

# Town of Thomaston

## ZONING REGULATIONS



Effective June 1, 2012

Revised to July 1, 2016

## **INTRODUCTION**

The Planning and Zoning Commission is an eight (8) member Commission consisting of five (5) regular members and three (3) alternate members.

The Zoning Commission was established by an Ordinance adopted at a Town meeting on February 9, 1970. The Planning and Zoning Commission was established by an Ordinance adopted at a Town meeting on December 12, 1979.

The Zoning Regulations for the Town of Thomaston were adopted on April 28, 1971 by the Zoning Commission. The Zoning Regulations became effective May 8, 1971.

The Regulations were revised in 1982 and became effective April 2, 1982. The Commission adopted comprehensive amendments to the Zoning Regulations and the Zoning Map in 2002, 2007, and 2012.

### **Planning and Zoning Commission Members**

Ralph Celone, Chairman

Jesse Judson, Vice-Chairman

William Gloade, Secretary

William Guerrero

Ron Gundersen

### **Alternates**

Brian Davis

Marie Galbraith

Tom Mueller

### **Staff**

Land Use Administrator - Jeremy Leifert

Administrative Assistant/Recording Secretary - Pat Santa Maria

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## **Article 1 – General Zoning Provisions**

### **1.1 Basic Requirements**

No land or building shall be utilized or designated for use and no building shall be constructed, reconstructed, altered, enlarged, extended or moved except in conformity with these regulations.

Land shall not be subdivided, encumbered, conveyed or sold so as to make the property non-conforming or more non-conforming to the regulations. The use of any building shall not result in making it non-conforming or more non-conforming, reducing any setback, landscaping, open space, or off-street parking/loading spaces to less than what is required by the regulations.

### **1.2 Permit Required**

No building shall be enlarged, extended, constructed, reconstructed, altered or moved without obtaining a Zoning Permit. No land or other building shall be used, occupied or changed in use until a Zoning Permit has been approved by the Zoning Enforcement Officer.

## Article 2 - Definitions

Words used shall have the meanings commonly attributed to them. Doubts as to their meaning shall be resolved in accordance with the purpose and intent of these regulations. Words are defined, explained, and interpreted as follows:

### 2.1 Accessory Building or Use

A use which is subordinate and incidental to the principal use on the premises. A building which is attached to the principal building by a covered passageway or having a wall or part of a wall in common with the principal building shall be considered an integral part of the principal building and be governed by the requirements in Schedule B.

### 2.2 Adult Oriented Business Establishments

A business related to adult oriented entertainment, which includes, but not limited to, bookstores, mini-motion pictures or motion pictures theaters, cabaret, novelty businesses or other person service businesses.

### 2.2 Agriculture (also Farming) *(New; effective 7-1-16)*

(1) the cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish, (2) the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations, (3) the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes, (4) handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale.

### 2.3 Aquifer

A geological unit capable of yielding usable amounts of water commonly referred to as an underground water reservoir.

### 2.4 Aquifer Protection District

Primary and secondary recharge areas. The Aquifer Protection Map is on file in the Town Clerk and the Land Use Offices.

### 2.5 Building

Any building containing a room primarily intended for storage or shelter, housing or for the enclosure of person, animals or materials.

**2.6 Cellar**

The basement area of a building. At least half of its unobstructed height must be below the finished grade of the land adjacent to the building.

**2.7 Certification**

Sediment and erosion control plan, which complies with all requirements and is approved by the Commission.

**2.8 Commission**

The Thomaston Planning and Zoning Commission, unless otherwise noted.

**2.9 Convalescent Home**

A home for the aged, rest home, nursing home with supervision or a home which cares for adults or children suffering from harmless chronic mental problems.

**2.10 Disturbed Area**

An area in which the existing ground cover has been removed, destroyed or disturbed.

**2.11 Dwelling**

Building containing one (1) or more dwelling units and used for residential purposes.

**2.12 Dwelling Unit**

A building attached to a permanent foundation and occupied by a single family unit. Lodging in a single room occupancy, hotel or motel shall not be considered a dwelling unit.

**2.13 Earth Sheltered Building**

Buildings used for dwelling purposes having most of its floor to ceiling height below the finished level of the adjoining ground provided that one of its longest sides is completely above the finished level of the ground and its windows equal to at least ten percent (10%) of its floor area.

**2.14 Erosion**

The movement of soil or rock by ice, water, wind or gravity.

**2.15 Family**

One (1) or more related individuals, but not more than five (5) unrelated individuals, living as a housekeeping unit.

**2.16 Farm** *(Amended; effective 7-1-16)*

Land of not less than two (2) acres used partly or wholly for agricultural or farming purposes, including: farm buildings and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoop houses and other temporary structures, other structures used

primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. Such uses shall follow standard farming practices and regulations as outlined by the Connecticut Department of Agriculture, the Connecticut Department of Energy and Environmental Protection, and the Connecticut Department of Public Health.

**2.17 Firing Range**

A place where one (1) or more persons gather to discharge firearms from a designated firing point to a target area.

**2.18 Floor Area**

The heated interior accessible from the ground floor. Cellar space is not included.

**2.19 Floor Area, Maximum**

To compute the floor area, measurements shall be taken from the outside surfaces of exterior walls enclosing the floor area.

**2.20 Free Split** *(New; effective 5-2-16)*

A first division of a piece or parcel of land, or a lot of record after May 21, 1956 into no more than two (2) lots that comply with existing zoning regulations at the time of filing of a survey map and a duly recorded deed in the office of the Town Clerk. Free splits shall require a mylar map signature from the Zoning Enforcement Officer or Planning and Zoning Commission Chairman prior to filing to ensure compliance with regulations, but shall not require subdivision approval from the Planning and Zoning Commission.

**2.21 Hotel/Motel**

A building which has a common entrance and/or a main office with several common entrances and contains living and sleeping accommodations for rent for ten (10) or more persons.

**2.22 Height**

Vertical distance measured from the average elevation of the finish grade to the highest point of the building.

**2.23 Inspection**

On-site inspection of sediment and erosion control measures as shown on the record plans to determine if the facilities are properly functioning and maintained.

**2.24 Junk Yards**

Includes motor vehicle junk businesses and junk yards as defined in the Statutes. Also included are places of storage, whether or not connected with a business for two (2) or more unregistered vehicles, which are no longer in condition for legal use on the public highways. Storage of motor vehicles parts, metal, glass, paper, and waste materials, which have an aggregate bulk equal to one (1) automobile.

**2.25 Kennel** *(Amended; effective 7-1-16)*

Any property on which six (6) or more dogs, cats or similar animals over six (6) months old are kept. Licensed and permitted veterinary facilities or animal rehabilitation facilities shall not be defined as a kennel.

**2.26 Live Entertainment** *(New; Effective 2-23-16)*

Any one or more of the following, performed live by one or more persons, whether or not performed for compensation and whether or not admission is charged: Musical act (including karaoke), theatrical act (including stand-up comedy), play, revue, dance, magic act, disc jockey, or similar activity. Live adult entertainment shall conform to the definitions and regulations of Article 21.6.

**2.27 Lot** *(Amended effective 5-2-16)*

A single, undivided piece or parcel of land which is to be used, developed, or built upon as a unit. The terms “piece”, “parcel” or “lot” shall have the same meaning for the purpose of these regulations.

**2.28 Lot, Corner**

A lot situated at the intersection of two (2) streets.

**2.29 Lot, Interior**

A lot that lacks frontage on an accepted street.

**2.30 Lot Line**

Any boundary line of a lot or parcel of land.

**2.31 Lot, Rear** *(New; effective 5-2-16)*

A lot that lacks the required frontage on an accepted street as required in schedule B

**2.32 Lot of Record** *(New; effective 5-2-16)*

A contiguous piece or parcel of land described by survey, subdivision plan, or duly recorded deed in the land records of the Town Clerk's Office. The lot can be used, developed, sold, or rented as a single piece, in conformity with these regulations.

**2.33 Lot, Through**

A lot having both front and rear yards abutting on a street.

**2.34 Lot, Width**

Distance between the side lot lines.

**2.35 Modular Dwelling Unit**

A dwelling assembled in sections on a permanent foundation. The unit shall not be equipped with axles, wheels or a trailer hitch. This includes units transported with or without a wheeled chassis and which was constructed after June 15, 1976.

**2.36 Primary Recharge Area**

The area directly overlaying the stratified-drift aquifer.

**2.37 Public Building** *(New; Effective 2-23-16)*

A building typically open to the general public for routine public business and assembly and owned by the town, state or federal government. Typical examples include, but are not limited to, public schools, the Town Hall and public library, but do not include limited access buildings such as, but not limited to, Fire Department buildings, Ambulance Corps or Highway Department buildings.

**2.38 Public Park** *(New; Effective 2-23-16)*

Public land that has been designated for park or recreational activities including, but not limited to, a park, playground, nature trail, swimming pool, athletic field, golf course, basketball or tennis court, pedestrian or bicycle path, open space, or similar public land within the town that is under the control, operation, or management of the town, state or federal government.

**2.39 Recreational Vehicle**

A self driven vehicle which is intended primarily for office work, temporary living quarters or recreational purposes and which is not fixed to a permanent foundation.

**2.40 Rooming House-Tourist Home**

A residential unit in which sleeping accommodations for more than three (3) individuals and less than ten (10) persons are rented per diem, weekly, monthly or for extended periods of time.

**2.41 School** *(New; Effective 2-23-16)*

Any public, private or parochial educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, middle schools, junior high schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, alternative schools, junior colleges, colleges and universities. School includes the school grounds, but does not include any facility used primarily for another purpose and only incidentally as a school.

**2.42 Secondary Recharge Area**

Land immediately adjacent to the primary recharge area from which groundwater moves down gradient into the aquifer.

**2.43 Sediment**

Mineral or organic material which is in suspension or in the process of moving by means of erosion.

**2.44 Signs**

An attachment to a building which display letters, insignia, flags or other representations which can be used as an advertisement for commercial purposes. Signs shall include billboards, neon tube/lights, strings or light or similar devices hung upon or attached to any part of a building.

**2.45 Small Water Company**

Any person, company or corporation owning, operating, leasing or controlling a water distribution system designed to provide service to fifteen (15) to two hundred-fifty (250) service connections or twenty-five (25) to one thousand (1,000) persons on a regular basis.

**2.46 Soil**

Any unconsolidated mineral or organic material of any origin.

**2.47 Soil Erosion and Sediment Control Plan**

A plan containing a map and a narrative designed to minimize erosion and sedimentation. A plan shall be submitted when the disturbed area is cumulatively more than half (1/2) an acre. Dwellings not part of a subdivision shall be exempt.

**2.48 Street**

An approved street shown on a subdivision map recorded in the Town Clerk's Office prior to May 21, 1956. Streets must be built to specifications and approved by the Board of Selectmen.

**2.49 Street Right-of-Way**

The area of property between opposing street lines that is owned and maintained by the Town and also includes right of ways shown on a map of an approved subdivision, whether or not the streets within in such subdivision have yet been accepted by the town. The right of way includes both the portion of the street as well as the area outside the pavement as is required for traffic signs, sidewalks, etc.

**2.50 Structure**

Anything constructed or erected including, but not limited to, the use of which requires:

1. location on, in or underground or water, or
2. attachments to something having location on the ground or water

Including, but not limited to: buildings, swimming pools, tennis courts, paddle or platform tennis courts, docks, balconies, open entries, porches, decks, handicapped ramps, signs, permanent awnings, a gas or liquid storage tank that is principally above ground, ground mounted antennas, ground mounted solar panels and satellite dishes, and fences or walls more than six (6) feet high, other than retaining walls.

**2.51 Trailer**

A vehicle designed to be transported by motor power, which is not permanently secured to a foundation, which may be used for human habitation or recreational purposes. Also includes mobile homes not secured to a permanent foundation, camping and utility trailers, boats, and recreational vehicles.

**2.52 Wind Energy Conversion System**

A device which converts wind energy to mechanical or electrical energy. Tower height shall not exceed one hundred (100) feet provided the distance between the ground and the lower point of any blade shall be fifteen (15) feet. Setback from property lines or public easements shall equal to one point five (1.5) times the height of the unit.

**2.53 Yard, Front**

Distance as measured between the side lot lines.

**2.54 Yard, Rear**

Distance as measured between the side lot lines.

**2.55 Yard, Side**

Distance as measured between the front and rear lot lines.

**2.56 Boulevard**

Two (2) one way traffic lanes constructed to Town standards and separated by a grassed or suitably landscaped median area.

**2.57 Seasonal Vendors**

Farm stands permitted in residential zones. In business zones the following applies: Accessory uses may include seasonal or special sales events provided that the special sales event occur not more than twice in a six (6) month period, but not within less than thirty (30) days of each event. Each sales event shall not exceed a period of fourteen (14) consecutive calendar days. Such sales events are characterized as “sidewalk sales”, “Christmas tree sales”, “holiday plant sales”, “grand opening”, “tent sales”, and similar. Tent sales are limited to not for profit and community groups.

Such accessory uses may be conducted provided that:

1. It is conducted by the owner(s) of the principal use(s) or business(s) are located.
2. It is conducted on the premises on which the principal use(s) or business(s) are located.
3. It is conducted during normal and reasonable business hours.
4. The accessory use may use the street yard area, but shall in no way encroach on any other yard requirement or on any road right-of-way.
5. The accessory use and/or temporary shelter or display fixtures shall be placed in such a manner as not to obstruct any vehicular or pedestrian access or egress, or any parking or loading space required by these regulations. The use shall be

subject to review and direction of the Zoning Enforcement Officer to assure that the aforesaid provisions are met.

**2.58 Freight and Materials Trucking Facility/Freight and Trucking Terminals**

Establishments primarily engaged in the trans-shipment of goods from shippers to receivers for a charge, covering the entire transportation route and in turn, making use of the services of other transportation establishments in effecting deliveries. Terminals with the capability of handling a large variety of goods involving various forms of transportation and providing multi-modal shipping capabilities, such as rail to truck and truck to air. Such facilities may have onsite storage of materials and containers. Any site which generates more than three (3) trips within a twenty-four (24) hour period is considered a Freight and Materials Trucking Facility aka a Freight and Trucking Terminal.

## Article 3 – Districts and Zones

### 3.1 Classification of Zoning Districts

Thomaston is comprised of the following zoning districts. The symbol, title, and square footage for each zone is as following:

<u>Zone/Symbol</u>	<u>Title</u>	<u>Minimum Square Footage</u>
RA-80A	Residential	80,000
RA-80	Residential	80,000
RA-40	Residential	40,000
RA-15	Residential	15,000
GC	General Commercial	15,000
M-1	Manufacturing Light	15,000
M-2	Manufacturing Heavy	15,000
APZ	Aquifer “Level B” Mapping	
APA	Aquifer “Level A” Mapping	

### 3.2 Flood Plain District

District overlaps other zones. Boundaries and other equipment are specified in Article 7

### 3.3 Aquifer Protection District

District overlaps other zones. Boundaries and other requirements are specified in Article 11

### 3.4 Zoning Map

The boundaries for all zones are shown on the Zoning Map. The map is on file with the Town Clerk and in the Zoning Office.

### 3.5 Zone Boundaries Along Right-of-Way

If a zone boundary follows a railroad, street or right-of-way, the boundary shall be considered the center line of the street, right-of-way or midway between the railroad tracks.

### 3.6 Map Dimensions

If no linear dimension is indicated on the Zoning Map, the Commission shall determine the location of the boundary using the map scale.

### 3.7 Physical Markers

If a boundary is determined by a street, highway, railroad or other physical monument, which varies from what is shown on the Zoning Map, the physical monument/marker shall control.

### 3.8 Sewer and Public Water Supply Requirements

Property located in an RA-15 residential zone shall be served by public sewer and water supplies, however, property in excel of one (1) acre in an RA-15 zone may be served by well and septic providing such use is authorized by the Health District.

### **3.9 Scope of Controls**

After the effective date of these regulations, all new construction, development, change, enlargement, relocation, use, structural alteration of a building, use or change in bulk shall conform to Schedule B. Non-conforming uses and bulk may continue pursuant to other requirements in Schedule B.

### **3.10 General Zone and District Definitions**

#### **a. General Commercial (GC)**

Provides for commercial activities in the central business district and along the major arterials. Uses may require Commission review regarding their impact on parking, vehicular traffic patterns, and pedestrian traffic.

#### **b. Manufacturing Light Zone (M-1)**

Provides for transportation, distribution, wholesale and warehouse facilities in a low density park like atmosphere. Uses shall be located near major arterials capable of accepting an increase in vehicular traffic. Manufacturing uses may be developed near mixed use residential areas provided they are adequately screen and noise buffered.

Uses include those which create minimal levels of noise, air and water pollution, and are generally involved in secondary or tertiary manufacturing, processing, assemblies, packaging, fabrication, and treatment of goods or merchandise.

#### **c. Manufacturing Heavy Zone (M-2)**

Provides suitable locations for heavy industrial uses and open storage of goods, materials, earth excavation and mining operations. Heavy traffic generating commercial activities are permitted. Sites shall be located near Route 8, major arterials or mixed use areas and away from high density residential neighborhoods.

#### **d. Downtown Development District**

It is the intent of the Commission to preserve and promote cultural, governmental, and business growth by reviewing significant developments and changes in use including, but not limited to, renovation, alteration, construction, and to determine compliance with the regulations and the Plan of Development. Some of the permitted uses listed in Article 4 may be appropriate in other commercial areas in the community, but they may not complement existing uses within the district. Therefore, the Commission encourages building designs and plans which will be pedestrian friendly, enhance visual integrity, municipal character, and promote community development and identity. Applications shall be consistent with Article 9 – Off-Street Parking and Loading, Article 10 - Special Permit, and Article 17 - Site Plan. Applications shall also be consistent with the goals and recommendations in the Executive Summary of the Plan of Development and with the Downtown Development District Map.

**e. Residential Zones**

Residential property shall be capable of accommodating the buildable square as required in Schedule B. The square shall not contain any wetlands or watercourses or the required fifty (50) foot setback or predevelopment slopes in excess of twenty-five percent (25%).

Developments in the RA-80A zone shall not be required to double the square footage for interior lots.

**Table of Permitted Uses  
Residential and Farming Use**

Section 4.5 - Schedule A, Part A	Zoning Districts						
	Residential *80A	RA 80	40	15	Comm. GC	Mfg. M1 M2	
<b>A.1 Single Family Dwelling Units</b>	Y	Y	Y	Y	N	N	N
<b>A.2 Two (2) Family Dwelling Units</b>	N	N	N	Y	N	N	N
Units shall be served by city sewer and water, have minimum floor area of seven hundred-fifty (750) square feet and meet the requirements of Schedule B.							
<b>A.3 Three (3) Family Dwelling Units</b>	N	N	N	Y	N	N	N
Lots shall contain a minimum of twenty-four thousand (24,000) square feet and be served by city sewer and water, frontage shall not be less than one hundred (100) feet and coverage shall not exceed fifty percent (50%).							
Buildings with four (4) units or more shall conform to the requirements of Article 19. Height of units shall not exceed forty (40) feet and driveways shall be located a minimum of five (5) feet from the property line.							
<b>A.4 Residential Modular Developments **</b>							
* RA-80A Zone adopted December 7, 2005, effective December 14, 2005							
** A.4 deleted May 3, 2006, effective May 30, 2006							
<b>A.5 In-Law Apartments</b>	P	P	P	P	P	P	P
The apartment shall have the same appearance as the primary unit. It shall be continued within or constructed as an addition to the primary unit. Detached units are not permitted.							
Direct interior access, without going outside, shall be provided between the apartment and the primary dwelling unit.							

The unit shall contain no more than one (1) bedroom. The unit shall not exceed seven hundred (700) square feet of habitable area. The unit may have a kitchen, bathroom, and a front room.

Access to the unit shall be from the side or rear. Access from the front shall not be permitted except through the main entrance of the primary unit. No additional doors in the front shall be permitted. The unit shall not have a separate utility box.

Individuals residing in the apartment shall be related by blood, marriage or adoption. The owner of the primary unit shall reside on site.

The permit shall be active for a period of five (5) years. The permit may be renewed by the Zoning Enforcement Officer upon inspection and determining that the conditions of the original approval has not been violated.

All permits shall be recorded in the Thomaston Land Records.

The permit shall be voided upon sale or transfer of ownership or if the principal owner no longer resides on site.

**A.6 Roadside Farm Stands**  
*(Amended; effective 7-1-16)*

S    S    S    S    S    S    S

Seasonal or permanent stand for the display and sale of farm produce, substantially all of which has been grown on premises or supplemented from Connecticut farms. Stands shall be a maximum of 250 square feet and shall be a minimum of 10 feet from any property line. A minimum of one off-street parking space consisting of a dustless (stone, gravel, paved or similar) surface shall be provided for each 50 square feet of farm stand floor area. Entrances/exits requiring new curb cuts shall conform to the Town Driveway Ordinance. A permanent farm stand may be established within a farm barn or other similar building designed and used for farm purposes upon site plan approval from the commission.

		Zoning Districts					
		Residential RA		Comm.	Mfg.		
*80A	80	40	15	GC	M1	M2	

**A.7 Agricultural Buildings and Accessory Structures**  
*(Amended; effective 7-1-16)*

Y Y Y Y Y Y Y

Buildings for housing of livestock as well as greenhouses and nursery buildings intended for commercial farming uses shall be a minimum of 50 feet from any property line. Non-livestock structures less than 250 square feet shall follow guidelines for accessory structures.

**A.8 Large Livestock**  
*(Amended; effective 7-1-16)*

S S S S S S S

The first head of large livestock requires two (2) acres. Another half (1/2) acre is required for each additional animal, up to five (5) acres. Properties of over five (5) acres shall be exempt from livestock density restrictions. Acreage where the livestock roam shall be usable land, free from slopes over twenty-five percent (25%), significant bedrock outcrops and other natural and physical features. Fencing shall be required on the perimeter of all livestock grazing and roaming areas.

**A.9 Small Livestock**  
*(New; effective 7-1-16)*

S S S S S S S

The first head of small livestock requires one (1) acre. Another half (1/2) acre is required for each additional animal, up to five (5) acres. Properties of over five (5) acres shall be exempt from livestock density restrictions. Acreage where the livestock roam shall be usable land, free from slopes over twenty-five percent (25%), significant bedrock outcrops and other natural and physical features. Fencing shall be required on the perimeter of all livestock grazing and roaming areas.

**A.10 Poultry and Small Animals**  
*(Amended; effective 7-1-16)*

S S S S S S S

Poultry shall be contained within the subject property by a suitable enclosure or barrier and to the rear of the primary dwelling. Roosters shall not be allowed on any property less than two (2) acres in

Zoning Districts							
Residential RA				Comm.	Mfg.		
*80A	80	40	15	GC	M1	M2	

size, and must be kept a minimum of 50 feet from any property line. No more than ten (10) such animals shall be kept on any property less than two (2) acres in size.

**A.11 Swine**

*(New; effective 7-1-16)*

Swine shall be contained in an enclosure or “pigsty” and such enclosure shall be 300 feet from any adjacent residential dwelling, with the exception of the dwelling of the applicant.

S S S S S S S

**A.12 Beekeeping**

*(New; effective 7-1-16)*

Apiaries shall be maintained in moveable-frame hives or boxes a minimum of 25 feet from any property line, at a density of no more than 2 colonies for each ¼ Acre of property.

S S S S S S S

**A.13 Kennels**

*(Amended; effective 7-1-16)*

Properties require a minimum of two (2) acres and shall conform to the regulations of the Connecticut Department of Agriculture and the Connecticut Department of Public Health. Kennel buildings or enclosures shall be no less than 50 feet from any property line.

P P P P P P P

**A.14 Commercial Stables/Riding Academies**

*(Amended; effective 7-1-16)*

A minimum of five (5) acres is required. Land, buildings and other structures may be permitted by the Planning and Zoning Commission for commercial use involving riding academies, livery and boarding stables, animal and convalescent stables, rental and hacking stables and private club riding stables providing the following standards or conditions are met: (1) sufficient off-street parking facilities should be provided to accommodate all users and visitors to the property, (2) roads for entering and leaving the property shall not be located or placed in a manner to

P P P P P P P

Zoning Districts							
Residential RA				Comm.	Mfg.		
*80A	80	40	15	GC	M1	M2	

create pedestrian or vehicular traffic hazard on the public street or highway, (3) sanitary facilities shall be provided in accordance with local health requirements for normal operations, (4) adequate perimeter fencing shall be installed and maintained to reasonably contain the horses within the property, (5) fire control facilities for the barns, buildings and other facilities used for normal operations shall be acceptable to the Fire Marshal, (6) riding rings and corrals shall follow the setback requirements in Schedule B, and shall be a minimum of 50 feet from any property line in residential zones and (7) buildings and structures shall comply with the requirements of section A.6.

**A.15 Commercial Nurseries/Greenhouses**

*(New; effective 7-1-16)*

P P P P S S S

The minimum lot size shall be two (2) acres. All greenhouses, hoop houses, sheds and other buildings or covered structures related to the growing and selling business shall be used in the calculation of permitted lot coverage. All greenhouses and nursery buildings shall follow the setback requirements in schedule B, and shall be a minimum of 50 feet from any property line in residential zones. The commission may require screening of display, sales or parking areas from abutting properties. Parking spaces shall be required based on floor area of all designated display areas and commercial greenhouse space as a retail use.

**A.16 Caretaker’s Residence**

The unit shall conform to Schedule B and its use shall be clearly an accessory to a permitted use for the site.

P P P P P P P

**A.17 Accessory Apartments**

Shall comply with regulations set forth in Article 28. Additional approvals from the fire marshal are required for all proposals to ensure compliance with state and local fire codes.

N N N N P N N

**Table of Permitted Uses  
Community Facilities and Service Use**

<b>Section 4.5 - Schedule A, Part B</b>	<b>Zoning Districts</b>						
	<b>Residential RA</b>				<b>Comm.</b>	<b>Mfg.</b>	
	<b>*80A</b>	<b>80</b>	<b>40</b>	<b>15</b>	<b>GC</b>	<b>M1</b>	<b>M2</b>
<b>B.1 Municipal Facilities</b>  Includes all buildings, land, and recreational facilities owned and operated by the Town of Thomaston.	S	S	S	S	S	S	S
<b>B.2 Meeting Facilities</b>  Places of worship, libraries, community centers, and charitable institutions.	P	P	P	P	P	P	P
<b>B.3 Reservoirs and Water Towers Units</b>	P	P	P	P	N	N	N
<b>B.4 Cemeteries</b>	P	P	P	P	N	N	N
<b>B.5 Veterinary Hospitals</b>  Hospitals shall not be open for business except in the event of an emergency before 8:00 am or after 8:00 pm.  Outside kennels or runs shall not be permitted. Overnight boarding shall only be permitted in an enclosed building. No more than fifty (50) animals may be kept overnight.  Buildings must be located at least two hundred fifty (250) feet from any off site dwellings. Commercial uses shall be accessory to the primary use. Structures shall be designed to minimize noises.  Hospitals located within a flood hazard area shall file an evacuation plan with the Fire Department.	N	N	N	N	P	P	P
<b>B.6 Recreation Facilities</b>  Includes all non-municipal recreational facilities.	P	P	P	P	P	P	P
<b>B.7 Convalescent Hospitals</b>  Minimum lot size shall be one (1) acre in the GC or M zones and ten (10) acres in the RA zones. Vegetative buffers shall be provided along the rear and side lines. Hospitals shall be located a minimum of two hundred (200) feet from any property line in the RA zones.	P	P	P	P	P	N	N

Zoning Districts						
Residential RA				Comm.	Mfg.	
*80A	80	40	15	GC	M1	M2

**B.8 Public Utilities**

Public utility and railroad rights-of-way shall be designed to be in character with the surrounding neighborhood.

S S S S S S S

**B.9 Small Water Companies**

Companies which provide service to less than two hundred-fifty (250) connections or one thousand (1,000) persons shall submit a water supply construction or expansion plan as required by the General Statutes. A Certificate of Public Convenience shall also be submitted.

S S S S S S S

**B.10 Day Care Providers/Independent Schools**

Service is provided to twelve (12) or more children by a provider licensed by the State.

N N N N P P P

**Group Day Care Home**

Service is provided to seven (7) or more, but less than twelve (12) children by a provider licensed by the State.

S S S S N N N

**Family Day Care Home**

Service is provided for six (6) or fewer children including the provider's, between three (3) and twelve (12) hours a day.

S S S S N N N

**B. 11 Communication Towers**

**Radio/Television Towers**

The base shall be located one point five (1.5) times the height of the tower away from any property line or town accepted street or associated street rights-of-way. Wires supporting the tower shall be placed at least one hundred (100) feet from any property line, easement or street line.

P P P P P P P

<b>Zoning Districts</b>						
<b>Residential RA</b>				<b>Comm.</b>	<b>Mfg.</b>	
<b>*80A</b>	<b>80</b>	<b>40</b>	<b>15</b>	<b>GC</b>	<b>M1</b>	<b>M2</b>

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**Amateur Communication Towers**

Towers shall be located in rear yards or directly attached to the primary structure. Free standing towers are exempt if the height of the mast does not exceed forty-five (45) feet. Towers in excess of forty five (45) feet shall conform to the requirements of Radio/Television towers.

**Table of Permitted Uses  
Commercial and Manufacturing Uses**

Section 4.5 - Schedule A, Part C	Zoning Districts						
	*80A	80	40	RA 15	Comm. GC	Mfg. M1	M2
<b>C.1 Buildings and Additions</b> <i>(New; Effective 1-23-16)</i>  Minor accessory buildings and new construction that are five hundred (500) square feet or less shall be exempted from obtaining site plan approval, but shall conform to requirements in Schedule B, C and Article 5 and shall obtain administrative zoning approval.	N	N	N	N	S	S	S
<b>C.2 Service Providers</b>  Buildings where goods are sold or service provided primarily at retail. Temporary sidewalk sales are exempted	N	N	N	N	S	S	S
<b>C.3 Businesses/Professional Office</b>	N	N	N	N	P	P	P
<b>C.4 Banks/Financial Institutes</b>	N	N	N	N	S	S	S
<b>C.5 Funeral Parlors</b>	N	N	N	N	S	S	S
<b>C.6 Dry Cleaning and Laundromats</b>	N	N	N	N	P	P	P
<b>C.7 Hotels and Motels</b>  Property shall contain a minimum of eighty thousand (80,000) square feet and two thousand (2,000) square feet per building. Each unit shall be no less than two hundred seventy-five (275) square feet. The facility shall be served by city sewer and water. Front and rear yard setbacks shall be seventy five (75) feet. Side yard setbacks shall be fifty (50) feet. Cooking facilities shall be permitted in twenty percent (20%) of the units.	N	N	N	N	P	P	P
<b>C.8 Restaurants, With Drive-Thru</b> <i>(New; Effective 1-23-16)</i> **Not permitted in the Downtown Development District	N	N	N	N	**P	P	P
<b>C.9 Restaurants, Without Drive-Thru</b> <i>(New; Effective 1-23-16)</i>	N	N	N	N	P	P	P

	Zoning Districts					Mfg.	
	Residential *80A	RA 80	40	15	Comm. GC	M1	M2
<b>C.10 Cafés and Taverns</b> <i>(New; Effective 1-23-16)</i>	N	N	N	N	P	N	N
<b>C.11 Breweries and Brew Pubs</b> <i>(New; Effective 1-23-16)</i>	N	N	N	N	N	P	P
<b>C.12 Live Entertainment</b> <i>(New; Effective 1-23-16)</i>	N	N	N	N	P	P	P
Buildings shall be two hundred fifty (250) feet from any residentially zoned parcel.							
<b>C.13 Commercial Printing Establishments</b>	N	N	N	N	P	P	P
<b>C.14 Indoor Theatres/Playhouse</b>	N	N	N	N	P	P	P
<b>C.15 Bed and Breakfast/Tourist Homes</b>	P	P	P	P	N	N	N
<b>C.16 Public and Private Parking Facilities</b>	N	N	N	N	P	P	P
<b>C.17 Motor Vehicle Repair, Service Stations, and Automobile Sales</b>	N	N	N	N	P	P	P
The site shall have a minimum of two hundred (200) feet of frontage and one hundred fifty (150) feet in depth. Buildings and pumps shall be fifty (50) feet from any property line.							
If required, buffers or fencing shall be used. Forms of illumination shall not cause excessive glare on adjacent properties.							
Facilities designed to serve trucks larger than five (5) tons shall contain a lot width of three hundred (300) feet. curb cuts shall be a minimum of twenty five (25) feet from any street intersection, side or rear property line.							
<b>C.18 Manufacturing/Processing of Goods</b>	N	N	N	N	P	P	P
<b>C.19 Freight and Materials Trucking, Freight Terminals, Railroad Yards, and Bus Storage Yards</b>	N	N	N	N	N	S	S
<b>C.20 Public Utility Transformers Stations,</b>	N	N	N	N	N	S	S

Zoning Districts							
Residential RA		Comm.			Mfg.		
*80A	80	40	15	GC	M1	M2	

<b>C.22 Palliative Marijuana Production Facilities</b> <i>(New; effective 6-30-16)</i> Production facilities may be permitted as a special permit use under the provisions of Article 21.10.	N	N	N	N	N	P	P
<b>C.23 Palliative Marijuana Dispensaries</b> <i>(New; effective 6-30-16)</i> Dispensaries may be permitted as a special permit use under the provisions of Article 21.11. *Dispensaries shall not be allowed in the Downtown Development District.	N	N	N	N	*P	P	P
<b>C.24 Open Storage Yards and Building Contractor’s Business</b>  Facilities shall be screened by fencing, buffering or by vegetative cover from adjacent properties and the street.	N	N	N	N	P	S	S
<b>C.25 Earth Excavation and Mining</b>  Operations are subject to the requirements of Article 18.	N	N	N	N	N	P	P
<b>C.26 Earth Processing Operations</b>  All operations require a permit. Stockpiled materials and the area of operations shall be stipulated on the permit and the site plan. Processing machinery shall not be operated within two hundred (200) feet of any property line or street. Activities shall not be permitted on holidays or Sundays. The Commission shall have the authority to establish operational hours. Measures shall be taken to minimize noise, vibration and dust. Access roads shall be maintained in good working order. Explosives shall not be permitted on site. Vehicles shall secure their loads to prevent spillage. Construction materials shall be removed and the property restored to its original condition consistent with the topography and the neighborhood. Permits shall be valid for one (1) year. The site shall be open at all times to the Commission and/or agent to determine compliance. The applicant may be required to submit periodic reports detailing the status of the project.	N	N	N	N	N	P	P

Zoning Districts							
Residential RA				Comm.	Mfg.		
*80A	80	40	15	GC	M1	M2	

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The applicant shall file a survey bond in an amount the Commission and/or their agent deems necessary to insure completion of the work. A liability insurance policy shall be submitted. Town Counsel shall approve all polices and bonds. Upon restorations, the applicant may apply for release of the bond, otherwise it shall remain in full force and effect.

**C.27 Recreation Camps**

P P P P N N N

Camps shall contain at least ten (10) acres and no more than nine (9) sites per acre. Interior roads shall be capable of handling large recreational vehicles in a safe and efficient manner. All parking shall be off street. Recreational vehicles, camp sites, and structures, other than the unit occupied by the owner/caretaker, may not be situated any closer than two hundred (200) feet from the front property line or one hundred (100) feet from the side or rear property lines. Campgrounds shall conform to any applicable health codes from the State or Torrington Area Health District. Roadways within the site shall be dustless, graded, and well drained. Minimum road width shall be twelve (12) feet for one-way and twenty two (22) feet for two-way traffic.

**C.28 Firing Ranges**

N N N N P P P

Prior to any decision, the Commission shall receive a letter of approval from the Thomaston Police Dept. and the Thomaston Fire Dept.

**Exterior Operating Ranges** - There shall be no elevated discharge of firearms. Applicants shall take appropriate measures to baffle noise. Target and impact areas shall be bermed. The Commission shall establish reasonable hours of operation. Operations shall not be permitted on legal holidays or Sundays without the written authorization from the Police Dept.

Zoning Districts							
Residential RA				Comm.	Mfg.		
*80A	80	40	15	GC	M1	M2	

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**Interior Operating Range** - Operations shall only be permitted during normal business hours.

**Exemptions** - Established Fish and Game as well as Rod and Gun Clubs are exempted from the above.

**C.29 Adult Oriented Establishments**

N N N N N P P

These uses shall be permitted by Special Permit pursuant to the provisions of Article 10 and subject to compliance with the special requirements and standards of Article 21.6 and Town Ordinances.

**C.30 Massage Parlors**

N N N N P P N

These uses shall be permitted by Special Permit pursuant to the provisions of Article 10 and subject to compliance with Town Ordinances.

**C.31 Portable Food Vending/Trailers/Trucks/Carts**

N N N N \*\*S S S

All uses shall conform to the requirements of Article 27

\*\*Not permitted in the Downtown Development District

**Table of Permitted Uses  
Accessory Uses**

Section 4.5 - Schedule A, Part D	Zoning Districts						
	Residential *80A	80	40	15	RA Comm. GC	M1	M2
<p><b>D.1 Accessory Production/Manufacturing</b></p> <p>Accessory production of goods or merchandise shall be sold on the premises. Floor areas used for production and servicing shall be limited to ten percent (10%) of the building or three thousand (3,000) square feet, whichever is greater. Parking shall be provided off-street for employees.</p>	N	N	N	N	P	N	N
<p><b>D.2 Accessory Storage</b></p> <p>Merchandise may be stored on site for those uses which are clearly accessory to permitted used in the zone.</p>	N	N	N	N	P	N	N
<p><b>D.3 Residential Accessory Uses</b></p> <p>Accessory uses are usually associated with or incidental to a permitted use in a residential zone.</p> <p>Uses shall not significantly change or alter the characteristics of the neighborhood. Accessory uses may consist of, but are not limited to, such uses as greenhouses, swimming pools, tool and storage sheds, garages, tennis courts, and barns.</p> <p>Accessory uses may include the exterior storage of trailers, boats or recreational vehicles in rear yards.</p> <p>Accessory uses are permitted in the GC, M1, and M2 zones providing the primary use of the dwelling is for residential purposes.</p>	Y	Y	Y	Y	N	N	N

**Table of Permitted Uses  
Temporary Uses**

Section 4.5 - Schedule A, Part E	Zoning Districts						
	Residential RA				Comm.	Mfg.	
	*80A	80	40	15	GC	M1	M2
<p><b>E.1 Building and Structures</b></p> <p>Permits are valid for one (1) year. They may be extended for periods(s) of one (1) year after inspection by the Zoning Enforcement Officer.</p>	Y	Y	Y	Y	Y	Y	Y
<p><b>E.2 Political Signs</b></p> <p>Signs are permitted for a period of sixty (60) days prior to and for seven (7) days after an election. Signs are exempted from any fees.</p>	Y	Y	Y	Y	Y	Y	Y
<p><b>E.3 Trailers, Motor/Mobile Homes</b></p> <p>One (1) trailer, motor or mobile home is permitted per lot whenever construction of a residential single family dwelling is underway and a zoning and building permit has been issued.</p> <p>Occupants must be the owners of the property or related by blood, marriage or adoption. Approval is limited to one (1) year and is not renewable.</p>	Y	Y	Y	Y	Y	Y	Y
<p><b>E.4 Christmas Tree Sales</b></p> <p>Maximum length of sales and display shall not exceed forty-five (45) days.</p>	Y	Y	Y	Y	Y	Y	Y
<p><b>E.5 Auction Sales</b></p> <p>The Thomaston Police Dept. shall issue the applicable permits. The Thomaston Fire Marshal and Building Inspector shall inspect all tents per code requirements.</p>	Y	Y	Y	Y	Y	Y	Y
<p><b>E.6 Temporary Events</b></p> <p>Permits shall be valid for up to 30 days in a calendar year at the discretion of the commission or its agent for carnivals, fairs, bazaars, antique shows, tent sales, auctions, fundraisers and similar activities. The applicant must demonstrate a sufficient and safe traffic circulation, off-street parking and pedestrian access plan. On street parking is strictly prohibited unless specifically approved as part of a site plan.</p>	P	P	P	P	S	S	S

Placement of temporary tents or structures shall not result in the reduction of required parking spaces. Specific dates and times for any event must be approved by the Commission or its agent. The applicant must obtain any additional required approvals from the Police Dept., Building Official, Torrington Area Health District, Fire Marshal, Board of Selectmen or Recreation Dept. A certificate of insurance and/or posting of a bond may be required for events held on Town of Thomaston property.

The duration of temporary permits shall be at the discretion of the Commission, but may not exceed 30 (thirty) days per calendar year per property. Permits may be administratively renewed for yearly or seasonal events by the authorized agent of the Commission if: (a) there is no substantial change in Use or event dates, (b) the original permit was approved by the Commission within 5 (five) years of the renewal application date, (c) the Commission did not condition an original approval prohibiting such renewal.

**E.7 Temporary Liquor Permits**

P    P    P    P            P            P    P

The Planning and Zoning Commission may approve applications for single event or seasonal permits for the sale or service of beer, wine or liquor subject to appropriate conditions and safeguards deemed necessary by the Commission, notwithstanding the provisions of Article 4, Section 4.5, Schedule A, Part F.1 of these regulations and provisions of the State Liquor Control Act. Separation distances in Part F.1 of these regulations may be waived for the purposes of temporary permits at the discretion of the Commission.

The duration of temporary permits shall be at the discretion of the Commission, but shall not exceed thirty (30) days per calendar year per property. Permits may be administratively renewed for yearly or seasonal events by the authorized agent of the commission if: (a) there is no substantial change in use or event dates, (b) the original permit was approved by the Commission within five (5) years of the renewal application date, (c) the Commission did not condition an original approval prohibiting such renewal.

**Table of Permitted Uses  
Alcoholic Beverages**

**Section 4.5 - Schedule A, Part F**

		<b>Zoning Districts</b>					
		<b>Residential RA</b>			<b>Comm.</b>	<b>Mfg.</b>	
<b>*80A</b>	<b>80</b>	<b>40</b>	<b>15</b>	<b>GC</b>	<b>M1</b>	<b>M2</b>	

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**F.1 Alcoholic Beverages**

N	N	N	N	P	N	N
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No building shall be erected, used or altered that is arranged, intended or designed to be used for the retail sale or consumption of wine, alcohol, beer or other liquors or beverages requiring a license and/or permit pursuant to the State Liquor Control Act.

The entrance to any building shall be a minimum of fifteen hundred (1,500) feet as measured along the center line of the street to any other establishment in which alcohol is sold or dispensed.

The entrance shall also be a minimum of fifteen hundred (1,500) feet from any hospital, public or private school, library or place of worship.

Grocery stores, club permits for outings, special events and picnics, which are authorized by the State Liquor Control Act, are exempted from this section.

Restaurant permits, as defined by the Liquor Control Act, shall be classified in accordance with the meaning of Section F.1.

**Article 5 – Area, Location and Bulk Standards**

*(Amended effective 5-2-16)*

<b>SCHEDULE B</b>						
<b>ZONING DISTRICTS</b>						
<b>STANDARDS</b>	<b>RA80/RA80A</b>	<b>RA40A</b>	<b>RA15</b>	<b>GC</b>	<b>M1</b>	<b>M2</b>
LOT AREA/SIZE IN SQUARE FEET	80,000	40,000	15,000	15,000	15,000	
LOT FRONTAGE	200 FT	150 FT	80 FT	100 FT	100 FT	
FRONT YARD SETBACK	50 FT	50 FT	40 FT	30 FT	30 FT	
SIDE YARD SETBACK	15 FT	15 FT	15 FT	10 FT	10 FT	
REAR YARD SETBACK	50 FT	50 FT	40 FT	30 FT	30 FT	
RESIDENTIAL ZONE SETBACK				40 FT	50 FT	
MAXIMUM HEIGHT	30 FT	30 FT	30 FT	40 FT	50 FT	
RESIDENTIAL AREA SQUARE FOOTAGE	1,250	1,250	1,000			
NON-RESIDENTIAL AREA SQUARE FOOTAGE				750	750	
BUILDABLE SQUARE*	200	150	80	100	100	
MAXIMUM % OF GROUND COVERAGE OF BUILDABLE LOT AREA	15	15	15	30	50	
<b>Except as noted above, all dimension area expressed as minimum requirements and are in linear footage.</b>						
<b>* Excludes all wetland and watercourses and their setback areas, as well as significant redevelopment slope areas over 25%.</b>						
<b>** Interior lot size in the RA80A Zone does not have to be twice the size of the zone</b>						

## **5.1 General Provisions**

The following regulations and Schedule B shall be applicable to the area, shape, frontage of lots, and buildings for each zone.

## **5.2 Lot, Area, Shape, and Frontage**

Property shall conform to the requirements of Schedule B and, for lots created after November 15, 1982, shall be capable of containing a buildable square. The square may extend to the property line. However, it shall not extend into easements or rights-of-way with the exception of those directly servicing the site.

Predevelopment slopes in excess of twenty-five percent (25%) shall not be present within the buildable square. A maximum of 5% of the area of the buildable square on any lot and 25% of the total area of non-sewered lots shall contain Wetlands or Watercourses. The applicant shall provide information necessary to satisfy the requirements of Schedule B and this section. Plans shall bear the seal of a licensed engineer.

## **5.3 Exceptions**

The requirements contained in Schedule B shall not prohibit the common interest ownership of any building on a lot which conforms to the requirements of the zone.

## **5.4 Rear Lots**

### **5.4.A – General Considerations**

Rear lots lack the frontage as required in Schedule B. When determining if a lot meets the criteria for construction approval, the Commission shall take into consideration the drainage patterns, shape of the property, accessibility, vehicle safety, topography, public utilities, and right of access to the property. Each rear lot shall be used for no more than one dwelling unit.

### **5.4.B - Rights-of-Way**

Rear lots shall be parallel to and behind an existing lot. A private unobstructed access-way of twenty-five (25) feet in width and contiguous with the rear lot shall be provided for each rear lot. Access for more than two abutting rear lots shall require street standards set forth under the subdivision regulations of the Town of Thomaston. A gravel or paved driveway must be provided to the satisfaction of the Fire and Police Departments and in accordance with the Town driveway ordinance and “specifications for driveways” on file with the Town Clerk, First Selectman’s Office and Building and Land Use Office. If two (2) abutting access strips are created, they shall be separated from any other access on the same side of the street by one and half (1½) times the minimum frontage required for the zone.

### **5.4.C – Public Safety**

Subject to approval of the Thomaston Fire and Police Departments, driveways shall be designed to provide proper stormwater drainage and to accommodate fire and other emergency vehicles. To provide directions for emergency vehicles, the address of each interior lot shall be identified by a numbered post or mailbox located on the connecting road.

#### **5.4.D – Ownership of Lots**

The owner of a rear lot must own any access way in fee simple, and all access ways shall contiguous with rear lots and be shown on filed plans and described in a duly recorded deed.

#### **5.4.E – Filing of Deeds**

For newly created lots, lot line revisions or free splits, the deed shall be filed with the town clerk along with signed and approved maps and drawings.

#### **5.4.F – Lot Sizes and Setbacks**

The square footage of an interior lot shall be no less than twice what is required in the zone, except for those in the RA-80A zone.. The lot line which is parallel and closest to the street shall be considered the frontage line for the purpose of determining setback requirements.

### **5.5 Heights**

The height requirements in Schedule B shall not apply to church spires, ornamental cupolas, flagpoles, silos, towers, wind to energy conversion systems, solar energy systems, air conditioning, and other similar equipment provided these structures do not occupy more than twenty-five percent (25%) of the roof.

### **5.6 Setback Height**

Unless permitted elsewhere, no structure shall be constructed or extended into any setback area.

### **5.7 Setback for Fences, Walls, and Terraces**

No hedge, fence or wall over two (2) feet high shall be built in the front yard of a corner lot within fifty (50) feet of the corner. Standard style stockade fences shall be located as close to the property line as possible or in at least six (6) inches. The smooth side of the fence shall face the abutting property. These provisions shall not apply to fences or walls six (6) feet or less in height or to retaining walls or unroofed terraces providing that none of the above shall be located within the right-of-way of any street. Fences shall be measured from the natural property grade. Any artificial berms or fill used to enhance the height of fences shall be included in any height measurements.

### **5.8 Setbacks for Unattached Accessory Buildings and Swimming Pools in Residential Zones**

All buildings and structures shall be governed by the height and yard requirements applicable to a principal building or structure except minor accessory buildings and structures as follows:

- a. Minor accessory buildings and structures up to two hundred-fifty (250) square feet in area and one (1) story up to eighteen (18) feet in height must be located a minimum of five (5) feet from the side and rear yard property lines and must meet the front yard property line setbacks applicable to a principal building or structure in the zone.

- b. Minor accessory buildings and structures up five hundred (500) square feet in area and one (1) story up to eighteen (18) feet in height must be located a minimum of fifteen (15) feet from the side and rear yard property lines and must meet the front yard property line setback applicable to a principal building or structure in the zone.
- c. All other accessory buildings and structures shall meet the dimensional requirements i.e. property line setbacks, heights percent of ground coverage requirements applicable to a principal building or structure in the zone.

Swimming pools shall conform to the requirements of Schedule B applicable to a principal building or structure. Decks, diving boards, ladders, cabanas, and other similar structures are subject to the setback requirements for a principal structure in the zone.

### **5.9 Corner Lots**

The frontage line of a corner lot shall be the line which fronts upon that part of the dwelling containing the primary entrance. The remaining corner yard shall be at least twenty-five (25) feet in depth. The owner shall designate on the plot plan which of the two (2) remaining yards shall be the side and rear yard.

### **5.10 Lots in Two (2) Zones**

If a zoning district divides a lot which has road frontage in another zone, the regulations for the less restrictive zone shall extend not more than thirty (30) feet into the more restrictive zone.

### **5.11 Building Orientation**

When the length of a dwelling unit is three (3) times greater than its width, the length shall be parallel to the street. Orientation of the longer side shall apply to units constructed after the date of adoption of these regulations and shall not govern additions made to existing units nor shall it govern accessory additions or other buildings located on the lot.

### **5.12 Permanent Foundations**

Residential dwellings shall have permanent foundations.

## Article 6 – Performance Standards

### 6.1 Dust, Dirt, Fly Ash, and Smoke

No dust, dirt, fly ash or smoke shall be emitted into the air so as to endanger public health, safety, impair the value and enjoyment of other property or constitute a source of air pollution.

### 6.2 Odors, Gases, and Fumes

No offensive odors or noxious, toxic, carcinogenic or corrosive fumes or gases shall be emitted into the air except for those connected with the spreading of fertilizer or manure.

### 6.3 Vibration

Except for vibrations normally associated with construction or demolition of buildings or those normally associated with the operation of heavy equipment where permitted, no extreme or excessive vibrations shall be transmitted outside the property where it originates.

### 6.4 Noise

With the exception of farming operations, police, fire, time signals, ambulance sirens, and noise customarily involved in the use of home implements and in the construction/demolition of buildings, no noise which is objectionable due to volume, beat frequency, intermittence or shrillness shall be transmitted outside the property where it originates.

### 6.5 Liquid or Solid Waste

Waste products shall not be discharged into any sewer, stream or storm drainage system.

### 6.6 Danger

Materials which are dangerous due to explosion, fire, hazard, radioactivity or carcinogenic shall be manufactured, stored, used or disposed of except in accordance with regulations and codes of the Town, State or Federal Government.

### 6.7 Outdoor Lighting *(New; effective 5-2-16)*

All business, residential, and community roadways, sidewalks and Town property luminaries should be planned and installed with the idea of avoiding light intrusion on neighboring properties and abutting properties or roadways, both public and private. All exterior lights shall be designed, located, installed, and directed in such a manner as to prevent objectionable light at (and glare across) property lines. The horizontal illuminance recommendations set by the Illumination Engineering Society of North American (IES) shall be observed unless alternative standards are approved by the Commission.

## **Article 7 - Flood Plain District**

### **7.1 Boundaries and Elevations**

The Flood Plain District shall consists of the areas identified as “Flood Hazard Areas” delineated on a map titled “Firm Flood Insurance Rate Map Town of Thomaston, CT, Community Panel No. 090055-001-0006” comprising six (6) parts effective June 25, 1981, prepared by the Dept. of Housing and Urban Development, Federal Insurance Administration.

Designated flood hazard areas have a one percent (1%) chance of flooding in any given year. The maps also identify base flood elevations above mean sea level. Maps are on file in the Town Clerk’s Office and in the Zoning Office.

### **7.2 Requirements**

Buildings shall not be constructed, substantially improved or moved unless a Flood Hazard Permit is obtained from the Building Official in accordance with the “Flood Plain Management Ordinance, Thomaston, CT.”

Substantial improvement means any repair, reconstruction or improvement to a building in which the cost equals or exceeds fifty percent (50%) of the current market value of the building. Substantial improvement is considered to have occurred when alteration of any wall, ceiling, floor or other structural part of the building starts whether or not it affects the external dimensions of the building.

Buildings must comply with health codes, sanitary, and safety code regulations. Any alteration of a building listed on the National Register of Historic Places or on the State Inventory of Historic Places shall not be construed as requiring substantial improvement.

### **7.3 Maps and Plans**

Site plans shall contain the boundary of the Zoning District, Flood Hazard Area, base flood elevations, and the lowest elevation above sea level including the basement for any proposed or existing structure.

Outside storage areas shall not be sited in manufacturing or commercial zones unless measures are taken to prevent the floatation of materials and other equipment and to minimize flood damage within the district. Any building that is constructed, moved or substantially improved shall have the basement as its lowest floor elevation.

## Article 8 – Signs

### 8.1 Purpose

The purpose of this article is to promote public safety and welfare by providing adequate standards to control the number, height, size, location, illumination and design of signs. The provisions of this section have been added to preserve the rights of free speech and expression while protecting against traffic distractions and hazards, to provide reasonable standards by which permitted uses within various zones may relate their function to the public and aid in preserving and enhancing the aesthetic and historical values of the community.

### 8.2 General Provisions

Except in conformance with these regulations, no signs shall be constructed, enlarged, extended, structurally altered or moved. Zoning permits are required for all signs except for those specified in Article 8.3 of these regulations. Signs may not be placed within the right-of-way of any street, or be located in such a way to be hazardous to traffic circulation or pedestrian use, obstruct any window, door, ventilation system, fire escape or exit. Unless specified on a permit, signs shall not be animated, rotating or flashing and may be permitted to be illuminated and directed so as not to cause glare onto any street or adjacent property. Signs shall not be located on a roof and no sign shall project above the top wall of any structure. Signs attached to a building may project into the setback area provided the sign does not project more than one (1) foot from the building or into or over a street line.

### 8.3 Signs Exempt from Zoning Permit Requirements

- a) **Real Estate** – Any signs pertaining to the sale, lease, or rental of land or buildings. Signs shall not exceed 6 (six) square feet in area and must be removed within 30 (thirty) days of sale, lease or rental.
- b) **Political/Election Signs** – Provided they comply with section 8.2 of these regulations.
- c) **Identification of Residential Dwelling Units** – Includes name and/or street number. Maximum sign area of 2 (two) square feet allowed.
- d) **Flags** – Provided that they do not pose an obstruction as conveyed in Article 8.2. Flags advertising a business must conform to the requirements of section 8.4 of these regulations as a detached sign.

#### 8.4 Permit Required Signs, Number, and Size

<b>A. Permanent Signs in Residential Zones (RA-15, RA-40, RA-80, RA-80A)</b>			
<b>Type of Sign</b>	<b>Maximum Sign Area (square feet)</b>	<b>Maximum Number of Signs</b>	<b>Special Conditions</b>
Free Standing/Detached Signs (By P&Z Special Permit Only) for Permitted Home Occupation	6 Square Feet	1 Per Lot	Shall not exceed 6 feet in height; shall not be internally or externally lighted
Attached Signs Related to Permitted Home Occupation	6 Square Feet	1 Per Lot	May not be internally lighted; external lighting must be incidental to normal home lighting
Signs for Civic, Municipal and Non-Profit Organizations on the Premises	16 Square Feet	1 Per Lot	Shall not exceed 6 feet in height if detached

<b>B. Permanent Signs in Commercial/Manufacturing Zones (GC, M1, M2)</b>			
All Permanent Signs within the General Commercial Zone must be approved by site plan approval. Signs exceeding any of the requirements in the table below in the General Commercial Zone may be approved by special permit. Such special permits are valid for three (3) years and must be renewed by the Planning and Zoning Commission.			
<b>Type of Sign</b>	<b>Maximum Sign Area (square feet)</b>	<b>Maximum Number of Signs</b>	<b>Special Conditions</b>
Wall/Entrance Signs	1 Square Foot per Linear Foot of Building Frontage	1 Per Business	
Free Standing/Detached Signs	32 Square Feet	1 Per Lot	Shall not exceed 16 feet in height
Signs for Civic, Municipal and Non-Profit Organizations on the Premises	32 Square Feet	1 Per Lot	Shall not exceed 16 feet in height if detached

### C. Temporary Signs (All Zones)

Type of Sign	Maximum Sign Area (square feet)	Maximum Number of Signs	Duration
Business Advertisement	32 Square Feet	1 Per Lot, Per Business	60 Days
Contractors/Construction	5 Square Feet	1 Per Lot for Each Contractor	60 Days
Temporary Sales	32 Square Feet	1 Per Lot, Per Business	60 Days
Signs for Civic, Municipal and Non-Profit Organizations and Special Events	16 Square Feet. – May be Increased by Special Permit	1 Per Lot – May be Increased by Special Permit	60 Days - May be Increased By Special Permit, Not to Exceed 180 Days in a Calendar Year
Garage/Tag Sales	4 Square Feet each	2 (two) on the premises of the sale and 2 (two) offsite directional signs with property owner permission	3 Days (Fri-Sat-Sun) Maximum. May be placed up to 48 hours before sale and shall be removed promptly at sale conclusion. No more than 2 permits per calendar year per property

## **Article 9 – Off-Street Parking and Loading**

### **9.1 Applicable to All Uses**

Parking spaces shall be provided for all lots.

### **9.2 Areas Counted as Parking Spaces**

Areas which may be counted for off-street parking include any private carport, garage or other area available for parking. The front yard of any single family residence may be counted as one (1) parking space. This does not apply to corner lots.

### **9.3 Location of Required Accessory Parking**

Accessory parking spaces may be provided on the same lot as the primary use or within three hundred (300) feet of such lot.

### **9.4 Size of Automobile Parking Spaces**

Spaces shall be ten (10) feet by twenty (20) feet. Handicapped parking shall be a minimum of twelve (12) feet by twenty (20) feet. Spaces shall be designed to provide safe access, entering, exiting, and maneuvering.

### **9.5 Access**

Access shall be provided to all streets. Access shall consist of one ten (10) foot lane that contains five (5) to twenty (20) spaces and two (2) ten (10) foot lanes for parking containing over twenty (20) parking spaces.

### **9.6 Drainage and Surfacing**

Spaces shall be drained and provided with a dustless surface.

### **9.7 Joint Parking Facilities**

Facilities may be provided in areas designed to serve two (2) or more businesses. The number of spaces shall not be less than the number required for each business.

### **9.8 Off-Street Loading Space**

Accessory loading spaces may be provided for manufacturing or commercial operations. Each space shall be twelve (12) feet wide and sixty (60) feet long. Loading spaces may be located within a building, but not within the off-street parking spaces or accessory drives. Unobstructed access at least ten (10) feet wide to and from streets shall be provided. The access may be combined with the parking lot. spaces may be designed to serve two (2) or more facilities. The number of spaces shall not be less than the amount required for each establishment.

Buildings having a ground floor in excess of eight thousand (8,000) square feet shall have two (2) spaces for the first twenty-five thousand (25,000) square feet of floor area or fraction thereof.

### **9.9 Additional Parking Provisions**

The entrance/exit for off-street parking which contains more than ten (10) parking spaces or a loading space shall not be located within fifty (50) feet of the intersection of any street.

Off-street parking areas containing at least ten (10) spaces or any loading space located within fifty (50) of a residential zone shall have a screened or buffered area between itself and all adjacent lots, including those locate across the street. If floodlighting used, it shall be arranged in a way to eliminate glare towards residential lots.

### **9.10 Handicapped Parking Spaces**

The number of handicapped parking spaces shall be determined at the review process.

### **9.11 Parking Space Standards**

Schedule C shall be used to calculate the minimum number of parking spaces that will be required.

**Schedule C**  
**Table of Required Minimum Parking Standards**

<b><u>Use of Facility</u></b>	<b><u>Parking Spaces Required</u></b>
Residential Dwelling Units	two (2) spaces for each dwelling unit
In-Law Apartment	one (1) space
Churches, Assembly Halls and Theaters	one (1) space for every five (5) seats
Convalescent Hospitals	one (1) space for every three (3) beds
Retail and Business Office, Banks, feet Veterinary Hospitals, and Service area floor Establishments	one (1) space for every three (300) hundred of gross floor area, excluding storage
Motor Vehicle Service and Repair Stations	ten (10) spaces or five (5) spaces for each bay, whichever is greater
Hotels and Motels	one (1) space for every guest room and one (1) space for every employee
Restaurants and Taverns	one (1) space for every five (5) seats
Manufacturing Building and Offices	one (1) space for every seven hundred-fifty (750) square feet of floor area, whichever is greater, and (1) space for every three (3) employees
Tennis Courts and Other Similar Uses	five (5) spaces for each court
Educational Institutions	one (1) space for every twelve (12) students
Other Uses Not Listed	Spaces shall be provided for uses not listed above sufficient to maintain the purpose and intent of Article 8

## **Article 10 - Special Permits**

### **10.1 General Provisions**

The Commission may approve a permit for the establishment of one (1) or more uses pursuant to Schedule A. the following requirements are in addition to any other that may be applicable in the zone in which the use is proposed.

### **10.2 Intent of Regulations**

Special Permits provide for unusual uses that under favorable circumstance would be appropriate, harmonious, and desirable. These uses possess special characteristics. Each use should be considered on an individual basis.

### **10.3 Application**

#### **a. Statement of Use**

The applicant shall submit four (4) copies of a statement describing the proposed use in sufficient detail to determine compliance.

#### **b. Site Plan Map**

Four (4) copies of a map at a scale of one hundred (100) feet to the inch shall be submitted. It shall contain existing and proposed buildings, contours, property lines, off-street parking, loading spaces, outside storage areas, watercourses, wetlands, storm drainage, sewage disposal, water supply facilities, landscaping, and all non-disturbed natural terrain areas and features.

#### **c. Architectural Plans**

The applicant shall submit four (4) copies of the plan. All buildings, elevations, signage, perspective drawings, and floor plans shall be shown.

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

The applicant shall submit four (4) copies of the plan at a scale of one hundred (100) feet to the inch. The plan shall contain provisions to control sedimentation and erosion and reduce danger from stormwater runoff. The plan shall contain existing and proposed contours, graded and cleared areas, proposed alterations, and the location of control measures. The narrative shall describe the project, schedule of major construction activity, detail grading and design criteria, conservation practices, and maintenance program.

#### **e. Determination/Review Procedure**

The Commission may determine that all or part of the requirements under Section 10.3 (b)(c), and (d) are not necessary to make a reasonable and sound decision on the application.

#### **f. Application Fee**

A fee shall be submitted with the application.

## **10.4 Procedure**

Applications shall be filed with the Land Use Office at least seven (7) days prior to the next regular meeting. Within sixty-five (65) days after the receipt of a complete application, the Commission shall hold a public hearing.

Notice of the time and place of the hearing shall be published in a newspaper with a substantial circulation in the Town. Publication of the notice shall be at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days and the last not less than two (2) days before the date of the hearing.

A decision shall be rendered within sixty (65) days after the hearing is closed. The Commission may approve, approve with modification or disapprove the application. The applicant may consent in writing to an extension of time for the hearing or decision.

## **10.5 General Considerations**

The Commission shall consider the size and intensity of the proposed use, conformity with the Plan of Development, capacity of local arterials to accommodate traffic, and any hazards that may be created along with the number, location and arrangement of off street parking, loading spaces, and vehicular access. The effect upon property values, placement of buildings, topography, and landscaping along with police, fire, ambulance, and safety considerations shall be reviewed.

The Commission shall review water supply and sewage facilities, drainage, sedimentation and erosion problems, and the available of recreational facilities. The Commission may require addition information and documentation to complete its review of the application.

## **10.6 Decision**

The Commission shall approve, approve with modification or disapprove the application. The Commission shall state that the use will be harmony with the purpose and intent of the regulations. if disapproved, the Commission shall state for the record the specific sections of the regulations.

## **10.7 General Standards**

### **a. Neighborhood**

Plans shall be designed to enhance neighborhood character and accomplish a transition between dissimilar areas. They shall be designed to preserve and enhance property values and the general appearance of the community.

The Commission may require recommendations and goals from the Plan of Development be incorporated into the applicant's plan to complement the proposed use of the property. Provisions for improvements to streets terminating at the proposed use shall be made in the plans.

### **b. Endorsement and Filing of Bond**

The Commission may authorize the endorsement of the map to permit filing with the Town Clerk. The endorsement shall not be executed until all conditions have been completed. prior to endorsement, the applicant shall file a bond and execute and agreement to guarantee completion within two (2) years. The bond shall be in a form and amount that is acceptable to the Town Counsel and the Commission.

### **c. Release of Bond**

Prior to the release or before authorizing any map to be filed when no bond has been posted, the Commission's agent shall inspect the premises and notify the Commission that all work has been completed according to the approved plans.

### **d. Conditional Approval**

Approval is conditioned upon the satisfactory completion of the project. Approval shall become null and void if the project is not complete within two (2) years. The Commission may grant a one (1) year extension after holding a hearing. The applicant must demonstrate good cause. Permits may be granted subject to certain conditions and safeguards necessary to protect public health, safety, convenience, welfare, and property values in the neighborhood.

### **e. Sedimentation and Erosion Control Plan**

The project shall not commence unless the control measures have been installed and are operating. Controls shall be maintained in effective working order to ensure compliance.

## **10.8 Conditions and Safeguards**

Conditions may be attached to protect local characteristics. This may include providing additional setback greater than required by the regulations, screening of parking areas or other uses from adjoining premises by walls, fences, plantings or other devices.

The Commission may also limit the number of occupants, regulate the number, type, location, and design of traffic controls including pedestrian walkways, off-street parking, other special features, regulate outdoor lighting, require approval in phases, and determine the orientation and spacing of buildings.

If necessary, a Certificate of Public Convenience from the Dept. of Health Services and Public Utility Control will be submitted whenever water will be supplied from a small water company. The Commission may review the homeowner association or condominium association legal documents.

## **10.9 Inland Wetlands**

Projects containing a regulated activity, pursuant to Sections 22a-36 to 22a-45 of the Statutes or P.A. 87-533 shall be submitted to the Planning and Zoning Commission. The applicant shall indicate the presence of any watercourses or wetlands and the extent within the subject property.

If the time for a decision would lapse prior to thirty-five (35) days after a decision by the Wetlands Commission, the period for a decision by the Planning and Zoning Commission shall be extended for an additional thirty (30) days. The Wetland Commission shall submit a final report to the Planning and Zoning Commission.

## **10.10 Sanitation Report**

The Water Pollution Control Authority shall submit a report regarding the availability of sanitary sewers or a report shall be submitted from the Torrington Area Health District regarding the siting of septic systems, leach fields, and bedrock wells.

**10.11 Channel Encroachment Areas**

A report from the Dept. of Environmental Protection and/or Corps of Engineers as to the types of activities that may be permitted shall be submitted with the application.

**10.12 Inspection by Town Engineer**

The applicant shall be responsible for any and all inspection and review costs incurred by the Town Engineer during the review process. If additional site inspections or reviews are required after approval is granted and prior to completion of the project, the applicant shall be responsible for costs incurred by the Engineer as per a fee schedule assessed to the Town in a year by the Town Engineer.

## **Article 11 – Aquifer Protection District**

### **11.1 Purpose**

To preserve the quality and quantity of groundwater resources and to insure a safe and healthy public water supply by regulating land uses which may contribute to the degradation of aquifers needed for present and future public water supplies.

### **11.2 General Provisions**

These regulations shall apply to the land designated on a map recorded in the Town Clerk's Office as the "Town of Thomaston Aquifer Protect Protection District Map."

### **11.3 Use Limitations**

Discharges to septic systems shall not average more than three hundred-fifty (350) gallons per acre per day in the direct recharge area of the aquifer. Road salt storage and loading sites are not permitted. The disposal of solid waste in landfills, dumps, and septage disposal is prohibited.

Commercial and industrial storage, production or disposal of any hazardous wastes as defined by State or Federal laws is prohibited. Underground tanks are generally prohibited, however, the applicant may demonstrate a special need case. The applicant shall contact the CT Water Company and obtain a letter or approval regarding the proposed use.

### **11.4 Aquifer Impact Assessment**

Commercial, industrial or institutional uses are not allowed unless the applicant can identify the type and quantities of liquid, solid, and gaseous materials to be land filled, stored, deposited or discharged on the site. The applicant must demonstrate that the material and its use will not adversely affect present or future water quality within the district.

### **11.5 Public Act 98-115**

This act provides that any applicant who proposes any type of activity with the Aquifer Protection District must provide written notification to the affected water company. The Land Use Officer shall provide the reporting forms.

## **Article 12 – Planned Industrial District**

### **12.1 Purpose**

To permit land to be used for the construction of buildings and other facilities for research and development, light industry, offices of technological and scientific research organizations. The purpose of this district is to consider land as a single unit of development for the purpose of planning so that there is a coordinated development plan while maintaining individual ownership of lots.

### **12.2 Qualifying Standards**

The Commission may establish a District on its own motion or upon application of the owner or owners of contiguous property totaling at least ten (10) acres. A District may be established in an area containing less than ten (10) acres if the Commission finds the public interest will be served and the tract is contiguous to land zoned for manufacturing or commercial use.

Prior to establishing a district, the Commission shall consider the desirability of the proposal for economic and physical development of the community, preserving the value and character of adjacent property, direct access to a major state highway and provisions for public utilities. The Commission may require other restriction to protect public health, safety, and the general welfare of the community.

### **12.3 Permitted Uses**

Uses are limited to office buildings, research and development laboratories, storage and wholesale use, distribution, light industry, and earth excavation. Uses which are clearly accessory to the principal use of the property are permitted.

A maximum of twenty percent (20%) of the District may be used for commercial activities as long as accessory goods or services are compatible with other principal uses. Commercial uses shall be limited to those uses allowed in the GC zone which would not generate substantial vehicular traffic.

### **12.4 Design Standards**

Design standards are limited to provide flexibility while ensuring the applicant adheres to performance standards for parking signs, residential buffers, architectural design, and open space. Building shall not exceed a height of fifty (50) feet. Property shall not contain less than fifteen thousand (15,000) square feet nor have a frontage less than eighty (80) feet. Side and rear yard setbacks shall be ten (10) feet and front yard setbacks shall be forty (40) feet.

Total ground coverage excluding parking facilities shall not exceed fifty percent (50%) of the lot. Developments shall be designed to ensure maximum safety to the user. Parking spaces shall not exceed seventy-five (75) vehicles and must meet the requirements of Article 9 if more parking is required, a second facility may be established. Parking facilities shall not be located in setback areas which abut residential zones. Spaces shall be landscaped from residential zones. Loading areas shall be screened and not visible from the street. Spaces shall meet the requirements of Article 9.

Signs shall conform to Article 8 and be located thirty (30) feet from any property line and be designed to coordinate with the principal building. Ground mounted signs shall be landscaped.

Buildings shall be at least fifty (50) feet from a residential zone. A landscaped buffer shall be planted at least eight (8) feet in height. The applicant shall submit architectural designs for building facades. A list of materials and textures for all buildings and other facilities shall be submitted.

### **12.5 Application Procedure**

If a District is established, it shall be governed by the site plan and architectural review requirements and, if applicable, by the Subdivision Regulations. The applicant shall submit four (4) copies of each plan map.

Plans shall show grading, landscaping, drainage, and buffer profiles that will be used for visual screening. Sedimentation and erosion control measures, existing and proposed streets, parking and loading areas, driveways, and maneuvering and turning radii areas for vehicles shall also be shown.

The applicant will illustrate the orientation of buildings, undisturbed vegetation areas, open spaces, watercourses, signs, architectural plans, elevation drawings, floor plans, and all public utilities and easements.

### **12.6 Open Space**

The Commission may require a minimum of ten percent (10%) of the land in a District to be dedicated as open space.

## **Article 13 – Non-Conforming Uses**

### **13.1 Applicability**

This article is applicable only to those uses in existence on the effective date of the regulations, except as may be provided elsewhere. The lawful use of any premises existing on this date may be continued even if the use, area, height or bulk requirements of that use do not conform to the regulations. The date shall include the effective date of any subsequent amendments which may cause any use to become non-conforming.

### **13.2 Buildings/Structures with Non-Conforming Bulk**

Normal maintenance, enlargement, reconstruction, alterations, repair or moving of a structure with non-conforming bulk is permitted if the same does not expand a non-conformity or create any new non-conforming bulk in such building or structure.

### **13.3 Repair and Alteration**

Normal maintenance, repair or incidental alteration in a building occupied by a use which is non-conforming is permitted if no new non-conformity or expansion of a non-conformity is created.

### **13.4 Changes in Non-Conforming Uses**

The Zoning Enforcement Officer shall review any proposed change in a non-conforming use and determine if the proposed change constitutes (a) a reduction in non-conformity, (b) a legal intensification of an existing non-conforming use or (c) an expansion of a non-conformity.

In the case of a reduction of a non-conformity resulting from a change of use, the requirements for permitting a new use under these regulations shall apply. The resulting approved change in use shall be considered a legal abandonment of the previous non-conformity. In the case of a legal intensification, no action is necessary by the ZEO, although a Certificate of Zoning Compliance may be requested by the property owner. In the case of a proposed expansion of a non-conforming use that does not qualify under the provisions of Article 13.8, a variance from the Zoning Board of Appeals shall be required.

### **13.5 Termination**

Once a non-conforming use has been terminated or changed its characteristics, the non-conforming use shall not be resumed or restored.

### **13.6 Cessation**

No non-conforming use which shall have been discontinued shall be resumed or replaced by any other non-conforming use providing that there is clear evidence of the property owner's intent to abandon and discontinue such use.

### **13.7 Abandonment**

If a non-conforming use is abandoned, it shall imply intent by the owner to permanently cease the non-conforming use.

### **13.8 Extension and Enlargement**

One expansion of up to 10% of either a building footprint or interior area of a space containing a non-conforming use is allowed, provided: (1) All of the bulk requirements of Schedule B of these regulations are met, including building height, property line setbacks and lot coverage requirements and (2) required parking provisions are met for the expanded use or structure.

Such expansions shall be by approved by special permit and may only be granted for one expansion from the adoption of zoning (May 8, 1971). For expansions requiring a site plan, such plans shall be filed in the land records of the Town Clerk after signature by the Chairman of the Planning and Zoning Commission.

### **13.9 Damage and Destruction**

A non-conforming structure, which is destroyed or damaged by fire or casualty, may be structurally altered or reconstructed provided the degree of non-conformity is not increased.

### **13.10 Existing Uses**

Existing uses are not required to rearrange their building to comply with the regulations unless the reconstruction is required by other regulations.

### **13.11 Signs**

Any unpermitted increase in size, illumination or flashing of non-conforming advertising signage or billboards shall be deemed an unlawful expansion of a non-conformity.

### **13.12 Change in Plans**

Nothing herein nor changes in regulation shall be deemed to require a change in plans, construction or use of any structure for which a zoning permit has been approved has not yet reached a five-year expiration from the date of approval. Zoning permits for which construction has not commenced within five years from the date of approval shall be deemed expired. .

### **13.13 Combining of Non-Conforming Lots**

If two or more lots, combinations of lots or portions of lots adjacent to other parcels or lots under common ownership are of record as of the effective date of adoption or amendment of these regulations, and if all or part of the lots do not meet the lot width and/or lot area requirements of Schedule B in the zones in which such lots are located, the land involved shall be considered to be an undivided parcel for the purposes of these Regulations and no portion of said parcel shall be used or conveyed in a manner which would diminish compliance with the lot width and lot area requirements established by these Regulations, provided that the resulting undivided parcel contains no more than one primary building.

### **13.14 Construction on Non-Conforming Lots**

Lots which lack a primary building or which fail to comply with the requirements of Schedule B may be used and a building constructed as long as the lot has a minimum frontage of twenty five (25) feet on an approved street. The proposed use shall conform to the regulations and not require Special Permit approval.

Any lot of record as of May 8, 1971 or any other lot which was a part of a subdivision and granted final approval prior to the above date and has a square footage or frontage less than what is required in Schedule B shall be used only for a single family detached residential dwelling providing the lot conforms to the other requirements in Schedule B.

### **13.15 Non-Conforming Frontage and Side Yard Requirements**

If an undersized lot is unable to be developed as required in Schedule B, the following shall apply:

Frontage of less than fifty (50) feet: five (5) feet - however, the sum of both side yards shall not be less than thirty-six percent (36%) of the lot frontage

Between fifty (50), but less than sixty (60) feet: eight (8) feet - however, the sum of both side yards shall not be less than thirty-eight percent (38%) of the lot frontage

Between sixty (60) feet and eighty (80) feet: ten (10) feet - however, the sum of both side yards shall not be less than thirty-eight percent (38%) of the lot frontage

## **Article 14 – Administration and Enforcement**

### **14.1 Interpretation of Regulations**

These regulations shall be held to the minimum requirements for the promotion of public safety and convenience. If the requirements of the regulation conflict with other regulations, ordinances, covenants, deeds or restriction the more restrictive shall govern.

### **14.2 Enforcement**

The Commission may employ the services of a Zoning Officer. The Officer shall be responsible for and authorized to enforce the Zoning Regulations, subject to the supervision by the Commission. The Officer may inspect any building or premise, order the immediate termination of any condition found to be in violation of these regulations, examine any action which is disputed, and submit reports to the Commission on all zoning violations.

### **14.3 Zoning Permits Required**

No land, building or structure shall be erected, used, enlarged, extended, constructed, renovated, altered or moved until a permit has been obtained from the Zoning Enforcement Officer.

### **14.4 Zoning Permits on Public Highways**

Permits shall not be issued unless the frontage meets the requirements of Schedule B and, if an interior lot, parallel to a State highway or accepted or proposed street on a subdivision map and filed with the Town Clerk.

Streets shall be constructed and approved by the Road Superintendent and Town Engineer under Construction and Acceptance of Public Streets/Highway Ordinance or they may be partially constructed to meet the requirements except for the final course of bituminous binder, sidewalk, and curbing.

All public improvements shall be subject to a Performance Bond guaranteeing completion. Bonds shall be in a form satisfactory to the Commission and Town Counsel. Permits may be issued for farming uses and other buildings including necessary uses not capable of or intended for human habitation and for additions to existing buildings or to residential dwelling units.

### **14.5 Permit Application Procedure**

Applications shall be submitted prior to the extension, enlargement, moving, construction or reconstruction of any building or structure.

### **14.6 Certification of Zoning Compliance**

The Zoning Officer may issue a Compliance Certificate for the use or occupancy of any land or building after determining that all requirements have been satisfied. Buildings shall not be used until a Certificate of Zoning Compliance has been issued stating that the use is in accordance with the regulations.

#### **14.7 Records**

The Zoning Officer shall keep a record of all applications, certificates, fees, and identifiable complaints of any zoning violations, including all inspections made pursuant to the regulations, and violation notices and actions taken.

#### **14.8 Foundation Verification - “As Built”**

A certified “As Built” plot plan shall be submitted to the Enforcement Officer within fourteen (14) days after the completion of footings, piers or walls to verify setback requirements. The plot plan shall be required for structures involving close proximity to property lines, watercourses or wetlands or other similar building restriction lines.

If the certified “As Built” is not received with the required time frame, the Building Official will not issue any additional construction permits.

#### **14.9 Sedimentation and Erosion Control Measures**

The Enforcement Officer shall inspect all control facilities to ensure they are in compliance with approved plans, properly installed, functioning, and maintained by the applicant.

## **Article 15 – Amendments**

### **15.1 Amendments**

These Regulations, including the Zoning Map may be amended or repealed as provided in Section 8-3 of the State of Connecticut General Statutes as amended by either the initiative of the Commission or by petition. Every petition for such action shall be filed with the Commission which may act on it only after a public hearing. The applicant, or his authorized agent, will be required to appear at the public hearing for the change to the Zoning Regulations or the Zoning Map.

### **15.2 Petitions For Change**

Any person may petition the Commission requesting a change in these Regulations or the boundaries of the Zoning Districts as shown on the Official Zoning Map for the Town of Thomaston. A complete petition shall consist of the petition form and filing fee prescribed by the Commission and all documents and statements required to accompany the form.

### **15.3 Supporting Information**

A full text of any proposed change in these regulations clearly indicating existing provisions to be repealed and new provisions to be enacted.

A Map clearly showing, and a complete written description of any proposed change in Zoning District boundaries, including a precise description by metes and bounds or courses and descriptions, of the location of the new boundary to be established and a list, keyed to said map of the names and addresses of the record owners of land within, and within five hundred (500) feet outside, the area to be affected by such zoning boundary change.

A complete and comprehensive written statement of the reasons for any proposed regulation or Zoning District Map boundary change, including any special interest the petitioner may have in such change.

Said map shall show existing and proposed zoning districts with dimensions and distances of all zone boundary lines, and existing property lines.

### **15.4 Advisory Reports**

The Commission may request advisory reports and or reviews from governmental agencies, commissions, officials or others. The applicant shall furnish to say parties copies of application documents and maps and other information as directed by the Commission. Copies of any such reports shall be provided to the applicant.

### **15.5 Posting of Sign at Properties for Zone Change Applications**

The applicant shall place a sign or signs on the affected property giving notice of the proposed public hearing. Where the property is a corner lot, a sign shall be placed on both frontages of the property. The sign is to be placed at or near the street line or traveled way and shall be clearly visible to the general public.

The sign shall have a minimum area of 4 feet by 4 feet. Capital Letters shall be three (3) inches in height. The sign must be legible in block or printed letters not less than the size shown above. Signs must be a minimum of two (2) signs on a corner lot or parcel, one facing each street. Signs must be posted not over two hundred (200) feet apart, in addition to the minimum required. Said sign(s) must be erected at least twenty (20) days before the date of the hearing and remain on the premise until after the hearing after which said sign(s) shall be promptly removed by the applicant. The sign(s) shall be prepared and erected by the applicant or agent for the applicant or property owners who request the zone change. The cost of the sign(s) shall be borne by the applicant(s). Lettering shall be black on yellow background and the wording shall read as follows:

HEARING NOTICE  
CHANGE OF ZONE  
OF THIS PROPERTY

FROM: \_\_\_\_\_

TO: \_\_\_\_\_

PLACE: TOWN HALL, THOMASTON, CONN

DATE AND TIME: \_\_\_\_\_

## **Article 16 - Validity and Effective Date**

### **16.1 Validity**

The invalidity of any part of these regulations shall not invalidate any other section, paragraph or provision.

### **16.2 Effective Date**

Any amendment or change in these regulations shall be in full force and effect from the date established by the Commission.

## **Article 17 - Site Plan Review**

### **17.1 General Provisions**

The use of land or buildings is subject to administrative review and site plan approval. The extension, construction, reconstruction, moving, structural alteration or enlargement of any structure in connection with such shall conform to the following standards.

### **17.2 Review Standards**

The applicant shall design vehicular and pedestrian access in a way to avoid safety hazards and traffic congestion. The applicant shall demonstrate that sewage disposal and water supplies are in compliance with the regulations of the Water Pollution Control Authority, Torrington Area Health District, the Dept. of Health Services and Public Utility Control.

The applicant shall demonstrate if off-street parking and loading is designed in a way to enhance vehicular safety and protect health. The applicant shall design the location and height of exterior lighting to avoid glare on other properties.

The applicant shall plant shrubbery or create other buffers in commercial and manufacturing setbacks to lesson impact on adjacent properties and provide landscaped areas next to off street parking and loading areas. Landscaping may consist of planting strips of islands not less than eight (8) feet in width.

Construction, including drainage and other improvements, shall be done in such a way that it shall not cause erosion and sedimentation on the subject or adjacent property or into any wetlands or watercourse.

### **17.3 Site Plan Application**

The plan shall be drawn to a scale not to be less than one hundred (100) feet to the inch and contain existing and proposed contours, property lines, buildings, streets, driveways, off-street parking, loading areas, right-of-ways, storage areas, signs, lighting, water supply sources, sewage disposal, wetlands and watercourses, and storm drainage facilities on and adjacent to the site. Features such shrubbery, trees, lawns, and other areas along with undisturbed natural terrain shall also be shown.

The applicant shall submit four (4) copies of the site plan map. The plan shall include elevations, drawings, and floor plans.

### **17.4 Sedimentation and Erosion Control Facilities**

The plan shall be prepared at a scale of not less than one hundred (100) feet to the inch and contain provisions to construct facilities and reduce the danger from stormwater runoff on the site and on adjacent properties. A narrative along with a grading schedule for construction, design criteria, conservation practices, and a maintenance program for the facilities shall be submitted. Development shall not begin onsite until all of the control facilities are installed and functioning properly.

## **17.5 Public Utility Services**

The applicant shall provide a report from the Torrington Area Health District regarding subsurface waste disposal systems along with the location of primary and secondary leach fields and wells. A report from the Water Pollution Control Authority regarding the ability and availability of sewage disposal shall also be submitted. A report from the Dept. of Environmental Protection or from the Army Corp. of Engineers as to what types of uses, if any, will be permitted up to or within their area of jurisdiction shall be submitted.

The applicant shall submit a Certificate of Public Conveyance accompanied by a water supply plan approved by the Dept. of Health Services and Public Utility Control if water will be supplied by a small water company.

## **17.6 Plan of Development**

The applicant's plan shall conform to the overall purpose and intent of the Plan of Development. The Commission may require policy recommendations from the plan to be incorporated into the site plan.

## **17.7 Submission of Application**

Applications shall be submitted seven (7) days prior to the next meeting. This will permit a preliminary review and placement on the agenda. Applications shall be received at a regular meeting, which is known as the "day of receipt."

## **17.8 Decision of Commission**

The Commission shall approve, approve with modifications or disapprove any site plan application with sixty-five (65) days after it has been received at a regular meeting. The Commission shall determine if the application is complete. If the Commission fails to act with sixty-five (65) days, it shall be considered approved and a certificate to that effect shall be issued upon written demand by the applicant. Demand must be received within thirty (30) days after the expiration of the sixty-five (65) day period for action.

## **17.9 Extension of Application**

An extension of the sixty-five (65) day review period may be granted provided the applicant gives written consent. Grounds for disapproval shall be stated and made part of the record.

## **17.10 Legal Notice**

Legal notice of the decision shall be published within fifteen (15) days after the decision.

## **17.11 Certificate of Occupancy**

A Certificate shall not be issued until the Zoning Officer has determined that all provisions of the plan are in compliance. If conditions prevent compliance, the Officer may authorize the issuance of the Certificate on the condition that the remaining provisions are complied with as weather permits. Non-compliance shall make the approval null and void unless extended for good cause.

### **17.12 Revisions, Modifications, and Extensions**

Substantial revisions, modifications, construction, enlargements, extensions or structural alterations to an approved site plan shall require the submission of a revised application.

### **17.13 Condition of Approval**

Conditions of approval shall be completed within five (5) years after the date of approval. If not completed, the approval shall be null and void. The Commission may, by resolution and without holding a hearing, extend approval for a period of one (1) year for good cause.

### **17.14 Administrative Authorization**

The Zoning Enforcement Officer shall have the authority to administratively approve changes providing the requirements for off-street parking are the same as or less than what was required for the previous use. If approved, the Officer shall state that the decision and/or use may be subject to future review by the Commission. Approvals shall allow for immediate occupancy except for those instances when the Building Official requires a Certificate of Occupancy.

In cases where additional parking, substantial structural alterations or renovations are involved, a site plan shall be submitted for review. The Zoning Officer shall determine if a thorough review is warranted by the Commission.

### **17.15 Inland Wetlands and Watercourses Commission**

Applications shall be submitted to the Wetlands Commission no later than the day it is submitted to the Planning and Zoning Commission to determine the presence of a regulated activity.

If the period for a decision by the Planning and Zoning Commission expires prior to a decision by the Wetlands Commission, the decision period shall be extended for a period of thirty-five (35) days after a decision is rendered by the Wetlands Commission. The applicant shall submit a copy of the Wetland's decision to the Planning and Zoning Commission.

### **17.16 Inspection by Town Engineer**

The applicant shall be responsible for all inspection and review cost incurred by the Town Engineer during the review process. If it is determined that additional inspection and follow up reports are necessary after granting an approval and prior to project completion, the applicant shall be responsible for all costs incurred by the Town Engineer as per the fee schedule assessed to the Town.

## **Article 18 - Zoning Board of Appeals**

*(Amended 2-2-15)*

### **18.1 Power and Duties**

The Zoning Board of Appeals shall have all of the powers and duties prescribed by the regulations and Connecticut General Statutes Section 8-6, as may be amended.

### **18.2 Administrative Review**

The Board shall hear and decide appeals where it is alleged that there is an error in any order or decision by the Zoning Enforcement Officer or interpretation of these regulations.

### **18.3 Variance**

In certain cases, the Zoning Board of Appeals may authorize variances from the zoning regulations where owing to special circumstances or conditions, a literal enforcement of the regulations would result in exceptional difficulty or unusual hardship.

The Zoning Board of Appeals shall not be required to consider an application for the same or substantially the same variance more than once during any six (6) month period from the date of their decision or the date of the Court's decision.

Variances shall become effective when the original certificate or a certified copy of such is recorded in the Land Records.

### **18.4 Procedure for Combined Applications**

Whenever a pending application for a variance is joined with an appeal to the Board, the Board shall initially decide the issues presented by the appeal.

## **Article 19 - Sedimentation and Erosion Control Bond**

*(Amended 2-2-15)*

The Commission shall secure a bond to enforce, stabilize, and control any adverse environmental impacts resulting from a lack of facilities or non-compliance with the approved sedimentation and erosion control plan. A bond shall be required if the disturbance is in excess of a half (½) acre. The applicant shall be given written notice of a public hearing.

The Zoning Officer shall access to the site to determine compliance with Article 17. Section 8-12 of the Statutes and Public Act 87-244 authorizes action against a violation of this Article.

The Commission shall require a cash book, savings account or an irrevocable letter of credit. The bond may be called after a certified notice is sent to the applicant. The Commission must make a determination that the Sediment and Erosion Control Plan is not being followed by the applicant or their agent. The Commission or their agent shall determine the amount of the bond.

Article 19 shall apply to all special permit or site plan applications approved on or after the effective date of these regulations whether or not the application was filed prior to the effective date of these regulations.

## **Article 20 - Health District Authorization**

*(Amended 2-2-15)*

The Commission shall require approval from the Torrington Area Health District prior to issuing a zoning permit for buildings which require septic systems. Buildings shall be enlarged, constructed or intensified without obtaining approval from the Torrington Area Health District.

Activities subject to this requirement include the construction of a single or multi-family units, commercial or manufacturing buildings, and additions to these units. Also, the conversion of residential units from seasonal use to year round use and the addition of new uses to a dwelling or structure, whether or not a subsurface disposal system is present on the property, is also required for review.

Wells for potable water or industrial usage shall not be dug, drilled or deepened without obtaining an approval from Torrington Area Health District. Swimming pools shall not be installed without obtaining a permit from Torrington Area Health District.

These requirements shall be in addition to any other requirements of the Town or the State Building Code. Failure to comply may result in the revocation or suspension of any permits or further legal action for enforcement of these regulations. If action is brought, the subject party may be liable for attorney fees and court costs.

## **Article 21 – Special Regulations**

*(Amended 2-2-15)*

### **21.1 Earth Excavation and Mining**

#### **a. General Provisions**

Land shall not be altered by excavation or by the removal or relocation of earth, topsoil, gravel, clay, loam, minerals or by the deposition of other materials without obtaining a permit unless such activity is exempted pursuant to Section 21.1.F. After the effective date of these regulations, no operations shall be allowed to continue without a Special Permit

#### **b. Definition of Earthen Materials**

These include any organic or inorganic materials, peat, loam, quarry materials, gravel, stone, clay, sand, and other similar natural resources. Earthen materials shall not include construction or building materials, rubbish, trash, stumps, inoperable motor vehicles or parts thereof, road construction materials or any other forms of solid waste, except as may be permitted.

#### **c. Special Permit Required**

A Special Permit shall be required for activity that exceeds two hundred-fifty (250) cubic yards per year from any lot, unless the use is exempted pursuant to Section 21.1.F

#### **d. Zoning Permit Required**

A zoning permit shall be required for all activity between one hundred (100) and two hundred-fifty cubic yards per year, unless it is exempted pursuant to Section 21.1.F. Permits shall not be required for any activity of less than one hundred (100) cubic yards per year on any lot.

#### **e. Safety Considerations for Operations Including Exemptions**

Operations must be conducted in such a way as not to compromise the character or integrity of the neighborhood or endanger the health or safety of its residents. They shall be limited from 8:00 am to 5:00 pm Monday through Saturday. Activity is not permitted on Sunday or on legal holidays. After holding a hearing, the Commission may authorize new hours of operation due to special circumstances and conditions.

#### **f. Exemptions from Obtaining a Special Permit**

Activity accessory to the construction of buildings, streets, driveways drainage, off-street parking, sewer improvements or to agricultural operations are exempted. Also, activity such as necessary filling, removal, grading or alterations connected with manufacturing, commercial or residential construction is also exempted along with municipal projects.

#### **g. Application Requirements**

The plan shall show the limits of all areas to be cut, filled, graded, excavated or altered. All property lines, streets, and the location of buildings on adjoining properties within two hundred (200) feet of the subject property shall be shown.

Each parcel shall contain the names and addresses of legal owners. A list of property owners shall be submitted.

Contour lines, drawn at not less than two (2) foot intervals, shall be coordinated to a permanent monument drawn to a scale of one hundred (100) feet to the inch.

Watercourses, wetlands or drainage areas within two hundred (200) feet of the property shall be shown. If off-site data is not available, information may be obtained from the USGS. Bedrock out-croppings, forested areas, and other physical features shall be shown.

The applicant shall provide an estimate of the number of cubic yards of material to be filed, excavated, graded or removed from the site and the time necessary to complete the activity. Vehicular access routes to the site shall be shown along with an estimate of the type of equipment and other machinery to be used onsite.

The location of buildings and structures, including temporary ones to be erected onsite, shall be shown. The plan shall contain details regarding the storage of explosives and blasting equipment onsite. Grading details and a landscaping plan shall be included.

#### **h. Standards and Conditions**

Processing machinery shall not be used within two hundred (200) feet of any property or street line. Machinery shall be removed upon termination of the permit. Machinery not accessory to the activity shall not be allowed on site. No material or equipment shall be stockpiled or operated outside of the permit area.

At no time shall more than one (1) area exceeding five (5) acres be opened for operations. All remaining areas shall be left undisturbed. Operations which create inclines, pits or depressions, erosion, improper drainage or other conditions which would impair the development or reuse of the site or would deteriorate the use of adjacent properties, cause health or safety concerns resulting from such activity or use shall not be permitted.

Reasonable measures shall be taken to minimize noise, dust, and vibrations. Access roads shall be covered with a dustless surface and maintained in good condition at all times.

Six (6) foot high fencing shall be installed if excavations exceed a depth of five (5) feet and create slopes in excess of two to one (2:1). Fencing shall be installed when bordering roads, streets, travel ways, and residential areas. Other screening measures may be used.

Excavations shall not be permitted within one hundred (100) feet of any highway, from any residential unit or below the grade of any property within fifty (50) feet of the property line.

The permittee shall assure that vehicles exiting the site have their loads secured to avoid spillage. Drainage swales shall be provided to prevent erosion, runoff, and the creation of stagnant water.

**i. Restoration of the Site**

Upon completion or expiration of the permit, excavated and disturbed areas shall be restored to the following vertical to horizontal ratios; undisturbed earth one to one point five (1:1.5), earth fill one to two (1:2), and rock four to one (4:1).

Restoration shall not result in the creation of sharp cuts, declines, depressions, erosion, drainage or sewage problems. Debris and boulders, which are not design improvements, shall be removed. A layer of soil, free of large stones, shall be spread to a thickness of not less than six (6) inches over the entire area. The area shall be fertilized and seeded with a perennial grass and maintained until the area has stabilized. This requirement shall not apply to ponds or to expose ledge existing prior to excavation.

**j. Public Hearing**

The Commission shall hold a hearing within sixty (65) days after receipt of a completed application for any activity involving excavation, filling, grading or removal of two hundred-fifty (250) cubic yards or more of earthen material. Failure to submit information may be considered grounds for disapproval of the application. All communications shall be in writing. Copies shall be kept on file in the Land Use Office.

**k. Permit Approval**

Permits shall be valid for one (1) year provided no violations have occurred. Permits may be renewed for a period of one (1) year without holding a hearing provided the applicant submits a revised plan showing the existing conditions. The applicant's engineer shall certify that all authorized work has been conducted in accordance with the requirements of the permit. If the permit is renewed, legal notice shall be published.

**l. Site Inspection**

The Zoning Enforcement Office and the Town Engineer shall have access for inspection purposes and to determine compliance. The Commission may require the submission of status reports detailing site progress.

**m. Liability Insurance and Bonding**

The applicant shall provide proof of liability insurance. The Town shall be named as insured with a limit of not less than one hundred thousand dollars (\$100,000.00) to personal injury, which shall include death, and not less than ten thousand dollars (\$10,000.00) for property damage covering all operations to be conducted pursuant to the permit. If the insurance is cancelled or not renewed, the permit shall be terminated.

The applicant shall submit security in the form of a certified check, passbook account, letter of credit, or other form acceptable to the Commission and the Town Attorney. The security shall be equal to the amount of the proposed excavation and site restoration costs as provided by the applicant and approved by the Planning and Zoning Commission with recommendation from the Town Engineer and/or Zoning Officer.

Upon completion of the restoration work, the applicant may apply for release of the bond. The Town Engineer and the Zoning Officer shall inspect the restoration and submit a report to the Commission regarding compliance. If in compliance, the bond may be released to the permittee, otherwise, it shall remain in full force and effect. The applicant may also apply for partial release of security with the recommendation of the Town Engineer and/or Zoning Officer.

## **21.2 Multiple Dwelling Units**

### **a. General Provisions**

This section shall provide procedures and standards for the development of multiple dwelling units.

### **b. Qualifying Standards for the Tract**

The tract shall consist of a lot or contiguous lots under one (1) ownership or control. The tract shall contain a minimum of ten (10) acres and be served by public sewer and water. It shall contain two (2) access ways of which one (1) may be on a State road.

Each access way shall have a minimum of fifty (50) feet of frontage. The minimum frontage for the tract shall not be less than eight (80) feet. One (1) access way may be with eighty (80) feet when two (2) abutting strips are created, they shall be separated from any other access way on the same side of the street by a minimum of one hundred-twenty (120) feet. The tract shall be located within the RA-15 zone.

### **c. Design Standards for Dwelling Units**

No more than six (6) dwelling units per acre shall be permitted to compute the density, a seventy-five (75) foot buffer shall be excluded from the area of the tract. Principal buildings shall be located a minimum of thirty (30) feet from other principal structures.

Two (2) parking spaces shall be provided per unit. Each building shall provide two (2) spaces to accommodate visitors. Each unit shall have 2 doors or a set of stairs accessing the outside of the unit.

No building shall contain more than six (6) dwelling units. Primary buildings shall not be constructed within seventy-five (75) feet of any street or property line. Maximum height shall not exceed forty (40) feet. Units shall contain a minimum of seven hundred-fifty (750) square feet of habitable floor area. Ground coverage shall not exceed fifteen percent (15%).

Utilities shall be located underground. Buildings shall not exceed two hundred (200) feet in length. Each unit shall be provided with a minimum of forty-eight (48) square feet for outside storage. Garages, basements or other space within the unit may be used to meet this requirement.

Exterior space shall be considered common land and usable for traffic circulation, parking, recreation or conservation purposes. A minimum of twenty-five percent (25%) shall be designated as open space and used for recreational purposes.

**d. Standards**

The tract shall be served by private streets. Streets shall meet municipal construction standards. Internal circulation patterns shall be designed to discourage through traffic. A minimum of thirty (30) feet is required between streets and buildings. Pavement width is twenty-four feet. If the street pattern significantly improves traffic circulation in the area, the Commission may require that they be dedicated to the Town. Access to a minimum of ninety percent (90%) of all units shall be from loop drives or permanent cul-de-sacs and not from other roads.

**e. Phase Development**

The Commission may approve construction in phases. Each phase shall be capable of existing without completion of succeeding phases.

**f. Procedure - Application Submission Requirements**

The Commission shall review the application pursuant to Article 10. The applicant shall submit four (4) copies of a statement describing the project in sufficient detail, four (4) copies of the site plan map and four (4) copies of the architectural plan designs.

The applicant shall submit a report from the Water Pollution Control Authority regarding the availability and capacity for sewage disposal services along with a report from the CT Water Company regarding the availability of water service.

A traffic report detailing parking and vehicular circulation patterns on roads leading to and away from the site, sight line evaluation, and design standards shall be submitted. The Commission may require additional data and analysis.

**g. Landscaping Plan**

The plan shall contain the location of buildings, off-street parking, including areas reserved for special needs and handicapped individuals, exterior lighting, walkways, shrubbery, trees, other plantings to be removed or retained, designs for recreation areas, buffer areas, and open spaces.

**h. Common Interest Ownership**

Article 21.2 shall apply to all multi-family dwellings converted to common interest form of ownership on or after the effective date of these regulations.

**i. Special Needs and Handicapped Accessibility**

The plan shall conform to all requirements to the CT Basic Building Code and to any special requirements in the American Disabilities Act.

**21.3 Housing for Elderly and Seniors**

**a. Basic Standards and Conditions**

Housing shall be located in RA-15 or GC zones. Applications shall meet the requirements of Article 10. The tract shall consist of one (1) lot or a number of contiguous lots under one (1) ownership or control and contain a minimum of ten (10) acres. The maximum number of dwelling units allowed shall not exceed ten (10) per

acre. The buffer area shall not be subtracted from the acreage prior to computing the density. The applicant shall demonstrate a need for senior housing.

**b. Site Access**

All projects shall contain two (2) separate access points of which one (1) may be on a State road. Each access shall have a width of fifty (50) feet. The secondary access road need only be an emergency road suitable for evacuations and public safety vehicles.

The development shall be served by a private road constructed to Town standards and designed to discourage through traffic. Interior streets shall not extend within thirty (30) feet of any unit. The Commission may require streets be dedicated to the Town whenever it would serve to improve traffic circulation.

The Commission may, at its discretion and for good cause, approve the construction of a boulevard style access to a senior housing development in lieu of the two (2) access point requirement providing the applicant has submitted sufficient documentation for the safe and convenient movement of vehicular traffic and pedestrians, made accommodations for emergency and public safety vehicles, provided attractive layout design and landscaping plans, made provisions for public utilities, submitted restrictive covenants for maintenance and owners responsibility, provided sufficient bonding to cover construction costs, and any other items that may be required by the Commission.

**c. Design Standards**

Buildings shall not exceed thirty (30) feet in height. They shall be separated from each other by a minimum of thirty (30) feet. Units shall have a minimum of four hundred-forty (440) square feet of habitable living space. Ten percent (10%) of all units shall be constructed as handicapped adaptable. The exterior design and recreational facilities shall be in character with the neighborhood. Ground coverage shall not exceed fifteen percent (15%). Units shall be served by underground public utilities.

**d. Parking Space Standards**

One (1) space shall be required for each unit and one (1) space for each employee. Parking and loading facilities shall be provided for delivery trucks and vans. One (1) space per building shall be provided to accommodate visitor parking.

**e. Screens and Buffers**

Screening and buffering may consist of evergreens or shrubbery. The Commission may require other types of screening. A buffered area of seventy-five (75) feet shall be required around the tract. Trash and debris disposal areas shall be designed to serve the project.

**f. Phase Development**

The Commission may require projects to be approved in phases. Each phase shall be capable of functioning without the completion of succeeding phases.

**g. Modifications to Approved Project**

The Modifications to an approved project may be granted by filing a site plan application in accordance with Article 17.

**h. Public Safety Considerations**

The Commission may seek additional requirements to ensure the safety, health, and welfare of the Town and the residents of the project.

**21.4 Home Occupations**

**a. General Requirements**

Home occupations shall be located in residential units and the owner shall obtain a special permit. The purpose of this regulation is to protect neighborhoods from adverse impacts of certain activities while permitting other residents the reasonable use of their property and homes.

**b. General Provisions**

Except as may be permitted, home occupations shall be operated in such a way so as not to display any overt characteristic or appearance of a business which would infringe upon the lawful right or privilege of others to enjoy the peaceful use of their residential units.

Home occupations shall not permit the outside storage of equipment or materials. Window displays designed to be seen from the exterior of the dwelling are not permitted.

Occupations shall not cause any intolerable amounts of noise, dust, vibrations, odors or noxious fumes to leave the premises other than which can normally be associated with or produced by a single family dwelling. They shall not use mechanical or electrical equipment which will create interference with radio or television receivers or cause fluctuations in line voltage off the premises. Occupations shall not interfere with the normal delivery of utilities or other customary services to the neighborhood.

**c. Abutting Property Owners**

For special permit applications under this section, notice of the hearing on the application shall be sent to all abutting property owners and those across the street by certificate of mailing no later than ten (10) days prior to the hearing date.

**d. Number of Occupations and Location**

Only one (1) occupation shall be permitted to operate at any time in the dwelling. Permits are non-transferable to new owners or to new locations.

**e. Vehicular Circulation and Parking**

Home occupations shall not cause significantly larger traffic volumes than would normally be expected. Activities shall not create safety hazards or cause traffic congestion to residents. Occupations shall keep delivery and pick up of materials to and from the premises to an absolute minimum. Permit holders should encourage customers to park vehicles only in areas permitted by law. The Commission may

request additional information from other agencies involved in public safety to determine if off-street parking should be required for vehicles.

**f. Employees**

Home occupations shall be operated by members of the family residing in the unit. Persons engaged in construction trades or other similar fields may utilize their unit as an office for business activities. Work must be performed off the premises. The home shall not serve as a gathering place or staging area for employee parking.

**g. Signs and Advertising**

Signs proposed in conjunction with a home occupation application shall obtain a sign permit application from the Land Use Office and conform to the regulations set forth in Section 8.4 of these regulations.

**h. Classes and Instruction**

Class size shall not exceed more than two (2) students. Classes may be permitted up to a maximum of four (4) students if the Commission determines that additional traffic will not be generated. The limiting of class size shall not be construed to prohibit occasional exceptions for recital or other similar gatherings. Classes shall be scheduled a minimum of thirty (30) minutes apart to help mitigate traffic congestion.

**i. Enforcement**

Any party who feels aggrieved by an action pursuant to this section shall notify the Zoning Officer in writing and detail the alleged violation. Within thirty (30) days after receipt of such notice, the Enforcement Officer shall investigate. Within ten (10) days after completing the investigation, the Zoning Officer shall notify the aggrieved party by certified mail the finding of the investigation.

The notification shall state the reasons for the decision and specify a time frame for compliance. It shall also state what action will be taken if compliance is not forthcoming. Any person aggrieved by the decision of the Zoning Officer may appeal that decision to the Board of Appeals.

**j. Home Occupations**

The following uses are permitted as occupations; arts and crafts for sale off site, data and word processing, catalog direct sales and distribution off site, professional sales, insurance, consulting services, broker, real estate, home grown produce, gardening and landscaping for sale and distribution off site, telephone solicitation, doctor, accountants, investors, designers, financial planners, architects, planners, and engineers.

The following uses not are not permitted as occupations; video sales and distribution, retail sales establishments, automobile sales and repair, painting, parts and service, appliance repair including television and radio, private clubs, beauty salons, barber shops, exercise studios, massage parlors, gyms, welding or metal shops, firearms, ammunition, and explosives.

The Commission recognizes that it is impossible to list all permitted and non-permitted home occupations. The Commission will make a determination on the

merits of each application after conducting a public hearing and soliciting comments from adjacent property owners and public safety officials.

## **21.5 Alcoholic Beverages** *(New; Effective 2-23-2016)*

### **General Purpose**

It is the purpose of this article to provide standards for a variety of alcoholic beverage service and sales uses so that their location and operation will be consistent with the protection of the public's health, safety, and welfare. All uses operating under a permit issued by the State Department of Consumer Protection, Liquor Control Division shall comply with the requirements of this section and state law.

Furthermore, a Special Permit shall be required for the sale of alcoholic liquor except for those that are exempt in the Type 4 category as indicated below.

### **a. Definitions**

All definitions of words used in this chapter shall be the same as defined in Title 30, Chapter 545 of the Connecticut General Statutes, Revised to 2015, as amended, unless herein specifically otherwise stated.

#### **1. Specialized uses**

For the purposes of this section, specialized uses shall include any lot or parcel used for the purposes in whole or in part for a school, public park or public building, but shall not apply to parcels defined as water company lands, state forests or federal flood control areas.

### **b. Permit Classification**

Permit locations shall be classified as follows:

**Type 1** – Any permit types not covered under types 2, 3 and 4 below as defined in Title 30, Chapter 545 of Connecticut General Statutes. Typical examples include but are not limited to: Tavern, Café, Bowling Alley and Hotel permits.

**Type 2** – Package store permits as defined in Title 30, Chapter 545 of Connecticut General Statutes

**Type 3** – All temporary liquor permits as defined in Title 30, Chapter 545 of Connecticut General Statutes and Thomaston Zoning Regulations, not to exceed 30 days per property per calendar year. The Commission shall follow all considerations as outlined in Article 10 in granting and conditioning permits.

**Type 4** – Restaurant Permits, Grocery Beer Permits, Wine Gift Basket Retailer Permits and Farmers Market Wine Sales Permits as defined in Title 30, Chapter 545 of Connecticut General Statutes. All uses of this type are exempt from permitting requirements of this section and shall not be used in the calculation of separation distances as required in this section.

### **c. Regulations**

1. No land or building shall be erected, used or altered that is arranged, intended or designed to be used for the retail sale or consumption of wine, alcohol, beer or other liquors or beverages requiring a license and/or permit pursuant to the State Liquor Control Act without first obtaining a special permit approval from the Commission under these regulations

2. Alcoholic beverage permits shall be separated according to the table below. Separation for similar permit types shall be measured in a direct line between the nearest public entrances of the establishments. Separation from specialized uses shall be measured from nearest public entrance of the establishment to the nearest parcel boundary containing the specialized use.

	<b>From Similar Types</b>	<b>From Specialized Uses</b>	<b>Within the Downtown Development District</b>
<b>Type 1</b>	750 ft	750 ft	750 ft
<b>Type 2</b>	750 ft	750 ft	750 ft
<b>Type 3</b>	No separation	No separation	No separation
<b>Type 4</b>	Exempt from permitting	Exempt from permitting	Exempt from permitting

3. All outdoor alcoholic beverage service areas such as decks, patios and temporary permit areas shall be properly permitted and enclosed by a fence or wall no less than four (4) feet in height.
4. No sales or consumption on the subject property outside of areas specified in the special permit shall be permitted.

**21.6 Adult Oriented Establishments** *(Revised; Effective 2-23-16)*

**a. General Purpose and Intent**

The Commission finds that the operation of adult oriented businesses in the town requires special regulation and supervision by the town to protect, preserve and promote the health, safety and welfare of the patrons of such businesses, as well as the health, safety and welfare of the town’s residents. Further, protecting order and morality, preserving the character and preventing the deterioration of the town’s neighborhoods, promoting retail trade, maintaining property values, and ensuring sanitary and safe public places are desirable objectives of the community and its leaders.

It is the purpose and intent of the Planning and Zoning Commission, in enacting this article, to regulate adult oriented businesses to promote the health, safety and general welfare of the residents of the Town and to establish reasonable and uniform regulations of such businesses in order to reduce or eliminate the adverse secondary effects of such adult oriented businesses, protect residents from increased crime, preserve the quality of life, preserve the property values and the character of surrounding neighborhoods and businesses, deter the spread of blight, and protect against the threat to public health from the spread of communicable and social diseases.

It is not the intent of the Planning and Zoning Commission, in enacting this article, to deny to any person rights to speech protected by the United States or state constitutions, nor is it the intent of the Commission to impose any additional limitations or restrictions on the content of any communicative materials including sexually oriented films, videotapes, books or other materials. Further, by enacting this article, the Commission does not intend to deny or restrict the constitutionally protected rights of any adult to

obtain or view any adult oriented materials under the United States or state constitutions, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually oriented materials may have to sell, distribute or exhibit such materials.

#### **b. Legal Cases, Studies**

Town staff and the Planning and Zoning Commission have reviewed the following information regarding adult oriented establishments in support of the regulations in this Article:

- a. History of the SOB Ordinance (Town of Berlin, CT) by Scott Shemeth.
- b. City of Renton v. Playtime Theatres, Inc. et.al., 475 US 41, 106 S.Ct.925 (1986)
- c. Marvin A. St. Pierre v. Town of Berlin et al., CV030523835S, Superior Court of Connecticut, Judicial District of New Britain at New Britain.
- d. Centerfolds, Inc and Mario Pirozzoli v. Town of Berlin, Bonnie L. Therrien, Ida Ragazzi, Joanne Ward, Joseph Aresimowicz and Linda Cimadon. 3:02cv2006(WWE), United States District Court for the District of Connecticut.
- e. Gold Diggers, LLC and Wayne David Massa v. The Town of Berlin, Connecticut, Herman Middlebrooks, Jr, and The Berlin Town Council. 06cv732. United States District Court for the District of Connecticut.
- f. Gold Diggers, LLC v. Town of Berlin. CV064010241S, Opinion No. 9689, Superior Court of Connecticut, Judicial District of New Britain at New Britain.
- g. VIP of Berlin, LLC v. Town of Berlin, et al. CV064012399S, Superior Court of Connecticut, Judicial District of New Britain at New Britain.
- h. VIP of Berlin, LLC v. The Town of Berlin, Connecticut, Herman Middlebrooks, Jr, and Denise McNair. Civil Action No. 3:06cv1811 (SRU). United States District Court for the District of Connecticut.
- i. VIP of Berlin, LLC v. The Town of Berlin, Connecticut, Herman Middlebrooks, Jr, and Denise McNair. Docket No. 09-2950-cv. United States Court of Appeals for the Second Circuit.

#### **c. Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- 1. Adult arcade** - any establishment where one (1) or more still or motion picture projectors, slide projectors or similar machines, or other image producing machines, for viewing by five (5) or fewer persons each, are regularly used to show films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities.
- 2. Adult cabaret** - any club, café, tavern, restaurant or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) Persons who appear nude or seminude; (b) Live performances that are characterized by the exposure of specified anatomical areas; or (c) Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

3. **Adult books** - any books, magazines, periodicals, pamphlets, or other printed materials that depict, display or describe specified anatomical areas or specified sexual activities.
4. **Adult entertainment** – (a) Any exhibition of any adult-oriented motion picture, live performance, display or dance of any type that has as a significant or substantial portion of such performance, any 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, when such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect; and (b) any amusement machine that is regularly used for presenting material that is characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons thereof.
5. **Adult mini-motion picture theater** - any enclosed building with a capacity of fifty (50) or less persons regularly used for showing films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons therein.
6. **Adult motion picture theater** - any enclosed building with a capacity of more than fifty (50) persons regularly used for showing films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons therein.
7. **Adult novelties** – (a) instruments, devices, toys or paraphernalia that are designed for or marketed primarily for stimulating human genital organs, sexual arousal or sadomasochistic use; (b) instruments, devices, gag gifts, toys or paraphernalia that depict, display or are shaped in the form of specified anatomical areas; and (c) oils, lotions, gels or creams that are designed for or marketed primarily for use upon specified anatomical areas and intended for stimulating human genital organs, sexual arousal or as an aid to enhance or promote specified sexual activities.
8. **Adult oriented store** - any establishment having (a) a substantial or significant portion of its stock in trade in Adult Books, Adult Videos or Adult Novelties or any combination thereof; (b) any portion of its stock in trade in Adult Books, Adult Videos or Adult Novelties and in conjunction therewith has rooms, designated areas or facilities for the presentation, observation or use by patrons of any item sold or rented in such establishment.
9. **Adult theater** - any theater, concert hall, auditorium or similar commercial establishment that regularly features persons who appear nude or seminude or who appear in live performances that are characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons therein.
10. **Adult videos** - films, motion pictures, videocassettes, DVDs, software, slides or other photographic reproductions that depict, display or describe specified anatomical areas or specified sexual activities.
11. **Place of Worship** - any church, synagogue, mosque, temple or building that is used primarily for religious worship and related religious activities.

12. **Employee** - any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of a sexually oriented business.
13. **Entertainer** - any person who provides adult entertainment within a sexually oriented business, whether or not a fee is charged or accepted for such entertainment and whether or not such entertainment is provided as an employee or independent contractor.
14. **Escort** - any person who, for any form of consideration, agrees or offers to act as a social companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
15. **Escort agency** - any person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
16. **Inspector** – the police chief, fire marshal, building official, health department sanitarian, zoning enforcement officer, their agent or representative, or any town or state employee designated to make inspections for public safety, town ordinance, fire code, building code, public health, zoning purposes, violations of this article, or for violations of other laws and ordinances of the town or state.
17. **Permitted premises** - any premises that require a sexually oriented business permit pursuant to this article, including any buildings, parking areas and all other portions of the property of which the permittee has control.
18. **Permittee** - any person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on an application for a permit.
19. **Live adult entertainment** - any live performance by a person who appears nude or seminude or any live performance that is characterized by the exposure of specified anatomical areas.
20. **Massage parlor** - any establishment having a fixed business where any person engages in or carries on, or permits to be engaged in or carried on, any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electric apparatus or appliance with or without any supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice. The definition of massage parlor shall not include the practice of massage (a) in any state-licensed hospital, nursing home, clinic, medical office or rehabilitation facility; (b) by a state-licensed physician, surgeon, chiropractor, osteopath, physical therapist, or massage therapist; (c) by any registered nurse, licensed practical nurse or technician working under the supervision of a state-licensed physician, surgeon, chiropractor, osteopath, physical therapist, or certified massage therapist who shall be present on the licensed premises during the time the service is rendered; (d) by trainers for any amateur or professional athlete or athletic team or school athletic program; or (e) by any state-licensed barber or beautician with regard to the massaging of the neck, face, scalp and hair for cosmetic or beautifying purposes. Massage parlors shall be exempt from separation distances as required in Article 21.6.H.

21. **Masseur** - any person who, for any form of consideration, performs massage activities as described in the previous definition of this section.
22. **Minor** - any person under the age of eighteen (18) years.
23. **Nude model studio** - any place where a person, for any form of consideration, regularly appears nude or seminude or displays specified anatomical areas to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. A nude model studio shall not include a modeling class operated by an accredited public or private school or college.
24. **Nudity** – (a) the appearance of human bare buttocks, anus, genitals, pubic region or the areola or nipple of the female breast; or (b) state of dress that fails to opaquely and fully cover human buttocks, anus, genitals, pubic region or areola or nipple of the female breast.
25. **Operator** - any person operating, owning, managing, conducting or maintaining a sexually oriented business.
26. **Public building** - any building owned, leased or otherwise held by the United States, the state, the town, any other town, any fire district, any school district, or any other agency or political subdivision of the United States or the state, which building is used for governmental purposes.
27. **Seminude** - a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.
28. **Sexual activities, exemptions** – (a) medical publications or films or bona fide educational publication or films; (b) any art or photography publications that devote at least twenty-five percent (25%) of the lineage of each issue to articles and advertisements dealing with subjects of art or photography; (c) any news periodical that 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; or (d) publications or films that 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.
29. **Sexual encounter establishment** - a business or commercial establishment that, for any form of consideration, offers a place where two (2) or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas. A sexual encounter establishment shall not include an establishment where a state-licensed medical practitioner, psychologist, psychiatrist, or similar professional person engages in medically approved and recognized sexual therapy.
30. **Sexually oriented business** – (a) an adult arcade, adult oriented store, adult cabaret, adult mini-motion picture theater, adult motion picture theatre, adult theatre, escort agency, massage parlor, nude model studio or sexual encounter establishment; (b) any premises to which the public, patrons, or members are invited or admitted and wherein an entertainer provides adult entertainment, or which premises are so physically arranged as to provide booths, cubicles, studios, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing

adult-oriented motion pictures or wherein an entertainer provides adult entertainment, when such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect; or (c) 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.

- 31. Specified anatomical areas** - (a) less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or (b) human male genitals in a discernibly turgid state, even if completely opaquely covered.
- 32. Specified sexual activities** – (a) showing of human genitals in a state of sexual stimulation or arousal; (b) acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; (c) fondling or touching of another person's genitals, pubic region, buttocks or female breasts; (d) lap dancing; or (e) excretory functions as part of or in connection with any of such activities.

**d. Permits**

After the effective date of this section of the regulations, it shall be unlawful for any person to engage in, conduct or carry on or permit to be engaged in, conducted or carried on, in or upon any premises in the town, the operation of a adult oriented business without first obtaining a special permit to operate from the Planning and Zoning Commission. A permit may be issued for only one (1) adult oriented business located at a fixed and certain place. Any person who desires to operate more than one (1) adult oriented business must have a permit for each such business. It shall be a violation of this article for any owner, operator, entertainer or employee to knowingly work in or about, or to knowingly perform any service directly related to, the operation of any unpermitted adult oriented business.

Each permit shall be specific to a location and may not be sold, assigned or transferred to any other location in any way. Abandonment or change of the adult oriented business not consistent with the terms and conditions of the permit may result in revocation of a special permit.

**e. Application Procedures**

The operator of each adult oriented business shall submit an application to the Planning and Zoning Commission together with an application fee as listed in the town fee schedule. The application shall be made upon a form prepared by the Planning and Zoning Commission and Land Use Office. The application shall be signed and filed by a person having direct control or management of the proposed adult oriented business. In instances where the applicant is a partnership, limited liability company or corporation, the application shall be signed and filed by a duly authorized partner, member, manager, officer, director, or majority shareholder of such entity, as the case may be. The application shall be sworn to be true and correct by the applicant.

The applicant for a permit shall furnish the following information:

1. Name and business and residence address of the applicant, owner, operator, manager and any other person having direct control or management of the adult oriented

- business, including all fictitious names. If the applicant is a partnership, the names of all general partners. If the applicant is a limited liability company, the names of all members and managers of such company. If the applicant is a corporation, the names of all officers, directors and shareholders holding a ten percent (10%) or greater interest in the total number of shares of such corporation;
2. Written proof or affidavit that the applicant and employees are at least eighteen (18) years of age;
  3. If a partnership, the application shall be accompanied by the partnership agreement, if any;
  4. If a limited partnership, the application shall specify the name of the partnership, the date and state of the filing of its certificate of limited partnership, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of the partnership agreement, if any, and by evidence that such partnership is in good standing under the laws of the state;
  5. If a limited liability company, the application shall specify the name of the company, the date and state of the filing of its articles of organization, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of the operating agreement, if any, and by evidence that such company is in good standing under the laws of the state;
  6. If a corporation, the application shall specify the name of the corporation, the date and state of incorporation, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of its bylaws, if any, and by evidence that such corporation is in good standing under the laws of the state.
  7. If operating under a fictitious name, the application shall be accompanied by a copy of the applicant's recorded trade name certificate.
  8. The location of the adult oriented business to be operated by the applicant, including the street address, legal description of the property, and telephone number, if any;
  9. The exact nature of the entertainment to be conducted at the sexually oriented business;
  10. A sketch or diagram showing the floor plan of the premises drawn to a designated scale and with marked dimensions of the interior of the premises, including a statement of total floor space occupied by the business. Such sketch or diagram shall include, without limitation, all seating, doors, windows, bars, stages, manager's stations, restrooms, dressing rooms, booths, cubicles, rooms, studios, compartments, stalls, overhead lighting fixtures and any areas where patrons are not permitted; and
  11. A site plan complying with Article 17 of these regulations, as amended
  12. A signed statement by the applicant that he/she is familiar with the provisions of this article, is in compliance with them, and consents to the authority of the town in licensing and regulating the proposed adult oriented business.

The Planning and Zoning Commission or Zoning Enforcement Officer shall have the right to request additional information and documentation of the applicant and the proposed business to support or clarify any information previously provided. If a permit to operate an adult oriented business is granted, the information furnished in the application, including employee information, shall be updated within thirty (30) days of any material changes. Such update shall be filed with staff in the Land Use Office, who shall promptly forward such update to the Planning and Zoning Commission and the Chief of Police.

#### **f. Permitting Procedures**

The Planning and Zoning Commission shall, pursuant to Article 10 of the zoning regulations and the provisions of this section, be responsible for investigating, granting,

denying, renewing, suspending and revoking all adult oriented business permits. Upon receipt of a properly completed application with all required attachments, the Zoning Enforcement Officer shall immediately forward copies of such application to the following town officials for their investigation:

1. The Chief of Police, through licensing requirements under town ordinances, shall investigate the criminal convictions, qualifications and suitability of the applicant to be licensed and shall inspect the premises for compliance with all laws and regulations.
2. The fire marshal shall investigate the compliance of the proposed premises with all applicable fire codes and laws.
3. The building official shall investigate the compliance of the proposed premises with all applicable building codes and laws.
4. The health district sanitarian shall investigate the compliance of the proposed premises with all applicable public health codes and laws.
5. Within thirty (30) days of the date the application was filed, all such investigations to be performed pursuant to this section shall be completed. The Planning and Zoning Commission shall deny the application if any of the above officials find that the proposed adult oriented business will be in violation of any provision of any statute, code, article, regulation or other law in effect in the town, including these regulations.

The special permit, if granted, shall be filed on the land records with the Town Clerk and shall state the name and residence address of the person to whom it is granted, the address of the adult oriented business, the permit shall also include a condition that the subject premises are subject to random inspections by inspectors of the town for compliance with this article.

**g. Permit Revocation**

The Planning and Zoning Commission may revoke an adult oriented business special permit upon determination that a permittee, operator or employee has materially violated any part of this article or town ordinance. The Zoning Enforcement Officer shall issue such revocation in writing stating the reasons and shall notify the permittee by certified mail, return receipt requested, addressed to the permittee at his/her business or residence address, or by service by any process server at the usual place of abode of the permittee or at the permitted premises. No adult oriented business shall continue operations with a revoked permit. The Planning and Zoning Commission shall revoke any license where any of the following occur:

1. It is discovered that materially false or misleading information or data was given on, or material facts were omitted from, any application for adult oriented business permit.
2. A permittee, operator, employee or other person directly involved in the management or control of the adult oriented business has been convicted of any crime specified in this article.
3. A permittee has one (1) or more uncorrected material violations of this article pending for over thirty (30) days, to which the licensee has received written notice.
4. A permittee, operator or employee has knowingly allowed any live performance or conduct featuring any specified sexual activities to occur on the licensed premises.
5. A permittee, operator or employee has knowingly allowed any illegal activity to occur on the licensed premises including, but not limited to, prostitution, gambling, or the possession, use or sale of controlled substances.
6. A license is revoked for any reason by the Chief of Police under town ordinances

## **h. Regulations**

1. No adult oriented business shall be permitted on a lot that is less than seven hundred fifty (750) feet from any lot containing a place of worship, school, public building, or public park. This separation shall not apply to lots defined as water company lands, state forests or federal flood control areas.
2. No adult oriented business shall be permitted on a lot that is less than two hundred and fifty (250) feet from any residentially zoned lot as defined in the town zoning district map, as may be amended.
3. No adult oriented business shall be located within seven hundred fifty (750) feet of another adult oriented business.
4. No adult oriented business shall be permitted within the same building, structure or portion thereof that is used for residential purposes or that contains another adult oriented business.
5. All distances contained in this section shall be measured by taking a straight line measurement between the nearest respective lot boundaries of each site.
6. Every adult oriented business shall comply with all applicable statutes, codes, ordinances, laws and regulations including, but not limited to, the fire, building, health, zoning codes and ordinances of the town and state.
7. Every adult oriented business, including common areas, entryways, parking areas, restrooms, and any room or other area used for the purpose of viewing adult-oriented
8. motion pictures or other types of adult entertainment, shall be well-lighted. The entire premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted to access at an illumination of not less than one (1) foot candle as measured at the floor or ground level. It shall be the duty of the operator and his agents to ensure that such illumination is maintained at all times that any patron is present on the premises.
9. No adult oriented business shall advertise the availability at such business of any activity that would be in violation of this article or any state or federal law. Nor shall any exterior sign, display, decoration, show window or other advertising of such business contain any material depicting, describing or relating to specified anatomical areas or specified sexual activities.
10. No alcoholic beverage or other intoxicant shall be displayed, served, ingested or sold on the premises of any adult oriented business unless permitted by the State Department of Consumer Protection, Liquor Control Division and the Thomaston Planning and Zoning Commission. No permittee, operator or employee shall be under the influence of any alcoholic beverage or other intoxicant while working at an adult oriented business.
11. Pursuant to Connecticut General Statutes Section 8-6, these regulations shall not be varied by the Zoning Board of Appeals to accommodate the use or location of an adult oriented business establishment.

## **i. Hours of Operation**

No adult oriented business shall open to do business before 10:00 a.m., Monday through Saturday, nor shall it remain open after 1:00 a.m. Tuesday through Friday, nor after 2:00 a.m. Saturday, Sunday or any legal holiday as designated in Connecticut General Statutes Section 1-4.

## 21.7 Commercial Telecommunications Facilities and Sites

### a. Purpose and Intent

The purpose is to control the placement of antennas, towers, and other facilities in a manner that will safeguard the community and protect the Town's visual and aesthetic qualities. The Commission shall require that information which is necessary to evaluate each facility. The Commission shall also require the proposed location to be the least disruptive to public health, safety and welfare, and consistent with the Plan of Development.

The intent is to minimize any adverse visual effects through proper design, siting, and screening to avoid potential damage to adjacent properties, to minimize the height and number of towers, and to provide for the orderly removal of abandoned antennas and towers.

### b. Definitions

The following definitions have been adapted from the American National Standards Institute 1992 RF Exposure Standard and NCRP Report No. 67 and from the FCC's Rules;

1. **AGL** - Above ground level
2. **dB (decibel)** - Times the logarithm to the base ten (10) of the ratio of two (2) power levels.
3. **Equivalent Isotropically Radiated Power (EIRP)** - The product of the power supplied to the antenna and the gain in a given direction relative to an isotropic antenna.
4. **Monopole** - Tower composed primarily of a single structural element, not a lattice type structure.
5. **mW/cm<sup>2</sup>** - Milliwatts per square centimeter, a typical unit of power density measurement.
6. **Power Density** - Power per unit area normal to the direction of propagation, usually expressed in units of watts per square meter.
7. **Power Output** - The sum in watts of each transmitter power at a site, i.e. twelve (12) channels at twenty (2) watts per channel is two hundred-forty (240) watts.
8. **Radio Frequency Radiation (RFR)** - Non-ionizing radiation in the frequency range of three hundred (300) kHz to one hundred (100) GHz.
9. **Repeaters** - A device used to relay a radio transmission.

### c. Use Regulations - Exemptions

The repair and maintenance of towers and antennas, especially those used for residential television, radio, amateur radio, satellite antennas of two (2) meters or less in diameter located in commercial zones are exempted from Article 21.7. Also exempted are satellite antennas measuring one (1) meter or less in diameter

regardless of location and those facilities intended for the protection of the community such as police, fire, ambulance, and other public safety services.

**d. Site Plan Approval**

Facility uses are allowed in commercial and manufacturing zones pursuant to site plan approval. Uses proposed within an existing structure such as a steeple, flagpole, chimney or other similar structures and those on an existing structure such as fire or water towers and lattice or monopole towers, provided installation does not increase the height, are also subject to site plan approval.

Antennas located on transmission or distribution towers, telephone poles, and other utility structures are subject to the same process, provided no more than a twenty (20) foot increase in height results from the installation. This increase shall not be permitted within one hundred-fifty (150) feet of pavement of any Town or State road. Antennas may be mounted on buildings provided it does not project more than ten (10) feet above the height limit of the zone where the facility is located.

Antennas may be located on structures that are legally non-conforming with respect to the height requirements of Schedule B, provided the antenna does not project above the roof line or more than ten (10) feet above the height limit of the zone in which the facility is located. Antennas may be erected for the above purposes, unless they are to be shared by a commercial wireless service carrier which shall require special permit approval.

**e. Special Permit Requirements**

Facilities are allowed in all zones pursuant to special permit approval. Approval is required for all facilities that do not meet the requirements of Section 21.7.E and for ground mounted commercial towers.

Applications shall include a USGS map. Locations for existing and proposed towers outside and within the Town's borders that would connect or be interconnected "hand-off" with the proposed facility shall be shown. The map shall display the area from which the tower can be seen. It may be visible from more than one (1) community. The visual area shall be based upon an assessment of the topography surrounding the site.

The applicant shall provide an evaluation of the effect of the tower location within the Town and in adjacent communities. Special concern shall be given to those areas identified for existing or proposed preservation, open space or any existing or proposed Historic District.

The applicant shall provide copies of the application for each community located within three (3) miles of the facility. Copies shall be forwarded by the Commission to each community for review and comment.

**f. General Standards and Requirements for All Facilities**

If feasible, facilities shall be locate on existing buildings such as water towers, utility poles, towers, and other telecommunications and related facilities, provided the installation preserves the integrity and character of those structures. The

applicant shall consider the use of existing telephone and electric utility structures as potential sites.

The applicant shall prepare a comprehensive analysis as to why existing structures and other related facilities may or may not be suitable. The applicant or co-applicant shall be a licensed carrier and documentation of qualifications shall be presented.

If the facility is regulated by the Connecticut Siting Council, the applicant shall document its submission to the Council. The applicant shall also submit documentation regarding the legal right to install and utilize an existing structure at the time of submission.

The applicant shall show the location of the antenna on the existing structure and document that the fall zone is contained within the property lines and does not pose a safety threat to adjacent properties.

Ground mounted equipment shall not generate noise in excess of forty-five (45) decibels at the property line. Roof or side mounted equipment shall not generate noise in excess of fifty (50) decibels at the base of the building closest to the antenna.

**g. General Standards and Requirements for Ground Mounted Towers**

The applicant shall demonstrate that there are no feasible existing structures on which to locate the tower as an alternative to the proposed ground mounted tower.

Towers shall be camouflaged to the greatest extent possible by using compatible materials, screening, colors, landscaping, and placement with trees. Towers shall be located in areas which will offer the least detrimental visual impact to historic and scenic areas, ridge lines, and properties listed in the State or Federal Register of Historic Places.

Facilities shall be sited in low density areas to avoid any decrease of residential property values. In cases of structural failure or attractive nuisance, facilities shall not be sited in Floor Plain Zones or Special Flood Hazard Areas. Facilities shall not exceed FCC guidelines in order to protect the public from excessive electromagnetic radiation

Facilities shall be sited to avoid any adverse environmental impacts to rare or endangered flora and fauna in areas as shown on the Connecticut DEP and Federal Listed Species and Natural Communities Map. Towers shall not be sited in any wetland or watercourse area or within any regulated setback area.

In order to ensure public safety, the minimum distance from the base of a proposed ground mounted facility to a property line, roadway, habitable dwelling, business or industrial use, public recreational areas or public pathway shall be the height of the facility and mount, including any antenna or other appurtenance plus fifty percent (50%). The Commission may permit the setback to encroach within an adjacent property if it finds that a substantially superior design will result.

The fall zone in the adjacent property shall not be developed. It shall be subject to a legally binding agreement between the service provider and the property owner until such time as the tower is removed. The Commission shall consider the visual

and safety impacts of the facility. Monopoles shall be the preferred type of ground mounted facility.

**h. Special Permit Application - Sight Lines and Elevations**

A site line representation shall be drawn to the highest visible point of the tower from any public road or building within three hundred (300) feet. Each line shall be depicted in profile and drawn at one (1) inch equals forty (40) feet. The profile shall display all intervening trees and buildings.

Each sight line shall be illustrated by a color photo of the existing conditions on the site as seen from any public road within three hundred (300) feet. The applicant shall submit a second set of photographs with the facility superimposed to illustrate what can be seen from public roads if the facility is constructed.

**i. Special Permit Applications - Other Requirements**

An RF Engineer shall submit reports on Adequate Coverage and Capacity and Justification of Need for Site Location of Ground Mounted Towers. The applicant shall provide a description of the service area for each communication system on the tower and prepare a statement justifying the rationale for the tower in the proposed location. A prepared statement with respect to the signal strength service objectives for each proposed wireless service shall be provided.

The applicant is responsible for providing an analysis for each service use demonstrating that the location will provide the required level of service and that other potential sites in the service area will not provide equal or better service. The applicant shall document that the antenna height is the minimum necessary to provide adequate coverage.

The applicant shall demonstrate the proposed service cannot be provided with equipment added to other existing or proposed towers. The applicant shall document for all facilities within three (3) miles of the proposed site if they or the service provider has a legal interest, whether by ownership, lease hold or otherwise. The applicant shall demonstrate that the sites cannot provide nor have the potential to provide adequate coverage or capacity to the Town.

**j. Site Plan Application Requirements**

The plan shall contain property lines within three hundred (300) feet, natural boundary markers, tree cover by species, buildings, accessory structures, locations of roads public and private, including pathways and walking trails, and contours at two (2) foot intervals.

Site information is also required for the antenna, building, equipment shelter and other facilities, proposed security barriers indicating the type and extent, as well as the point of controlled entry, distances, and grades from the facility to each structure on the site. All proposed changes to the property, including grading, vegetation, deposition, removal, and temporary or permanent roads.

**k. Site Elevations**

Site elevations at grade from all four (4) compass directions shall be provided for a fifty (50) foot radius around the facility and from existing public and private

access ways that serve the property. Elevations shall be at one quarter inch (1/4") equals one (1) foot and display all antennas, mounts, equipment shelters, including elevations and AGL of the highest point.

If the security barrier obstructs the view of the facility, the barrier shall be cut away from the drawing to show the view behind the barrier. The plan shall show all structures on the property, existing trees, shrubs, and other plantings at the current height and at the proposed height at the time of installation along with approximate elevations. All grade cuts, fills, and changes shall be shown at original grade and at the new grade with two (2) foot contours above mean seal level.

**l. Documentation for Each Facility Site**

The applicant shall provide the exact location in latitude and longitude, minutes and seconds, a copy of the applicant's FCC license, number of transmitters, power output of each in watts, types of antennas, and the gain in dBi and the height of the antenna on the tower or structure.

The applicant shall also provide systems losses from cables and connectors in dB, minimum and maximum operating frequencies, number of channels, calculated Equivalent Isotropic Radiated Power in watts, calculated power densities in mW/cm<sup>2</sup> at ground level and ground elevations along with the height of other structures on the site. Potential adjustments to each site, including changes in antenna types, orientation, gain and height, and the power output shall be specified. The applicant shall provide the other documentation as required.

For each site modifications, providers shall submit a copy of their FCC license, number of transmitters, power output of each transmitter in watts, type of antennas and the gain dBi, height of the antenna on the tower, system losses from cables and connectors in dB, minimum and maximum operating frequencies, and the number of channels and calculated power densities in mW/cm<sup>2</sup> at ground level.

**m. Distance from Existing Tower**

The applicant must certify that any tower within one thousand (1,000) feet of the proposed facility does not meet the provider's structural specifications or technical requirements or that an agreement to share the existing tower could not be obtained at reasonable terms and conditions, including price.

**n. Repeaters**

Documentation shall be provided that the applicant has analyzed the feasibility of using repeaters in conjunction with existing facility sites to provide adequate coverage and/or capacity to the Town. Radial plots for repeaters sites shall be provided by the applicant

**o. Soils Report**

A soils report shall be submitted with design specifications for the tower foundation and anchors for the guide wires.

**p. Site Emissions Report**

The applicant shall submit an environmental impact and evaluation report of site emissions. This report shall provide an assessment of the tower's impact upon areas designated for conservation and preservation in the Plan of Development and In the State Plan for Conservation and Development.

The report shall assess Federal, State, and protected areas, including wetlands, watercourses, environmentally sensitive areas, critical habitats for plants and animals, historical buildings or sites, unusual topographic features, landmarks, monuments, permanently protected areas, State parks and forest land or lands protected by or being proposed for a land trust.

The applicant shall provide documentation listing the existing and maximum projected measurements of radio frequency radiation (RFR) from the facility for existing and ambient qualities and the maximum estimate of RFR from the facility plus the existing RR environment. The RF engineer shall certify that the RFR measurements are accurate and comply with FCC guidelines.

The applicant shall demonstrate that the proposed tower is in harmony and compatible with the surrounding properties and it does not adversely affect local characteristics or the integrity of the neighborhood.

**q. Landscaping and Screening Requirement**

The applicant shall provide a security fence at a height of at least eight (8) feet around the base of the tower. Existing vegetation shall be preserved. The applicant shall provide a vegetation plan to screen structures, fuel tanks, and as much of the tower as possible. The plantings may be evergreens planted ten (10) feet on center. Evergreens shall be six (6) feet high and grow to a minimum height of fifteen (15) feet at maturity. The Commission may accept any combination of existing vegetation, topography, walls or other features that meet the screening requirements.

The Commission may require a bank check, letter of credit, passbook savings bond or other form of security satisfactory to the Town Attorney to be held by the Town for a period of one (1) year to ensure that all plantings are in good condition and have taken hold.

**r. Construction Plan Map**

A construction plan shall be submitted. This map shall show details for access roads, construction, drainage improvement, above ground wires, cables, ducts, utility and signal cables, guiding, and anchor details.

The Commission may require, as a condition of the Special Permit, that within ninety (90) days of commencing the operation and at periodic intervals from the date of the approval, existing RFR measurements be taken from the facility. Measurements shall be certified by an acoustical engineer, stating that the measurements area accurate and meet the noise standards of the Health District.

**s. Site Identification**

The applicant shall provide, weather permitting, a balloon with a minimum diameter four (4) feet be sent aloft to the proposed height of the tower. The balloon shall remain aloft for a reasonable period to allow for public viewing and inspection by the Commission. Local notice of the balloon raising shall be published in a local newspaper by staff. Legal costs shall be paid by the applicant.

The applicant shall provide a list of Federal, State, regional, district, and municipal agencies, which will review the proposed tower and submit any decision, recommendation or position of such agency.

**t. Federal Environmental Filing Requirements**

The National Environmental Policy Act applies to applications for wireless service facilities. The Act is administered by the FCC via procedures adopted as Subpart 1, Section 1.1307 et seq. (27 CRF Ch 1.). The FCC requires the filing of an environmental assessment prior to operating a facility in a wilderness area, wildlife preserve, endangered species habitat, historical site, Indian religious site, inland wetlands, watercourse, and Flood Plain area.

If high intensity white lights in residential neighborhoods or excessive radio frequency radiation exposure are applicable, the applicant shall submit an Environmental Assessment that meets FCC requirements.

**u. Other Requirements**

Commercial advertising shall not be allowed anywhere on the site. Signal lights or other forms of illumination shall not be permitted unless required by the FCC or the FAA. All other uses not clearly necessary to the operation and maintenance of the site are prohibited unless expressly permitted as a condition of approval.

The application shall describe all equipment to be maintained or stored on site. Not more than one (1) unmanned equipment and/or storage building may be permitted. It shall contain no more than seven hundred-fifty (750) feet of gross floor area and is not more than twelve (12) feet in height.

A service facility not used for six (6) months shall be removed by the owner. The removal shall occur within ninety (90) days from the end of the six (60) month period. Upon removal, the site shall be restored to its previous appearance and re-vegetated to blend in with the surrounding area. As a condition of approval, the Commission may require a bank check, letter of credit, passbook savings bond or other form of surety acceptable by the Town Attorney in an amount acceptable by the Town Engineer or staff sufficient to cover the cost of completing the restoration.

**21.8 Portable Food Vending Trailers/Trucks/Carts**

**a. General Provisions**

This article shall provide standards for all food vending trailers, trucks, and carts.

**b. Permits and Approval**

All food vending trailers, trucks, and carts shall obtain the necessary permit(s) and approval(s) from the Torrington Area Health District and written approval from the owner of the property where the business is located. The written approval from the property owner shall state the specific start and end dates for the vending business and the letter must be signed by both the applicant and property owner.

**c. Overnight Parking**

All food vending trailers, trucks, and carts shall be removed from the premises each night where sales are permitted when not open for business.

**d. Customer Parking**

Each site used by food vending trailers, trucks, and carts must have access to at least four (4) off-street parking spaces for customer use. The applicant must provide a sketch indicating all the uses at the site and the total number of parking spaces on site. The Zoning Enforcement Officer shall determine, based upon the regulations, that there is sufficient onsite parking for the existing businesses and for the food vendor.

**e. Traffic Flow**

No food vending trailers, trucks, and carts shall be located in an area which obstructs the flow of traffic on any street or in any parking lot.

**f. Setbacks**

All food vending trailers, trucks, and carts shall meet the required setbacks for the Zoning District.

**g. Seasonal Use**

No food vending trailers, trucks, and carts shall operate later than October 31<sup>st</sup> or earlier than April 1st in any year.

**h. Location Plan**

All applications for food vending trailers, trucks, and carts shall include a sketch indicating the location where business will be conducted. The required parking for employees and customers of the food vendor shall be shown on the location plan. The layout must be sketched to scale on the Assessor's map or if available, on an existing A-2 survey of the proposed site. The location plan shall show all required setbacks, traffic flow, on site and proposed customer traffic flow.

**i. Hours of Operation**

Portable food vendors shall operate from 7:00 am to 3:00 pm, Monday through Friday, unless amended by the Commission.

**j. Signage**

All signage must be permanently attached to vending trailers, trucks, or carts. No separate free standing or temporary signs are permitted.

**k. Customer Seating**

No customer seating is permitted.

**l. Number of Vendors Permitted**

There is only one (1) portable food vendor permitted per property. The portable food vendor must be self-contained within the trailer, truck or cart. The use of extension cords or exterior propane tanks is prohibited.

**m. Statement of Use**

A written Statement of Use must be provided by the applicant indicating exactly what will be sold by the portable food vendor. The sale of items is limited to food stuff for human consumption - no magazines, trinkets, cigarettes, etc.

**n. Issuance of Permits**

The Zoning Permit may be issued by the Zoning Enforcement Officer after determination that all requirements of the regulations are met. The Zoning Enforcement Officer shall report all permits issued to the Commission at the next regularly scheduled meeting. The Zoning Enforcement Officer, at his/her discretion, may hold a public hearing on said application. The issuance of the Zoning Permit does not obviate the need to apply for and receive a permit pursuant to Town Ordinance 210 - Peddling and Soliciting, enforced by the Town of Thomaston Police Dept.

**21.9 Accessory Apartments**

**a. General Provisions**

The purpose of this section is to increase the options for rental dwelling units by allowing the construction or conversion of dwelling units in the General Commercial Zones as a special permit use.

**b. General Design Criteria**

1. All Dwelling units must be located above commercial uses. First floor commercial uses may not be converted into residential use. There shall be a distinct separation of uses on the same level.
2. A separate entrance is required for dwelling units. Main entrance(s) for residents shall not be located in close proximity to commercial loading or service areas.
3. One (1) off-street parking space shall be provided for all units up to six-hundred (600) square feet. Two (2) off-street parking spaces shall be provided for all units over six-hundred (600) square feet. Adequate lighting of both pedestrian and parking areas shall be provided. Parking requirements of Article 9 of these regulations shall be enforced for special permits under this section.
4. Adequate sound insulation shall be provided between commercial uses and residential areas.
5. Buildings shall contain a minimum of twelve hundred-fifty (1,250) square feet of commercial square footage. Each unit shall have a minimum of three hundred (300) square feet of habitable interior floor space. Each unit shall contain a full kitchen and a full bathroom.

**c. Special Permit Criteria**

The Commission shall grant all approvals subject to such conditions and safeguards as needed to carry out the expressed purpose of these regulations. The commission shall approve a special permit for mixed use residential and commercial uses only if it finds that, in addition to the design criteria, the following criteria are satisfactorily met;

1. There is a demonstrated need in the community for mixed use housing.
2. The existing business uses are compatible with residential uses, with a focus on the safety of residents within the building.
3. The internal traffic circulation pattern is designed to minimize safety hazards for residents, particularly with respect to access into and out of the property and the building.
4. Present and proposed utilities, streets, drainage system and other improvements have adequate capacity to accommodate the proposed use.
5. There is no undue concentration of high density residential development in any area.
6. All requirements of the underlying zone which are not expressly altered by the above requirements must be followed.
7. The sign regulations of the underlying zone must be followed.

**21.10 Palliative Marijuana Production Facilities**

**a. General Provisions**

The purpose of this section is to regulate the use and location of palliative marijuana production facilities to best protect public health, safety, property values and general welfare of the residents of the Town of Thomaston.

**b. Definitions**

For the purposes of this section, all terms shall have meanings ascribed to them in Connecticut General Statutes (CGS) Chapter 420f, Section 21-408, et seq. and the Regulations of Connecticut State Agencies (RCSA) Section 21a-408-1 et seq., as may be amended from time to time.

**c. Regulation**

1. Production facilities may be permitted under the provisions of Article 10 – Special Permits, provided that all cultivation be conducted indoors and remain in full compliance with RCSA Section 21a-408-1 et seq., and all other applicable State of Connecticut Laws and Regulations.
2. No palliative marijuana production facility permitted under these regulations shall be allowed to produce marijuana for any use other than palliative use sold to state licensed palliative marijuana dispensaries and shall not be allowed to produce marijuana for non-palliative or recreational purposes, regardless of any subsequent change in state or federal law.
3. A maximum of one (1) production facility shall be permitted at any time within the Town of Thomaston. Relocation of a production facility shall only be permitted under the condition that an affidavit abandoning the use at the previous location be submitted.
- 4.

5. Production facilities shall be located no less than seven hundred fifty (750) feet from any property containing a school, public building or place of worship as defined in Article 2 of these regulations.
6. In addition to State regulations governing site security, property containing production facilities must be secured at all times by fencing and gating no less than eight (8) feet in height.
7. Detailed lighting plans shall be required, showing security lighting in all parking areas and entrance/exit areas to the facility or property.
8. The permittee shall maintain a log of all employees and visitors entering or exiting the facility, and shall make such logs available to the Zoning Enforcement Officer or Chief of Police upon request. Logs shall be retained for a period of no less than three (3) years.

## **21.11 Palliative Marijuana Dispensaries**

### **a. General Provisions**

The purpose of this section is to regulate the use and location of palliative marijuana dispensaries to best protect public health, safety, property values and general welfare of the residents of the Town of Thomaston.

### **b. Definitions**

For the purposes of this section, all terms shall have meanings ascribed to them in Connecticut General Statutes (CGS) Chapter 420f, Section 21-408, et seq. and the Regulations of Connecticut State Agencies (RCSA) Section 21a-408-1 et seq., as may be amended from time to time.

### **c. Regulation**

1. Palliative marijuana dispensaries may be permitted under the provisions of Article 10 – Special Permits, provided that activities remain in full compliance with RCSA Section 21a-408-1 et seq. and all other applicable State of Connecticut Laws and Regulations.
2. No palliative marijuana dispensary facility permitted under these regulations shall be allowed to sell or dispense marijuana for any use other than palliative use sold or dispensed pursuant to a lawful prescription by a properly licensed health care professional, and shall not be allowed to sell or dispense marijuana for non-palliative or recreational purposes, regardless of any subsequent change in state or federal law.
3. A maximum of two (2) dispensaries shall be permitted at any time within the Town of Thomaston.
4. Relocation of a dispensary shall only be permitted under the condition that an affidavit abandoning the use at the previous location be submitted.
5. Dispensaries shall be located no less than seven hundred fifty (750) feet from any property containing a school, public building or place of worship as defined in Article 2 of these regulations.
6. Detailed lighting plans shall be required, showing security lighting in all parking areas and entrance/exit areas to the dispensary.
7. The permittee shall maintain a log of all dispensary employees entering or exiting the dispensary area, and shall make such logs available to the Zoning Enforcement Officer or Chief of Police upon request. Logs shall be retained for a period of no less than one (1) year.

## Text Amendments to the Zoning Regulations

1. Amended Article 4, Section 4.5, Schedule A, Part A.5 In-Law Apartments. Effective August 30, 2012
2. Added Article 4, Section 4.5, Schedule A, Part E.6, Temporary Events. Effective March 26, 2013
3. Added Article 4, Section 4.5, Schedule A, Part E.7, Temporary Liquor Permits. Effective April 24, 2013
4. Amended Article 4, Section 4.5, Schedule A, Part A.13, Accessory Apartments and added Article 28, Accessory Apartments. Effective October 22, 2013
5. Amended Articles 18 through 28 re-numbered and condensed into new article 21, Special Regulations. Also amended bonding and security language in these sections. Effective February 2, 2015
6. Added Article 21.10, Moratorium - Palliative Marijuana Production Facilities and Dispensaries. Effective February 2, 2015
7. Amended Article 5.8, Setbacks for Pools and Attached Structures. Effective January 23, 2016
8. Added new use category to Article 4.5, Schedule A, Part C for new Commercial and Manufacturing Construction. Effective January 23, 2016
9. Amended Article 2 to add new definitions for School, Public Building, Public Park and Live Entertainment. Effective February 23, 2016
10. Amended Article 4, Section 4.5, Schedule A to add uses and allowed zones for restaurants, cafés, taverns, breweries, brewpubs, and live entertainment. Effective February 23, 2016
11. Amended temporary liquor permit regulations in Article 4, Section 4.5, Schedule A, Part E. Effective February 23, 2016
12. Add new Article 21.5 regulating alcoholic beverage permits. Effective February 23, 2016
13. Amended Article 4.5, Schedule A, Part C.22 for Adult Oriented Establishments. Effective February 23, 2016
14. Comprehensive amendments to Article 21.6 – Adult Oriented Establishments. Effective February 23, 2016
15. Add new use category to Article 4.5, Schedule A, Part C for Massage Parlors. Effective February 23, 2016
16. Amendments to Article 5 – Area, Location and Bulk Standards for rear lots and lot access; related definitions added and amended in Article 2. Effective May 2, 2016
17. Add new Article 6.7 – Performance standards, outdoor lighting. Effective May 2, 2016

18. Repeal article 21.10 – Palliative marijuana moratorium and add new Article 21.10 and 21.11 for palliative marijuana producers and distributors. Effective June 30, 2016
19. Comprehensive amendments to Article 2 – Definitions and Article 4.5, Schedule A, Part A for agricultural and farming uses. Effective July 1, 2016
20. Amendments to Article 13 – Non Conformities to amend the process for certificates of non conformity, changes in non-conforming uses, extension and enlargement of non-conformities and combining of non-conforming lots. Effective July 1, 2016