regulate floodplain development, promote public health, safety, and general welfare, and minimize public and private losses due to flood conditions in specific areas.
- B. Definitions. For the purposes of this section, the following words shall have the meanings defined herein:

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

**BASE FLOOD ELEVATION (BFE)** — The elevation of the crest of the base flood or one-hundred-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

**BASEMENT** — Any area of the building having its floor subgrade (below ground level) on all sides.

**BUILDING** — See definition for "structure."

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

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** — The federal agency that administers the National Flood Insurance Program (NFIP).

**FLOOD INSURANCE RATE MAP (FIRM)** — The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas one-hundred-year floodplain) and the insurance risk premium zones applicable to a community.

**FLOOD INSURANCE STUDY (FIS)** — The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

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

**FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1.0 foot. For the purposes of these regulations, the term "regulatory floodway" is synonymous in meaning with the term "floodway."

**FUNCTIONALLY DEPENDENT USE OR FACILITY** — A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE (HAG)** — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** — Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**LOWEST FLOOR** — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for the parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor.

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with a permanent foundation when attached to the required utilities.

**MARKET VALUE** — The market value of the structure shall be determined by using a computer assisted mass appraisal incorporating the three approaches to value prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.

**MEAN SEA LEVEL (MSL)** — The North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced. The NAVD is approximately equal to the National Geodetic Datum of 1929 minus 0.8 feet. The NAVD is also approximately equal to the Hartford Metropolitan District Commission Datum minus 2.9 feet.

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after October 28, 1969, and includes any subsequent improvements to such structures.

RECREATIONAL VEHICLE — A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA (SFHA) — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. For purposes of this section, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

START OF CONSTRUCTION — For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. A structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure.

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

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or



- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

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

WATER SURFACE ELEVATION — The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. The NAVD is approximately equal to the National Geodetic Datum of 1929 minus 0.8 feet. The NAVD is also approximately equal to the Hartford Metropolitan District Commission Datum minus 2.9 feet.

- C. Areas to which this section applies. For the purpose of preventing damage from flood and other related dangers, the provisions of this section shall apply to all special flood hazard areas (SFHA) within the Town of West Hartford in addition to any land within the Town of West Hartford which is located within a floodplain. A floodplain is defined as:
- (1) All land beneath the one-hundred-year storm event indicated in the West Hartford Flood Plain Management Study prepared by the Soil Conservation Service, dated August 1986, a copy of which is on file in the office of the Town Clerk.
  - (2) All land located within the established stream channel encroachment lines (SCEL) created by the State Department of Environmental Protection and more particularly shown on maps entitled "Channel Encroachment Lines, Park River North Branch," dated September 25, 1964, and "Trout Brook, Channel Encroachment Lines," dated June 1968, and on file in the office of the Town Clerk.
  - (3) All other lands reserved by the state for flood protection, including but not limited to:
    - (a) Bugbee Flood Retention Reservoir.
    - (b) Talcott Mountain Flood Retention Reservoir.
    - (c) Burnt Hill Flood Retention Reservoir.
    - (d) South Flood Retention Reservoir.
  - (4) Additional lands reserved by special development district approvals, subdivision approvals, inland wetlands and watercourse permits, site plan approvals, building plot plans and permits and/or special floodplain studies for floodwater conveyance or storage.
  - (5) All other as yet undefined lands near to a watercourse which is susceptible to flooding, whether a floodplain study has been performed or not.
- D. Basis for establishing the special flood hazard areas (SFHA).
- (1) The special flood hazard areas (SFHA) identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for the Town of West Hartford, dated September 26, 2008, and accompanying Flood Insurance

Rate Maps (FIRM), dated September 26, 2008, and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this chapter. Said mapping must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA.

- (2) The SFHA includes any area shown on the FIRM as Zones A, A1-30, AE, AO, and AH, including areas designated as a floodway on a FIRM or FBFM. The SFHA does not include any area designated on the FIRM as "shaded zone x/other flood areas." SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on the flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. Also included are areas of potential, demonstrable or historical flooding, including any area contiguous with but outside the SFHA identified by FEMA, and where the land surface elevation is lower than the base flood elevation (BFE) as shown in the FIS, and the area is not protected from flooding by a natural or man-made feature. The FIRM and FIS are on file in the office of the Town Clerk, Town Hall, 50 South Main Street, West Hartford, Connecticut.
- E. Standards for plan approval. In a floodplain, no structure shall be erected, expanded or structurally altered, no land use shall be established, and no landfill, excavation, paving or grading shall be initiated until the Director of Community Services approves the development application and advises the approving authority of the application's conformance with the following standards:
- (1) General standards. In all special flood hazard areas (SFHAs) the following provisions are required:
    - (a) New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless they are a functionally dependent use or facility.
    - (b) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems [(CFR 60.3(a)(5)].
    - (c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters [CFR 60.3(a)(6)(i)].
    - (d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding [CFR 60.3(a)(6)(ii)].
    - (e) Above-ground storage tanks (i.e., oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored to prevent flotation or lateral movement with the top of the fill pipe extending above the BFE and having a screw fill cap that does not allow for the infiltration of floodwater.
    - (f) Notify adjacent communities and the Connecticut Department of Environmental Protection prior to any alteration or relocation of a watercourse, and assure that the flood-carrying capacity within the altered or relocated watercourse is maintained [CFR 60.3(b)(6) and (7)].

- (g) If any portion of a structure lies within the SFHA, the entire structure is considered to be in the SFHA and must meet the construction requirements of the flood zone.
  - (h) Compensatory storage. The water-holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of floodwater at each elevation, up to and including the one-hundred-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site with approval by the Director of Community Services.
  - (i) Equal conveyance. Within the floodplain, except those areas which are tidally influenced as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.
  - (j) All new construction and substantial improvements in special flood hazard areas (SFHAs) shall:
    - [1] Be designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy [CFR 60.3(a)(3)(i)];
    - [2] Be constructed with materials resistant to flood damage [CFR 60.3(a)(3)(ii)];
    - [3] Be constructed by methods and practices that minimize flood damages [CFR 60.3(a)(3)(iii)];
    - [4] Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding [CFR 60.3(a)(3)(iv)].
- (2) Specific standards.

- (a) Construction standards in special flood hazard areas (SFHA) Zones A and AE for residential and nonresidential construction. All new construction and substantial improvements of structures shall have the bottom of the lowest floor, including basement, elevated 2.0 feet above the base flood elevation (BFE) [CFR 60.3(c)(2) and (3)].
  - (b) Manufactured homes. In all special flood hazard areas (SFHA), any manufactured homes placed or substantially improved shall be elevated on a permanent foundation such that the bottom of the lowest floor is 2.0 feet above the base flood elevation (BFE) and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This includes manufactured homes meeting one of the following location criteria:
    - [1] Outside of a manufactured home subdivision;
    - [2] In a new manufactured home subdivision;
    - [3] In an expansion to an existing manufactured home subdivision; or
    - [4] In an existing subdivision on which a manufactured home has incurred substantial damage as a result of a flood [CFR 60.3(b)(8) and 60.3(c)(6)].
  - (c) Recreational vehicles. Recreational vehicles placed on sites within a SFHA shall be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions [CFR 60.3(c)(14)].
  - (d) In a regulatory floodway, no encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any (0.00 feet) increase in flood levels during a base flood discharge. [CFR 60.3(d)(3)].
- (3) Standards for watercourses without established base flood elevations (unnumbered A Zone), adopted floodways and/or flood mapping.
- (a) In the absence of base flood elevation (BFE) and floodway data, the Director of Community Services shall obtain, review and utilize any data available from a federal, state, or other source to assure that new or substantially improved residential structures are elevated to or above the base flood elevation and nonresidential structures are either elevated or floodproofed to or above the BFE. If no BFE can be determined, the lowest floor, including basement, must be elevated to two feet above the highest adjacent grade next to the structure [CFR 60.3(b)(4)].
  - (b) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within Zones A1-30 and AE unless it is demonstrated that the cumulative effect of the

proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation more than 1.0 foot at any point in the community [CFR 60.3(c)(10)].

- (c) Floodway data may be requested of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the municipality's request or not), the community shall select and adopt a regulatory floodway that must carry the waters of the base flood without increasing the BFE more than 1.0 foot at any point within the community [CFR 60.3(d)(2)].
- (4) Design standards for subdivision proposals. If a proposed subdivision is located in a special flood hazard area (SFHA), the following requirements shall apply:
  - (a) All subdivision proposals shall be consistent with the need to minimize flood damage [CFR 60.3(a)(4)(I)];
  - (b) All subdivision proposals shall have public utilities and facilities located and constructed to minimize or eliminate flood damage [CFR 60.3(a)(4)(ii)];
  - (c) All subdivision proposals shall have adequate drainage provided [CFR 60.3(a)(4)(iii)];
  - (d) BFE data shall be required for all new subdivision proposals and other proposed developments greater than 50 lots or five acres, whichever is the lesser [CFR 60.3(b)(3)].

F. Approval procedure.

- (1) The application for approval of a development in a floodplain shall be submitted as part of a development application process to the approving authority and shall include, as a minimum, the following:
  - (a) Three black-and-white prints of a plot plan of the premises drawn to scale and certified by a licensed land surveyor and civil engineer, showing the actual shape and dimensions of the lot, the size and location of all existing and proposed structures and land uses, the layout of parking and loading facilities and access thereto, existing and proposed grades and existing and proposed floodplain limits of all watercourses.
  - (b) A detailed drainage study prepared by a registered professional engineer in the State of Connecticut, detailing existing and proposed hydrology and hydraulics of the site and any watercourses thereon. The study should include a predevelopment and postdevelopment analysis and statement of the development's effects on peak runoff and water surface elevations for all standard storm events from the five-to-one-hundred-year storm events.
  - (c) Such other information as required by the Director of Community Services to determine compliance with these regulations.
  - (d) The approvals from all appropriate state and federal agencies for the development project.

- (2) The Director of Community Services shall review and advise the approving authority of the proposed plan's compliance with these regulations within 30 days after receipt.
  - (3) No building permit shall be issued which is not in conformance with the approved plan and with any other regulations governing the use of the applicant's property.
- G. Penalty. Any private person or any firm or corporation who violates this section shall be fined \$100 for each day that such violation is continued. Nothing herein contained shall prevent the Town of West Hartford from taking such lawful action as is necessary to prevent or remedy any violation.
- H. Structures already in compliance: A structure or development already in compliance with this section shall not be made noncompliant by any alteration, modification, repair, reconstruction or improvement and must also comply with other applicable local, state, and federal regulations. No structure or land shall hereafter be located, extended, converted, modified or structurally altered without full compliance with the terms of this section and other applicable regulations.
- I. Abrogation and greater restrictions. This section is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this section conflicts or overlaps with another ordinance, regulation, easement, covenant, or deed restriction, the more stringent restriction shall prevail.
- J. Interpretation.
  - (1) In the interpretation and application of this section, all provisions shall be:
    - (a) Considered as minimum requirements;
    - (b) Liberally construed in favor of the governing body; and
    - (c) Deemed neither to limit nor repeal any other powers granted under state or federal law.
  - (2) Unless otherwise specifically defined herein, terms shall have the meanings ascribed to them in the regulations of the Federal Emergency Management Agency, National Flood Insurance Program, 44 CFR 59.1.
- K. Warning and disclaimer of liability. The degree of flood protection required by this section is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration and research. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply or guarantee that land outside the special flood hazard area or uses permitted in such areas will be free from flooding and flood damages. This section shall not create liability on the part of the Town of West Hartford or its agents, officers or employees for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder. The Town of West Hartford, its officers and employees shall assume no liability for another person's reliance on any maps, data or information provided by the Town of West Hartford.
- L. Severability. If any terms, phrases, sentence, paragraph, section or article of this section shall be declared invalid for any reason, such decision shall not affect the remaining parts

of this section, and such parts shall continue in full force and effect and are hereby declared to be severable.

**§ 177-8.1. Park River Project water storage area. [Added 1-26-1988]**

A. Purpose and area designation.

- (1) The purpose of this section is to:
  - (a) Recognize voluntarily the agreement between the State of Connecticut, Department of Environmental Protection, and the United States Corps of Engineers concerning the construction of the Park River Conduit System.
  - (b) Substantially preserve the storage pool of the Park River Conduit System.
  - (c) Alert potential developers of the risk of development in the Park River Project water storage area.
- (2) The area of the Park River Project water storage area is defined as all lands below elevation 54 MDC (52 NGS) datum along the Park River, Piper Brook or Trout Brook in the Town of West Hartford.

B. Standards for approval.

- (1) In the Park River Project water storage area, no structure shall be erected, expanded or structurally altered, and no land shall be excavated, filled, graded or paved until the Director of Community Services approves the development application and advises the approving authority of the application's conformance with the following regulations:
  - (a) The volume of the water storage area up to elevation 54 MDC (52 NGS) datum shall be substantially preserved such that no more than the minimum fill necessary to make the site functional may be permitted.
  - (b) The volume of the building, if not floodproofed, shall not be considered as occupying water storage.
  - (c) The grading of the site, excluding building volume, shall substantially balance cuts and fills below elevation 54 MDC (52 NGS).
  - (d) An applicant shall note on the plan the existence of the elevation 54 MDC (52 NGS) and the Park River Project water storage area.
- (2) Where applicable, the provisions of § 177-8, the Inland Wetlands Regulations and all other ordinances or regulations of the Town of West Hartford shall also apply in addition hereto.

C. Approval procedure.

- (1) The application for approval of a development in the Park River Project water storage area shall be submitted as part of the development application process to the approving authority and shall include as a minimum the following:

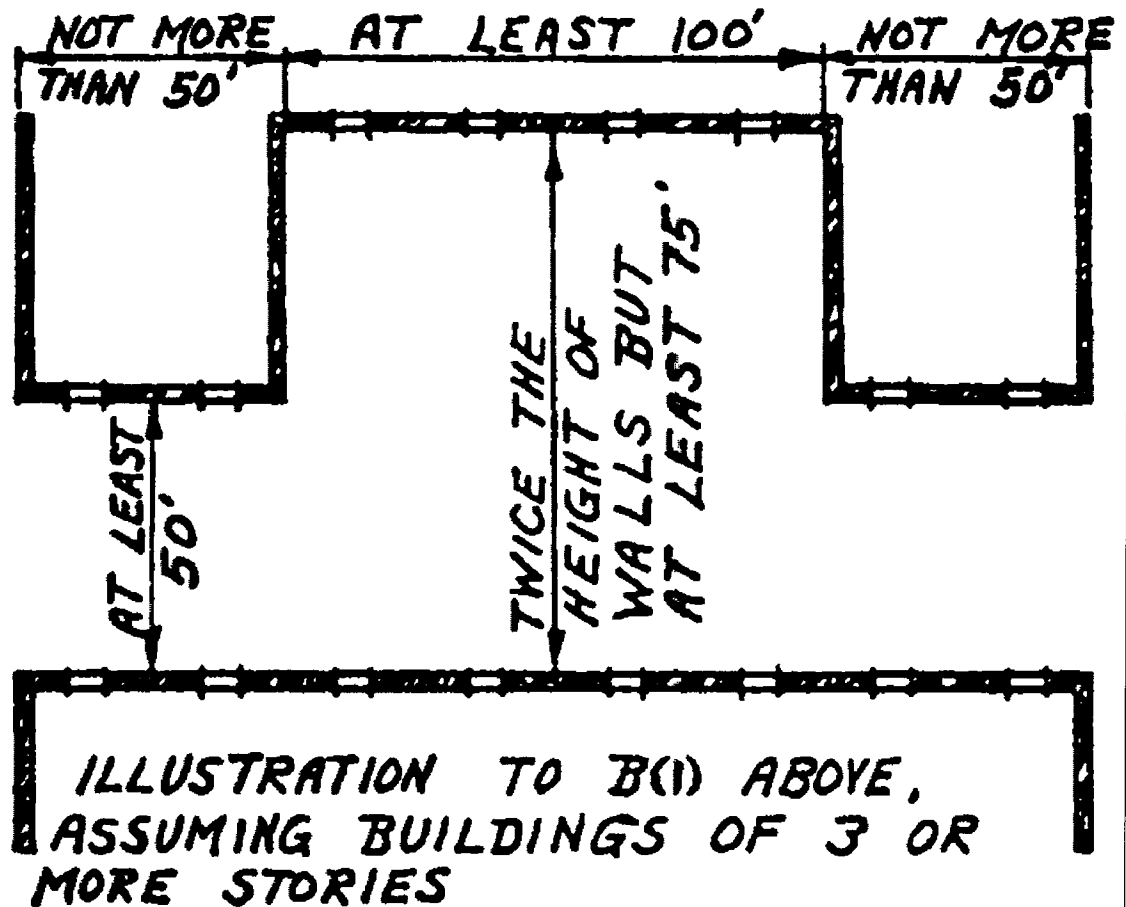
- (a) Three black-and-white prints of a plot plan of the premises drawn to scale and certified by a licensed land surveyor and civil engineer, showing the actual shape and dimensions of the lot, the size and location of all existing and proposed structures and land uses, the layout of parking and loading facilities and access thereto and existing and proposed grades.
  - (b) Calculations which illustrate the balancing of cuts and fills as required above.
  - (c) The approvals from all appropriate state and federal agencies for the development project.
- (2) The Director of Community Services shall review and advise the approving authority of the proposed plan's compliance with these regulations within 30 days after receipt. The failure of the Director of Community Services to act within 30 days shall constitute an approval of the plan.
  - (3) The approving authority shall not approve any application until it receives the comments of the Director of Community Services regarding compliance with these regulations.
  - (4) No building permit shall be issued which is not in conformance with the approved plan and with any and all other regulations governing the use of the applicant's property.
- D. Penalty. Any private person or any firm or corporation who violates this section shall be fined \$100 for every day that each such violation continues.
  - E. Abrogation and greater restrictions. This section is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions.
  - F. Interpretation. In the interpretation and application of this section, all provisions shall be:
    - (1) Considered as minimum requirements;
    - (2) Liberally construed in favor of the governing body; and
    - (3) Deemed neither to limit nor repeal any other powers granted under state or federal law.
  - G. Warning and disclaimer of liability. The degree of storage protection required by this section is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations. This section does not imply that land outside the Park River Project storage area will be free from flooding or flood damages. This section shall not create liability on the part of the Town of West Hartford or its agents, officers or employees for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

**§ 177-9. Dwelling units facing court of buildings on same lot.**

- A. Statement of purpose. The following standards are intended to secure adequate light, air and privacy for dwelling units facing a court of buildings on the same lot.
- B. Standards. The minimum horizontal width between opposite walls of a court shall be as follows:



- (1) Where two or more of the opposite walls contain windows of habitable rooms, the width shall be at least twice the height of the highest of said walls or 75 feet, whichever is more, except that a distance of not less than 50 feet shall be permitted for a length of not more than 100 feet for buildings of two or fewer stories and for a length of 50 feet for buildings of three or more stories, provided that exceptions shall not be repeated within 100 feet, measured along the same side of the court. A distance of more than 120 feet shall not be required.



- (2) Where only one of the opposite walls contains windows of habitable rooms, the width shall be at least equal to the height of the highest wall containing no windows or 30 feet, whichever is more, except that a distance of not less than 50 feet shall be permitted for a length of not more than 50 feet for buildings of five or more stories, provided that exceptions shall not be repeated within 100 feet measured along the same side of the court.
- (3) When opposite walls contain no windows of habitable rooms, the width shall be at least  $\frac{1}{3}$  of the height of the highest wall or 10 feet, whichever is more.
- (4) Where one or more of the opposite walls of a court of less than 20 feet in length contain windows of habitable rooms, the width shall be at least 30 feet.

**§ 177-10. Open space in Multifamily Residence District.**

- A. Usable open space shall be provided for all dwelling units in multifamily districts in the amount specified in § 177-6E for the use and enjoyment of residents in multifamily dwellings or one-family detached dwelling units. Such open space may be provided jointly for several families or separately for use by one family.
- B. Open space which is intended for use by more than one family may be provided on the ground or on the top of structures, and it shall be at least 25 feet wide.
- C. Open space which is intended for use by one family may be provided on balconies, terraces or in patios, and it shall be at least six feet wide and directly accessible from the dwelling unit it is intended to serve. Such open space may be counted as twice its actual area if it is properly screened for privacy from vision and noise from areas used by other families and if it can be used as a private extension of the dwelling units. In no case, however, shall such open space be given credit for more than the minimum required area as specified in § 177-6E.
- D. Any area between a building line and a street line shall not be considered as usable open space.

**§ 177-11. Dwellings in business districts. [Amended 10-28-1969; 11-14-1989; 7-23-2013; 5-13-2014; 7-21-2015]**

- A. The standards of the R-6 District shall be met for single-family residences in the RM, RM/O, BO and BN and BND Districts. The standards of the RM-1 District shall be met where a lot in the BO, BN, BND, BC or RM/O District is used for multifamily residential purposes only, except that requirements for side and rear yards of the district in which said lot is located shall apply if the wall of a residential building contains no windows of habitable rooms.
- B. The following standards shall be met where a lot in the BO, BN, BND, BC, BG or RM/O District is used for residential and business purposes:
  - (1) The requirement for lot area per dwelling unit, usable open space per dwelling unit and maximum height shall be those of the RM-1 District.
  - (2) The yard requirements shall be those of the district in which said lot is located, except along all building walls containing windows of habitable rooms of dwelling units where the yard requirements of the RM-1 District apply.
  - (3) In the BG Zone, dwelling units may only be established on floors above the ground-floor level.
- C. The following standards shall be met where a lot in the IG or IR District is used for mixed residential and business purposes:
  - (1) The requirement for lot area per dwelling unit and usable open space per dwelling unit shall be those of the RM-1 District.
  - (2) The yard and screening requirements shall be those of the IG District for Yards and Screening Adjoining Residential Districts.

- (3) The maximum floor area ratio shall be 1.0.

**§ 177-12. (Reserved)<sup>3</sup>**

**§ 177-13. Open space development. [Amended 2-13-1990; 4-9-2002]**

A. Purpose. The provisions for open space development are intended to:

- (1) Encourage the establishment of open spaces in residential neighborhoods to provide recreational opportunities for their residents.
- (2) Enhance the appearance of the community.
- (3) Preserve areas and features of exceptional natural beauty, particularly land areas along ridge lines and specimen trees.
- (4) Protect historical and archaeological sites and cultural monuments, such as stone walls.
- (5) Preserve ponds, swamps, aquifers and watercourses necessary for drainage and storage of stormwater and protect such bodies of water from pollution and from unusual erosion hazards due to lack of topsoil and vegetation, excessive stream velocity, steep slopes or unstable soils.
- (6) Prevent the excessive runoff of drainage water and the consequent depletion of groundwater.

B. Procedure.

- (1) All open space developments of detached dwellings shall also be subject to the provisions of Chapter A184, Subdivision Regulations, of the Code of the Town of West Hartford where those regulations are applicable.
- (2) All open space developments of attached dwellings shall be subject to the provisions of § 177-42A, in which case the special use permit application shall include the information required by § A184-20A and B of the West Hartford Subdivision Regulations, as may be amended, and the Commission shall apply the evaluative provisions of the Subdivision Regulations. In addition, if subdivision of land is contemplated, all open space developments shall also be subject to all other provisions of Chapter A184, Subdivision Regulations.
- (3) To determine the number of dwelling units in an open space development, the applicant may choose either one of the following means:
  - (a) The total land area of the subject tract plus 1/2 of the area of all streets on which said tract has frontage and which are not part of said tract shall be divided by the average gross lot area according to the following schedule:

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3. Editor's Note: Former § 177-12, Minimum floor area for dwelling units, was repealed 9-27-1994.

<b>District</b>	<b>Average Gross Lot Area (square feet)</b>
R-80	120,000
R-40	60,000
R-20	30,000
R-13	19,150
R-10	15,750
R-6	9,000

- (b) A preliminary subdivision plan of the subject tract conforming to Chapter A184, Subdivision Regulations, shall be submitted to the Plan and Zoning Commission, and if said plan is approved by the Commission, the number of lots indicated on said preliminary subdivision plan shall equal the number of dwelling units permitted in the open space development.
- (4) In approving the open space development, the Plan and Zoning Commission shall determine that the areas shown as open space on the plan are assured of continuing in such status, subject to legal instruments approved by the Corporation Counsel as adequate to ensure such permanence, through the mechanism of a homeowners' association obligated to maintain, protect and preserve the open space.
- (5) In order to assure such permanency of open space, the Plan and Zoning Commission may require that the applicant furnish such legal documents as are necessary to guarantee such permanency.
- (6) The Plan and Zoning Commission also shall determine that the individual owners have responsibility for the proper maintenance for the open space and other jointly owned areas and facilities and that in the ownership agreement there is an effective method for assessing the cost of such maintenance, including provisions deemed adequate by the Corporation Counsel entitling the Town of West Hartford to compel reimbursement by individual homeowners for costs necessary to maintain and protect the open space objective of this section.
- (7) Land set aside as open space may be utilized to provide regrading necessary to construct houses or accessory uses and/or to construct required septic system areas for dwelling units located on the same lot. Disturbance of the land shall be the minimum necessary, consistent with good construction practices and as shown on the plot plan approved by the Town Engineer and the Town Planner. The disturbed surface of the land shall be returned to a natural state incorporating indigenous plantings after completion of the construction activity and shall not be considered to have been permanently altered per § 177-14A, Note 1. At the discretion of the Commission, land set aside as open space may be devoted to public or private passive recreation uses if kept in its natural state unless the result would be to weaken or negate the achievement of the objectives of this section.
- (8) Any new roads in an open space development shall, whenever possible, follow existing contour lines to minimize erosion and to minimize the intrusion of the road into the natural and open environment these regulations are designed to encourage.

Buildings and structures should similarly be located to minimize their visual intrusion into the environs and to maximize their ability to benefit from passive solar heating.

- (9) In approving an open space development, the Commission shall determine that the overall traffic design is efficient and safe based on the traffic conditions in the area under review. In an R-80 open space development project, the number of entry/exit points onto heavily traveled Town or state public roads shall be minimized.

**§ 177-14. Bulk regulations for open space developments. [Amended 11-15-1977; 11-28-1978; 2-13-1990; 4-9-2002; 11-9-2004]**

A. Detached dwellings. Bulk regulations for open space developments of detached dwellings shall be as follows:

District	Minimum Lot Area (square feet)	Minimum Average Lot Width (feet)	Minimum Average Lot Depth (feet)	Yards	Maximum Building Height	Maximum Lot Coverage
R-80	20,000 <sup>1</sup>	150	100	As specified in § 177-6D of this chapter	As specified in § 177-6D of this chapter	As specified in § 177-6D of this chapter
R-40	25,000	120	160			
R-20	14,000	90	120			
R-13	9,500	70	100			
R-10	8,000	60	100			
R-6	5,000	50	100			

NOTES:

- <sup>1</sup> 1. Within the R-80 Zone, a maximum of 50% of the entire area of a subdivision may be altered permanently, and in the case of a lot which is not otherwise subject to subdivision regulations, up to 50% of the lot may be altered permanently.

B. Attached dwellings.

- (1) Bulk regulations for open space developments of attached dwellings shall be as follows:

District	Minimum Area of Tract (acres)	Minimum Area of Plot Occupied by Dwelling Unit and Private Yard (square feet)	Minimum Width of Dwelling Unit (feet)	Front Yard	Side Yard (feet)	Rear Yard (feet)	Maximum Building Height
R-80	6	2,000	30	Observe building line in all zoning districts	50	100	As specified in § 177-6D of this chapter
R-40	4	1,500	25		40	100	
R-20	2	1,000	18		30	80	
R-13	2	1,000	18		20	70	
R-10	2	1,000	18		20	70	
R-6	2	1,000	18		20	70	

- (2) Front, side and rear yards not adjoining the boundaries of the subject tract are not required; however, where provided, they shall be at least 10 feet.
- (3) Minimum gross floor area.
  - (a) Per dwelling of five or more rooms: 1,200 square feet.
  - (b) Per dwelling of four rooms: 1,000 square feet.
  - (c) Per dwelling of three rooms or fewer: 800 square feet.
- (4) Each dwelling unit shall have at least one private yard of not less than 250 square feet, enclosed on all sides with a solid fence or wall at least seven feet high, except that no such fence or wall shall be required where said yard adjoins any portion of the open space at least 50 feet wide.

**§ 177-15. Miscellaneous open space regulations. [Amended 11-15-1977; 11-9-2004]**

- A. The total area of the open space shall be at least equal to the area resulting from the actual reduction of the individual lot areas. At least 75% of the open space shall be 50 feet wide or more.
- B. The open space may be established in separate parcels or as a conservation easement across individual lots, provided that at least 50% of the total open space is contiguous, and provided further that no area of less than 2,500 square feet or a width of less than 20 feet shall be considered as part of the open space.
- C. All dwelling units shall have access to land designated as open space.

- D. Land which has been established as either a wetland or watercourse for purposes of inland and wetlands and watercourses regulation shall be excluded from any open space area calculations.
- E. All residents of an open space development shall have the same rights and responsibilities regarding the use of the open space and all facilities provided therein.
- F. In accord with the requirements of § 177-13, the applicant shall endeavor to prevent the excessive runoff of drainage water and the consequent depletion of groundwater.

**§ 177-16. Group-care facilities. [Added 3-11-1975]**

A group-care facility shall be subject to the provisions of § 177-42A and shall also be subject to the following provisions:

- A. A special use permit shall be granted to the person, firm or corporation conducting the facility, and it shall not be assignable or transferable, nor shall it be considered a right vested in the premises. It shall be granted for an initial period of two years and shall be subject to renewal every three years thereafter.
- B. Application for special use permit. **[Amended 5-10-2005]**
  - (1) An application for a special use permit for a group-care facility shall be made to the Town Plan and Zoning Commission pursuant to the provisions of § 177-41A and shall include, in addition to the requirements of § 177-41B, such additional information as the Building Inspector, the Director of Health and the Chief of the Fire Department shall deem necessary.
  - (2) Upon submission of such application:
    - (a) The Chief of the Fire Department shall forthwith examine said premises for the purpose of determining its suitability for such occupancy with respect to the fire and safety laws and regulations of the state and the Town. The Chief shall file a written report with the Town Plan and Zoning Commission of approval or disapproval of the application. In the event of disapproval, the Chief shall set forth in the report the repairs, alterations or limit in the number of occupants necessary to meet the requirements of the fire and safety laws and regulations or shall report that, in the Chief's opinion, the building cannot be repaired or altered to conform to such requirements.
    - (b) The Director of Health shall forthwith examine said premises for the purpose of determining suitability for such occupancy with respect to the health and sanitation laws and regulations of the state and Town. The Director shall file a written report with the Town Plan and Zoning Commission of approval or disapproval of the application. In the event of disapproval, the Director shall set forth in the report the repairs, alterations or limit in the number of occupants necessary to meet the requirements of the health and sanitation laws and regulations or shall report that, in the Director's opinion, the building cannot be repaired or altered to conform to such requirements.
    - (c) The Building Inspector shall forthwith examine said premises for the purpose of determining its suitability for such occupancy with respect to the Building Code

and building regulations of the state. The Building Inspector shall file a written report with the Town Plan and Zoning Commission of approval or disapproval of the application. In the event of disapproval, the Building Inspector shall set forth in the report repairs, alterations or a limit in the number of occupants necessary to meet the requirements of the Building Code and regulations or shall state that, in the Building Inspector's opinion, the building cannot be repaired or altered to conform to such requirements.

- (3) Upon receipt of such reports, the staff of the Town Plan and Zoning Commission shall immediately forward a copy thereof to the applicant.
- C. The Plan and Zoning Commission shall attach such conditions, safeguards or restrictions as are necessary to ensure continued compliance with the terms of the special use permit, including a limitation on the duration of the special use permit.
- D. In addition to any other conditions, safeguards or restrictions that the Plan and Zoning Commission may impose, the grant of a special use permit for a group-care facility shall always be subject to the following conditions:
- (1) No building shall be occupied as a group-care facility, nor shall any special use permit become effective, until a license to conduct the same has been issued pursuant to the provisions of Chapter 98, Group-Care Facilities.
  - (2) The development of the premises and the construction or remodeling of the building shall be compatible with the surrounding neighborhood and the residence district and may be specifically restricted by the Plan and Zoning Commission as it deems appropriate in the public interest, including limitations and restrictions on parking.
  - (3) The building shall be constructed or remodeled in such a manner so that it will remain usable and salable for dwelling use if the use as a group-care facility is terminated.
  - (4) No special use permit for a group-care facility to serve a particular class of persons shall be changed or expanded to serve another function or to serve any other class of persons without a new and separate special use permit. No enlargement of the occupancy shall be permitted, and no structure shall be enlarged nor any additional building constructed on the premises, without a new, separate and specific special use permit.
  - (5) No such special use permit shall be granted to house fewer than six persons, excluding the operator, the operator's staff and their respective families.
  - (6) No such special use permit shall be granted for a location within a radius of less than 1,500 feet from another group-care facility.
- E. Notwithstanding the prior grant of a special use permit, the Plan and Zoning Commission may revoke it at any time after due notice and hearing upon a finding that there has been a failure to comply with any of the conditions set forth herein or any of the conditions, safeguards or restrictions imposed by the Plan and Zoning Commission or if it finds that such operation or use unreasonably interferes with the use and enjoyment of neighboring property. The official charged with the enforcement of this chapter may file a complaint for revocation of the special use permit with the Plan and Zoning Commission. This section shall take effect on the 45th day following passage.



**§ 177-16.1. Day-care facilities. [Added 4-21-1987]**

- A. Group day-care homes and child day-care centers shall be subject to the requirements of § 177-42A and the following additional provisions:
- (1) Fenced play areas shall not be closer than 10 feet to the property line of adjacent residentially developed property.
  - (2) Where the play area of the group day-care center is in a yard abutting residentially developed property, the play area shall be screened from said residentially developed area with a minimum of Type C screening.<sup>4</sup>
  - (3) For each application for a special use permit for a group day-care home and child day-care center, a written report of the Town's Manager of Traffic and Transportation as to the traffic circulation on the site and such other relevant information shall be provided the Town Plan and Zoning Commission prior to its hearing pursuant to § 177-42.
  - (4) Group day-care homes and child day-care centers which are operating as of the effective date of this section shall not be required to comply with the provisions of this Subsection A, should renewal of a special use permit be required to continue the existing use, provided that, upon expansion of the use and/or significant renovations to the facility, an amended special use permit application shall not be approved without compliance with the provisions of this subsection.
- B. Family day-care homes shall be subject to the requirements of building and/or zoning permits and, in addition, shall register with the Town of West Hartford by forwarding annually to the Director of Health of the Town a copy of the state license required pursuant to C.G.S. § 19a-87b as amended. [Amended 6-28-1994; 5-10-2005]

**§ 177-16.2. Retail firearms stores. [Added 6-9-1987]**

The Town Council of West Hartford has found and determined that:

- A. The easy and convenient availability of certain types of firearms has increased the potential for firearm-related deaths and injuries from violent crimes, such as armed robbery and aggravated assault, as well as from accidents arising from the use of firearms;
- B. The permissible inclusion of retail stores selling firearms in a neighborhood business district is inconsistent with the purposes and requirements of that district as described in § 177-3B(3) of the West Hartford Code because firearm stores do not provide convenience goods and services for the neighboring residential areas and because such stores cater to a market area substantially larger than the neighborhood the district is intended to serve;
- C. The permissible inclusion of retail stores selling firearms as a permitted accessory use, rather than as a permitted main use, would be more consistent with the purposes and requirements of the Shopping Center District, the General Business District and the Central Business District; and
- D. The public health, safety and welfare of its citizens will be protected by limitations of retail firearm stores to certain zoning districts.

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4. Editor's Note: See § 177-34D.

**§ 177-16.3. Professional offices. [Added 11-14-1989; amended 6-27-2000]**

Professional offices shall be allowed in RM/O and RCO Zones subject to the requirements of § 177-42A and the following additional provisions:

- A. Professional services shall be limited to those permitted pursuant to the definition of "home occupation" in § 177-2 (which excludes walk-in medical/dental clinics).
- B. In the RM/O Zones, professional offices may only be located on the first floor, and residential uses are required in upper floors.
- C. Professional offices may be located on the first and upper floors in the RCO Zones.
- D. Parking shall be provided as required in § 177-32, except that the Plan and Zoning Commission shall be empowered to permit a reduction in parking below the levels required pursuant to § 177-32 if such reduction will aid in maintaining the residential character of the property and will not result in an inadequacy of on-site parking for the uses proposed on the premises. In no event, however, shall parking in an RCO Zone be reduced below the number of spaces already in existence. The number of parking spaces provided in an RCO Zone shall not exceed the minimum number required pursuant to § 177-32. In order to maintain the residential character, the Plan and Zoning Commission may grant a waiver for the striping of parking spaces.
- E. Except as provided in this section, the silhouette and/or facade of the building after conversion and the residential appearance of the building shall not be changed except as is necessitated for compliance with Building Code requirements, to adjust the front entrance to the building or to add a porch or other element giving shelter to persons waiting at the front entrance. The Town Plan and Zoning Commission shall evaluate whether the proposed changes to the silhouette and/or facade of the building or the proposed reconstruction will maintain the residential appearance and be in accordance with the purposes of the Residential/Multifamily-Office and Residential Character-Office Zones. The Commission's conditions authorized by § 177-42A(5) may include provisions to ensure that the converted building will be in harmony with its immediate neighbors and will otherwise satisfy the objectives of the Residential/Multifamily-Office and Residential-Character-Office Zones.
- F. Side yard minimums may be reduced to 10 feet where necessary to permit a building to be granted a special use permit under this section, except in areas adjacent to single-family residence zones.
- G. Site lighting shall be residential in character and in scale. Average illumination shall not exceed 1.0 footcandle in any rear yard parking area or side yard. Site lighting shall be turned off no later than 10:00 p.m. except for security lighting which is triggered temporarily by motion or sound. Site lighting design and intensity shall be regulated by the Town Plan and Zoning Commission pursuant to § 177-42A.

**§ 177-16.4. Stores in BND Zones. [Added 11-14-1989]**

In addition to the requirements in § 177-6, to ensure that the purposes of the BND Zone are being served, any separately identifiable store in a Neighborhood Business Design District (BND) Zone shall not have more than 3,000 square feet of floor area devoted to sales and activities associated with sales, excluding only storage areas located on a separate story. Stores in which

at least 75% of the floor area is devoted to sales of food or activities associated with the sale of food may have a maximum square footage of 4,500 square feet.

**§ 177-16.5. Alteration of standards in BND Zones. [Added 11-14-1989]**

To encourage the use of the Neighborhood Business Design District and to meet the goals for that district outlined in the Plan of Development, the buildings in that district may be increased to a maximum height of three stories and 36 feet, and the maximum floor area ratio and lot coverage of all buildings may be increased to 1.25 and 40% upon application to the Town Council for a Special Development District pursuant to § 177-44 if the Town Council finds, in addition to the findings required pursuant to said § 177-44, that the purposes of the Neighborhood Business Design District included in said plan are satisfied, including:

- A. The assemblage of smaller parcels into integrated designs that eliminate access/curb cuts and promote efficient traffic flow or the inclusion of shared parking arrangements.
- B. The inclusion of architectural, landscape and pedestrian amenities harmonious with mixed residential living and neighborhood services.
- C. The provision of parking as required in § 177-32.

**§ 177-16.6. Alteration of standards in CBDH Zones. [Added 11-14-1989; amended 7-8-2003]**

The Town Council of West Hartford, through adoption of the Plan of Development, finds that areas zoned CBDH are characterized by physically and economically underutilized properties from the perspective of a suburban central business area and that these areas are also appropriate for residential development. It further finds that areas zoned CBDH are conducive to expanded building intensity use if the impact on the Town's infrastructure, traffic circulation and parking, residential neighborhoods and community facilities is addressed satisfactorily. Accordingly, the height of buildings may be increased to six stories, the maximum lot coverage of all buildings may be increased to that area remaining after provisions for yard requirements and parking are met (unless said parking and/or yard requirements are waived by the Town Council) and the floor area ratio may be increased to 4.00 upon application to the Town Council for a special development district, provided that the following criteria, in addition to the criteria of § 177-44, are met:

- A. The Town Council must find that adequate parking exists to meet the needs of the proposed development.
- B. The Town Council must find that adequate street capacity exists on Raymond Road and on adjacent streets to accommodate the traffic projected to result from any increased intensity of use above that allowed as of right.
- C. The Town Council must find that appropriate pedestrian amenities, such as but not limited to park benches and pedestrian walkways, are provided.

**§ 177-16.7. Telecommunications towers and antennas.<sup>5</sup> [Added 1-13-1998]**

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5. Editor's Note: See also the Permit Structure for PCS Equipment located at the end of this chapter.

A. Preamble. This section is intended to regulate telecommunications facilities to the fullest extent permissible within the limits established by the Federal Telecommunications Act of 1996, Public Law 104-104 (the Act). Wherever possible, the terms of this section should be interpreted in a manner consistent with the Act, with any amendments to the Act which may be adopted hereafter and with any court or regulatory agency decisions interpreting the Act. This section shall not be construed to regulate or apply in any way to any use where such regulation or application would conflict with or be preempted by any provision of state or federal law. The uses defined, regulated or permitted pursuant to this section shall not be deemed to fall within any other category of use (whether defined or undefined) which is regulated by the Zoning Ordinances of the Town of West Hartford.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**ANCILLARY FACILITIES** — Any equipment, cables, lines, cabinets, fences or other structures associated with the operation of an antenna and which are located on the same site as the antenna. Ancillary facilities shall not include supporting structures as defined elsewhere herein.

**ANTENNA** — A device, commonly in the form of a metal rod or plate, wire panel or dish, used to transmit or receive telecommunications signals. An antenna is typically mounted upon a supporting structure or upon a building, steeple, bell tower or other structure.

**COLLOCATION** — The placement of multiple antennas upon a single supporting structure by multiple telecommunications carriers.

**DISGUISED ANTENNA** — An antenna and any associated supporting structure regulated by this section which has been modified in shape, size, configuration or visual appearance through the use of architectural, engineering or other techniques in an effort to minimize its visibility when installed in a specific location. The Town Planner shall have the authority to determine whether any specific antenna and supporting structure has been modified sufficiently to meet the requirements of this definition.

**FALL ZONE** — A circular area the center of which is located at the base of a supporting structure and the radius of which is equal to the lesser of 1.25 times the height of the supporting structure and any antenna mounted thereupon; or 1.25 times the height of the longest portion of supporting structure and any antenna mounted thereupon which is separated by a point in the supporting structure which has been designed to break or shear before the entire supporting structure fails due to stress.

**PROPRIETOR** — The owner of the supporting structure upon which one or more antennas are mounted, regardless of who may be the owner of the antenna or the underlying property.

**SUPPORTING STRUCTURE** — Any tower, pole, mast or similar structure which is used to support a telecommunications antenna and which, when measured in conjunction with the telecommunications antenna which it supports, is more than 15 feet in height or extends the height of any existing building or other structure by more than 15 feet. Any antenna shall be deemed to be attached directly to the building or other structure when its height, in conjunction with the tower, pole or mast supporting it, is 15 feet or less. The term "supporting structure" shall not be construed to include any building, cupola, bell tower, steeple, water tank, water tower or lattice-type utility transmission line support tower which serves the secondary purpose of supporting telecommunications antennas.

TELECOMMUNICATIONS — The transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

TELECOMMUNICATIONS ACT — The federal Telecommunications Act of 1996, Public Law 104-104, as codified, and as may be amended from time to time.

TELECOMMUNICATIONS CARRIER — Any provider of telecommunications services, except that such term does not include aggregators of telecommunications services.

C. Application process.

- (1) In recognition of the mandates of the Telecommunications Act, the installation and maintenance of telecommunications antennas and supporting structures or ancillary facilities by or for the benefit of telecommunications carriers shall be a permitted use in all zones subject to the following application requirements which shall apply unless preempted by state or federal law:
  - (a) The application requirements of this section shall be deemed to have been satisfied with respect to any antenna or supporting structure located on property owned by the Town of West Hartford and which has been approved by the Town Council as a result of a request for proposals.
  - (b) For purposes of this section, an antenna or supporting structure shall be deemed to be located in the most restrictive zone which is contained in its fall zone.
  - (c) In all zones the collocation of antennas onto existing supporting structures shall be subject to site plan review pursuant to § 177-42B and shall be subject to such additional requirements as may be found in this section.
  - (d) In BOL, BO, BN, BND, BS, BC and CDBH Zones, the installation of any antenna directly onto an existing building or other structure without the installation of a new supporting structure shall be subject to site plan review pursuant to § 177-42B and shall be subject to such additional requirements as may be found in this section, provided that such antenna does not extend more than 15 feet above the height of the existing building or other structure. Any antenna which extends more than 15 feet above the height of the existing building or other structure shall be subject to special use permit pursuant to § 177-42A and shall be subject to such additional requirements as may be found in this section.
  - (e) In all commercial and industrial zones, the installation of disguised antennas shall be subject to site plan review pursuant to § 177-42B and shall be subject to such additional requirements as may be found in this section.
  - (f) In all residential zones, installation of any disguised antenna directly onto an existing structure without the installation of a new supporting structure shall be subject to site plan review pursuant to § 177-42B and shall be subject to such additional requirements as may be found in this section.
  - (g) Except as provided in Subsection C(1)(c) and (f) above, the installation of any antenna in a residential zone shall be subject to special use permit pursuant to

§ 177-42A and shall be subject to such additional requirements as may be found in this section.

- (h) In BG, IP, IE, IR and IG Zones, the installation of any antenna directly onto an existing building or other structure without the installation of a new supporting structure or the erection of any new supporting structure shall be subject to site plan review pursuant to § 177-42B and shall be subject to such additional requirements as may be found in this section. Except as provided in Subsections C(1)(d) and (e), in all other zones the installation of any antenna directly onto an existing building or other structure without the installation of a new supporting structure or the erection of any new supporting structure shall be subject to special use permit pursuant to § 177-42A and shall be subject to such additional requirements as may be found in this section.
  - (i) No antenna or supporting structure except a disguised antenna shall be permitted in any designated historic district, any designated historic site or any area designated by the State of Connecticut as a scenic area.
- (2) Application requirements.
- (a) All applications. In addition to those application requirements contained in § 177-42A or 177-42B of this Code of Ordinances (as applicable), the following requirements shall be met:
    - [1] The property owner, the proprietor and the telecommunications carrier whose antenna will be located on the site shall all be required coapplicants and shall all be bound by the conditions of any permit.
    - [2] If any proposed antenna regulated hereunder is intended to provide transmission/reception coverage beyond the borders of the Town of West Hartford, the municipality into which said signal is transmitted or from which a signal may be received shall be notified of the submission of the application by the applicant, which shall provide proof of such notification to the Town Planner.
    - [3] All applicants must submit copies of all environmental, financial or other impact studies associated with the proposed application which are in their possession at the time of application and must supplement those studies with any studies received prior to the close of the public hearing (if any).
    - [4] All applicants shall provide such information as may be required to establish that the combined emission/power levels for all antennas comply with FCC requirements at the nearest point to the antenna or supporting structure which may be accessible to the public, regardless of whether such access is permitted by the applicant or the property owner.
    - [5] All applicants shall establish compliance with the environmental assessment requirements contained in the Federal Communication Commission regulations located at 47 CFR, Part 1, Subpart I, §§ 1.1307 and 1.1308 (implementing the National Environmental Policy Act), as those regulations may be amended or renumbered from time to time,

and shall provide copies of any environmental assessments produced in compliance with those sections.

- (b) Applications for new supporting structures or increase in height of existing supporting structures. In addition to the requirements contained in Subsection C(2)(a) above and those application requirements contained in § 177-42A of this Code of Ordinances, the following requirements shall be met:
- [1] The applicant shall provide notice of the application to all other telecommunications carriers licensed by the Federal Communications Commission to provide telecommunications services in West Hartford.
  - [2] The applicant shall provide a map showing the location of all antennas operated by the applicant which provide service to any portion of West Hartford and all antennas which the applicant intends to construct (to the extent known), together with the effective transmission/reception areas for each of those sites.
  - [3] The applicant shall provide such supporting documentation as is necessary to establish that the antenna and/or supporting structure is no taller than required to meet the applicant's technical needs or the requirements of this section.
  - [4] All supporting structures shall be designed to permit the collocation of no fewer than three sets of antennas. This provision may be waived by the Plan and Zoning Commission if such waiver would be in the best interest of the Town.
  - [5] The applicant shall establish that at least one telecommunications carrier has committed to installing or operating antennas upon the proposed supporting structure within 90 days after the supporting structure has been completed.
  - [6] All applications involving the erection of a new supporting structure or an increase in the height of an existing supporting structure shall be accompanied by a detailed plan showing:
    - [a] The fall zone surrounding the supporting structure and identifying all structures within said fall zone by use and by owner; and
    - [b] All supporting structures within 2,000 feet of the proposed supporting structure and all buildings within 2,000 feet of the proposed supporting structure the roof levels of which are not more than 25 feet lower than the supporting structure.
  - [7] In any case where an applicant proposes to erect a new supporting structure within 2,000 feet of an existing supporting structure or building of approximately equal elevation to the proposed supporting structure, the applicant shall be required to establish that collocation of the proposed antenna upon the existing supporting structure or installation onto said existing building is not a technically feasible alternative.

- (3) Fees.

- (a) In addition to the fees established elsewhere for site plan applications or special use permit applications, the applicant shall pay a fee equivalent to the cost borne by the Town to obtain an independent evaluation of the technical aspects of the application which are not within the expertise of Town staff. This fee shall be paid before any permit may be issued pursuant to section.
- (b) A telecommunications carrier may submit a single application and a single application fee for antennas at multiple locations within West Hartford, provided that the applicant submits with the application an affidavit stating that the application encompasses all remaining antennas required by the applicant to provide service throughout the Town of West Hartford and that the applicant does not currently anticipate installing further antennas in West Hartford. In the event that this single application involves a combination of locations requiring both site plan approval and special use permit approval, the more stringent approval process and the greater application fee shall apply.

D. Conditions of approval.

- (1) Collocation. Collocation of antennas onto existing supporting structures or at existing antenna sites is encouraged wherever feasible. In keeping with that policy, it shall be a condition of approval that the proprietor of any supporting structure permitted pursuant to this section must agree to permit the subsequent collocation of antennas upon its supporting structure wherever technically feasible, subject to the right of the proprietor to receive a reasonable fee for the use of its supporting structure. If any telecommunications carrier has been denied permission to collocate on a supporting structure permitted pursuant to this section, or if the proprietor of the supporting structure has been unreasonably dilatory in providing such permission, the Town Planner may issue civil fines of \$150 per calendar day to the proprietor pursuant to C.G.S. § 8-12a, as that section may be amended from time to time, until such time as the proprietor issues permission to collocate upon its supporting structure, and may take such other enforcement action as is deemed reasonable and appropriate.
- (2) Site protection and landscaping.
  - (a) All antennas, ancillary facilities and supporting structures (including the base of any guy wires used to stabilize a supporting structure) shall be secured from unauthorized access by fencing unless located in a manner which satisfies the Plan and Zoning Commission or the Town Planner, as appropriate, that such fencing is unnecessary. Power-generating equipment and other electrical equipment associated with any antenna shall be secured within locked cabinets or sheds and shall incorporate noise-reduction techniques designed to minimize the sound emanating from such equipment during its operation.
  - (b) All ancillary facilities and the base of all supporting structures shall be screened from view using Type C screening as defined at § 177-34D(3) unless the Plan and Zoning Commission shall determine that such screening is unnecessary or inappropriate in a particular case. Equipment sheds shall be designed to present a visual appearance consistent with the structures in the surrounding area.
- (3) Maintenance of antennas, supporting structures, ancillary facilities and access routes.



- (a) Prior to obtaining a permit to erect any approved antenna, ancillary facilities or supporting structure, the applicant shall provide the Town Planner with a detailed maintenance plan setting forth the schedule for anticipated maintenance and monitoring of the site, including the antennas, supporting structures, ancillary facilities, fencing, landscaping and all other site improvements. Such maintenance plan shall specifically address both structural/mechanical maintenance and electrical/electromagnetic maintenance so as to ensure that both the structures and the transmission/reception operations on the site continue to function safely and within all regulatory limits.
  - (b) In the event that the uppermost antennas mounted on any supporting structure are removed or lowered in height, any portion of the supporting structure remaining above the uppermost antennas shall be removed within 90 days unless the proprietor can establish that additional antennas shall be mounted thereupon within said ninety-day period. The administration may waive the requirements of this subsection upon a showing of technical need.
- (4) There is hereby established a special revenue fund of the Town to be known as the "Tower Abandonment Fund." The revenues contained in this fund, including any interest which shall accrue thereto, be used exclusively for the purpose of funding the cost of dismantling and removing antennas, ancillary facilities and/or supporting structures which are unused or which have become dangerous by virtue of neglect if the proprietor of said antennas, ancillary facilities or supporting structure is unable to, or has refused to do so.
- (a) Upon receipt of approval for the erection of any supporting structure, the applicant shall tender to the Town of West Hartford a statement setting forth the estimated cost of construction for the approved antennas, ancillary facilities and supporting structure, together with a payment equal to 5% of the estimated cost of construction. Said payment shall be deposited to the Tower Abandonment Fund.
  - (b) In the event that an antenna, ancillary facilities and/or supporting structure is dismantled and removed by and at the expense of the applicant or its successor, the amount of the original payment made to the Tower Abandonment Fund at the time of approval shall be returned to the applicant or its successor upon application therefor to the extent that sufficient funds remain in the Tower Abandonment Fund. No interest shall be paid thereupon, and no funds shall be returned in the event that the Tower Abandonment Fund has been depleted.
  - (c) In the event that an antenna, ancillary facilities and/or supporting structure is unused or has become dangerous by virtue of neglect, reasonable efforts shall be made to request the applicant to dismantle and remove said antenna, ancillary facilities and/or supporting structure.
  - (d) If the applicant cannot be found after reasonable efforts, is unable to or refuses to dismantle and remove said antenna, ancillary facilities and/or supporting structure, the Town Manager is authorized to take such action as is reasonable, necessary or appropriate to dismantle and remove said antenna, ancillary facilities and/or supporting structure and to charge the expenses associated therewith to the Tower Abandonment Fund. The Corporation Counsel is

authorized to take such further legal action as may be necessary to obtain resolution for the Town's costs incurred in such dismantling and removal from the applicant or from any third parties who might otherwise be liable therefor to the extent that those costs exceed the applicant's original contribution to the Tower Abandonment Fund relative to the site in question.

**§ 177-16.8. Veterinary facilities. [Added 5-22-2007]**

Veterinary facilities comprise a broad range of commercial activities ranging from the small animal practice of a single veterinarian to large hospital-like practices of multiple veterinarians. These facilities may devote their practices to small animal species or may also tend to large animal species which require unusual equipment or facilities. These varied business types may require on-site facilities for the keeping of animals for several days, either due to medical needs or as an accommodation to customers looking for the boarding of their pets. While veterinary facilities are all commercial uses which may have a broad range of impacts upon surrounding properties, it may also be appropriate that they be located near the residences where their customers live with their pets both for convenience and for the physical and emotional well-being of both pets and owners. For these reasons, and provided that the potential negative impacts associated with their presence are addressed adequately, veterinary facilities are permitted in residential zones subject to the requirement that a special use permit be obtained therefor in accord with the provisions of West Hartford Code of Ordinances § 177-42A and subject to the additional limitations set forth in this section. These additional requirements shall be construed as a threshold set of requirements and should not be construed in a manner which would otherwise restrict the discretion of the Plan and Zoning Commission pursuant to § 177-42A in any way.

- A. Veterinary facilities located in residential zones shall maintain the residential character of the buildings in which they are located and should minimize the impact of associated signage by limiting the size and tone thereof.
- B. Veterinary facilities located in residential zones should be located on principal arterial streets as established in the Plan of Conservation and Development as may be amended from time to time.
- C. Outdoor pens or other outdoor exercise facilities for animals are not permitted at veterinary facilities located in residential zones.
- D. Crematory facilities for the disposition of deceased animals are not permitted at veterinary facilities located in residential zones.
- E. In residential zones, routine appointments shall be limited to the hours between 7:00 a.m. and 8:00 p.m. on Monday through Saturday. Emergency medical care and tending to the needs of animals by staff members shall be permitted outside these hours, provided that the applicant shall provide a detailed operational statement regarding its plans to offer emergency medical care and shall establish procedures for minimizing the impacts of such operations upon surrounding properties.

**§ 177-16.9. Aircraft landing sites. [Added 4-10-2014]**

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

FLIGHT OPERATION — A combination of one landing and one takeoff by which a helicopter arrives at and departs from a heliport.

HELIPORT — A site at ground level for the landing and takeoff of manned helicopters (but excluding other forms of aircraft capable of vertical takeoffs or landings) which:

- (1) Has been approved by the Connecticut Airport Authority as a heliport; and
- (2) Meets the definition of a "prior permission required (PPR) heliport" as set forth in U.S. Department of Transportation, Federal Aviation Administration Advisory Circular No. 150/5390-2C, dated April 24, 2012, as amended or replaced from time to time. These facilities are commonly known as "restricted heliports" or "restricted landing areas."

B. Permitted use.

- (1) One non-revenue-producing heliport, including any equipment necessary to permit safe operations, shall be permitted as an accessory use in any zone, subject to the requirements of West Hartford Code of Ordinances § 177-42A and the additional requirements set forth in this section.
- (2) Heliports incorporating permanent taxiways and/or parking pads or which include maintenance, repair and/or fueling facilities shall only be permitted within industrial zones. This subsection shall not be construed to prohibit occasional refueling of a helicopter from a tanker truck or similar vehicle which is not routinely kept on site but any such refueling shall be conducted in accord with the requirements of subsection C(7) of this section.
- (3) At the time notice is mailed to adjoining property owners pursuant to § 177-42A(2) of this chapter, the Commission shall also send such notice to all other owners of property within 500 feet of the property which is the subject of any application for approval of a heliport.

C. Specific requirements.

- (1) The applicant shall submit plans certified by a qualified professional demonstrating that the heliport has been designed to comply with all standards for heliport design which are set forth in U.S. Department of Transportation, Federal Aviation Administration Advisory Circular No. 150/5390-2C, dated April 24, 2012, as amended or replaced from time to time. In recognition of the fact that compliance with those standards is not mandatory for PPR heliports, deviations therefrom may be permitted for good cause provided that such deviations are enumerated in the special use permit application and are identified on the plans.
- (2) The applicant shall identify the design helicopter used to design the heliport. Aircraft exceeding maximum weight, maximum contact load/minimum contact area, overall length, rotor diameter, tail rotor arc radius, undercarriage dimensions or pilot's eye height of the design helicopter shall not be permitted to use the aircraft landing site.
- (3) Operation of aircraft landing sites shall be limited to the hours between 8:00 a.m. and 8:00 p.m. and shall be limited to 18 flight operations per year. The operator of a heliport shall keep a log listing the date, time and purpose of all flight operations and shall provide the Town Planner with a copy of said log for the one-year period

from the date when the first flight operation takes place and annually thereafter. In approving any specific aircraft landing site, the Plan and Zoning Commission may further limit the frequency of use and hours of operation as well as the type(s) or specifications of helicopters which may be used. In considering such limitations, the Commission is encouraged to approve only the minimum hours of operations and number of flight operations which are necessary to meet the actual needs of the applicant.

- (4) Lights associated with operation of the heliport, including any illuminated windsock or wind cone, shall be lit only for so long as is reasonably necessary to permit the pilot to locate the heliport and complete the landing and/or takeoff operations.
- (5) The outer boundary of the safety area surrounding the touchdown and liftoff area shall be located at least 150 feet from the nearest property line, including all equipment associated therewith.
- (6) The applicant shall specifically state whether the heliport is intended to permit instrument operations. All equipment required to facilitate instrument operations shall be located within the boundaries of the property on which the heliport is located. All equipment or facilities associated with instrument operations shall be identified on the plans, including, but not limited to, lighting, radio direction finding (RDF), instrument landing system (ILS) or other navigational aids. Where backup power supplies are proposed, the location of such equipment shall also be identified. The Plan and Zoning Commission may limit or prohibit the installation of instrument operation equipment which will unreasonably impair the use or enjoyment of surrounding properties.
- (7) At heliports where fueling facilities are permitted, such facilities shall be constructed, maintained and operated in accord with all provisions of law applicable thereto. In addition such facilities shall comply with all standards for aircraft fuel storage, handling, training and dispensing on airports which are set forth in U. S. Department of Transportation, Federal Aviation Administration Advisory Circular No. 150/5230-4B, dated September 28, 2012 (including those standards of the National Fire Prevention Association which are referenced therein), as amended or replaced from time to time.

D. Exceptions. The provisions of this section shall not apply to:

- (1) Emergency landings of aircraft required as a result of a pilot-declared distress or urgency condition.
- (2) The landing and takeoff of passenger-carrying balloons, provided that takeoffs from a particular parcel of land shall be limited to no more than two days within a calendar year.
- (3) Air medical helicopter landings and takeoffs for the purpose of emergency patient care.
- (4) Landings and takeoffs by federal, state or local government officials or their authorized agents in the exercise of government responsibilities, including training.

- E. Construction. Nothing in this section shall be construed to establish, validate or otherwise create air rights in or to any property. The approval of any special use permit pursuant to this section shall not be construed to limit, in any way, the subsequent development of surrounding property in any manner permitted under law.

**§ 177-16.10. Medical marijuana production facilities and dispensaries. [Added 6-24-2014]**

- A. Medical marijuana production facilities shall be allowed in IG Zones, subject to the requirements of § 177-42A and the following additional provisions:
- (1) Production facilities shall not be permitted within 200 feet of any school, municipal park or recreational facility, place of worship, or single-family or multifamily residential zone. Said distance requirement shall be measured by taking the nearest straight line between the respective lot boundaries of said sites.
  - (2) No production facility shall be permitted on a site that is within 1,000 feet from an existing production facility. Said distance requirement shall be measured by taking the nearest straight line between the respective lot boundaries of said sites.
  - (3) Production facilities shall restrict external signage to a single sign no larger than 16 inches in height by 18 inches in width; not illuminate a production facility sign advertising a marijuana product at any time; not advertise marijuana brand names or utilize graphics related to marijuana on the exterior of the production facility or the building in which the production facility is located; and not display marijuana and paraphernalia so as to be clearly visible from the exterior of a production facility.
  - (4) Production facilities must comply with C.G.S. § 21a-408 et seq. and Regulations of Connecticut State Agencies §§ 21a-408-1 to 21a-408-70, inclusive, as said statutes and regulations may be amended from time to time.
- B. Medical marijuana dispensary facilities shall be allowed in IG Zones, subject to the requirements of § 177-42A and the following additional provisions:
- (1) Dispensary facilities shall not be permitted within 200 feet of any school, municipal park or recreational facility, place of worship, or single-family or multifamily residential zone. Said distance requirement shall be measured by taking the nearest straight line between the respective lot boundaries of said sites.
  - (2) No dispensary facility shall be permitted on a site that is within 1,000 feet from an existing dispensary facility. Said distance requirement shall be measured by taking the nearest straight line between the respective lot boundaries of said sites.
  - (3) Dispensary facilities must comply with C.G.S. § 21a-408 et seq. and Regulations of Connecticut State Agencies §§ 21a-408-1 to 21a-408-70, inclusive, as said statutes and regulations may be amended from time to time.

ARTICLE IV  
**General Regulations**

**§ 177-17. Utility lines and substations. [Amended 10-24-2000]**

- A. For purposes of this section the term "public utility structure" shall include any structure erected by a public service company, as that term is defined by Connecticut law, unless the location of said structure is regulated by the Connecticut Siting Council or unless said structure is subject to the requirements of § 177-16.7 of this Code of Ordinances, in which case the requirements of that section shall apply in lieu hereof.
- B. Public utility structures erected in connection with operations which service the citizens of West Hartford shall be permitted as either main or additional uses on any lot subject to the provisions of this section.
- C. Permits required.
- (1) In RP, RM/O, RM-MS, RO, RCO, RM-1, RM-2, RM-3R, RM-3, RM-4, R-6, R-10, R-13, R-20, R-40 and R-80 Zones, no public utility structure shall be erected above the ground unless a special use permit has been obtained therefor in accord with the provisions of § 177-42A of this Code of Ordinances and subject to the issuance of building and/or zoning permit, and subject to the issuance of a permit pursuant to § 155-26 of this Code of Ordinances, if applicable.
  - (2) In all other zones, no public utility structure shall be erected above the ground unless a site plan approval has been obtained therefor in accord with the provisions of § 177-42B of this Code of Ordinances and subject to the issuance of a building and/or zoning permit, and subject to the issuance of a permit pursuant to § 155-26 of this Code of Ordinances, if applicable.
  - (3) Public utility structures placed underground, fire hydrants and utility poles shall be permitted as of right in any zone, subject to the issuance of a building and/or zoning permit, and subject to the issuance of a permit pursuant to § 155-26 of this Code of Ordinances, if applicable.
- D. Standards.
- (1) The location, construction and right-of-way of any public utility structure shall be such as to prevent hazard to the public and surrounding property.
  - (2) All standards for the zone in which a public utility structure is to be located shall be met. In the event that a public utility structure is to be located on a lot which is already improved, the public utility structure shall comply with the standards applicable to accessory uses in the applicable zone and the combination of all structures on the lot, including the public utility structure, shall not be permitted to exceed the lot coverage limitations for the zone.
  - (3) There shall be suitable fencing to protect the public and landscaping to effectively screen the public utility structure from surrounding property.

**§ 177-18. Yards and open space.**

- A. No required yard or other open space provided about any building shall be included as any part of a required yard or other open space for any other building.
- B. No yard or other open space on one lot shall be considered as a yard or other open space on any other lot.

**§ 177-19. Change of lot area and dimensions.**

No lot shall be so reduced in area or changed in dimensions that any required yard or other open space will be smaller than prescribed by this chapter.

**§ 177-20. Obstructions in yards. [Amended 7-22-1986; 9-27-1994; 6-23-1998]**

No structures or projections shall be permitted in any required yard, except as follows:

- A. Minor projections of structures, such as window or door frames and sills, belt courses, cornices or other architectural features, may project not more than six inches into any required yard.
- B. Major projections of structures, such as chimneys, bay windows not longer than 25% of the wall from which they project, eaves, roofs over doorways, hatchways, areaways and fire escapes, may project not more than four feet into any required yard, provided that they shall not be closer than four feet to any lot line.
- C. Walls or fences not exceeding seven feet in height measured above the adjoining finished grade are allowed only in any required side or rear yard. Minor variations of less than one foot in elevation of the adjoining finished grade shall not affect the measurements of the height of such fence or wall, except for underground parking facilities as in § 177-32E.
- D. No structure shall be erected between the building line and the street line, except: **[Amended 9-14-2004]**
  - (1) A wall or fence not over four feet in height and not more than 1/2 solid;
  - (2) Signs as specified in § 177-33; and
  - (3) A handicapped ramp, as defined in § 177-2B, which is added to an existing structure or existing portion of a structure, provided that such ramp shall have the minimum possible intrusion into the area between the building and street line.
  - (4) A porch, veranda or portico (as defined in § 177-2B) may be allowed forward of the building line, but may not extend beyond the veranda line or 10 feet forward of the front yard building line, whichever is greater. It is the intent of this subsection that open porches, verandas and porticos should be permitted because they enhance and encourage neighborhood interaction and a sense of community as well as providing an opportunity for unique and interesting streetscapes. Porches enclosed by glass, screens or other enclosure materials do not meet the intent of this subsection. In keeping with this intent, the following requirements shall be met by all porches, verandas or porticos constructed pursuant to this section:
    - (a) A porch, veranda or portico located under the provision of Subsection D(4) above shall not be enclosed by screens, glass or other enclosing material.

- (b) To ensure user safety, porches, verandas or porticos may be surrounded by a balustrade or other decorative half-wall up to 42 inches high. Such balustrade or half-wall shall be not more than 1/2 solid and may not be further enclosed or covered.
- E. In any rear yard only accessory buildings not exceeding 15 feet in height shall be permitted, provided that they shall not occupy more than 25% of the required rear yard and that they shall be no closer than two feet from any lot line. Accessory buildings shall be located at least six feet from any portion of any dwelling on the property. Garages in a rear yard may be erected abutting the rear and side lot lines, provided that a plan for this is approved by the Zoning Board of Appeals. In case a garage is erected abutting a rear or side lot line, any garage erected on the abutting property next to the former garage shall either also be erected abutting said lot line, or it shall not be closer than four feet to said lot line.

**§ 177-21. Projections above roof level. [Amended 5-13-2014]**

The height limitations of this chapter shall not apply to church spires, belfries and domes not used for human occupancy nor to chimneys, skylights, water tanks, bulkheads, antennas, air-conditioning equipment, ventilating equipment or elevator lift equipment, including their enclosures, parapet walls above actual roof height and similar features usually carried above the roof level, except as may be specifically modified by other provisions of this chapter or other regulations. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve.

**§ 177-22. Required street frontages. [Amended 8-22-1989]**

No building or zoning permit shall be issued for any structures or land use unless the lot for which the permit is sought has the required frontage on a public or private street, which street shall have been approved by the Plan and Zoning Commission, or, in the case of a rear lot, upon the private driveway which provides access to the rear lot. The minimum required frontage in all districts shall be 50 contiguous feet or more. In the case of a rear lot which is serviced by a private driveway providing access to the street, the minimum frontage requirement shall be reduced to the minimum required driveway width for that rear lot, measured at the point where the driveway crosses into the buildable portion of the rear lot, but the lot line along which frontage is measured must also continue, in an uninterrupted straight line, for such further distance as is necessary to provide a total lot line length of 40 feet.

**§ 177-23. Accessory buildings. [Amended 9-23-2008]**

- A. An accessory building attached to a main building, including attachment by means of a breezeway or a roofed passageway, shall comply with the requirements of this chapter applicable to the main building.
- B. Any accessory building observing the same yards as required for the main building may be erected to the same height limits as the main building.
- C. No accessory building on the same lot with a main residence building shall be used for residence purposes, except for guests or for domestic employees of the owners or tenants of the main building and who are employed on the premises, provided that such accessory building contains no kitchen facilities. One dwelling of not more than three



rooms, including kitchen facilities, shall be permitted in an accessory building, provided that the lot has at least twice the area as required by the provisions of this chapter.

- D. Accessory buildings shall be constructed of durable permanent materials, such as wood or metal framing; wood, metal or vinyl wall panels; and roofing materials, such as wood, fiberglass or asphalt roofing materials. The requirements of this subsection shall not apply to temporary accessory buildings such as tents; freestanding awnings or canopies; hoop houses or cold frames for the establishment or protection of plants; and similar structures, provided that such temporary accessory buildings shall not be erected for more than 60 days during any calendar year. The Plan and Zoning Commission is authorized to grant a special use permit pursuant to § 177-42A where unique circumstances exist which warrant either the use of materials which are not durable or permanent, or the erection of a temporary accessory building for longer than 60 days. Convenience and/or expense shall not, however, be deemed to be unique circumstances.

**§ 177-24. Visibility at intersections and curves. [Amended 10-28-1969]**

No obstruction, hedge, bush, tree or other growth or any fence or billboard shall be erected, maintained or planted which obstructs or interferes with a clear view of drivers of vehicles on a curve or at any street intersection and which endangers the safety of those traveling upon such streets or highways. The minimum vision clearance shall require a height not exceeding three feet above the street grade within 12 feet of the intersecting street lines bordering corner lots.

**§ 177-25. Shielding of outdoor lighting.**

Any outdoor lighting for illumination of signs, spotlighting or floodlighting shall be so shielded that the light source cannot be seen from adjacent properties, except that signs with exposed neon tubes shall be permitted in all business and industrial districts.

**§ 177-26. Removal and replacement of topsoil.**

The removal or destruction of topsoil of more than 1,000 square feet on any lot shall not be permitted except in connection with construction, regrading or landscaping work. After completion of such work, the topsoil shall be replaced and seeded according to accepted landscaping practices.

**§ 177-27. Drainage water. [Amended 6-28-1994]**

No structure shall be used, erected or expanded, and no land shall be graded or hard-surfaced, unless provisions have been made and approved by the Department of Community Services for the proper disposal of drainage water, particularly from parking areas and driveways, from areas contiguous to property lines and from low areas which tend to collect drainage water.

**§ 177-28. Disposition of fill. [Added 11-15-1977; amended 6-28-1994]**

No fill shall be deposited on any lot within the Town without the prior written approval of the Director of Community Services. The Director may attach reasonable conditions to said approval, including a requirement that the applicant make application for an inland wetlands and watercourses permit if the land appears to be in an inland wetlands area as delineated on the Official Inland Wetlands and Watercourses Map.<sup>6</sup>

**§ 177-29. Erosion and sediment. [Added 11-15-1977; amended 5-13-1986; 6-28-1994]**

In developments not subject to Article VIII hereof, where it is determined by the Director of Community Services that construction activity may cause erosion or sedimentation, the developer shall submit for approval by the Director of Community Services a plan indicating the control measures to be used by the developer to prevent or minimize said erosion or sedimentation. Such control measures shall be in accordance with the techniques contained in the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as from time to time amended. Other methods acceptable to the Director of Community Services may be permitted. The Director of Community Services may require a performance and/or maintenance bond with surety in connection with the above.

**§ 177-30. Access to adjoining zoning use. [Added 9-23-1980]**

Where a parcel of land in the name of one owner of record is located in West Hartford and in an adjacent town with different zoning classifications applicable to the portion of the property located in each town, the Town Council may permit access from a public highway across the portion of the property located in West Hartford, when such access road would not otherwise be a permitted use within the zoning classification applicable to the West Hartford property, to a commercial use located on the portion of the property in the adjacent town, provided that:

- A. The primary use is a permitted use in the adjacent town.
- B. The primary use for the entire parcel is located in the adjacent town.
- C. The parcel of land shall have not less than 200 feet of frontage on the public highway to be accessed.
- D. The access road shall meet the standards imposed for public highways under Chapter A184, Subdivision Regulations.
- E. The Town Council determines after notice and hearing that the access road will not have an adverse impact on public health or safety.

**§ 177-31. Amusement devices. [Added 5-25-1982]**

- A. Amusement devices as an accessory use as permitted in § 177-6E shall comply with the following standards:
  - (1) Not more than seven amusement devices shall be allowed per commercial establishment.
  - (2) Not more than one amusement device per 700 square feet of gross floor area or fraction thereof.
  - (3) A minimum open area depth of four feet on any player side.
- B. Commercial establishments which store and display amusement devices for sale or rental only are excluded from regulation under this section.

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6. Editor's Note: The Inland Wetlands and Watercourses Map is on file in the Planning office and the Town Clerk's office.

**§ 177-32. Parking. [Amended 7-1-1969; 10-28-1969; 4-12-1977; 11-15-1997; 1-13-1981; 3-24-1981; 4-21-1987; 9-22-1987; 2-14-1989; 6-25-1991; 9-8-1998; 7-13-1999; 3-14-2000; 12-13-2005]**

- A. General requirements. All structures and land uses erected, expanded or established after the adoption of this chapter shall be provided with an amount of off-street vehicular parking space and loading and unloading space adequate to meet the needs of persons making use of such structures of land, which shall not be less than the standards specified in Subsections I and J of this section.
- B. Overnight parking. A motor vehicle permitted to be parked overnight may not be in a state of disassembly, disrepair or in the process of being stripped or dismantled unless it is in a fully enclosed structure or permitted by the Zoning Board of Appeals pursuant to a car dealer's license, a car repairer's license or a special exception.
- C. Submission and approval of plans. Applications for building and/or zoning permits, except for one- and two-family houses, shall be accompanied by a plot plan, drawn to scale, showing the location, size and arrangement of off-street parking and loading facilities required by this chapter and the means of access to said facilities from the public street and any separate egress from such facilities. Such parking plan shall also show proposed screening, landscaping, lighting fixtures, drainage and other improvements. The parking plan shall be submitted to the Town Planner for approval as complying with this chapter, including adequate relationship of entrances and exits to the flow of traffic on the public streets, safeguarding of pedestrians on public sidewalks and in the parking facility itself and to the adequacy of access and circulation of the vehicles and pedestrians using the parking facility. The parking plan shall be approved before a building and/or zoning permit is issued.
- D. Location. The parking and loading facilities which are required by this chapter shall be provided on the same lot or premises with the structure or land use they are to serve, except as provided under Subsection G of this section.
- E. Specifications.
- (1) Parking and loading facilities shall be designed to provide for safe circulation of vehicular and pedestrian traffic within the parking area and in relation to adjacent streets.
  - (2) Parking and loading facilities shall be laid out so that vehicles shall enter and leave the public street or right-of-way only at the approved entrances and exits.
  - (3) All parking spaces in parking areas of more than 25 cars and all loading spaces shall be so located that vehicles entering or leaving such spaces do not block any entrance drive to the parking facility within 20 feet of any street.
  - (4) Any area of 100 square feet or more in a parking lot which is not required for a parking space, loading space, aisle, driveway or walkway shall be landscaped. In every parking area, at least one tree shall be provided for each 10 parking spaces provided in said parking area. The trees shall be distributed over the entire parking lot. Parking structures are exempt from the requirement of this subsection.

- (5) Provisions shall be made to prevent vehicles from overhanging any walkway and from damaging trees or other landscaping materials. If a parking lot abuts a sidewalk, a strip of landscaping at least four feet wide shall be provided to prevent encroachment on said sidewalk.
- (6) An underground parking structure may be erected between a building line and a street line in any district where surface parking is prohibited between said lines under the following conditions:
  - (a) The height of the structure shall be not more than three feet over the land surrounding the structure.
  - (b) The top of the structure shall be landscaped.
  - (c) The structure shall not be closer than two feet to any lot line or street line.
- (7) No parking spaces shall be located within 15 feet of windows of habitable rooms of dwelling units, measured horizontally and vertically, except where the parking space is located in a structure or completely under such habitable room. This subsection shall not, however, apply in the following zoning districts: R-80, R-40, R-20, R-13, R-10 and R-6.
- (8) Dimensions of parking spaces and aisles shall be at least as follows:
  - (a) Width of space: nine feet or 10 feet if adjacent to a wall or column.
  - (b) Length of space: 20 feet.
  - (c) Width of aisle:

Angle of Spaces	Width (feet)	
	Two-way	One-way
80° or more to the aisle	24	24
70° to 79 °to the aisle	20	19
60° to 69° to the aisle	20	18
40° to 59° to the aisle	20	13
Less than 40° to the aisle	20	12

- (d) Reserved areas suitably marked for compact and substandard-sized cars may be substituted at the rate of one space in six spaces. The width and length of space of said compact spaces shall be eight feet and 17 feet, respectively.
- (9) Dimensions of loading spaces shall be at least as follows:
  - (a) Full loading space: 12 feet by 45 feet.
  - (b) One-half loading space: 12 feet by 22.5 feet.

- (10) A public garage used exclusively for parking of passenger motor vehicles on more than one story may be erected in any business or industrial district under the following conditions:
- (a) The area covered by said garage shall not be counted either in determining maximum lot coverage or maximum floor area ratio. Said garage shall conform to all lot standards required area in the zoning district in which it is located, except that said garage, per se, shall not occupy more than the permitted maximum lot coverage of all buildings or exceed in height the permitted maximum height of the main building.
  - (b) All exits and entrances shall be so located as to provide the least amount of interference with the movement of pedestrian and vehicular traffic. Each entrance and exit shall be at least 20 feet distant from any residential property or residential district and at least 75 feet distant from any street intersection and not within designated bus loading or unloading zones.
  - (c) No sign of any kind, other than those specifically designated "entrance," "exit" and conditions of use, shall be maintained on such garage. Such signs shall not exceed 15 square feet in area each and an overall height of 10 feet.
  - (d) Except as modified herein, said garage shall otherwise comply with this chapter.
- (11) Parking storage spaces, subject to the approval of the Planning Department, may be permitted under special circumstances where direct access to aisles is not necessary on a continual basis. Such parking configurations shall be designed so that not more than one space separates a storage space from an aisle. Such spaces may be allowed for such uses as employee parking for commercial and industrial properties and for multifamily uses where tenants are assigned specific spaces. In the latter case, spaces must be allocated on a paired basis (front to back) only.
- (12) All parking spaces shall be on bituminous concrete, crushed stone, concrete, brick paving or other permanent hard-surfaced area. Grassed lawn areas may not be utilized for motor vehicle parking.
- (13) In one-family residence districts, circular driveways are permitted only on a lot that is 20,000 square feet in area, 150 feet wide at the building line and that is located in an R-20, R-40 or R-80 Zone, subject to the issuance of a building and/or zoning permit as an accessory use pursuant to § 177-6C. Parking on said driveways shall be in conformance with Subsection E(14). For purposes of this subsection, a "circular driveway" is defined as a loop or circular-shaped driveway on a lot which provides two points of ingress or egress at the street line. A circular driveway may be approved by the Town Planner on a lot which does not meet these requirements, provided that the lot fronts onto an arterial street, and further provided that the Town Planner, upon consulting with the Town Engineer and such other staff as may be appropriate, determines that the establishment of such a driveway is necessary in the best interests of public safety.
- (14) Parking in a one-family residential district shall be allowed as follows: Motor vehicles parked overnight shall be parked behind the building line, except that at dwellings which have one or more parking spaces behind the building line, in conformance with Subsection E(8) and (12), up to two motor vehicles, only one of which may be a van

or a pickup truck, may be parked forward of the building line, so long as they do not display any visible commercial signage, are perpendicular to the street, are on a surface which complies with Subsection E(12) and are either on the driveway or on an area which is not located in front of the living area of the dwelling. **[Amended 11-28-2006]**

- F. Areas leased for public parking. Where all or part of a private parking area serving a land or business use on the same property is leased to or accepted by the Town for use as a public parking area, the number of parking spaces possible on such land under the standards of this chapter shall continue to be credited toward meeting the zoning requirements for such use, provided that the land is leased or ownership transferred without cost to the Town.
- G. Alternate method of meeting parking requirements. In any zoning district except for a single-family district, the off-street parking requirement as provided in Subsection I of this section may be met alternatively upon the satisfaction of the following requirements:
- (1) The applicant for a building or zoning permit shall request permission from the Town Plan and Zoning Commission to provide the required off-street parking on property other than the premises for which the permit is being sought and shall submit to said Commission with said application proof of ownership of the proposed parking facility or an executed written lease agreement with regard to the proposed parking facility, with signatures witnessed and acknowledged in accordance with the requirements of the laws of the State of Connecticut for the proper execution of deeds.
  - (2) The Town Plan and Zoning Commission, upon receiving a written opinion from the Corporation Counsel that such ownership or lease agreement is legally sufficient for the purpose of providing off-street parking permitted under this section, may approve such request to provide said required off-street parking on property other than the premises for which the permit is being sought, provided that it shall affirmatively find that:
    - (a) The applicant has made binding and nonterminable provisions for the required amount of off-street parking for the life of the structure or the land use for which the permit is being sought.
    - (b) The off-street parking facility is so located with respect to the proposed structure or use that it is convenient for the use of employees, customers and other persons associated with that structure or use for which the permit is being sought. In determining whether the proposed off-street parking facility is convenient within the meaning of this subsection, the Town Plan and Zoning Commission shall take into consideration the character of the neighborhood, the proximity and accessibility of the parking facility to the structure or use for which the permit is being sought and the traffic and layout of streets and sidewalks between said parking facility and the structure or use for which the permit is being sought. In the Central Business District (BC) and the Central Business District - High Intensive (CBDH), said parking facility shall be located not more than 1,000 feet from the principal use or structure, measured in a straight line from the most proximate points on the property lines of the parcels involved. In all other commercial and industrial districts said parking facility shall be located not more than 500 feet from the principal use or structure, measured in a

straight line from the most proximate points on the property lines of the parcels involved.

- (c) The parking facility proposed by the applicant shall not create traffic congestion shall not impact adversely on any residential use in the vicinity and shall not have an adverse effect on the value of surrounding residential properties.
  - (d) If the parking facility proposed by the applicant constitutes some portion of a parking area required pursuant to these ordinances for the ongoing use of the property upon which those spaces are located, their shared use shall not result in parking congestion, either because the various uses operate during different peak business hours or seasons, or because it can otherwise be demonstrated that the actual parking needs for the uses in question will be met adequately.
  - (3) The applicant shall, if the applicant is the lessee of the proposed off-street parking facility, cause the lease agreement referred to in Subsection G(1) of this section to be recorded on the land records of the Town of West Hartford.
  - (4) Statement of intent. The purpose of this subsection is to encourage alternative means for satisfying the parking requirements of this chapter but shall not be construed in any way as support for an application to change existing zoning district classifications.
- H. Temporary waiver of parking facility installation. The Plan and Zoning Commission is authorized to waive the immediate installation of up to 1/2 of the parking requirement for any proposed land use if, upon application and submission, in the Commission's opinion, sufficient evidence as to the reasonableness of the application was shown and the reduced parking supply will adequately serve said land use. The plot plan of the land use, however, shall show the complete layout for the full parking requirement in conformance with this chapter. The records of the Commission shall include the specific reasons for the waiver. The Commission shall require the installation of additional parking facilities, up to the full parking requirement. if, in the Commission's opinion, such installation becomes necessary. Before the approval of the waiver, the applicant shall file an agreement with the Commission stating that the applicant, the applicant's heirs and assigns will install such additional parking facilities within six months after the date of the Commission's vote to require such installation.
- I. Schedule of off-street parking requirements. Where a property includes two or more of the following uses, the parking requirements shall be the composite of the requirements of the various uses.

(1) Schedule.

<b>Use</b>	<b>Number of Spaces Required</b>
One-family dwellings	2 per dwelling unit
Two-family dwellings	1 1/2 per dwelling unit
Dwellings for 3 or more families, including apartment houses	1 1/2 per dwelling unit
Rooming houses; boardinghouses	1 per guest sleeping room

<b>Use</b>	<b>Number of Spaces Required</b>
Hotels; motels	1 per guest sleeping room, plus office and restaurant requirement, where applicable
Meeting and conference rooms other than dining room	1 per 3 persons of design capacity
Retail and personal service stores and banks	1 per 150 square feet of gross floor area, excluding utility areas and basement storage
Restaurants	1 per 3 seats
Offices	1 per 250 square feet of gross floor area, excluding utility areas and basement storage; except medical and dental offices or clinics, 1 per doctor and 1 per employee and 2 per examining room
Hospitals	1 per bed
Convalescent and nursing homes	1 per 3 beds
Theaters; auditoriums	1 per 3 seats
Places of worship	1 per 6 seats in the largest place of assembly
Child day-care centers and group day-care homes	Employee and parent parking requirements to be set by the Town Plan and Zoning Commission, pursuant to § 177-42A, upon recommendation of the Town's Manager of Traffic and Transportation pursuant to § 177-16.1
Industrial uses, including wholesale and storage	1 per 2 employees employed or intended to be employed when the capacity of the building is in full use
Bowling alleys	8 per alley

(2) Additional parking requirements.

- (a) A drive-in bank window or drive-up window dispensing only prescription drugs at retail pharmacies shall have at least five waiting positions between the street line and said window for cars approaching and at least one waiting position for cars leaving said window.
- (b) An attendant-operated or self-service car wash shall have at least 10 waiting positions for each bay between the street line and the bay for cars approaching and at least two waiting positions for cars leaving said bay.
- (c) A passenger automobile rental agency shall provide an affidavit from the applicant indicating the maximum number of vehicles to be parked on site and shall provide parking spaces for that number of vehicles. Said affidavit shall set forth separately:

[1] The number of parking spaces required elsewhere in this section based upon the use or uses of any buildings on the site.



- [2] The number of parking spaces required to provide one parking space per two employees working off the site during the peak operational season for the business.
  - [3] The maximum number of rental vehicles to be parked on the site during the peak operational season for the business.
- (d) A vehicle-intensive business shall provide an affidavit from the applicant indicating the maximum number of vehicles to be parked on site and shall provide parking spaces for that number of vehicles. Said affidavit shall set forth separately:
- [1] The number of parking spaces required elsewhere in this section based upon the use or uses of any buildings on the site.
  - [2] The number of parking spaces required to provide one parking space per two employees working off the site during the peak operational season for the business.
  - [3] The maximum number of business vehicles to be parked on the site during the peak operational season for the business.
- (e) Notwithstanding the provision of Subsections A and J and this section, changes in allowable uses may occur in the existing gross floor area of buildings in the BC District and CBDH District, without the provision of additional parking as may otherwise be required.
- (f) A restaurant with drive-up or window-counter service shall have at least 10 waiting positions for each service window and at least two waiting positions for cars leaving said window(s). All such spaces shall be aligned in tandem and shall be located on site.

J. Schedule of off-street loading requirements.

**Use Classification and Building Size<sup>1</sup>**

<b>(square feet)</b>	<b>Number of Spaces</b>
Retail store buildings:	
2,000 - 5,000	1/2
5,000 - 25,000	1
25,000 - 50,000	2
Each additional 50,000 or part thereof	1 additional
Offices, apartments, institutions, hotels, theaters, public assembly buildings:	
5,000 - 25,000	1/2
25,000 - 100,000	1
Each additional 100,000 or part thereof	1 additional
Industrial and warehousing buildings:	

**Use Classification and Building Size<sup>1</sup>**

<b>(square feet)</b>	<b>Number of Spaces</b>
0 - 50,000	1
50,000 - 100,000	2
Each additional 100,000, or part thereof	1 additional

NOTES:

<sup>1</sup> All building areas used in this schedule are gross floor areas.

**§ 177-33. Signs.**

A. Measurement of sign area.

- (1) The area of a sign shall be considered to be that of the smallest rectangle or triangle which encompasses all lettering, wording, designs or symbols, together with any background different from the designs or symbols, together with any background different from the balance of the wall on which it is located, if such background is designed as an integral part of and obviously related to the sign.
- (2) The area of a sign which is designed to be seen from more than one side shall be considered to be that of the aggregate of the smallest rectangles or triangles which encompass all lettering, wording, designs or symbols, together with any background on all sides of the sign.
- (3) The supports which affix a sign to the ground or to a building shall not be included in the area of the sign unless such supports are obviously designed to be part of the sign as defined by these regulations.

B. Sign location.

- (1) No sign shall project more than 18 inches from the face of a structure and not more than 12 inches beyond any street line, and it shall be at least 10 feet above the level of any walkway it may overhang.
- (2) A sign permitted in any business or industrial district which is prohibited in any residential district shall be displayed only on a side of a structure or property facing upon a street which may legally provide access to the property or upon a residence parking district or upon the property line of an abutting lot which is zoned and usable for business or industrial purposes unless such sign is located at least 200 feet from any residence district. **[Amended 11-28-1978]**

C. Height of signs.

- (1) Ground signs, including supports, shall not exceed a height above the surface of the ground where located of eight feet in a residential district or 25 feet in a business or industrial district.
- (2) No sign attached to a structure shall project more than two feet over the top of the exterior wall of such structure at the location of the sign, except that in an industrial district a sign may project up to 12 feet over the top of the exterior wall of such

structure, provided that the sign is not within 500 feet of the boundary of a residential district.

- (3) Where more than one sign is permitted on a building, such signs shall be of uniform height and shape.

D. Illuminated and moving signs.

- (1) A sign may be illuminated if the illumination is confined to or directed to the surface of the sign. No flashing, rotating or intermittent illumination shall be permitted, except signs indicating time and/or temperature by means of white, intermittent lighting, provided that the longest dimensions of such a sign do not exceed five feet.
- (2) No sign or any part thereof shall be permitted to be mechanically rotated or moved, except traditional signs of barbershops, provided that the longest dimension of such signs does not exceed three feet.
- (3) The light sources of signs shall be so designed and shielded that they cannot be seen from beyond the property lines on which said sign is located, except that signs with exposed neon tubes shall be permitted in all business and industrial districts.

E. Signs in one-family residence districts. The following signs shall be permitted in one-family residence districts, and all other signs are expressly prohibited:

- (1) Signs giving the name and address of the property and/or the occupant.
  - (a) Maximum sign area: one square foot.
  - (b) Maximum number of signs: one per lot.
  - (c) Location: back of street line. (See also related provisions in this article.)
  - (d) No permit required.
- (2) Signs pertaining to a profession or occupation permitted as an accessory use of the lot.
  - (a) Maximum sign area: one square foot.
  - (b) Maximum number of signs: one per lot.
  - (c) Location: back of street line. (See also related provisions in this article.)
  - (d) No permit required.
- (3) Signs in connection with special use permits authorized by the Plan and Zoning Commission.
  - (a) Maximum sign area: 25 square feet.
  - (b) Maximum number of signs: one per lot.
  - (c) Location: 15 feet back of street line. (See also related provisions in this article.)
  - (d) Permit required.

- (4) Signs pertaining to the sale, lease or rental of property on which they are located.
  - (a) Maximum sign area: six square feet per sign. [Amended 3-21-1989]
  - (b) Maximum number of signs: two per lot.
  - (c) Location: back of street line. (See also related provisions in this article.)
  - (d) No permit required.
- (5) Signs pertaining to and during the construction or repair of property on which they are located.
  - (a) Maximum sign area: 25 square feet aggregate for all signs.
  - (b) Maximum number of signs: two per lot.
  - (c) Location: 15 feet back of street line. (See also related provisions in this article.)
  - (d) Permit required.
- (6) Signs on the premises offering lots and/or homes for sale within approved subdivisions. These signs shall not be displayed for more than 12 months.
  - (a) Maximum sign area: 35 square feet per sign.
  - (b) Maximum number of signs: two per subdivision.
  - (c) Location: 15 feet back of street line. (See also related provisions in this article.)
  - (d) Permit required.
- (7) Signs of civic and nonprofit organizations on the premises for not more than 90 days within any twelve-month period.
  - (a) Maximum sign area: 25 square feet.
  - (b) Maximum number of signs: one per property.
  - (c) Location: 15 feet back of street line. (See also related provisions in this article.)
  - (d) Permit required.
- (8) Holiday decorations without commercial advertising.
  - (a) Maximum sign area: no limit.
  - (b) Maximum number of signs: no limit.
  - (c) Location: Back of street line. (See also related provisions in this article.)
  - (d) No permit required.
- (9) Directional signs or traffic signs.
  - (a) Maximum sign area: six square feet.
  - (b) Maximum number of signs: no limit.

- (c) Location: within street line. Approval by Director of Public Works is required. (See also related provisions in this article.)
    - (d) Permit required.
  - (10) One sign near each exit ramp of expressways and at each major highway near the Town lines serving as a common directory for civic, educational and religious organizations located in West Hartford. The sign area allotted to each such organization shall not exceed six square feet. The erection of signs under this subsection shall be subject to the provisions of § 177-42A.
    - (a) Maximum sign area: 100 square feet.
    - (b) Maximum number of signs: one per specified location.
    - (c) Location: back of street line. (See also related provisions in this article.)
    - (d) Permit required.
  - (11) Signs in connection with access roads permitted pursuant to § 177-30. **[Added 9-23-1980]**
    - (a) Maximum sign area: 35 square feet.
    - (b) Maximum number of signs: one per property.
    - (c) Location: back of street line, adjacent to access road. (See also related provisions in this article.)
    - (d) No permit required.
  - (12) Signs, of a design approved by the Architectural Heritage Committee, designating the premises upon which the sign is located as an historic site approved by the Architectural Heritage Committee. Each sign created pursuant to this section shall not exceed five square feet, except for one master sign, not to exceed 18 square feet, to be placed on a site to be designated by the Town Manager. **[Added 9-22-1987]**
    - (a) Maximum sign area: 18 square feet.
    - (b) Maximum number of signs: one per property.
    - (c) Location: back of street line. (See also related provisions in this article.)
    - (d) No permit required.
- F. Signs in multifamily residence districts. The following signs shall be permitted in a multifamily residence district, and all other signs are expressly prohibited:
- (1) Signs permitted in a single-family residence district.
    - (a) Maximum sign area: same regulations as single-family zones.
    - (b) Maximum number of signs: same regulations as single-family zones.
    - (c) Location: same regulations as single-family zones. (See also related provisions in this article.)

- (d) Permit requirement: same as single-family zones.
  - (2) Signs giving name and address of the property.
    - (a) Maximum sign area/location. (See also related provisions in this article.)
      - [1] Twelve square feet/15 feet back of street line.
      - [2] Twenty-five square feet/30 feet back of street line.
    - (b) Maximum number of signs: one for each street frontage.
    - (c) Permit required.
  - (3) Signs identifying the rental agency of the property on which they are located.
    - (a) Maximum sign area: two square feet.
    - (b) Maximum number of signs: one for each street frontage.
    - (c) Location: back of street line. (See also related provisions in this article.)
    - (d) No permit required.
  - (4) Signs pertaining to and during the construction or repair of property on which they are located.
    - (a) Maximum sign area: 100 square feet.
    - (b) Maximum number of signs: no limit, but aggregate shall not exceed 100 square feet.
    - (c) Location: 15 feet back of street line. (See also related provisions in this article.)
    - (d) Permit required.
  - (5) Signs pertaining to the sale, lease or rental of property on which they are located.
    - (a) Maximum sign area: 100 square feet for a period of 12 months; thereafter, 25 square feet.
    - (b) Maximum number of signs: one per property.
    - (c) Location: 15 feet back of street line. (See also related provisions in this article.)
    - (d) Permit required.
- G. Signs in business and industrial districts. The following signs are permitted in any business and industrial district, and all other signs are expressly prohibited: **[Amended 10-28-1969]**
- (1) Signs permitted in a residential district.
  - (2) Signs advertising the use of the land and building upon which displayed and the sale of goods or services on the premises and the name and location of the proprietor, as follows:
    - (a) Attached and freestanding signs.

- [1] Maximum area of sign. The total permitted sign area for attached and freestanding signs shall be computed as follows:
- [a] For each first-floor unit of occupancy wherein public access to or egress from is limited to front door entrances and/or exits, the total permitted sign area shall not exceed two square feet for each linear front foot of exterior building wall for the unit of occupancy.
  - [b] For each first-floor unit of occupancy wherein public access to or egress from is permitted through a side or rear door entrance and/or exit as well as through a front door entrance and/or exit, the total permitted sign area shall not exceed three square feet for each linear front foot of exterior building wall for the unit of occupancy. The total sign area for all signs displayed at the rear of the unit of occupancy shall not exceed 1 1/2 square feet for each linear rear foot of exterior building wall for the unit of occupancy, and the total sign area for all signs displayed at the front of the unit of occupancy shall not exceed two square feet for each linear front foot of exterior building wall for the unit of occupancy.
  - [c] For each first-floor unit of occupancy wherein public access to or egress from is limited to an entrance and/or exit which does not front on a public street, the total permitted sign area shall not exceed 1 1/2 square feet for each linear foot of exterior building wall of the unit of occupancy in which a main public entrance to the unit of occupancy is located.
  - [d] There may not be more than one freestanding sign on a property. The total sign area of such freestanding sign shall not exceed 18 square feet of area on a single-faced sign or 36 square feet of area on a double-faced sign for the first 100 feet of the address street frontage. For address frontages in excess of 100 linear feet, such freestanding sign area may be increased at a ratio of 0.18 square foot per frontage foot for a single-faced sign and 0.36 square foot per frontage foot for a double-faced sign, up to a maximum total of 50 square feet and 100 square feet, respectively. The square footage of freestanding signs erected under this provision shall be considered as part of the total allowable sign area as computed for each unit of occupancy by the exterior building wall.
  - [e] Any sign erected under the provisions of this Subsection G shall be subject to any other requirements pertaining to signs contained in this chapter.
- [2] Definitions. As used in this Subsection G, the following terms shall have the meanings indicated:
- LINEAR FRONT FOOT — That linear portion of the exterior wall of a unit of occupancy which directly faces the public street to which the unit of occupancy is addressed.

LINEAR REAR FOOT — That linear portion of the exterior wall of a unit of occupancy which lies generally opposite the front exterior wall and does not directly face the public street to which the unit of occupancy is addressed.[Amended 11-15-1977; 11-28-1978]

- [3] Location: back of street line. (See also related provisions in this article.)
  - [4] Permit required.
- (b) Common signs.
- [1] Maximum area of sign. Within 10 feet of each entrance of a building, one common sign may be provided allowing not more than one square foot of sign area for each unit of occupancy which is served by said entrance. The total area of each common sign shall not exceed 24 square feet.
  - [2] Location: back of street line. (See also related provisions in this article.)
  - [3] Permit required.
- (c) Window signs.
- [1] Maximum area of sign. Each unit of occupancy above the first floor may only display a sign on the inside of each window serving said unit of occupancy, provided that the combined area of such signs shall not exceed six square feet.
  - [2] Location: no restriction. (See also related provisions in this article.)
  - [3] No permit required.
- (d) Portable signs.
- [1] Maximum area of sign. There may not be more than one portable sign for each unit of occupancy on each street on which such unit of occupancy has frontage. The sign area of each movable sign shall not exceed six square feet.
  - [2] Location: back of street line. (See also related provisions in this article.)
  - [3] No permit required.
- (e) Temporary signs.
- [1] Maximum area of sign. Signs temporarily attached or temporarily painted on a window, door or wall, announcing sales or special features, are permitted in addition to the restrictions of Subsection G(2)(a) above, provided that they do not exceed 25% of the area of said window, door or wall. Temporary signs shall be removed immediately after the termination of such sale or special feature and in no case shall be permitted for a period longer than 30 days.
  - [2] Location: no restriction. (See also related provisions in this article.)
  - [3] No permit required.



- (f) Outdoor advertising devices.
  - [1] Maximum area of sign. Outdoor advertising devices, including but not limited to plaques, banners, pennants and streamers, are permitted for a period of not more than two weeks after the opening of a new business.
  - [2] Location: back of street line. (See also related provisions in this article.)
  - [3] No permit required.
- H. Signs in an Office District or Office-Laboratory District. The following signs are permitted in an Office or Office-Laboratory District, and all other signs are expressly prohibited:
  - (1) Signs permitted in a single-family residence district.
    - (a) Maximum sign area: same regulations as in single-family districts.
    - (b) Maximum number of signs: same regulations as in single-family districts.
    - (c) Location: same regulations as in single-family districts. (See also related provisions in this article.)
    - (d) Permit regulations: same as in single-family districts.
  - (2) Signs giving the name and insignia of one or more occupants of a permitted office or laboratory.
    - (a) Not attached to a building.
      - [1] Maximum sign area: 25 square feet.
      - [2] Maximum number of signs: one for each street frontage.
      - [3] Location: 15 feet back of street line. (See also related provisions in this article.)
      - [4] Permit required.
    - (b) Attached to a building.
      - [1] Maximum sign area: 50 square feet.
      - [2] Maximum number of signs: one per lot.
      - [3] Location: attached to building. (See also related provisions in this article.)
      - [4] Permit required.
- I. Removal of tenancy signs. In all districts, signs pertaining to a tenancy of the property shall be removed within 30 days of the termination of such tenancy. **[Added 11-15-1977]**
- J. Signs in Residential Multifamily-Office Districts and Residential Character-Office Districts. The following signs shall be permitted in Residential Multifamily-Office Districts, and Residential Character-Office Districts and all other signs are expressly prohibited: **[Added 11-14-1989; amended 6-27-2000]**

- (1) Except as provided in Subsection J(2), signs permitted in a single-family residence district shall be as follows:
  - (a) Maximum sign area: same regulations as single-family zones.
  - (b) Maximum number of signs: same regulations as single-family zones.
  - (c) Location: same regulations as single-family zones.
- (2) Signs for professional offices permitted pursuant to § 177-16.3 of this chapter shall be limited as follows:
  - (a) Maximum sign area: six square feet per side and shall be muted in tone.
  - (b) Maximum number of signs: one per lot. (Several shingle-style signs at one location on the site, no larger in total than 12 square feet on both sides, shall be treated as one sign.)
  - (c) Location: back of street line.
  - (d) Lighting: signs may be illuminated by exterior fixtures only, shall not interfere with abutting property and shall be properly shielded in accordance with the requirements of § 177-33D. Sign illumination levels shall be regulated by the Town Plan and Zoning Commission pursuant to § 177-44A.

**§ 177-34. Screening and landscaping.**

- A. Statement of purpose. The following standards are intended to enhance the appearance and natural beauty of the Town and to protect and increase property values through preservation of existing vegetation and planting of new screening and landscaping material. Specifically, these standards are intended to reduce excessive heat, glare and accumulation of dust, to provide privacy from noise and visual intrusion and to prevent the erosion of the soil, excessive runoff of drainage water and the consequent depletion of the groundwater table and the pollution of water bodies.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:
 

**COMPLETE VISUAL SCREENING** — A type of screening which affords a year-round effect and through which the screened object is obscured.

**EFFECT** — The visual impression desired from screening and landscaping.

**FLOWERING TREES** — Trees such as dogwood, redbud or crabapple.

**GROUND COVER** — A medium used in a confined area to check or prohibit the growth of undesirable plant materials. Ground cover may consist of plants such as pachysandra and myrtle or of materials, such as white gravel, brick or stone paving, in combination with live planting materials.

**HEDGE** — A hedge shall provide complete visual screening and consist of evergreens at least four feet in height at the time of planting, and it shall be maintained at a height of at least six feet.

**LANDSCAPED or LANDSCAPING** — That an area be at least covered with grass or ground cover. Any additional planting is either specifically required by this chapter or left to the discretion of the property owner.

LARGE TREES — Deciduous shade trees, such as sugar maple, red oak or London plane, and conifers, such as white pine, Austrian pine or Canadian hemlock. Three-fourths of the required large trees shall be at least 2 1/2 to three inches in caliper at the time of planting, and 1/4 shall be at least four to 4 1/2 inches in caliper at the time of planting.

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

SCREENING FENCE or SCREENING WALL — Devices for complete visual screening. They shall be at least six feet in height and 3/4 solid.

C. General screening standards. [**Amended 10-28-1969**]

- (1) Landscaping, trees and screening plants required by this chapter shall be planted and in a growing condition according to accepted horticultural practices, and they shall be maintained in a healthy growing condition. Any landscaping, trees and screening plants which are in a condition that does not fulfill the intent of this chapter shall be replaced by the property owner during the next planting season for the particular plant material.
- (2) A screening fence or wall required by this chapter shall be maintained by the property owner in good condition throughout the period of the use of the lot. Finished surfaces shall face out. [**Amended 11-15-1977**]
- (3) All landscaping, trees and screening material adjacent to parking areas, loading areas or driveways shall be properly protected, by barriers, curbs or other means, from damage by vehicles.
- (4) To the extent that existing healthy trees, if properly located, are preserved, they shall be fully credited against the requirements of this chapter. The Planner may determine which trees shall be preserved as part of the site plan.

D. Screening specifications. The following specifications are considered as prototypes. In order to comply with the stated desired effect, the number and spacing of required trees and the width of the screening strip may be varied.

- (1) Type A screening. The desired effect is partial visual screening. The width of the screening strip may be varied; however, it shall be at least five feet. Plant material shall consist of large trees spaced about 50 feet on centers or flowering trees spaced about 25 feet on centers, or a mixture of both. Where a continuous landscaped screening strip is impractical, the trees may be located in islands at least 20 square feet in area.
- (2) Type B screening. The desired effect is partial visual screening between zoning districts of different classifications. The screening strip shall be at least 15 feet wide. Plant material shall be the same as specified for Type A screening, except that at least 1/2 of the trees shall be evergreens.
- (3) Type C screening. The desired effect is complete visual screening of parking and loading areas. The screening material shall consist of a hedge, screening fence or screening wall, or a combination thereof. The screening strip shall be at least five feet wide for said fence or wall and at least 10 feet for a hedge, unless a greater width is specifically required elsewhere in this chapter.

- (4) Type D screening. The desired effect is partial visual screening and spatial separation. Plant material shall be the same as specified for Type B screening. The screening strip shall be at least 50 feet wide.
  - (5) Type E screening. The desired effect is complete visual screening of parking and loading areas and spatial separation. Plant material shall be the same as specified for Type B screening, plus a hedge, screening fence or screening wall. The screening strip shall be at least 50 feet on centers.
  - (6) Type F screening. The desired effect is primarily spatial separation. The screening strip shall be at least 100 feet wide. Plant material shall consist of a mixture of large trees, flowering trees and evergreens spaced about 50 feet on centers.
  - (7) For landscaping within parking areas, see § 177-32E(4) and (5).
- E. Modifications in standards. The Plan and Zoning Commission is authorized to consider and approve such modifications in the above standards in a specific case where the Plan and Zoning Commission makes a finding that equivalent or superior screening will be provided in such specific cases.

**§ 177-35. Unoccupied dwellings.**

- A. No dwelling shall remain designated by the Zoning Enforcement Officer as unoccupied for more than two years after having been given notice by the Zoning Enforcement Officer in the manner provided for in § 105-7 of the Code of the Town of West Hartford without a permit from the Zoning Board of Appeals.
- B. Any owner of said dwelling or any affected person may appeal to the Zoning Board of Appeals the designation of said dwelling as being unoccupied at any time within a one-year period after being so designated as provided in § 177-49 et seq.
- C. If the owner of said dwelling or any affected person does not appeal as provided in § 177-49 et seq. or waives the appeal right set forth in Subsection B herein in writing or after an unsuccessful appeal pursuant to Subsection B herein, then such owner or affected party may apply to the Zoning Board of Appeals for a permit for the continued existence of the dwelling which is unoccupied, and if the owner or affected party shows that he or she has a reasonable plan to sell, renovate or demolish said dwelling or has some reasonable plan for the use of said dwelling or that there is severe economic hardship which would justify the continued existence of said dwelling or that the continued unoccupancy of the dwelling is not detrimental to the public health, safety or welfare or to the property values of the neighborhood in which said dwelling is located, then the Zoning Board of Appeals shall grant a permit or series of permits on any of the foregoing grounds, but no single permit shall be for a period in excess of two years from the decision date of the Zoning Board of Appeals. Said permit may be revoked by the Zoning Board of Appeals after giving notice in the manner provided for in Subsection C(1) and hearing upon application of the Director of Health or the Zoning Enforcement Officer. **[Amended 7-22-1986]**
  - (1) Such notice shall:
    - (a) Be in writing.
    - (b) Include a statement of the reason why it is being issued.

- (c) Allow a reasonable time for the performance of any act it requires.
  - (d) Be served upon the owner or the owner's agent or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him or her personally or if a copy thereof is sent by certified mail to the last known address or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by this notice or if he or she is served with such notice by any other method authorized or required under the laws of this state.
  - (e) Contain an outline of remedial action which, if taken, will effect permanent compliance with the provisions of this § 177-35 and with rules and regulations adopted pursuant thereto.
- D. The Zoning Board of Appeals in granting the application for any permit may attach thereto any reasonable conditions governing the maintenance and appearance of said property for the duration of any permit. Any violation or failure to adhere to said conditions shall be grounds for revocation of said permit.
- E. If the owner or any affected party of said dwelling does not apply for such a permit from the Zoning Board of Appeals or begin demolition of such dwelling within 30 days after said dwelling has been unoccupied for two years since its designation as unoccupied or begin demolition of such dwelling within 30 days after the denial by the Zoning Board of Appeals of an application pursuant to Subsection C herein, then the Zoning Enforcement Officer may order the demolition of said dwelling. If the owner fails to demolish said structure within 30 days after the issuance of the order from the Zoning Enforcement Officer, then the Zoning Enforcement Officer shall cause to be demolished said dwelling and shall clear, fill and grade the land on which said dwelling was located. The cost of such work shall be charged to the owner, and the Town shall have a lien on the land on which said building is located for the cost of such demolition.
- F. Any person who fails to comply with any provision of this section or any order issued hereunder shall be deemed in violation of this chapter of the Code of the Town of West Hartford and subject to the penalties provided for in the Charter of the Town of West Hartford.
- G. The Town of West Hartford will not consider any zone change application while any such property is designated as unoccupied. **[Added 10-28-1975]**

**§ 177-36. Alcoholic beverages.<sup>7</sup> [Added 1-10-1978; amended 4-22-1980; 4-30-1985; 6-28-1994; 9-9-2003; 6-10-2014; 3-24-2015; 9-8-2015]**

- A. The portion of any structure in which the sale of alcoholic liquor is proposed under a package store permit or a package store beer permit shall be at least 1,500 feet distant from the portion of any other structure in which alcoholic liquor is sold under either of said permits. Said distance requirement shall be measured as follows: beginning at the center of the main entrance of the portion of the structure in which said sale is proposed, thence to the center of the address street by the shortest distance without intersecting a structure, thence along the center line of said street or streets to a point in the address street of the

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7. Editor's Note: Former Sec. 17.3.80 of the 1972 Code, Regulations concerning sale of alcoholic beverages, was repealed 11-15-1977.

nearest portion of any other structure in which alcoholic liquor is sold under either of said permits, thence by the shortest distance without intersecting a structure to the center of the main entrance of the portion of the structure in which alcoholic liquor is sold under either of said permits. In no case shall the portion of any two structures in which alcoholic liquor is sold or proposed to be sold under a package store permit or a package store beer permit be located within a radius of 700 feet as measured from the centers of the main entrances of said portions of said structures.

- B. The sale of alcoholic liquor under any class of permit listed in Chapter 545 of the Connecticut General Statutes, as the same may be amended or recodified from time to time, with the exception of the university permit, shall not be permitted within 200 feet of a public or private school, a public park, place of worship, charitable institution, a hospital or library. Said distance requirement shall be measured as follows: beginning at the center of the main entrance to the portion of the building where said alcoholic liquor is proposed to be sold, thence to the center of the address street by the shortest distance without intersecting a structure, thence along the center line of said street or streets to the address street of any of the above cited uses, and thence to a point opposite the nearest portion of a lot used for any of the above-cited uses on the address street thereof, thence to the nearest portion of the lot.
- C. The sale of alcoholic liquor under a wholesaler permit or a wholesaler permit for beer only is permitted as a main use in those districts specified under § 177-6B, Item 35 of the Schedule, and is subject to the restrictions set forth under Subsection B above.
- D. The sale of alcoholic liquor under a manufacturer permit, including each of the subclasses of manufacturing permittees listed in C.G.S. § 30-16, is permitted as a main use in those districts specified under § 177-6B, Item 58 of the Schedule, and is subject to the following:
  - (1) All such uses shall be subject to the restrictions set forth under Subsection B above.
  - (2) Where any portion of the unit of occupancy is used for the retail sale or consumption of alcoholic liquor for consumption on or off of the premises, including outdoor patron areas, parking spaces shall be provided for said retail area at the rate required in this chapter for retail and personal service establishments.
  - (3) Outdoor patron areas:
    - (a) Outdoor patron areas shall be identified by a barrier, such as fencing or planters, in order to define their boundaries. Barriers that preserve an open appearance should be used whenever possible. The use of permanent structural walls or any vertical screening device of more than four feet in height is discouraged but may be approved where necessary to attenuate noise reaching residential neighborhoods or in other unique circumstances. Notwithstanding the foregoing, when an outdoor patron area is located on property adjoining a residential district, it shall be subject to a minimum setback of 200 feet from that district and, at a minimum, to Type C screening and/or a screening fence which separates it from that district.
    - (b) Where outdoor patron areas directly abut the public street, no permanent structure shall be erected between the building that houses the manufacturer and the abutting street except a retractable awning located at least seven feet above the ground. In all other locations, permanent structures may be used to provide

shade or shelter from inclement weather. In such cases, structures that preserve an open appearance shall be used but temporary screening walls may be lowered during times of ongoing precipitation.

- (c) Fire hydrants and fire hose couplings and/or connections on buildings shall not be obstructed. Underground utility facilities such as cabinets or vaults shall be identified on all plans, and arrangements shall be made to ensure continued access to utility providers for maintenance of any such facilities.
- (d) The outdoor patron area must also meet the requirements (if any) of any state agency having jurisdiction over the service of alcoholic beverages.
- (e) When an outdoor patron area is located adjacent to a public pedestrian walkway, access to the patron area shall be maintained flush with said walkway. In all cases, the outdoor patron area shall be capable of accommodating disabled patrons.
- (f) Any applicant seeking approval of an outdoor patron area shall provide the Town Planner with written assurance from the Bloomfield-West Hartford Health District that:
  - [1] The kitchen facilities (if any) are adequate to service the entire unit of occupancy, including the outdoor patron area.
  - [2] Any outdoor service areas, including storage areas for both clean and dirty plates and utensils, condiments, drinking water and similar supplies, are appropriately protected.
  - [3] Refuse receptacles appropriate to the use shall be provided for patrons and/or staff.
- (g) If an applicant proposes to provide any source of heat for the benefit of patrons using an outdoor patron area, it shall provide the Town Planner with a plan, approved by the Fire Marshal, for the placement and operation of said heaters as well as for the storage of fuel used by said heaters.
- (h) Public address systems or other systems intended to convey verbal messages through the use of amplified sound shall be prohibited. If an applicant seeks to provide any form of music for the benefit of patrons, it shall so state in its application and shall provide the Town Planner with specific details regarding the manner in which music is to be provided.
- (i) Management shall ensure that the patrons do not disturb persons beyond the premises through loud, boisterous or unreasonable noise, offensive words or disruptive behavior.
- (j) Lighting shall be limited to that level which is necessary to illuminate the outdoor patron area for patrons and staff. Flashing/blinking lights shall be prohibited.
- (k) During the season when the outdoor patron area is in operation, it shall be kept clear of litter, food scraps or soiled dishes and utensils at all times. The entire floor/sidewalk surface in and around the outdoor patron area shall be swept as

necessary, but not less frequently than daily, and cleaned to remove greases, oils and stains by steam cleaning or a similar process on a monthly basis. Spilled materials shall be cleaned promptly. Sweeping debris or spilled materials into the gutters of public streets shall be prohibited. This requirement shall also apply to any areas beyond the outdoor patron area which are traversed by restaurant staff and/or patrons.

- (l) Trash receptacles shall be emptied whenever full and shall be emptied at the end of each business day.
  - (m) Umbrellas may be used to shade tables, provided that the drip edge thereof is located at least seven feet above the ground and further provided that if they advertise the manufacturer or any product or service, the full surface area of each such umbrella shall be treated as signage.
  - (n) Tables, chairs and umbrellas shall be of durable commercial-grade materials, sufficiently weighted to avoid displacement by wind.
  - (o) Where the outdoor patron area abuts the public street, all furniture, fencing, shrubbery and other fixtures shall be removed and stored indoors during months when the outdoor patron area is not in use. No permanent structures shall be permitted to remain between the building that houses the manufacturer and the abutting street except retractable awnings located at least seven feet above the ground. In all other locations, a storage plan for all furniture, fencing, shrubbery and other fixtures associated with the outdoor dining area shall be submitted for review and approval by the Town Planner.
- E. The sale of alcoholic liquor under a grocery store beer permit, a druggist permit or a druggist permit for beer only is permitted as part of a permitted main use under § 177-6B, Item 22 of the Schedule, and is subject to the restrictions set forth under Subsection B above.
- F. The sale of alcoholic liquor is permitted under a hotel permit, a hotel permit for beer, a restaurant permit, a restaurant permit for beer only or a restaurant permit for wine and beer only as part of a main use under § 177-6B, Items 8, 24 or 25 of the Schedule as applicable, or as part of an accessory use under § 177-6C, and subject to the following:
- (1) The location of such use is subject to the restrictions set forth under Subsection B above; and
  - (2) The sale or serving of alcoholic liquor is permitted only in a restaurant as defined in C.G.S. § 30-22, as that section may be amended or recodified from time to time. For purposes of this section, the premises of a restaurant located on a golf course shall include any location on said golf course where food and/or beverages are served.
- G. A university shall be allowed to engage in the retail sale of beer at one facility per campus under a university permit, as defined in C.G.S. § 30-20(a), as amended or recodified from time to time. The sale of beer under a university permit shall not be subject to the restriction set forth under Subsection B above. For the purposes of this section, the term "university" shall mean an institution offering a program of higher learning, as defined by C.G.S. § 10a-34, as that section may be amended or recodified from time to time, which has been accredited by the Board of Higher Education and which has a campus in West Hartford



which is not less than 50 acres and which provides residential housing for its matriculated students.

- H. For purposes of this section, the terms "package store permit," "package store beer permit," "wholesaler permit," "wholesaler permit for beer only," "hotel permit," "hotel permit for beer," "grocery store permit," "druggist permit," "druggist permit for beer only," "restaurant permit," "restaurant permit for beer only," "restaurant permit for wine and beer only," "university permit," "manufacturer permit" and "alcoholic liquor" shall be deemed to have the same meanings as those terms have under Chapter 545 of the Connecticut General Statutes as that chapter may be amended or recodified from time to time.

**§ 177-37. Nonconforming uses and structures.**

- A. Existing uses. The lawfully permitted use of land or structures existing at the time of the adoption of this chapter or any amendment thereto may be continued subject to Subsection G of this section although such use does not conform to the standards of the district in which such land or structure is located. Said uses shall be deemed nonconforming uses.
- B. Nonconforming use of land. Where no structure is involved, the nonconforming use of land may be continued; provided, however, that:
- (1) No such nonconforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this chapter, unless specifically allowed by other provisions in this chapter.
  - (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this chapter.
  - (3) If such nonconforming use of land, or any portion thereof, ceases for any reason for any continuous period of more than 30 days or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this chapter.
- C. Nonconforming use of structures.
- (1) A structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended unless the use therein is changed to a conforming use. (Also see Subsection D of this section.)
  - (2) Such nonconforming structure shall not be structurally altered or reconstructed unless such alterations are required by law; provided, however, that such maintenance and repair work as is required to keep a nonconforming structure in sound condition shall be permitted.
  - (3) A nonconforming use may be extended throughout any parts of the structure which were manifestly arranged or designed for such use at the time of the adoption of this chapter, provided that this extension was made within one year after the date of such adoption.
  - (4) A nonconforming use of a structure may be changed to a conforming use.

- (5) If any nonconforming use of a structure ceases for any reason for a continuous period of more than one year or is changed to a conforming use or if the structure in which such use is conducted or maintained is moved for any distance whatsoever, for any reason, then any future use of such structure shall be in conformity with the standards specified by this chapter for the district in which such structure is located.
  - (6) If any structure in which any nonconforming uses are conducted or maintained is removed, the subsequent use of the land on which such structure was located, and the subsequent use of any structure thereon, shall be in conformity with the standards specified by this chapter for the district in which such land or structure is located.
- D. Structures conforming in use but nonconforming in other respects. A structure which is conforming in use but which does not conform to any of the other requirements of this chapter for the district in which said structure is located shall not be considered to be nonconforming within the meaning of Subsections C, E, F and G. However, no permit shall be issued and no changes shall be made on the structure or the land on which such structure is located that will result in the increase of any such nonconformity.
- E. Restoration of damaged structures.
- (1) If any structure legally nonconforming in use is damaged or destroyed by fire, explosion, act of God or the public enemy to an extent greater than 50% of its fair market value, as determined by the Director of Assessments, then any future use of the structure and land on which such structure is located shall be in conformity with the regulations of the district in which such structure is located. Such a structure damaged to an extent of less than 50% of said fair market value may be rebuilt and the use continued, but not to any greater extent than in the previously existing structure, but where, in the opinion of the Building Inspector, such rebuilding can feasibly be done in greater conformity with this chapter, the Building Inspector shall so require in any building permit.
  - (2) Any structure legal in use but nonconforming in other respects, which is damaged or destroyed by fire, explosion, act of God or the public enemy to an extent greater than 50% of its fair market value as determined by the Director of Assessments shall, in its parts reconstructed, conform to the requirements of this chapter.
- F. Registration of nonconforming uses. Any nonconforming use of land or structure may be registered in the office of the Building Inspector within one year after the adoption of this chapter. Such registration shall include the identification of the premises, a description of the nature and extent of the nonconforming use and, if necessary, to describe, a plot plan, drawn to scale, showing property lines, all structures and any other pertinent information, and an affidavit by the owner as to the date since which such nonconforming use has existed. Failure to so register shall place the burden of proof on the property owner that any alleged nonconforming use of land or structures legally existed at the time this chapter or any amendment thereto became effective.
- G. Reduction of adverse external effects. The Plan and Zoning Commission is authorized to recommend to the Town Council a plan for reducing the adverse external effects of any nonconforming use. In the plan, the Commission shall set a date not less than six months nor more than two years from the date of the Council's approval of said plan for compliance with the corrections and changes proposed by the Plan and Zoning Commission. In acting on said plan, the Town Council shall proceed according to the provisions of the Town

Charter regarding amendments to this chapter. If approved, the plan shall become part of the zoning regulations for the particular property in question. Action under this section is not intended to prohibit the use of a property for a legally nonconforming purpose.

**§ 177-37.1. Hours of operation. [Added 12-10-2002]**

- A. The following classes and categories of uses listed in § 177-6B shall not be permitted to be open to the public between the hours of 2:00 a.m. and 5:00 a.m. unless a special use permit has been granted to authorize operations between those hours:
- (1) Banks, including drive-in facilities (except automatic teller machines).
  - (2) Retail businesses dealing with the consumer on the premises, including retail firearms stores.
  - (3) Establishments performing personal services.
  - (4) Restaurants with or without alcoholic drink and other establishments serving food and nonalcoholic drink.
  - (5) Outdoor recreation areas operated for profit.
  - (6) Theaters and other indoor recreation or amusement facilities.
  - (7) Motor vehicle sales, service and repair facilities (except towing services).
  - (8) Adult-oriented establishments.
- B. In determining whether to grant a special use permit authorizing the above-listed categories of uses between the hours of 2:00 a.m. and 5:00 a.m., the Plan and Zoning Commission shall, in addition to those criteria set forth in § 177-42A, evaluate the safety of both the use and of the site during late-night hours and may impose such conditions as it deems to be necessary to ensure public safety during those hours.
- C. Exception. The preceding subsections shall not apply to retail businesses dealing with the consumer on the premises, including retail firearms stores, on the Friday following Thanksgiving and/or during the seven days preceding Christmas Day. **[Added 12-13-2011]**

**§ 177-37.2. Outdoor dining. [Added 3-28-2006; amended 5-13-2008; 4-11-2011; 3-24-2015]**

Outdoor dining areas that are accessory to restaurants can help to establish a vibrant, unique and friendly streetscape which benefit the entire surrounding area. Outdoor dining is an asset to the Town to the extent that it adds life and color to the streetscape and encourages pedestrian activity. Central to this benefit is the open-air nature of the dining areas, which must be both visible from, and physically proximate to, public pedestrian areas. That same proximity and visibility, however, dictates that the design of the outdoor dining area, including its furniture, should complement the design of the restaurant with which it is associated and contribute to the attractiveness of the streetscape. Diversity in the design of the furniture and outdoor dining areas is encouraged, therefore, provided that they complement the overall streetscape. Finally, while the operation of outdoor dining areas should contribute to the liveliness of the streetscape, they must not be allowed to create a nuisance, either by loud music, unruly customers, or disorderly premises. Where outdoor dining areas will further these goals without unduly impacting upon

adjoining businesses or residential neighborhoods, they may be permitted as an accessory use on the premises of an existing restaurant, which premises shall be construed to include the street right-of-way adjacent to the property upon which such a restaurant is located, subject to the following requirements:

A. Space definition/location.

- (1) Outdoor dining areas shall be identified by a barrier, such as fencing or planters, in order to define their boundaries. Barriers that preserve the open appearance of outdoor dining areas should be used whenever possible. The use of permanent structural walls or any vertical screening device of more than four feet in height to define the boundaries of outdoor dining areas is discouraged but may be approved where necessary to attenuate noise reaching residential neighborhoods or in other unique circumstances. Notwithstanding the foregoing, when an outdoor dining area is located on property adjoining a residential district, it shall be subject to a minimum setback of 15 feet from that district and, at a minimum, to Type B screening and/or a screening fence which separates it from that district.<sup>8</sup>
- (2) Where outdoor dining areas abut the public street, no permanent structure shall be erected between the building that houses the restaurant and the abutting street except a retractable awning located at least seven feet above the ground. In all other locations, permanent structures may be used to provide shade or shelter from inclement weather. In such cases, structures that preserve an open appearance should be used to the extent possible.
- (3) Fire hydrants and fire hose couplings and/or connections on buildings shall not be obstructed. Underground utility facilities such as cabinets or vaults shall be identified on all plans, and arrangements shall be made to ensure continued access to utility providers for maintenance of any such facilities.
- (4) If alcoholic beverages are to be served at the outdoor dining area, the enclosure of the outdoor dining area must also meet the requirements (if any) of any agency having jurisdiction over the service of such beverages.
- (5) When an outdoor dining area is located adjacent to a public pedestrian walkway, it shall be maintained flush with said walkway.

B. Operations.

- (1) Outdoor dining areas shall be capable of accommodating disabled patrons.
- (2) Pass-through or take-out windows are prohibited except that walk-up take-out windows may be permitted at seasonal snack-bar-type restaurants which are provided as an accessory use within recreational facilities such as public parks, school sports stadiums or golf courses, provided that such take-out windows shall be located and operated in a manner which ensures that they are an amenity to patrons of the facility and not a destination in their own right. Any door used to deliver food from the restaurant to an accessory outdoor dining area shall be self-closing, unless an alternative mechanism is approved by the Bloomfield-West Hartford Health District.

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8. Editor's Note: See also § 177-34, Screening and landscaping.

- (3) Any applicant seeking approval of an outdoor dining area shall provide the Plan and Zoning Commission with written assurance from the Bloomfield-West Hartford Health District that:
  - (a) The kitchen facilities in the restaurant are adequate to service the entire restaurant, including the outdoor dining area. Cooking shall not be permitted outside the restaurant.
  - (b) Any outdoor service areas, including storage areas for both clean and dirty plates and utensils, condiments, drinking water and similar supplies, are appropriately protected.
  - (c) Refuse receptacles appropriate to the use shall be provided for patrons and/or wait staff.
- (4) No heaters may be installed or used without the prior approval of the Plan and Zoning Commission. If an applicant seeking approval of an outdoor dining area proposes to provide any source of heat for the benefit of patrons, it shall so state in its application and shall provide the Plan and Zoning Commission with a plan, approved by the Fire Marshal, for the placement and operation of said heaters as well as for the storage of fuel used by said heaters.
- (5) Public address systems or other systems intended to convey verbal messages through the use of amplified sound shall be prohibited. If an applicant seeking approval of an outdoor dining area proposes to provide any form of music for the benefit of patrons, it shall so state in its application and shall provide the Plan and Zoning Commission with specific details regarding the manner in which music is to be provided. The Plan and Zoning Commission may impose any restrictions upon the playing of music which it deems to be appropriate given the location of the proposed outdoor dining area or any other circumstances that the Commission deems to be relevant.
- (6) Restaurant management shall ensure that the patrons of the outdoor dining area do not disturb persons beyond the premises of the restaurant through loud, boisterous or unreasonable noise, offensive words or disruptive behavior. Patrons must be seated at tables. Bar service, whether patrons are standing or seated at stools, is not permitted. The service of alcoholic beverages must be adjunct to the service of food.
- (7) Outdoor dining activities shall be prohibited between the hours of 12:00 a.m. and 7:00 a.m.
- (8) Animals shall not be permitted within outdoor dining areas, except for service animals.
- (9) Lighting shall be limited to that level which is necessary to illuminate the outdoor dining area for patrons and staff. Flashing/blinking lights shall be prohibited.

C. Maintenance.

- (1) During the season when the outdoor dining area is in operation, it shall be kept clear of litter, food scraps or soiled dishes and utensils at all times. The entire floor/sidewalk surface in and around the outdoor dining area shall be swept as necessary, but not less frequently than daily, and cleaned to remove greases, oils and stains by steam cleaning or a similar process on a monthly basis. Spilled materials shall

be cleaned promptly. Sweeping debris or spilled materials into the gutters of public streets shall be prohibited. This requirement shall also apply to any areas beyond the outdoor dining area which are traversed by restaurant staff and/or patrons.

- (2) Trash receptacles shall be emptied whenever full and shall be emptied at the end of each business day.
- (3) Umbrellas may be used to shade tables, provided that the drip edge thereof is located at least seven feet above the ground and further provided that they shall not be used to advertise the restaurant or any other product or service.
- (4) Tables, chairs and umbrellas shall be of durable commercial-grade materials, sufficiently weighted to avoid displacement by wind.
- (5) Where outdoor dining areas abut the public street, all furniture, fencing, shrubbery and other fixtures associated with outdoor dining areas shall be removed and stored indoors during months when the outdoor dining area is not in use. No permanent structures shall be permitted to remain between the building that houses the restaurant and the abutting street except retractable awnings located at least seven feet above the ground. In all other locations, a storage plan for all furniture, fencing, shrubbery and other fixtures associated with the outdoor dining area shall be submitted for review and approval by the Plan and Zoning Commission.

**§ 177-37.3. Alternative energy systems. [Added 7-27-2010; amended 10-28-2014]**

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

**BUILDING-INTEGRATED SYSTEM** — A type of solar energy system which is constructed as an integral part of a principal or accessory building, rather than a separate mechanical device. Building-integrated systems replace or substitute for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot-water solar systems contained within roofing materials, windows, skylights, and awnings.

**CLOSED LOOP GEOTHERMAL SYSTEM** — A mechanism for using ground source heat pumps for heating and/or cooling a building which consists of a length of closed underground piping (which may be installed horizontally or vertically) containing heat transfer fluid; a heat exchange mechanism; and an air distribution system. This definition is expressly intended to exclude any form of open loop geothermal system.

**FUEL CELL** — A device in which a non-combustion reaction between a continuous fuel stream and a continuous oxidant stream is converted directly and continuously into electrical energy while producing minimal emissions and negligible pollutants.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM** — A freestanding solar energy system which is directly attached to the ground rather than being installed on another structure such as the roof of a home, shed or garage. Pole-mounted solar energy systems are a subcategory of ground-mounted solar energy systems in which the solar panel array is mounted atop a monopole structure, typically in connection with mechanical equipment designed to allow the solar panel array to track the movements of the sun.[Added 11-9-2016]

**OUTDOOR WOOD-BURNING FURNACE** — An accessory structure or appliance designed to be located outside living space ordinarily used for human habitation and

designed to transfer or provide heat, via liquid or other means, through the burning of wood or solid waste, for heating spaces other than where such structure or appliance is located, any other structure or appliance on the premises, or for heating domestic, swimming pool, hot tub or jacuzzi water. "Outdoor wood-burning furnace" does not include a fire pit, wood-fired barbecue or chiminea.

**SOLAR ENERGY SYSTEM** — A device or combination of devices or elements which rely upon direct sunlight as an energy source to produce heat and/or electricity. Off-grid photo-voltaic solar panels which serve only a single electrical fixture or appliance, such as low-voltage landscape lighting or similar, are exempt from the provisions of this section.

**WIND GENERATOR** — A system of blades, slats or vanes and associated mechanical and electrical conversion components whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity, whether mounted on a tower, post or any other structure.

**B. Prohibited equipment.**

- (1) Outdoor wood-burning furnaces are prohibited in all zones.
- (2) Wind generators are prohibited in all zones.
- (3) Open loop geothermal systems are prohibited in all zones.
- (4) Thermal-electric power generation equipment which utilizes parabolic dish, parabolic trough, linear fresnell, or power technology to concentrate solar energy as its mechanism for generating heat is prohibited in all zones.

**C. Permitted accessory uses.**

- (1) General requirements. Closed loop geothermal systems and solar energy systems are permitted as accessory uses in all zones and fuel cells are permitted accessory uses in the zones designated in § 177-6C subject to the following requirements:
  - (a) Where designed to generate electricity, the system must be designed to produce energy primarily for consumption by buildings or other structures located on the same lot as the system, except that:
    - [1] When the lot receives electrical power supplied by a public utility company, excess energy generated may be supplied to the utility company or through the distribution system of the utility company to offset other usage of other electric accounts, in accord with applicable laws such as those permitting net or virtual net metering; and
    - [2] Multiple property owners may share ownership of, and/or the energy generated by the system provided, however, that the system shall meet all other requirements of this section with respect to each lot upon which it is located.
  - (b) Solar energy systems, fuel cells and the aboveground portion of closed loop geothermal systems shall be treated as accessory buildings which must comply with the requirements of § 177-20E except as further specified in Subsection C(3)(b)[2] of this section. **[Amended 11-9-2016]**

- (c) All transmission lines from solar energy systems, fuel cells and closed loop geothermal systems to any other building or structure shall be located underground to the extent feasible. This requirement shall not apply to transmission lines owned or managed by any public utility company.
  - (d) All solar energy systems, fuel cells and closed loop geothermal systems shall be installed according to manufacturer specifications, the requirements of any applicable utility company interconnect agreements and any applicable codes including, without limitation, the Connecticut Building Code.
  - (e) Where the system is designed to generate electricity, clearly visible warning signs concerning voltage shall be placed at the base of all pad-mounted transformers and substations or fence.
- (2) In addition to the requirements of Subsection C(1), closed loop geothermal systems shall be subject to the following additional requirements:
- (a) The design and installation of geothermal systems and related boreholes for geothermal heat pump systems shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), the International Ground Source Heat Pump Association (IGSHPA), the American Society for Testing and Materials (ASTM), the Air-Conditioning and Refrigeration Institute (ARI), or other similar certifying organizations, and shall comply with the Connecticut Building Code and all other applicable requirements of law such as, but not limited to those pertaining to the installation of wells. The manufacturer specifications shall be submitted as part of the application.
  - (b) Only nontoxic, biodegradable circulating fluids such as food grade propylene glycol shall be permitted.
  - (c) Horizontal closed loop systems shall be no more than 20 feet deep.
  - (d) Wellheads located above ground level shall be labeled clearly to identify that they are part of a closed loop geothermal system and not a source of potable water.
- (3) In addition to the requirements of Subsection C(1), solar energy systems shall be subject to the following additional requirements:
- (a) The system must be designed to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
  - (b) Height limitations:
    - [1] The highest point of a roof-mounted solar energy system shall not exceed the maximum height limitation for the building upon which it is mounted or two feet above the roof of the building to which it is attached, whichever height is lower, except:
      - [a] On buildings with flat roofs which are located in multifamily residential, commercial or industrial zones, a roof-mounted solar



energy system may extend up to 10 feet above the roof of the building upon which it is installed, provided that the solar energy system shall be set back from the perimeter of the roof by a distance equal to one foot for each one foot in height less the height of any parapet wall at the perimeter of the roof; or

- [b] Where a main use is subject to special use permit approval pursuant to § 177-42A, an applicant may seek such approval for installation of a roof-mounted solar energy system extending up to 10 feet above the roof of the building upon which it is installed.
  
- [2] Where permitted, ground-mounted solar energy systems shall not exceed 10 feet in height. In residential zones, ground-mounted solar energy systems shall not cover more than 10% of the area of the required rear yard in which the system is to be located, except that where a main use is subject to special use permit approval pursuant to § 177-42A, an applicant may seek such approval for installation of a ground- or pole-mounted solar energy system extending up to the maximum height permitted for main buildings in the zone. Height shall be measured at the highest point on the system. Where components of the solar energy system track the sun's movement across the sky, the height shall be measured relative to the system's most vertical position. Ground-mounted solar energy systems shall also be subject to the following limitations: **[Amended 11-9-2016]**

<b>Zone</b>	<b>Ground-Mounted</b>	<b>Pole-Mounted</b>
All multifamily zones, R-6, R-10, R-13	Prohibited	Prohibited
R-20	Permitted in rear yard only	Prohibited
R-40, R-80	Permitted in rear yard only	Permitted in rear yard only
All commercial and industrial zones	Permitted	Permitted

- (c) Building-integrated systems are deemed to be a component of the structure into which they are integrated and are subject to the requirements of this chapter which otherwise apply to the structure itself.
- (d) The surface area of ground and pole-mounted solar energy systems, regardless of mounted angle, shall be calculated as part of the maximum lot coverage of all buildings.
- (e) Solar energy systems shall be maintained in good working order at all times. If a solar energy system ceases to perform its originally intended function for more than six consecutive months, the property owner shall promptly remove the collector, mount and associated equipment except where it is in the process of being repaired or is out of service pending the completion of other ongoing work at the property.

- (f) The owner of a property on which a solar energy system is installed and/or the owner(s) of the solar energy system itself assume(s) all risk associated with diminished performance of said system caused by any present or future use of nearby property that may interfere with the system's ability to produce power at its rated capacity, regardless of when that adjacent structure or landscaping is constructed or installed.
- (4) In addition to the requirements of Subsection C(1), fuel cells are permitted accessory uses in the zones designated in § 177-6C subject to the following requirements:
  - (a) When located within an accessory structure, the fuel cell and all related equipment shall be completely enclosed by a minimum six-foot-high fence with a self-locking gate.

D. Permitted main uses.

- (1) General requirements. Solar energy systems and fuel cells are permitted main uses in the zones designated in § 177-6B subject to the following requirements:
  - (a) Unless the energy generated by the system is to be used exclusively to meet the needs of nearby properties through private transmission facilities, the applicant shall demonstrate that:
    - [1] Existing electrical distribution or transmission facilities are adequate to connect the solar energy system or fuel cell to the utility grid; and
    - [2] That the intended use of any electrical distribution or transmission facilities is permitted under existing law.
  - (b) Solar energy systems and fuel cells shall meet the minimum yard requirements for main buildings in the zones where they are located.
  - (c) The solar energy system or fuel cell shall be completely enclosed by a minimum six-foot-high fence with a self-locking gate.
  - (d) A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations or fence.
  - (e) All on-site transmission lines shall be located underground to the extent feasible. This requirement shall not apply to transmission lines owned or managed by any public utility company.
  - (f) The applicant shall demonstrate that sufficient on-site parking exists to meet the needs of the facility.
  - (g) All solar energy systems or fuel cells shall be installed according to manufacturer specifications, the requirements of any applicable utility company interconnect agreements and any applicable codes including, without limitation, the Connecticut Building Code.
- (2) In addition to the requirements of Subsection D(1), solar energy systems shall be subject to the following requirements:

- (a) The system must be designed to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
- (b) Solar energy systems installed as main uses shall not exceed 20 feet in height except that an applicant may seek special use permit approval pursuant to § 177-42A for installation of a solar energy system extending up to the maximum height permitted for main buildings in the zone where there is good cause to increase heights to more than 20 feet. In the case where components of the solar energy system track the sun's movement across the sky, the height shall be measured relative to the system's most vertical position.
- (c) The surface area of ground or pole-mounted solar energy systems, regardless of mounted angle, shall be calculated as part of the maximum lot coverage of all buildings.
- (d) Solar energy systems which are obsolete or otherwise no longer in use shall be removed completely. For purposes of this subsection, a solar energy system shall be deemed to be no longer in use if it has not been used to generate electricity for a continuous period of six months except where it is in the process of being repaired or is out of service pending the completion of other ongoing work at the property.
- (e) The owner of a property onto which a solar energy system is installed and/or the owner(s) of the solar energy system itself assume(s) all risk associated with diminished performance of said system caused by any present or future use of nearby property that may interfere with the system's ability to produce power at its rated capacity, regardless of when that adjacent structure or landscaping is constructed or installed.<sup>9</sup>

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9. Editor's Note: Former Subsection E, regarding a moratorium on the installation of ground-mounted or pole-mounted solar energy systems, which immediately followed this subsection, was repealed 11-9-2016.

ARTICLE V  
**Administration**

**§ 177-38. Permits required. [Amended 7-25-1989]**

No structure shall be erected, expanded or structurally altered and no land use shall be established until a permit therefor has been issued, as required below.

- A. A special permit use, identified as such in § 177-6B and C, in accordance with the procedure set forth in § 177-42A.
- B. A use requiring site plan approval as identified in § 177-6B and C or a lot split or lot line revision, in accordance with the procedure set forth in § 177-42B.
- C. All other permitted uses, in accordance with the procedure set forth in § 177-42C.

**§ 177-39. Certificate of occupancy.**

- A. No structure or land or any part thereof shall hereafter be occupied or used or changed to another use until a certificate of occupancy shall have been issued by the Building Inspector, certifying that this chapter has been complied with in full, including any limitations or conditions attached to any special use permit, site plan approval or variance for the property covered by the certificate of occupancy. The Building Inspector shall issue a certificate of occupancy within 10 days after a request for the same shall have been filed in the Building Inspector's office by an owner or the owner's agent.
- B. The Building Inspector may issue a temporary certificate of occupancy for the period up to one year, if only a portion of a structure or land use is completed at the time the request for a certificate is made or if minor noncompliances exist at such time which can be corrected without impairing the use of the structure or land. In this case, the Building Inspector shall list all noncompliances and set a date by which they shall be corrected. A temporary certificate of occupancy may be renewed for periods up to six months if sufficient cause has been shown to the Building Inspector to warrant such an extension.
- C. A certificate of occupancy issued for the structure or use subject to a variance permitted by the Zoning Board of Appeals shall include a description of such variance and any conditions under which such variances were granted and shall further specify whether or not such variance constitutes a nonconformity.
- D. A certificate of occupancy issued for a structure or use permitted as a special permit use after approval by the Plan and Zoning Commission shall include any conditions under which such special permit use was granted.
- E. Upon written request from the owner or the owner's agent, the Building Inspector shall issue a certificate of occupancy for any structure or premises existing at the time of enactment of this chapter, certifying that the structure and the extent and kind of use made of the structure and premises comply fully with the provisions of this chapter. Wherever a nonconforming structure or use exists, the nonconformity shall be noted on the certificate of occupancy. Said nonconformity shall have been registered as required in § 177-37F before a certificate of occupancy shall be issued. Wherever the structure or use is subject to any limitations or conditions, they shall be noted on the certificate of occupancy.

- F. A record of all certificates shall be kept on file in the office of the Building Inspector, and certified copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected, upon payment of the required fee.
- G. The Building Inspector may require evidence of continuing compliance from the owner of all structures and uses for which certificates of occupancy have been issued. The Building Inspector shall make periodic inspections of all structures and land uses for which permits have been issued under site plan approval, special use permit or special development district plan to determine continuing compliance. If the owner refuses to furnish said evidence or if compliance with said permit has not continued, the Building Inspector shall proceed according to § 177-48B and, in addition thereto, may revoke said permits and certificates upon 15 days' written notice to said owner or permit holder; provided, however, that said owner or permit holder may appeal said revocation order to the Zoning Board of Appeals within said 15 days, and said revocation order shall be stayed until the decision of the Zoning Board of Appeals.

**§ 177-40. Permits issued prior to Zoning Ordinance.**

Permits for structures or uses issued prior to the enactment of this chapter or any amendments thereto, which permits are contrary to the provisions of this chapter, shall be null and void unless substantial work has been done toward the completion of the work or the establishment of the use authorized by the permit.

**§ 177-41. Permit applications. [Amended 10-28-1969; 11-15-1977; 9-27-1994; 5-10-2005; 5-13-2014]**

- A. Applications made to Town Planner. All applications for required zoning permits shall be made to the Town Planner on forms provided by that office.
- B. Contents of application. An application for a zoning permit shall include the following:
  - (1) At least three prints of a plot plan of the premises, drawn to scale, based upon Connecticut Geodetic Survey (CGS) datum and certified by a licensed surveyor or engineer and/or landscape architect, as appropriate under Connecticut registration regulations, showing the following:
    - (a) The actual shape and dimensions of the lot.
    - (b) The location, size and height of all existing and proposed structures.
    - (c) The existing and proposed use of all existing and proposed structures and lot areas, if other than a one- or two-family residence.
    - (d) The number of families, if any, each existing and proposed building is designed to accommodate.
    - (e) The layout of existing and proposed parking and loading facilities and access thereto, including any parking barriers or walkways.
    - (f) The type and location of any exterior lighting, including provisions for shading.
    - (g) The type, size and location of all signs.

- (h) The type and location of any required screening or landscaping.
  - (i) The location of waste disposal and recycling containers and the screening enclosures surrounding them, together with a statement of proposed method of sanitary waste disposal and recycling collection, which shall be subject to approval by the Director of Public Works pursuant to West Hartford Code of Ordinances § 94-5. **[Amended 9-13-2016]**
  - (j) Any proposed drainage facilities.
- (2) Such additional information as required by the Town Planner or by the Plan and Zoning Commission where a special use permit or site plan approval is required, where necessary to determine that the requirements of this chapter are met. The Town Planner may excuse compliance with requirements for specific information otherwise required on the plot plan where such compliance is not necessary to determine that the requirements of this chapter are met.
  - (3) Application fees as specified in § 177-50.
  - (4) In any application where a boundary survey of the property is required, either of the following:
    - (a) One copy of the plot plan described in Subsection B(1) of this section provided on such computer medium and in such computer program or language as may be established by the Director of Community Services from time to time; or
    - (b) An application, addressed to the individual or agency which has ultimate authority to approve the underlying application, for a waiver of the requirement to produce the computerized plot plan set forth in Subsection B(4)(a) of this section, setting forth, in detail, the reason(s) why compliance with that provision is impractical, unfeasible or impossible.
  - (5) The applicant shall consent to receive formal communications from the Town of West Hartford relating to the application in electronic format and shall specify an e-mail address (or addresses) to which such communications may be delivered.

**§ 177-42. Application approval procedure. [Amended 10-28-1969; 11-15-1977; 7-25-1989; 10-12-1993; 3-9-2004; 5-10-2005; 5-13-2014]**

Applications for required permits shall be reviewed and acted upon as follows:

A. Special use permit.

- (1) All special permit uses, identified as such in § 177-6B and C, are declared to possess characteristics of such unique and distinct form that each specific use shall be considered as an individual case. Special permit uses shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth therein, in addition to all other requirements of this chapter.
- (2) The Town Planner shall refer applications for special use permits to the Planning Commission, which shall hold a public hearing and render a decision within the time periods set forth in C.G.S. § 8-7d, as that section may be amended or recodified from time to time. The Commission shall give notice prior to the date of the hearing by

advertisement in a newspaper as required by state statute and by sending by mail a copy of such notice to the applicant and to the owners of all property adjoining the property which is the subject of such an application.

- (3) The applicant shall post a sign giving notice of his or her application in a conspicuous place on the property for which a special use permit approval is sought, visible from a public street. Said sign shall be posted seven days before the date of the hearing, shall remain in place until the public hearing and shall be removed not later than three days after the public hearing.
- (4) An applicant may request preliminary approval for a special use permit. In this case, the Planning Commission shall make a finding according to Subsection A(5)(a) only. The applicant shall be required to submit only such material as the Commission deems necessary to consider the application for preliminary approval. The procedure for preliminary approval shall be the same as the procedure for approval for a special use permit, except that Subsection A(6) shall not apply.
- (5) Findings of the Planning Commission.
  - (a) The Planning Commission shall make a finding that each of the following standards is met and, where necessary, shall attach specific conditions to its approval of the special use permit if, in its opinion, such conditions are essential to making the finding that:
    - [1] The location and size of the use, the nature and intensity of the operations connected with it, the size of the lot in relation to it and the location of the lot with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
    - [2] The kind, location and height of all structures and the nature and extent of the landscaping on the lot are such that the use will not hinder or discourage the appropriate development and use of adjacent properties.
    - [3] The parking, loading, trash and recycling facilities are adequate and properly located for the proposed use, and the entrance and exit driveways shall be laid out so as to achieve maximum safety.
  - (b) Where the applicant has requested that a special use permit be issued in connection with uses which are temporary in duration, or should the use requested be temporary in nature, the Planning Commission may take the proposed duration of the permit into consideration in determining whether the findings listed above can reasonably be made. Should the Commission vote to approve the application, it shall specifically grant any such application for the time period requested by the applicant or consistent with the nature of the use requested.
- (6) Where the Commission finds it to be necessary or appropriate to do so, it may require the submission of a suitable performance bond to assure satisfactory completion of necessary improvements.

- (7) After the approval, the applicant shall submit to the Commission three black-and-white prints and one transparent print on permanent material of the plans as approved. The Commission shall file with the Town Planner one print of the approved plans with the approval noted thereon and a list of all conditions pertaining to the special use approval. One print of said plan and list shall be made available to the applicant.
  - (8) Hearing.
    - (a) In approving any special use permit, the Plan and Zoning Commission shall determine a date, not later than two years after the date of its approval, by which the applicant shall be required to appear at a hearing to report upon compliance with the conditions placed by the Commission upon its approval.
    - (b) At the time of that hearing, the Commission shall hear from the applicant, Town staff and the public with respect to compliance with the approval and with the conditions placed by the Commission when the permit was approved, as well as problems or concerns which have arisen as a result of the project or the approval.
    - (c) This hearing shall be noticed and conducted in accord with the provisions of Subsection A(2) and (3) of this section, the Charter of the Town of West Hartford and the laws of the State of Connecticut.
    - (d) As a result of this hearing, the Commission shall determine whether or not further conditions should be imposed upon its approval in order to satisfy its obligations pursuant to Subsection A(5) of this section and, if it determines that such conditions are necessary, shall modify its approval accordingly. The Commission shall not have the power to revoke its permit as a result of this hearing but shall have the authority to direct the applicant and/or Town staff to take appropriate action to rectify any violations of its approval and conditions related thereto which are discovered during this review process.
    - (e) The Commission shall not be entitled to further review of any special use permit subsequent to this process unless the use of the property or structures on it changes such that an amendment to the permit is necessary or appropriate.
- B. Site plan, lot split or lot line revision approval.
- (1) The Town Planner shall review applications requiring site plan approval and applications for lot split approval or lot line revision and shall approve, disapprove or approve with modification such proposed site plan, lot split or lot line revision within 65 days after having received all of the information described in § 177-41B for the application. The petitioner or applicant may consent to one or more extensions of the sixty-five-day period specified in this subsection, provided the total extension period shall not be for longer than 65 days. Any proposed site plan, lot split or lot line revision not acted upon within said sixty-five-day period, as said period may have been extended, shall be considered approved, provided that it conforms to all specific requirements of this chapter, and the Town Planner shall issue a certificate to that effect at the applicant's request.
  - (2) In acting on a proposed site plan, lot split or lot line revision, the Town Planner shall determine that the requirements of this chapter are met in fact. In so doing, the Planner



shall consult with the Director of Community Services on all matters regarding engineering and with any other Town official the Planner may deem necessary.

- (3) After the approval, the applicant shall submit to the Town Planner three black-and-white prints and one transparent print on permanent material of the approved site plan, lot split or lot line revision. The Town Planner shall file one print of the approved site plan, lot split or lot line revision, with the approval noted thereon. One print of said site plan shall be made available to the applicant.

C. All other permit applications.

- (1) Upon determination of the Town Planner that the proposed structure or use complies with this chapter, the Town Planner shall issue the required zoning permit. One copy of the approved plot plan shall be returned to the applicant with the approval and number of the permit noted thereon. A copy of the permit shall be displayed at the premises at all times until a certificate of occupancy has been issued. A copy of the approved plans shall be available for inspection at the premises during regular working hours.
- (2) Before the actual placement of the foundation of any structure, the contractor or owner shall stake out the location of the proposed foundation and supply the Building Inspector with a certificate by a licensed surveyor that the location of such foundation, or any part of a structure to be erected thereon, complies with the approved plot plan. Failure to supply said certificate shall automatically suspend the permit under which the work has been authorized, until said certificate has been supplied to the Building Inspector.

D. Joint hearings.

- (1) Whenever any proposed development, or group of developments within the Town of West Hartford requires review and/or decision by any combination of the Town Council, Plan and Zoning Commission, Inland Wetlands and Watercourses Agency and/or Zoning Board of Appeals, those agencies may hold joint hearings with respect to some or all of the applications and/or other matters before them when it appears that such joint hearings may be beneficial.
- (2) Whenever practicable, consolidated notice of the joint hearing, whether by sign, mail or publication, shall be given; however, such notice shall be in accord with the requirements applicable to each of the applications and/or other matters to be considered. When the notice requirements applicable to the various applications in question are inconsistent such that consolidated notice is impracticable, each participating agency shall be responsible for providing separate notice of the hearing, but such notices shall identify the proceeding as a joint hearing.
- (3) The following procedures shall be applied to any joint hearings held pursuant to this subsection:
  - (a) The Chairpersons of each participating agency shall determine in advance who shall chair the joint hearing.
  - (b) A quorum of the membership of each participating agency shall be required to commence the hearing and shall be required at all times during the hearing.

Procedural motions regarding the conduct of the hearing shall be decided by a majority vote of all persons present and participating in the hearing. All other procedural and substantive issues shall be decided separately by each participating agency with respect to each application and/or other matter which is the subject of the joint hearing.

- (c) An alternate member or members of any participating agency may be seated in lieu of a regular member or members thereof in accord with the procedures of that participating agency. Additional alternate members of any participating agency may participate in the hearing, at the discretion of the Chairperson of that participating agency, but such additional alternate members shall only participate in the deliberation and/or decision in the event that a seated regular or alternate member of that participating agency is unable to do so.
- (d) Notwithstanding any other provision in this Code of Ordinances to the contrary, any agency participating in a joint hearing which is required to provide a report, recommendation, decision and/or approval to any other agency with respect to any application and/or other matter which is the subject of the joint hearing may take such action and/or provide such report, recommendation, decision or approval at any time prior to final decision by the participating agency which is to receive said report, recommendation, decision and/or approval. In the event that any participating agency is required to close its hearing, is required to complete its decision or is otherwise required to terminate any step in the approval process with respect to one or more applications and/or other matters which are included in the joint hearing process, the Chair of that agency may declare the hearing to be closed with respect to those applications and/or other matters and the joint hearing process may continue with respect to all remaining applications and/or other matters.
- (e) The most current edition of Robert's Rules of Order shall be followed with respect to the procedure for the conduct of joint hearings. Where the circumstances surrounding a particular joint hearing process warrant the establishment of specific rules for the conduct of that hearing, however, the Chairs of each participating agency may agree upon such rules in advance of, or during the hearing process as the need therefor arises, in which case any such rules shall be announced upon the record of the hearing and shall be applied thereafter unless rescinded by agreement of the Chairs of the participating agencies.
- (f) Each participating agency shall meet separately to deliberate and decide the application(s) regarding which it has jurisdiction.

**§ 177-43. (Reserved)<sup>10</sup>**

**§ 177-44. Special development district plan. [Amended 10-28-1969; 4-13-1976; 5-8-1979; 11-1-1988; 2-13-1991; 9-27-1994; 3-9-2004; 5-10-2005; 9-12-2006]**

- A. Purpose. In order to permit and encourage variety and flexibility in land development that will be in harmony with the objectives of the Comprehensive Plan for the Town's

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10. Editor's Note: Former § 177-43, Period of permits, was repealed 5-10-2005.

development, the Town Council, upon application, may approve, disapprove or approve with modifications a plan for the development of land, which plan may require changes in the regular standards applying to the permitted uses of land in the zoning district in which it is located, subject to the following standards and procedures.

B. Standards.

- (1) The property shall be not less than the minimum required lot size in any district unless the application is for a subdivision involving a variety of lot sizes.
- (2) The Town Council shall make findings that the plan as approved will be:
  - (a) In harmony with the overall objective of the Comprehensive Plan, as defined in Article I of this chapter.
  - (b) Superior to a plan possible under the regular standards of this chapter.
  - (c) In harmony with the actual or permitted development of adjacent properties.
- (3) The total density of development, in terms of floor space, dwelling units and land coverage, shall not be greater than that permitted in the district in which the property is located.
- (4) The standards of the Town Subdivision Regulations<sup>11</sup> shall be met where a subdivision is proposed.

C. Procedure.

- (1) Filing of application.
  - (a) An application for approval of a special development plan shall be made in writing to the Town Council by the owner or owners of the fee to the land and of the fee to the buildings which are the subject of the application, together with any other applicant. When receiving an application, the Town Council may waive the requirement that all owners of the fee to the land and of the fee to the buildings which are the subject of the application sign said application if:
    - [1] Requested to do so in writing by the owner of an interest in the subject property or a tenant thereof; and
    - [2] Good cause can be shown for the applicant's failure to obtain the required signatures; and
    - [3] The applicant certifies that it has mailed, by first-class mail, postage prepaid, a complete copy of the application to the owner(s) who did not sign the application at their last known business or residential address(es).
  - (b) For purposes of this section, if the property which is the subject of the application is held as a condominium pursuant to the Common Interest Ownership Act, Connecticut General Statutes Ch. 828, as that chapter may be renumbered or recodified from time to time, or pursuant to any predecessors or successors to that act, the requirement that all owners of the fee to the land

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11. Editor's Note: See Ch. A184, Subdivision Regulations.

and of the fee to the buildings which are the subject of the application shall be deemed to be satisfied if the duly authorized representative of the unit owners' association executes the application.

(2) All applications shall include the following information:

(a) Plot plan.

[1] Three prints of a plot plan of the property drawn to scale based upon Connecticut Geodetic Survey (CGS) datum and certified by a licensed surveyor or engineer, showing the information required under § 177-41B(1); and

[2] Either of the following:

[a] One copy of the plot plan described in Subsection C(2)(a)[1] of this section provided on such computer medium and in such computer program or language as may be established by the Director of Community Services from time to time; or

[b] An application, addressed to the Town Council, for a waiver of the requirement to produce the computerized plot plan set forth in Subsection C(2)(a)[2][a] of this section setting forth, in detail, the reason(s) why compliance with that provision is impractical, unfeasible or impossible.

(b) Three prints of all proposed building floor plans and elevations, drawn to a scale of not less than 1/16 inch equals one foot, including an indication of all materials proposed to be used in all buildings.

(c) Three prints of a landscaping plan indicating the location, size and species of all plant materials proposed to be preserved and planted.

(d) For each building and land area proposed to be used for other than residential purposes, a description of the proposed uses, operations and equipment, number of employees and other occupants and techniques to be used in preventing the emission of any noise, vibration, radiation, odor or dust, smoke, gas, fumes or other atmospheric pollution of any kind.

(e) A statement of the Director of Health as to the adequacy of any proposed sewage disposal system.

(f) The Town Council shall set a public hearing on the proposed plan and refer the proposed plan to the Town Plan and Zoning Commission in accordance with Chapter XII, Section 5(b), of the Town Charter (Special Act No. 562 of 1957 General Assembly), as amended. If the special development plan requires a change of zone, Chapter XII, as aforesaid, shall be followed, together with the following procedures, and said Charter compliance shall be separately noted; otherwise the following procedures shall govern, and said plan may be approved by a vote of not less than a majority of the members of the Council. In the event of a zone change, the Council shall designate a consolidated hearing.

- (3) The Commission shall consider the application and shall approve, disapprove or approve with modifications the proposed plan within 60 days after referral. The plan, after action by the Commission, shall be submitted to the Town Council for its action. If the Commission shall fail to act on the application within the stated time limit, the application shall be submitted to the Town Council without further requirements as to Commission action.
- (4) The Town Council shall hold a public hearing on the proposed plan as acted upon by the Commission and shall approve, disapprove or approve with modifications. Such development plan, if approved by the Council, shall modify or supplement the regulations of this chapter as they apply to the property included in the approved plan.
- (5) The Town Council may attach any conditions to its approval as it considers necessary in order to assure continued conformance with the approved plan and the zoning regulations and may also require the submission of a suitable performance bond to assure satisfactory completion of necessary improvements.
- (6) A copy of the approved plan on permanent tracing material shall be filed, at the applicant's expense, in the offices of the Town Clerk. An additional paper copy and an electronic copy shall be filed in the office of the Town Planner in formats which he or she may specify from time to time. Any approved plan not so filed within 90 days after approval by the Town Council shall be null and void. **[Amended 7-26-2016]**
- (7) A suitable notation shall be made in the Zoning Ordinance and on the Zoning Map identifying any property for which a special development plan has been approved.
- (8) Except as otherwise specified in this section, applications for changes in approved plans shall be made and acted upon using the same procedure as required for the initial applications.
- (9) The Town Planner can approve the following adjustments to an approved SDD plan without Town Council approval, but the approval of such adjustments will not be effective until the day following that next regular meeting of the Town Council (at which meeting such adjustment shall appear on the Town Council agenda), which meeting is at least 10 days following the Town Planner's notification of his or her decision. The communication from the Town Planner shall state that the Town Council may reject it. The Council shall reject all applications for which a sign was not posted, in accordance with the requirements of § 177-46, at least seven days before the date of the Council meeting. The Town Planner may approve an application for an adjustment in the SDD plan only if he or she determines that, as modified, the SDD plan will continue to serve the purposes of the original SDD plan approved by the Town Council and that the findings made by the Town Council pursuant to Subsection B(2) of this section will be satisfied thereby. The Town Planner may not adjust elements of an SDD plan such that limitations in the underlying zone are exceeded by said adjustment. Each of the following elements in an approved SDD plan may be adjusted by the Town Planner. The Town Planner may approve an application for an adjustment pursuant to this section only once every six months, not including those instances in which the Town Council reverses the Town Planner's decision and not including those instances in which the application is required in order to address unanticipated and immediate health, safety and/or welfare

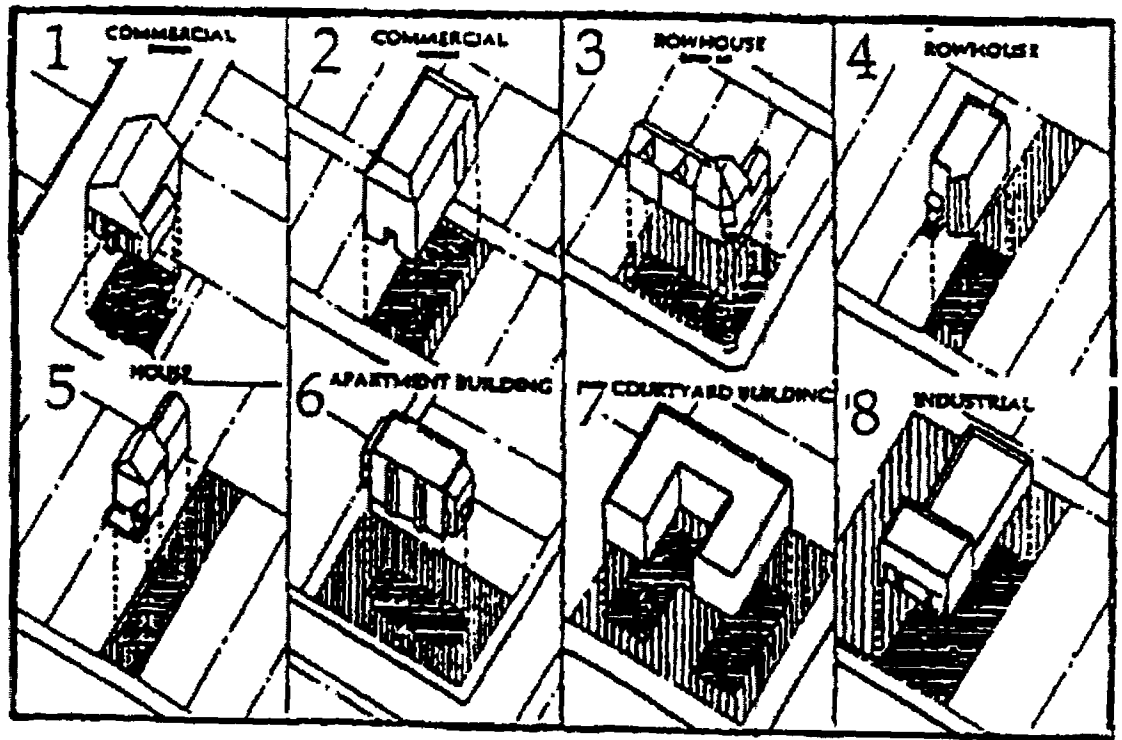
needs; further adjustments may be made only by Town Council amendment of the SDD plan. **[Amended 7-26-2016]**

- (a) Any distance or area measurement may be adjusted by up to a cumulative total of 10%, but bulk limitations may be adjusted up to 10% or 1,500 square feet, whichever is less.
  - (b) The type, size, number and location of plantings required for landscaping purposes (but not those required for screening from adjacent residential areas) may be adjusted by the substitution of other plantings in the same class (deciduous or nondeciduous); by plantings of similar size and number, and by locating plantings within a radius of 50 feet from a site specified in the SDD ordinance.
  - (c) The arrangement of parking spaces within a designated area may be adjusted, and the number of required parking spaces (including the mixture of types of spaces required) may be adjusted by up to a cumulative total of 10% of the required number of spaces or 10 spaces, whichever is less.
  - (d) Minor architectural changes.
  - (e) The location of accessory uses and structures.
  - (f) The size of signs.
  - (g) Any adjustment necessary to conform to conditions of approval imposed by other federal, state or local agencies which may have jurisdiction with respect to any aspect of the property that is subject to the SDD plan.
- (10) No approval pursuant to this section shall be effective until the approval plan is filed as prescribed by § 177-44C(5).

**§ 177-44.1. Traditional Neighborhood Design District. [Added 5-12-1998]**

- A. Purpose. The purpose of the Traditional Neighborhood Design District is to encourage the development of fully integrated, mixed use, pedestrian-oriented neighborhoods. The intent is to minimize traffic congestion, suburban sprawl and environmental degradation. The Traditional Neighborhood Design District diversifies and integrates land uses within close proximity to each other and provides for the daily recreational and shopping needs of the residents. The Traditional Neighborhood Design District is a sustainable, long-term development which enhances the quality of life to ensure the highest possible economic and social benefits for all residents.
- B. Design goals.
- (1) The Traditional Neighborhood Design District is designed to ensure development of land as a traditional neighborhood. Its design adopts the urban conventions which were the norm in the United States from colonial times until the 1940's. The Traditional Neighborhood Design District is characterized by the following design elements:
    - (a) Neighborhoods which are limited in size and oriented toward pedestrian activity:

- (b) A variety of retail uses, services, housing types and public facilities;
  - (c) Residence, retail, workplaces and civic buildings interwoven within the neighborhood all within close proximity;
  - (d) A network of interconnecting streets and blocks;
  - (e) A coordinated transportation system with a hierarchy of appropriately designed facilities for pedestrians, bicycles, public transit and automotive vehicles;
  - (f) Well-configured greens, landscaped streets and parks woven into the pattern of the neighborhood and dedicated to the collective social activity, recreation and visual enjoyment of the populace;
  - (g) Parks and other visual features which act as landmarks and focal points for community identity;
  - (h) Compatibility of buildings and other improvements as determined by their arrangement, bulk, form, character and landscaping to establish a livable, harmonious and diverse environment;
  - (i) Buildings which form a consistent, distinct edge and define the border between the public street and the private block interior; and
  - (j) Architecture and landscape which respond to the unique character of the neighborhood.
- (2) Various aspects of these design goals are demonstrated by the following building typologies, the use of which is strongly encouraged when designing new construction or expansion of existing buildings:



(3) Wherever possible the provisions of this section shall be interpreted in a manner which is consistent with these design goals and with the plan of development.

C. Definitions. The definitions in § 177-2 shall apply to this entire section. The following additional definitions shall apply to § 177-44.1:

ALLEY — Private right-of-way dedicated for the use of pedestrians, vehicles or public utilities as a means of access to abutting property.

BLANK WALL — A wall without fenestration.

BUILD-TO LINE — The front lot line.

ENCLOSURE WALL — Wall, gate or door or any combination of these separating private property from public property or easement.

EXPRESSION LINE — Horizontal line or lines, running the length of the facade represented by a materials change or continuous setback no more than 12 inches in depth or six inches in projection.

FENESTRATION — Windows, doors, openings, openwork gates.

HABITABLE SPACE — Building space, the use of which involves human presence within view of the public pedestrian space.

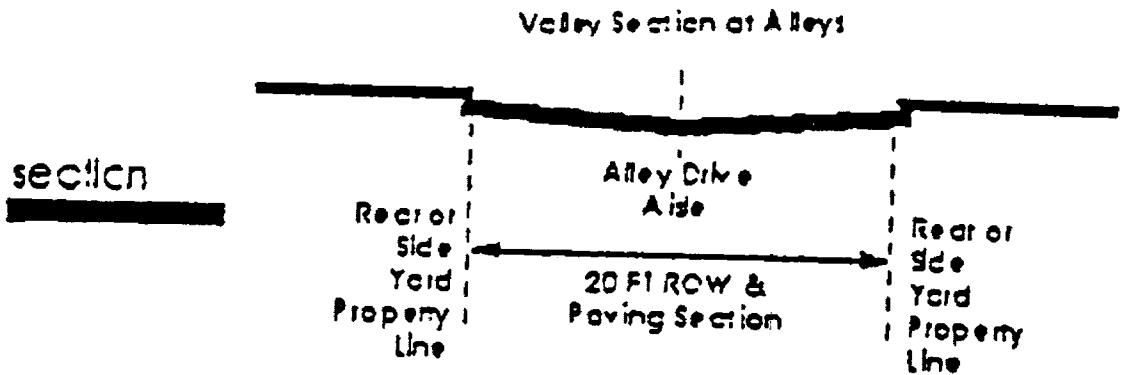
STREETSCAPE — The area within a street right-of-way that contains sidewalks, street furniture, landscaping or trees.

TRANSIT TERMINAL — A building designed predominantly as a point of collection for ticketing, information and access to an interlocal mass transit system, including but



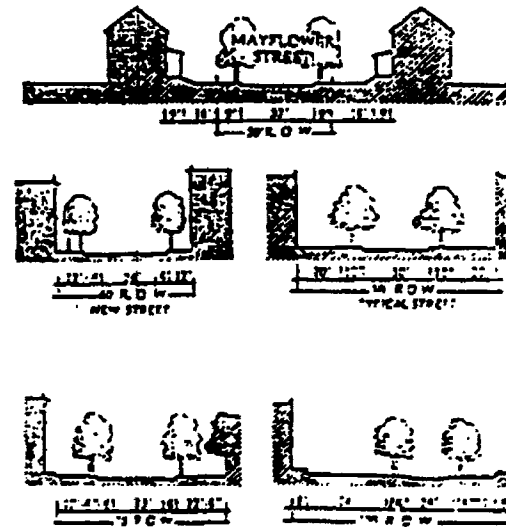
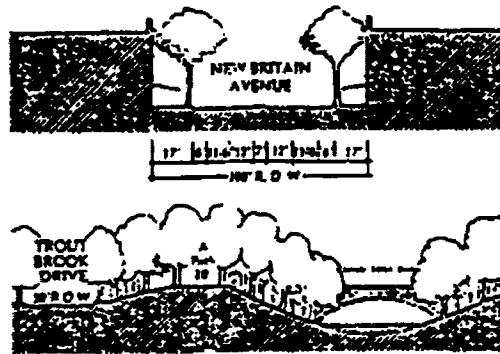
not limited to, bus, train or light rail terminals. The term "transit terminal" shall not be construed to include a bus stop or similar curbside point of access to a mass transit system.

- D. Applicability. If any parcel of property within the Traditional Neighborhood Design District is proposed to be improved to an extent greater than 50% of its fair market value, as determined by the Director of Assessments, then such parcel shall be developed in compliance with the requirements of this section.
- E. Required development standards. The Traditional Neighborhood Design District has specific characteristics which result in compact, mixed-use, pedestrian-oriented neighborhood. Development shall be consistent with the following objectives and standards:
  - (1) Standards for allowable land uses, lot area, coverage, density and yard requirements shall be determined by underlying base zone requirements. unless this section expressly provides otherwise.
  - (2) Streets/blocks and streetscape design.
    - (a) Proposed alleys shall be designed within a 20 foot maximum right-of-way.

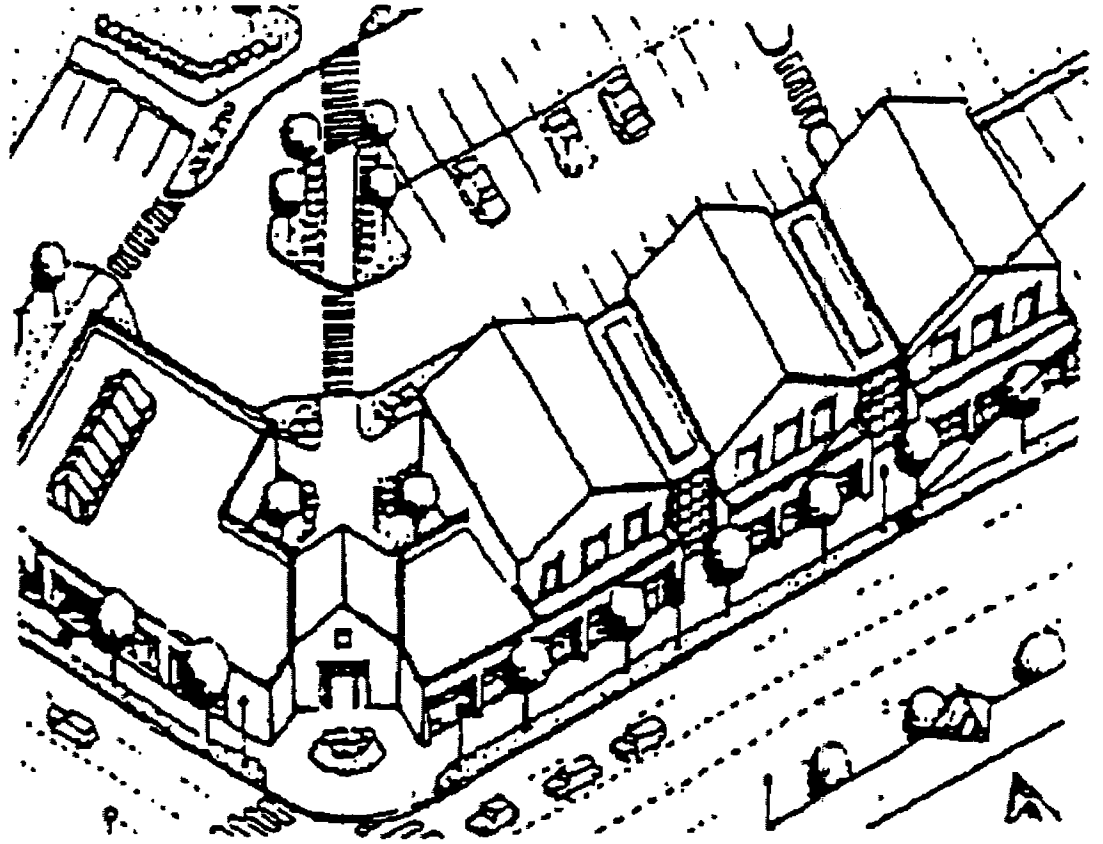


Valley Section at Alleys

- (b) The street design used within different areas of the Traditional Neighborhood Design District may vary depending on the proposed function of the street, the anticipated adjacent land uses, the traffic load and the desired character of the area.
- (c) Street design shall balance the needs of all users, and streetscape design is critical to this balance. The streetscape shall consist of sidewalks and amenities, such as street trees and street furniture. Providing wide sidewalks, on-street parking and an appealing streetscape encourages pedestrian activity.

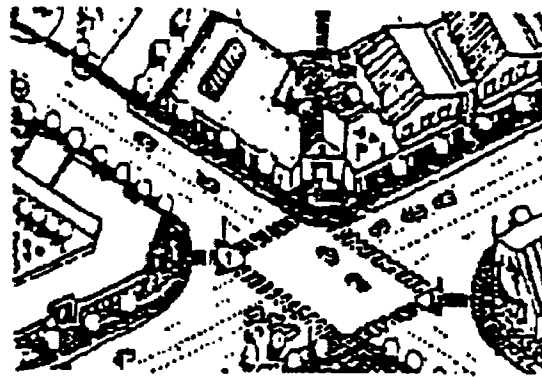


- (3) Vehicular access.
  - (a) Access to alleys. Direct vehicular access from a lot to an alley in the district is permitted and preferred. Direct vehicular access from a lot to a street is not permitted, except as provided in this section.
  - (b) Exceptions. Direct vehicular access from a lot to street may be permitted in the discretion of the Town Planner if an alley cannot reasonably be provided.
  - (c) Joint access driveways. If adjacent lots have direct vehicular access to a street, the Town Planner may require that the access be through a common or joint driveway.
- (4) Parking. The following parking requirements shall apply in the Traditional Neighborhood Design District:
  - (a) All on-site parking shall be located only at the rear of a building. In the case of corner lots, the front of a building shall mean that facade which faces the most heavily traveled street abutting the property.

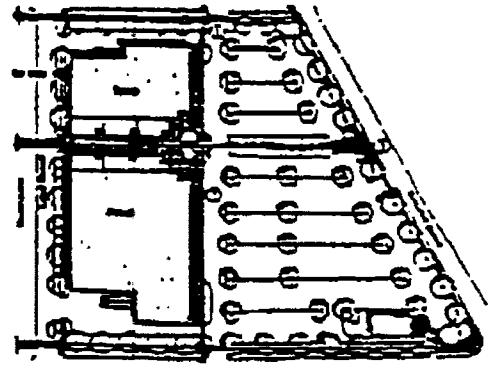


- (b) There is no off-street loading requirement for a building with less than 10,000 square feet of gross building area.
- (c) Parking in alleys is prohibited.
- (d) Minimum parking requirements are as follows:
  - [1] Retail: three parking spaces per 1,000 square feet of gross floor area.
  - [2] Office: one parking space per 350 square feet of gross floor area.
  - [3] Residential: 1.5 parking spaces per 1,000 square feet of gross floor area or per unit, whichever is greater.
  - [4] Exceptions:
    - [a] Minimum parking requirement waived for restaurants containing less than 2,000 square feet and for second floor office or residential uses up to 2,000 square feet of gross floor area.
    - [b] Life-care facilities may apply for a special use permit approval to reduce parking requirements as permitted in § 177-42.

- (e) Parking requirements may be met by a combination of off-street parking and on-street parking located on the street frontage of the property in question.
  - (f) Dimensions of parking spaces shall be at least as follows:
    - [1] On-street: 25 feet length when parallel to the curbline or nine feet by 20 feet when diagonal or perpendicular to the curbline.
    - [2] Off-street: nine feet by 18 feet.
  - (g) Parking requirements may also be met by the following alternate parking methods:
    - [1] Proposing a permanent off-street parking arrangement per the requirements of § 177-32G.
    - [2] A payment may be made to a General Parking Fund toward the future construction and operation of municipal parking facilities. This method may be used to satisfy a maximum of 50% of required parking. The amount of the payment required hereunder shall be \$8,000 per parking space until June 30, 1999. Thereafter, the amount of the payment required shall be adjusted annually in accord with the Consumer Price Index - Urban.
- (5) Building placement.
- (a) In the Traditional Neighborhood Design District buildings are used to form a distinct street edge and define the border between the public space and the private space of the individual lot. This promotes active streets and provides visual interest to the pedestrians. In order to achieve this objective, new buildings in the Design District shall have a zero set back from the street right-of-way. For purposes of this subsection, the term "building" includes tenant or patron spaces outside the building which are defined by permanent structural elements such as walls or fences.



Required



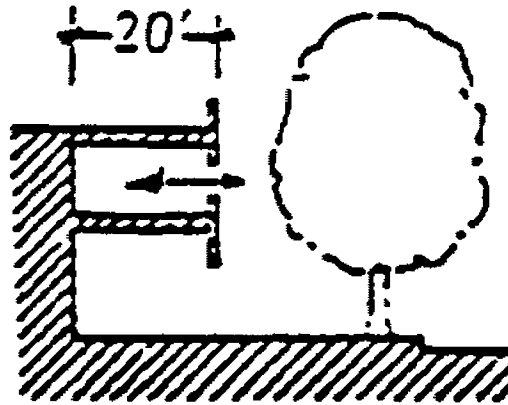
Not Permitted



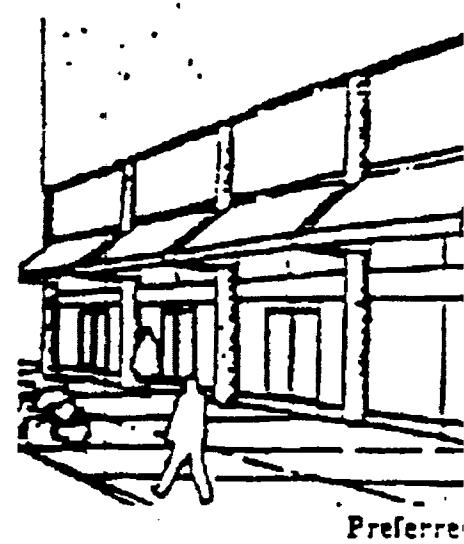
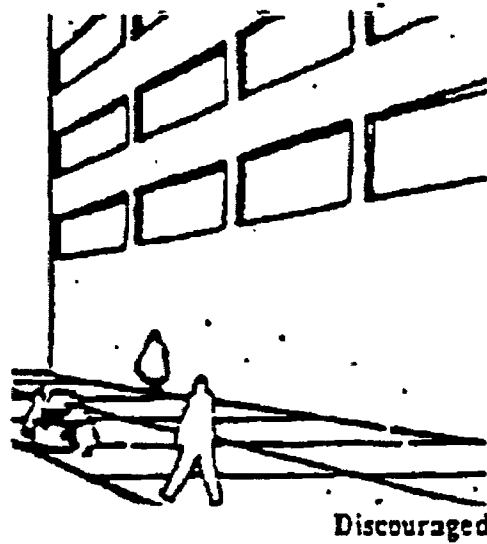
Preferred

- (b) New buildings shall be designed to cover at least 80% of the lot frontage. If the remaining portion of the frontage is not required for vehicular or pedestrian access to the lot, a decorative enclosure wall or gate shall be installed along the remaining frontage. The enclosure wall or gate design shall be approved by the Town Planner and shall be designed in a manner which meets the purposes and design goals of this section.
- (6) Building design and use.
  - (a) Buildings shall relate to and be oriented towards the street and surrounding buildings.
  - (b) The main entrance of a building or other structure must face the street and be clearly articulated through the use of architectural detailing. Secondary rear entrances may be permitted only if there is a main entrance from a street. Front entrances may not be closed off in favor of rear entrance. Patrons exiting an establishment shall be permitted to exit through the main entrance.
  - (c) Residential uses may be located above the first floor of a commercial building in the Traditional Neighborhood Design District.
  - (d) Service areas (loading docks, shipping/receiving) and utility service connections shall be located at the back of the building.

- (e) The first and second floors of all buildings shall have a habitable space within the first 20 feet of building depth fronting the street.



- (f) Fenestration requirements should be met with the installation of clear glass that is sufficiently transparent to provide views into the interior of buildings.
- (g) Blank walls or roof planes longer than 30 feet are prohibited.



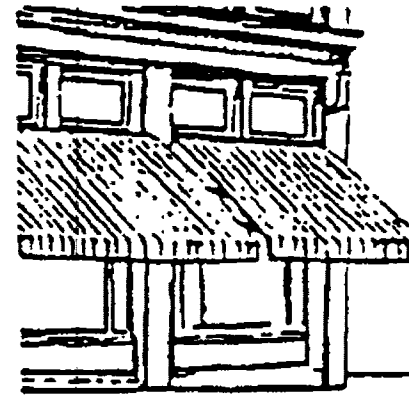
**Additional Requirements**

- (7) Additional requirements.
  - (a) Commercial properties shall be screened from adjacent residential properties by an enclosure wall or fence minimum six feet in height.
  - (b) Refuse receptacles shall be located at least 20 feet from adjacent residential zones and shall be located at the back of buildings.

- (c) Merchandise may be displayed on the sidewalk, provided that the display area does not extend more than 2 1/2 feet from the building face and further providing that a minimum five-foot pedestrian right-of-way remains unobstructed.
- (d) Seasonal outdoor dining shall be permitted in any yard area and on the sidewalk area subject to the operational standards applicable to outdoor dining areas set forth in § 177-6C, provided that a minimum five-foot pedestrian right-of-way remains unobstructed on the sidewalk.
- (e) Fluorescent lighting and back-illuminated awnings shall be prohibited on facades fronting a street.

F. Additional design standards:

- (1) The following design standards shall be met within the Traditional Neighborhood Design District unless the Plan and Zoning Commission approves a departure from these standards through a special use permit obtained in accord with the requirements of § 177-42 and after receipt of a report and recommendation from the Design Review Advisory Committee. In addition to the findings which must be made by the Plan and Zoning Commission in approving a special use permit, the Commission shall also consider the following criteria in approving a departure from these design standards:
  - (a) The nature and extent of the applicant's planned development on the site:
  - (b) The circumstances surrounding the applicant's reasons for submitting the development application (including the applicant's financial ability to meet these design standards);
  - (c) Whether compliance with any of these design standards will serve to render the property unmarketable or render its use fiscally unsound; or
  - (d) Whether the proposed use has been designed to permit future compliance with these design criteria.
- (2) Traditional Neighborhood Design District is pedestrian-oriented. To accomplish this goal, street pattern and design is used to reduce vehicle travel speeds and to encourage pedestrian activity. No parcel shall be developed in a manner which creates a single building site larger than four acres unless that site is divided into areas of fewer than four acres which are separated by streets or alleys.
  - (a) The perimeter of newly constructed blocks shall not exceed 1,600 linear feet. A block side shall not exceed 400 linear feet.
  - (b) The maximum building footprint of a parking garage shall not exceed 60,000 square feet.
  - (c) Operable covered awnings to provide for covered walkways may be provided.



- (d) The distance between pedestrian entrances shall not exceed 75 feet. On new retail street frontages, entrances shall be spaced no greater than 35 feet apart.
- (3) Architectural standards in the Traditional Neighborhood Design District permit vary, yet complementary architectural design which promotes the integration and compatibility of land and building uses within the Design District; ensure the design of buildings which provide human scale; and establish the importance of shared space through building location, orientation, massing and architectural design. Building designs shall achieve the following objectives:
  - (a) Human scale.
    - [1] The maximum individual tenant occupancy shall not exceed a footprint of 40,000 square feet of gross floor area. Individual retail tenant spaces may not be interconnected through the use of interior doorways. A bonus of 18% may be granted to a building within a radius of 250 feet of a transit terminal if one floor of the building is residential.
    - [2] Doorways, windows and other openings in the facade of a building should be proportioned to reflect pedestrian scale and movement and to encourage interest at the street level. Buildings shall be fenestrated as follows:

	<b>Minimum</b>	<b>Maximum</b>
First floor	50%	80%
All others	30%	60%





[3] Sill height shall be 24 inches from ground level for first-floor retail frontages and 36 inches in all other locations. Glazing is required to be located between sill height and eight feet above sidewalk on retail frontages.

(b) Architectural compatibility and building materials.

[1] Buildings shall be constructed of natural materials which weather gracefully over time, such as brick, stucco, stone, cast concrete, masonry and wood.

[2] Aluminum or vinyl siding, porcelain panels and imitation stucco are prohibited.

[3] The following materials can only be used in the areas described below:

[a] Concrete may only be used for building walls, columns, pilasters and flooring.

[b] Wood may only be used for doors, window frames, mullions, sashes, shutters, balconies, eaves, cornices, railings, columns, fences and pergolas.

[c] Stucco may only be used for building walls and enclosure walls.

[4] Expression lines shall be designed into all new retail street buildings and shall occur at two feet and 12 feet above the sidewalk and 12 inches below the cornice. Expression lines shall be designed to occur on other buildings at two feet six inches above the sidewalk and 12 inches below the cornice.



**§ 177-45. Permits for construction of monuments or statues. [Added 9-28-1976; amended 6-23-1981]**

- A. The Town Council may grant permission for the construction of a monument or statue on land owned by the Town or on privately owned land. The application shall be in writing and shall contain the following information:
- (1) Three prints of a plot plan of the property, drawn to scale and certified by a licensed surveyor or engineer, showing the information required under § 177-41B(1).
  - (2) Three prints of all proposed building floor plans and elevations, drawn to a scale of not less than 1/16 inch equals one foot, including an indication of all materials proposed to be used in all buildings.
  - (3) Three prints of a landscaping plan, indicating the location, size and species of all plant materials proposed to be preserved and planted.
- B. The Town Council shall set a public hearing on the application, after which said application may be approved by a vote of not less than a majority of the Council. Prior to said hearing, the Council may request the applicant to submit such other information or documents it deems necessary.
- C. The standards which shall be applied by the Town Council in acting upon such application are:
- (1) The design and architecture of the proposed improvements shall be in harmony with surrounding buildings and adjacent properties.
  - (2) The proposed improvements shall be in harmony with the overall objective of the plan of development and Comprehensive Plan.

- (3) There shall be no impairment of visibility affecting the safety of pedestrians and vehicular traffic.
- (4) There shall be no adverse effect on the value of adjacent properties.
- D. Title to the completed improvements shall vest absolutely in the Town of West Hartford where said monument or statue is constructed on land owned by the Town.
- E. The Town Council may attach any conditions to its approval as it considers necessary in order to assure conformance to the Plan of Development, Comprehensive Plan, zoning regulations, traffic circulation and existing plans for future construction plans of Town departments. Where the monument or statue is to be constructed on Town-owned land, the Town Council shall require the submission of a suitable performance bond or other security to assure satisfactory completion of the proposed improvements prior to commencement of construction. In the event that any unusual or extensive maintenance requirements are expected in connection with the proposed improvements, the Council may also require the applicant to post an appropriate bond or other security prior to commencement of construction to assure that the Town will not have to bear the expense of such maintenance.

**§ 177-46. Amendment procedure. [Amended 10-28-1969; 11-15-1977]**

- A. A proposed amendment to the Zoning Map shall be accompanied by three black-and-white prints of a map drawn to the scale of 40, 80 or 100 feet to the inch, showing the proposed change in the boundaries of the Zoning Map.
- B. The applicant for an amendment to the Zoning Map or for a special development district plan shall post a sign, giving notice of the application in a conspicuous place on the property for which the amendment or plan is sought, visible from a public street. Said sign should be posted at least seven days before the date of any hearing, and it should be removed no later than three days after the hearing. Said sign shall be provided by the Town without charge.
- C. Within 20 days following the approval of a proposed Zoning Map change, the applicant shall submit a copy of the proposal described in Subsection A, on permanent transparent material, to the Director of Planning for filing. Within 30 days of passage of the amendment, the Director of Planning shall file said map in the office of the Town Clerk.

**§ 177-47. Enforcement authority. [Amended 7-29-1997]**

The Zoning Enforcement Officer, his or her Assistant Zoning Enforcement Officer(s) or the Director of the Department of Community Services of the Town shall have the authority and the responsibility to enforce the requirements of this chapter. He or she is authorized to inspect or cause to be inspected any structure or land use and order the stoppage of any work or land use in violation of this chapter.

**§ 177-48. Penalties for offenses. [Amended 12-13-1983; 12-16-1997; 6-12-2001]**

- A. The Town Planner shall keep a record of all written and signed complaints received by the office regarding violations of this chapter. The Town Planner shall issue a monthly report on all such complaints to the Town Council, including the results of investigations and actions taken on each complaint.

- B. Pursuant to Chapter XII, Section 6, of the Charter, and C.G.S. § 8-12a, as may be amended, the owner or agent of any building or premises where a violation of any provision of the regulations made under authority conferred by Chapter XII of the Charter has been commuted or exists or the owner, agent, lessee or tenant of any part of the building or premises in which such violation has been committed or exists or the agent, architect, builder, contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in which any such violation exists shall be fined \$35 for each day that such violation shall continue for the first five days; \$85 for each day thereafter that such violation shall occur or continue; and, if the violation continues to exist for a period of 10 days after the violator is notified, in writing, of the violation or if the same violation occurs more than five times within a period of 12 months, \$160 for each day thereafter that such violation shall occur or continue; provided, however, that if the offense is willful, the person convicted thereof shall be fined \$260 for each day that such violation shall continue. The hearing procedure for any citation issued pursuant to this subsection shall be in accordance with § 1-10 of this Code.
- C. The provisions of this section relating to fines and penalties shall be in addition to any other remedies available pursuant to the Town's Code of Ordinances or state statutes.
- D. In addition to the fines set forth in the preceding subsections, an additional administrative fee of \$2 per \$10 of the amount of the fine(s) payable hereunder, or any fraction thereof, shall be payable to the Town of West Hartford by each person to whom a citation is issued.

**§ 177-49. Zoning Board of Appeals. [Amended 10-28-1969; 11-15-1977; 3-24-1981; 1-24-1995; 1-9-2007; 12-14-2010]**

- A. Powers and duties. The Zoning Board of Appeals shall have the following powers and duties:
- (1) Hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by any official charged with the enforcement and administration of this chapter.
  - (2) Hear and decide all matters, including special exceptions upon which it is authorized to pass by the specific terms of Subsection C of this section.
  - (3) Determine and vary the application of this chapter in harmony with the general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land, where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of this chapter would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured.
- B. Variances.
- (1) No variance in the strict application of any of the requirements of this chapter shall be granted unless the Zoning Board of Appeals shall find that:
    - (a) There are conditions especially affecting the land or structure for which the variance is sought, which conditions are peculiar to such land or structure and not to the personal or financial circumstances of the appellant and which

conditions are not affecting generally the area in which such land or structure is situated and have not resulted from any act of the appellant subsequent to the enactment of the requirement appealed from. Minor infractions in the location or height of a structure or the dimension or area of a lot, caused by human error, may be considered sufficient cause for an affirmative finding of this subsection unless, in the opinion of the Zoning Board of Appeals, such infractions can be repaired without impairing the use of the land or structure.

- (b) The aforesaid conditions are such that the strict application of the requirements of this chapter would deprive the appellant of the reasonable use of such land or structure and the granting of the variance is necessary for the reasonable use of the land or structure, and that the variance, as granted by the Board, is the minimum variance that will accomplish this purpose.
  - (c) The granting of the variance would not permit the property to be used for a purpose that is denied to the occupants of other properties in the same zoning district.
  - (d) The granting of the variance is in harmony with the general purpose and intent of this chapter and will not be detrimental to public health, safety, convenience, welfare and property values.
- (2) The records of the Zoning Board of Appeals shall include specific reasons for each of the findings above to be made before a variance may be granted. The Zoning Board of Appeals shall attach such conditions and safeguards as are necessary to ensure continued compliance with the terms of the variance.

C. Special exceptions.

- (1) The Zoning Board of Appeals may in its discretion grant the following special exceptions, subject to making the required findings specified in Subsection C(2) below:
- (a) In any residence district, a home occupation when conducted in the dwelling unit by the person who occupies the dwelling unit as his or her principal residence. The special exception shall be granted to such person and shall not be considered as a right vested in the premises. The home occupation shall conform to the following performance standards:
    - [1] Not more than two nonresident employees are permitted on the premises at one time. The Zoning Board of Appeals may in its discretion require as a condition of approval that only one nonresident employee is permitted at one time if it finds, after hearing, that the size or intensity of the proposed use with two employees will not meet the criteria in § 177-49C(2), as amended. For purposes of this subsection, the term "employee" shall mean any nonresident person involved in the home occupation in any way and shall include, but not be limited to, a secretary, receptionist, professional person and/or partner.
    - [2] No more than 1/3 of the total finished floor area of the dwelling unit shall be used in connection with the home occupation.

- [3] The character of the dwelling unit shall not change nor shall there be any exterior evidence of such secondary use. A sign not to exceed one square foot may be permitted by the Zoning Board of Appeals pursuant to § 177-33E(2).
  - [4] No more than one home occupation shall be permitted per dwelling unit, except that more than one home occupation may be permitted if and only if the additional home occupation(s) is/are of the type described in Subsection C(4).
  - [5] The keeping of stock-in-trade or the sale, rental or holding for sale or redelivery of any merchandise, goods, products or equipment, including but not limited to food, is not permitted.
  - [6] There shall be no services rendered that require receipt or delivery of merchandise, goods, products or equipment by other than a passenger motor vehicle or by parcel or letter carrier mail service using vehicles typically employed for residential deliveries. Infrequent deliveries by commercial vehicles of furniture, fixtures or equipment for use in the home occupation shall be permitted.
  - [7] The proposed home occupation requires specialized knowledge derived from long and intensive academic preparation or work that is original and creative in character, the result of which depends primarily on the employees' invention, imagination or talent. This requirement includes, but is not limited to, the following occupations: physician; dentist; lawyer; engineer; architect; teacher, provided that instruction shall be limited to a single pupil at a time; dressmaker; tailor; and milliner. This requirement excludes, among other occupations, the following occupations: beauticians, barbers, real estate offices and insurance agencies.
- (2) No special exception shall be granted unless the Zoning Board of Appeals shall find that:
    - (a) The location and size of the use, the nature and intensity of the operations connected with it, the size of the lot in relation to it and the location of the lot with respect to streets giving access to it are such that it will be in harmony with the neighborhood in which it is located, the use will not hinder or discourage the residential use of adjacent residential properties or adversely affect the residential character of adjacent properties and that traffic on the adjacent streets will not be unduly impeded.
    - (b) The parking is adequate and properly located and that the entrance and exit driveways are laid out so as to achieve maximum safety.
  - (3) The records of the Zoning Board of Appeals shall include the reasons for these findings above to be made before a special exception may be granted. The Zoning Board of Appeals shall attach such conditions and safeguards and shall have inspection rights as are necessary to ensure continued compliance with the terms of the special exception.

- (4) A special exception approval, pursuant to the provisions of this § 177-49, as amended, shall not be required for a person to conduct a home occupation in the dwelling unit which such person occupies as his or her principal residence, provided that there are no nonresident employees; there are no visits to the subject dwelling or unit by clients and/or customers; there is/are no sign(s); and the home occupation otherwise complies with the requirements of § 177-49C(1)(a)[2] through [6], as amended. Notwithstanding the provisions of this Subsection C(4) of § 177-49, if the Zoning Enforcement Officer determines that the proposed use may violate the provisions of § 177-49C(2), he or she shall notify the applicant of such determination and require the applicant to file an application for a special exception with the Zoning Board of Appeals. All persons desiring to conduct a home occupation under this § 177-49C(4) shall be required, prior to conducting such home occupation, to obtain a one-time zoning permit from the Zoning Enforcement Officer of the Town of West Hartford and pay the necessary fees established therefor. Said permit shall be subject to renewal or amendment only if there is a substantial change in the nature or level of activity being performed pursuant thereto.
- (5) Any home occupation approved prior to the effective date of these amendments shall not be invalidated by these amendments and shall be reviewed for a determination of renewal in accordance with the standards applicable at the time of the original approval; provided, however, that an applicant for renewal may, at his or her discretion, choose to be reviewed in accordance with the standards of this Subsection C.
- D. Procedure. The Zoning Board of Appeals shall hold a public hearing on all matters it is required to decide. The Board shall give notice of the hearing by advertisement in a newspaper as required by state statute and, except on appeals where it is alleged that there is an error in any order, requirement or decision made by the official charged with the enforcement of this chapter, by sending by first-class mail a copy of the notice to the applicant and to the owners of all property adjoining the property which is the subject of the application. The applicant for a variance or special exception shall post a sign giving notice of the application in a conspicuous place on the property for which a variance or special exception is sought, visible from a public street. Said sign shall be posted at least seven days before the date of the hearing, and it shall be removed not later than three days after the public hearing. Said signs shall be provided by the Town without charge. The Zoning Board of Appeals shall decide any appeal within 65 days after the hearing.

**§ 177-50. Fees. [Amended 10-28-1969; 9-28-1976; 6-26-1984; 9-26-1985; 6-28-1988; 9-26-1989; 10-9-1990; 6-27-2000; 5-10-2005; 6-24-2014]**

Fees for the various permits and applications required by this chapter and Chapter A184, Subdivision Regulations, are hereby established as follows:

- A. Special use permit, preliminary approval only: \$200.
- B. Special use permit: \$200, plus \$50 per 1,000 square feet or fraction thereof of new building or changed use.
- C. Site plan approval: \$150, plus \$50 per 1,000 square feet or fraction thereof of new building or changed use.

- D. Variance or special exception: \$200.
- E. Renewal of special exception: \$200.
- F. Zoning Board of Appeals permit for a motor vehicle dealer or repairer license and gasoline stations, as established by C.G.S. §§ 14-54 and 14-321, respectively, as amended:
  - (1) First permit: \$200.
  - (2) Permit renewal: \$200.
- G. Subdivision application: \$600 or \$100 per new lot created by the resubdivision, whichever is more.
- H. Resubdivision application: \$600 or \$100 per new lot created by the resubdivision, whichever is more.
- I. Zoning permit: \$75.
- J. Zoning compliance certificate or letter: \$30.
- K. Permit for a monument or statue: \$60.
- L. Amendment to this chapter or Zoning Map:
  - (1) Without special development district plan: \$550.
  - (2) With special development district plan: \$550, plus \$100 per 1,000 square feet or fraction thereof of new building area or changed use.
  - (3) Administrative amendment to special development district plan: \$500.
- M. The Town Plan and Zoning Commission, the Zoning Board of Appeals or the Town Council may waive any of the aforesaid fees established in this section; however, any waiver shall be accompanied by a statement of reason. In the case of an application upon which a Town official is authorized to act without the approval of an administrative agency, no waiver of any fee established herein shall be permitted.
- N. Lot split or lot line revision approval: \$300.
- O. Fees for building permits and certificates of occupancy for uses authorized by building and/or zoning permits shall be charged in accord with Chapter 58, Building Construction, of the Code of the Town of West Hartford.
- P. Inland wetlands and watercourses application fees:
  - (1) Permitted uses as of right: no charge.
  - (2) Nonregulated uses: \$90.
  - (3) Regulated residential uses: \$120, plus \$50 per lot or \$90 per acre of wetlands (or fraction thereof) on site, whichever is more.
  - (4) Regulated commercial uses: \$120, plus the following fee per 1,000 square feet of regulated area (or fraction thereof) on site:



- (a) Sites containing less than 3,000 square feet of regulated area: \$36.
  - (b) Sites containing 3,000 to 50,000 square feet of regulated area: \$28.
  - (c) Sites containing more than 50,000 square feet of regulated area: \$24 but not less than \$1,400.
- (5) Significant activity fee: \$350.
- (6) Map amendment petitions: \$350, plus the following fee per 100 linear feet of wetland boundary (or fraction thereof) designated on the plan as new boundary:
- (a) Less than 500 linear feet: \$40.
  - (b) Five hundred to 1,000 linear feet: \$36.
  - (c) More than 1,000 linear feet: \$30 but not less than \$400.
- Q. Public hearing fees: In addition to the application fees otherwise established herein, the following fees shall also be required:
- (1) All applications requiring a public hearing: \$150.
  - (2) Each public hearing postponement request made by an applicant after legal notice published: \$150.
- R. Financing of cost of special study. Certain applications for extraordinarily large or significant projects pose environmental, traffic and/or other problems beyond the expertise of the Commission's staff to evaluate and make appropriate recommendations. In such instances, which occur only infrequently, if the Town Plan and Zoning Commission, the Zoning Board of Appeals or the Town Council, after reviewing the matter with its staff, reasonably concludes that an outside, independent study and/or consultation is necessary for the Commission, Board and Council to decide the issues before it, the Commission, Board and Council may require an applicant, as a condition of processing its application, to pay for the cost of such a study or consultation, such amount not to exceed \$7,500.

ARTICLE VI  
**Miscellaneous**

**§ 177-51. Effect on existing provisions; greater restrictions of chapter to prevail.**

- A. All terms and conditions of special development districts granted by the Town Council or of variances and special exceptions granted by the Zoning Board of Appeals or any other conditions of approval granted prior to September 9, 1968, shall remain in force unless amended by any subsequent action under this chapter.
- B. Except as hereafter stated, it is not intended by this chapter to repeal or in any way impair any existing provision of law or ordinance or any rule and regulation previously adopted or which shall be adopted, nor is it intended by this chapter to interfere with any covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of land and structures or any other larger requirements than are imposed by any provisions of law or ordinance or by any such rules and regulations or by any such covenants or other agreements, the provisions of this chapter shall hereafter prevail.

## ARTICLE VII

**Design Review Advisory Committee**  
**[Added 11-12-1985; amended 2-24-1987]****§ 177-52. Establishment; purpose.**

There is hereby established a Design Review Advisory Committee for the purpose of promoting and encouraging public and private actions to maintain a high character of community development, to protect the public health, safety, convenience and welfare and to protect real estate within the municipality from impairment or destruction of value. In reviewing building plans for the purpose of making recommendations, the Committee shall consider and take cognizance of the development of adjacent, contiguous and neighboring buildings and properties for the purpose of achieving safe, harmonious, aesthetically pleasing and integrated development of related properties.

**§ 177-53. Members; terms; officers; vacancies. [Amended 10-27-1992]**

- A. The Town Council shall appoint the members of the Committee, which shall consist of six regular members and two alternate members. The Town Planner who shall be an ex officio, nonvoting member of the Committee, shall serve as Committee secretary. The term of office for members and alternates shall be three years commencing January 1, except that of the five regular members first appointed, two shall be appointed for terms ending December 31, 1988, two shall be appointed for terms ending December 31, 1987; and one shall be appointed for a term ending December 31, 1986. The sixth regular member shall be appointed for a term ending December 31, 1995. No member shall serve on the board for more than two consecutive terms.
- B. At least three regular members shall be specifically qualified by reason of education, training or experience in architecture, landscape architecture or in the area of graphic or allied arts; at least one regular member shall be specially qualified by reason of education, training or experience in the financing of commercial real property; one regular member shall be a real estate, development or construction professional with knowledge of city planning and urban design; one regular member shall be appointed by the Architectural Heritage Committee. Alternate members shall have special training or experience in architecture, urban design or other related businesses or professions. Committee members shall be individuals who are either property owners, residents or actively engaged in business or employment in the Town of West Hartford. Members shall receive no compensation for their services on the Committee.
- C. The Chair and Vice Chair of the Committee shall be elected by a majority of the members of the Committee for a term of two years. Committee members shall not serve as Chair or Vice Chair for more than one term.
- D. Any vacancy shall be filled for the remainder of the unexpired term as original appointments are herein provided. The Council may remove any member of the Committee, after hearing, for misconduct or nonperformance of duty.

**§ 177-54. Meetings.**

The Committee shall meet at such times as the Committee may determine. A quorum shall consist of three members. The Committee shall adopt its own rules and procedures and shall

adopt standards and criteria for reviewing projects. Such rules and procedures and standards and criteria shall be adopted not later than 90 days following appointment of Committee members pursuant to § 177-53 of this article, provided that prior to the effectiveness of the standards and criteria, the Committee shall submit these to the Council for its review and comment. Upon adoption and effectiveness, the rules and procedures and standards and criteria shall be placed on file in the Town Clerk's office. The Committee shall report at least annually to the Council and the Town Plan and Zoning Commission on its activities.

**§ 177-55. Jurisdiction and powers. [Amended 1-14-2014]**

No application for special development district designation or amendment shall be approved until the plans, drawings, sketches and other documents required pursuant to § 177-44C of this chapter for a special development district application have been reviewed and recommendations reported by the Committee to the applicant and to the Town Council and Town Plan and Zoning Commission. The Plan and Zoning Commission or the Town Planner may, at their discretion, refer to the Design Review Advisory Committee any application which has been submitted to them; provided, however, that no such referral shall extend the time periods within which the Plan and Zoning Commission or Town Planner must act on any such application. Where any application is referred to the Design Review Advisory Committee by the Plan and Zoning Commission or the Town Planner, it shall be reviewed in the same manner as is applicable to special development district applications pursuant to this article.

**§ 177-56. Procedures**

- A. Submission. An applicant for a special development district approval shall submit an extra set of all materials with the application for the Committee's review and such other materials as the Committee may require pursuant to its rules and procedures adopted in accordance with § 177-54 of this article.
- B. Forwarding to Committee. The Town Clerk shall, upon receipt of an application, forward a copy of all completed application materials to the Committee.
- C. <sup>12</sup>Action by Committee. At least five days prior to a hearing by the Town Council on a special development district application, the Committee shall submit a written report, including specific recommendations and suggestions, to the applicant, to the Town's Building Inspector and Town Planner and to the Town Council and Town Plan and Zoning Commission. Failure of the Committee to comply with the time requirements of this subsection shall not delay the Town's action on the application, unless such delay is specifically authorized by the applicant.
- D. Preliminary consideration. An applicant may request preliminary consideration by the Committee of the general plans prior to seeking a special development district designation or amendment. When seeking preliminary consideration, the applicant shall submit a site plan showing the proposed structures, improvements and parking, together with a general description of the plans. The Committee shall submit a report, together with its recommendations and suggestions, to the applicant no later than 20 days after receipt thereof. This preliminary report shall be deemed to fulfill the requirements of this article for review and report on final plans to the extent that the final plans are in substantial

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12. Editor's Note: Former Subsection C, Notice, was repealed 5-10-2005. This ordinance also redesignated former Subsections D and E as C and D, respectively.

conformity with the preliminary plans. All changes in final plans as compared to preliminary plans shall be submitted in accordance with this section for additional report and comment by the Committee.

**§ 177-57. Approval of standards and criteria.**

No application for a special development district designation or amendment shall be subject to review and report of the Committee until standards and criteria have been approved in accordance with § 177-54 of this article.

**§ 177-58. Conflicts of interest; disqualification.**

The provisions of Chapter 16, Code of Ethics, of the Code of the Town of West Hartford shall apply to the members of the Committee. In addition, no member shall participate in the meeting or decision of the Committee upon any matter in which he or she is directly or indirectly interested in a personal or financial sense. In the event of such disqualification, such fact shall be entered on the records of the Committee, and the Chair shall appoint an alternate member to participate in the meeting.

**§ 177-59. (Reserved)<sup>13</sup>**

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13. Editor's Note: Former § 177-59, Renewal of provisions, as amended 12-13-1988, was repealed 10-27-1992.

ARTICLE VIII  
**Soil Erosion, Sediment Control and Stormwater Runoff**  
**[Added 5-13-1986]**

**§ 177-60. Definitions.**

For purposes of this article, the following words shall have meanings as indicated:

**CERTIFICATION** — A signed, written approval by the Director of Community Services that a soil erosion and sediment control plan complies with the applicable requirements of these regulations. **[Amended 5-10-2005]**

**COUNTY SOIL AND WATER CONSERVATION DISTRICT** — The Hartford County Soil and Water Conservation District established under Subsection (a) of C.G.S. § 22a-315.

**DEVELOPMENT** — Any construction or grading activities to improved or unimproved real estate.

**DISTURBED AREA** — An area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

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

**GRADING** — Any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

**INSPECTION** — The periodic review of sediment and erosion control measures shown on the certified plan.

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

**SOIL** — Any unconsolidated mineral or organic material of any origin.

**SOIL EROSION AND SEDIMENT CONTROL PLAN** — A scheme that minimizes soil erosion and sedimentation resulting from development and includes but is not limited to a map and narrative.

**§ 177-61. Activities requiring certified plan.**

A soil erosion and sediment control plan shall be submitted with any application for development when the disturbed area of such development is cumulatively more than 1/2 acre.

**§ 177-62. Exemptions.**

A single-family dwelling that is not a part of a subdivision of land shall be exempt from these soil erosion and sediment control regulations. Such exemption shall not affect the applicability of § 177-29.

**§ 177-63. Erosion and sediment control plan.**

- A. To be eligible for certification, a soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on and from the proposed site based on the best available

technology. Such principles, methods and practices necessary for certification are found in the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended. Alternative principles, methods and practices may be used with prior approval of the Director of Community Services. Such plans shall be certified by a qualified professional engineer, who shall affix his or her seal thereto. **[Amended 5-10-2005]**

- B. Said plan shall contain but not be limited to:
- (1) A narrative describing:
    - (a) The development.
    - (b) The schedule for grading and construction activities, including:
      - [1] Start and completion dates.
      - [2] Sequence of grading and construction activities.
      - [3] Sequence for installation and/or application of soil erosion and sediment control measures.
      - [4] Sequence for final stabilization of the project site.
    - (c) The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities.
    - (d) The construction details for proposed soil erosion and sediment control measures and stormwater management facilities.
    - (e) The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities.
    - (f) The operations and maintenance program for proposed soil erosion and sediment control measures and stormwater management facilities, including, without limitation, a statement of the obligation to deal with unforeseen erosion, sedimentation and stormwater contingencies and problems as they arise.
  - (2) A site plan map at a sufficient scale to show:
    - (a) The location of the proposed development and adjacent and downstream properties.
    - (b) The existing and proposed topography, including soil types, wetlands, watercourses and water bodies.
    - (c) The existing structures on the project site, if any.
    - (d) The proposed area alterations, including cleared, excavated, filled or graded areas, and proposed structures, utilities, roads and, if applicable, new property lines.
    - (e) The location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities.
    - (f) The sequence of grading and construction activities.

- (g) The sequence for installation and/or application of soil erosion and sediment control measures.
  - (h) The sequence for final stabilization of the development site.
- (3) Any other information deemed necessary and appropriate by the applicant or requested by the Director of Community Services. **[Amended 5-10-2005]**

**§ 177-64. Minimum acceptable standards.**

- A. Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the principles as outlined in Chapters 3 and 4 of the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended. Soil erosion and sediment control plans shall result in a development that minimizes erosion and sedimentation during construction, is stabilized and protected from erosion when completed and does not cause off-site erosion and/or sedimentation.
- B. The minimum standards for individual measures are those in the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended. The Director of Community Services may grant exceptions when requested by the applicant if technically sound reasons are presented. **[Amended 5-10-2005]**
- C. The appropriate method from Chapter 9 of the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended, shall be used in determining peak flow rates and volumes of runoff, unless an alternative method is approved by the Director of Community Services. **[Amended 5-10-2005]**

**§ 177-65. Issuance or denial of certification.**

- A. The Director of Community Services shall either certify that the soil erosion and sediment control plan, as filed or with modifications, complies with the requirements and objectives of this regulation or deny certification when the development proposal does not comply with these regulations. **[Amended 5-10-2005]**
- B. Nothing in this § 177-65 of this article shall be construed as changing the time limits for action on any application under the pertinent provisions of the Charter and ordinances of the Town of West Hartford.
- C. Prior to certification, any plan submitted to the municipality may be reviewed by the County Soil and Water Conservation District, which may make recommendations concerning such plan, provided that such review shall be completed within 30 days of the receipt of such plan.
- D. The Director of Community Services shall forward a copy of the development proposal to the Town Plan and Zoning Commission and the Conservation and Environment Commission for review and comment. **[Amended 5-10-2005]**
- E. The Director of Community Services may forward a copy of the development proposal to any other review agency or consultant for review and comment. **[Amended 5-10-2005]**

**§ 177-66. Plan regulations.**



- A. The estimated costs of measures required to control soil erosion sedimentation and stormwater runoff, as specified in the certified plan, may be covered in a performance bond or other assurance in an amount and with surety and conditions satisfactory to the Director of Community Services, including, without limitation, a maintenance bond. The developer shall submit to the Director of Community Services for approval a cost estimate for said required soil erosion, sedimentation and stormwater runoff control measures to be covered by said bond or other assurance. Said estimate shall be prepared and certified by a qualified professional civil engineer. The cost estimate shall be based on unit costs established by the Director of Community Services. **[Amended 5-10-2005]**
- B. Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional.
- C. Planned soil erosion, sediment control and stormwater runoff control measures and facilities shall be installed as scheduled according to the certified plan.
- D. All control measures and facilities shall be maintained in effective condition to ensure the compliance of the certified plan.
- E. Any person engaged in development activities who fails to file a soil erosion and sediment control plan in accordance with these regulations or who conducts a development activity except in accordance with provisions of a plan certified pursuant thereto shall be deemed in violation of this chapter of the Code of the Town of West Hartford.

**§ 177-67. Inspections. [Amended 5-10-2005]**

Inspections shall be made by the Director of Community Services or designated agent during development to ensure compliance with the certified plan and that control measures and facilities are properly performed or installed and maintained. The Director of Community Services may require the permittee to verify, through progress reports, that soil erosion, sediment control and stormwater runoff control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained.

ARTICLE IX  
**Adult-Oriented Businesses**  
**[Added 4-14-1998]**

**§ 177-68. Statement of intent.**

The Town Council of the Town of West Hartford, Connecticut finds that:

- A. Adult-oriented establishments in the Town of West Hartford require special supervision from the Town's public safety agencies in order to protect and preserve the health, safety and welfare of the Town's citizens.
- B. The continued unregulated operation of adult-oriented establishments, including, without limitation, those specifically cited at Subsection B, including, without limitation, those specifically cited at Subsection B hereof, is and would be detrimental to the general welfare, health and safety of the citizens of West Hartford and especially its youth.
- C. The Constitution and laws of the State of Connecticut grant to the Town powers, especially police power, to enact reasonable legislation and measures to regulate and supervise adult-oriented establishments as hereinafter defined in order to protect the public health, safety and welfare.
- D. It is not the intent of the Town Council, in enacting this article, to deny any person's rights to speech protected by the United States and/or state constitutions, nor is it the intent of the Council to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually-oriented films, videotapes, books and/or other materials. Further, by enacting this chapter, the Town Council does not intend to deny or restrict the rights of any adult to obtain and/or view any sexually-oriented materials protected by the United States and/or State Constitutions, nor constitutionally protected rights that distributors or exhibitors of such sexually-oriented materials may have to sell, distribute or exhibit such materials.

**§ 177-69. Definitions.**

For the purpose of Chapter 177, inclusive, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

**ADULT AMUSEMENT MACHINE** — Includes any amusement machine that is regularly used for presenting material distinguished or characterized by an emphasis on depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, for observation by patrons therein.

**ADULT BOOKSTORE** — An establishment having a substantial or significant portion of its stock-in-trade in books, films, video cassettes or magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, and in conjunction therewith has facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies or live entertainment, for observation by patrons therein.

**ADULT ENTERTAINMENT** — Includes any exhibition of any adult-oriented motion pictures, videos, live performance, display or dance of any type, which has as a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or

exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling or any other personal services offered customers.

**ADULT MINI-MOTION-PICTURE THEATER** — An enclosed building with a capacity of less than 50 persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, for observation by patrons therein.

**ADULT MOTION-PICTURE THEATER** — An enclosed building with a capacity of 50 or more persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, for observation by patrons therein.

**ADULT-ORIENTED ESTABLISHMENT** — Includes, without limitation, adult bookstores, adult motion-picture theaters, adult video galleries, adult mini-motion-picture theaters and further means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect, or which premises are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures. An adult-oriented establishment further includes, without limitation, any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

**AMUSEMENT MACHINE** — Includes 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 the use as a game, entertainment or amusement, whether or not registering a score and whether or not electronically operated, and shall include, but not be limited to, such devices as pinball machines, skillball, mechanical grab machines, electronic baseball, football, hockey or basketball machines, any and all air propelled machines or games, pool tables, shooting games, any and all video games and all other games, operations similar thereto under whatever name they may be indicated, including video monitoring machines. This definition shall not apply to those items generally described as jukeboxes or billiard tables or pool tables in billiard or pool parlors solely designated as such and permitted under this chapter.

**COUNCIL** — The Town Council of the Town of West Hartford, Connecticut.

**EMPLOYEE** — Any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

**ENTERTAINER** — Any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or independent contractor.

**INSPECTOR** — An employee of the Town of West Hartford authorized and designated by the Director of Health or the Zoning Enforcement Officer, or an employee of the West Hartford Building Division or a member of the West Hartford Police Department or the Fire Marshal of the Town of West Hartford, or an agent of any or all of such persons who is designated to inspect premises regulated under this article, and to take the required actions authorized by this article or any other ordinances, state or federal laws in case of violations being found on such premises, and to require corrections of unsatisfactory conditions found on said premises.

MINOR — Refers to a person under the age of 18 years.

OPERATOR — Any person, partnership, corporation or other legal entity operating, conducting or maintaining an adult-oriented establishment.

SEXUAL ACTIVITIES — Is not intended to include any medical publications or films or bona fide educational publication or films, nor does it include any art or photography publications which devote 25% of the lineage of each issue to articles and advertisements dealing with subjects of art or photography; nor does this definition apply to any news periodical which reports or describes current events and which, from time to time, publishes photographs of nude or seminude persons in connection with the dissemination of the news; nor does this definition apply to publications or films which describe and report different cultures and which, from time to time, publish or show photographs or depictions of nude or seminude persons when describing cultures in which nudity or semi-nudity is indigenous to the population.

SPECIFIED ANATOMICAL AREAS — Less than completely and opaquely covered: human genitals; pubic regions; buttocks; female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely opaquely covered.

SPECIFIED SEXUAL ACTIVITIES — Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

**§ 177-70. Operating requirements.**

- A. No operator or employee of an adult-oriented establishment shall allow or permit any minor to loiter in any part of such establishment, including parking lots immediately adjacent to such establishment used by patrons or such adult-oriented establishment.
- B. Every adult-oriented establishment doing business in the Town shall be well-lighted at all times and be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be clearly visible from the common areas of the premises. Visibility into such booths, cubicles, rooms or stalls shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever. It shall be unlawful to install enclosed booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of providing for the secluded viewing of adult-oriented motion pictures or other types of adult-oriented entertainment.
- C. The operator of each adult-oriented establishment shall be responsible for and shall provide that any room or other area used for the purpose of viewing adult-oriented motion pictures or other types of live 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 as an illumination of not less than one footcandle as measured at the floor level. It shall be the duty of the operator and its agents to ensure that the illumination described above is maintained at all times when any patron is present in the premises.
- D. Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator, if such act or omission occurs either with the express or implied authorization, knowledge or approval of the operator,

including any act or omission, as a result of the operator's negligent failure to supervise the employee's conduct; the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

- E. An operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator for purposes of determining whether the operator shall be subject to the penalties imposed by this article.
- F. All adult-oriented establishments shall be open to inspection at all reasonable times by the West Hartford Police Department, inspectors employed by the Town and/or the Health District, or such other persons as the Town Council may designate.

**§ 177-71. Locational standards.**

- A. Adult-oriented establishments shall be permitted in the Town of West Hartford only in the IR, IG and IP Zone Districts established in §§ 177-3 through 177-6 wherein such uses are specifically allowed subject to a special use permit approval by the West Hartford Town Plan and Zoning Commission under the requirements of § 177-42A.
- B. No adult-oriented establishments shall be permitted on any site that is within 1,000 feet from any school, municipal park or recreational facility, place of worship, child day-care center, family day-care home, group day-care home or any area zoned residential.
- C. No adult-oriented establishment shall be permitted on a site that is within 1,000 feet from an existing adult-oriented establishment.
- D. Said distance of 1,000 feet shall be measured by taking the nearest straight line between the respective lot boundaries of said sites.

**§ 177-72. Site development standards.**

- A. Displays: screenings; inspection. Advertisements, displays or other promotional materials displaying or depicting specified anatomical areas or specific sexual activities shall not be shown or exhibited so as to be visible or audible to the public from adjacent streets, sidewalks or walkways or from other areas outside the establishment; and all building openings, entries and windows for adult-oriented uses shall be located, covered or screened in such manner as to prevent the interior of such premises from being viewed from outside the establishment.
- B. Signs. Signs shall be limited to a maximum total area of one square foot of sign area for each linear foot of building frontage.
- C. Parking. Adult-oriented uses shall comply with the off-street parking standards prescribed in § 177-32 with the additional requirement that one off-street parking space shall be provided for each employee who is employed or intended to be employed when the capacity of the building is in full use.

**§ 177-73. Penalties for offenses.**

- A. Notwithstanding the fines set forth in § 177-48B, any person, partnership, corporation or other legal entity who is found to have violated this article shall be fined \$150 for each such violation.
- B. Each violation of this article shall be considered a separate offense, and any violation continuing more than one hour of time shall be considered a separate offense for each hour of violation.

**§ 177-74. Severability.**

Should any court of competent jurisdiction declare any section, clause or provision of this article to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this article.

**§ 177-75. When effective.**

- A. Section 177-71 shall take effect immediately upon adoption but shall not be applicable to existing adult-oriented establishments.
- B. The remainder of this article shall take effect immediately; provided, however, that operators of existing adult-oriented establishments shall have until six months after adoption to comply with the provisions of § 177-70B and C.

## ARTICLE X

**Marijuana Dispensary, Production and Pharmaceutical Manufacturing Facilities  
[Added 10-22-2013]****§ 177-76. Temporary moratorium on facilities.**

- A. For purposes of this section, the terms "dispensary facility," "marijuana" and "production facility" shall have the meanings ascribed to them in Sec. 21a-408-1 of the State of Connecticut Regulations of the Department of Consumer Protection, as that section may be amended from time to time.
- B. Marijuana dispensary facilities, marijuana production facilities, and pharmaceutical manufacturing facilities shall not be a permitted use in any zone until the Town Council, acting as the Town's zoning authority, adopts revisions to the zoning ordinances regulating such dispensary facilities and production or for nine months following the effective date of this article, whichever is sooner.