

SECTION 13
SITE DEVELOPMENT PLANS AND SPECIAL PERMITS

13. Site Development Plans and Special Permits

13A. Site Development Plans

13A.1 General. Certain Uses of Premises, Buildings and other Structures, and the construction, reconstruction, Expansion, Extension, moving and Alteration of Buildings, and other Structures and site development in connection therewith, and any changes in site development of a previously approved site development plan, are permitted under these Regulations subject to the submission of a SITE DEVELOPMENT PLAN and approval of the PLAN by the Zoning Commission under this Section. In any instance involving a Use or Uses requiring a SITE DEVELOPMENT PLAN as set forth in Section 5 of these Regulations, no land or water areas shall be Used, nor Uses Altered or Expanded in space, time, or intensity, nor Buildings or Structures erected, Altered, Enlarged, or Used until the Commission shall grant such SITE DEVELOPMENT PLAN in accordance with this Section 13A, except as provided in Section 13A.4.11.

Current Regulations require such review by the Zoning Commission, but may be modified to allow review by the Planning Commission, the Zoning Board of Appeals, or some other agency. Thus, wherever the "Zoning Commission" or "the Commission" is referenced, it shall be deemed to read, "the Zoning Commission or other agency having approval authority in connection with the SITE DEVELOPMENT PLAN."

The provisions which follow establish the SITE DEVELOPMENT PLAN submission requirements and the GENERAL STANDARDS and SPECIAL STANDARDS for site development. The provisions which follow also establish the procedures for Zoning Commission administrative approval of SITE DEVELOPMENT PLANS for uses, other than Special Permit uses, for which such a PLAN is required to be submitted and approved. [From former Section 31.1, Amended Effective 4/3/95, 1/1/96, 4/1/99 and 3-7-08]

13A.2 Submission Requirements. The SITE DEVELOPMENT PLAN submission shall consist of the following:

13A.2.1 Application Form and Fee. The completed SITE DEVELOPMENT PLAN application form as adopted by the Zoning Commission, and the payment of the application fee as provided by Town Ordinance. [Added effective 3-7-08]

13A.2.2 Statement of Use. a written statement, signed by the applicant, and by the owner if different from the applicant, describing the following in sufficient detail to determine compliance with these Regulations and to establish the nature and extent of site occupancy as proposed; six (6) copies shall be submitted;

- a. a detailed narrative description as to the nature and extent of the proposed use or occupancy;
- b. provision to be made for water supply, sewage disposal, solid and liquid waste disposal, drainage and other utilities;
- c. the number of persons estimated to occupy or visit the premises on a daily basis, and the basis for determining the parking and loading requirements for the use; provisions for pedestrian access within and into the site, where appropriate;
- d. an estimate of the type of vehicular traffic and number of vehicle trips to be generated on a daily basis and at peak hours;
- e. the equipment or other methods to be established to comply with required performance standards; and
- f. disclosure of any toxic or hazardous materials to be used, stored or processed in connection with the proposed use or occupancy as identified in the U.S. Environmental Protection Agency list of priority pollutants, Section 3001 of the Resource Conservation and Recovery Act (40 CFR Part 261) or the State of Connecticut Hazardous Waste Regulations, which disclosure shall include a description of how such materials are to be managed and a report on the status of permits and approvals required from Federal, State and Town agencies having jurisdiction.

[Preceding From former Section 31.2.1, Amended Effective 3-7-08]

13A.2.3 Site Plan. a site plan prepared in accordance with the specifications and showing the information hereinafter required; six (6) copies shall be submitted.

a. Preparation. The site plan shall be clearly and legibly drawn on good quality fixed line mylar or other material that will enable production of clear prints as required by these Regulations. The site plan shall be prepared by and shall bear the name, signature, and seal of a licensed land surveyor, professional engineer, architect and/or landscape architect, each as required by law for preparation of parts of the site plan and licensed to practice in the State of Connecticut. The seal shall be impressed on all copies of the site plan presented for approval.

b. Size and Scale. The site plan shall be drawn to a scale of not less than 1" = 40' or such greater scale as may be necessary to show the site development features clearly and in detail. The parts of the site plan that are intended for approval and will be required to be endorsed and filed in the office of the Old Lyme Town Clerk shall be prepared on sheet sizes 36"x24", 24"x18" or 18"x12", and shall be printed on material acceptable for such filing.

c. Information on Plans. The information listed below is required to be shown on the site plan to the extent that the information occurs on or is applicable to the particular site or is required to demonstrate compliance with Sections 13A.3 and 13A.4 of these Regulations, unless, in accordance with Paragraph 13A.2.14 a determination is made by the Zoning Commission or other agency responsible for review of the site plan that the particular information is not required or is deferred. The title of individual site plan sheets and orientation of north arrows shall, to the extent practicable, be consistent from one sheet to the other. [Amended Effective 4/3/95 and 1/1/96]

d. General Information, as follows:

- (i) title of development.
- (ii) name and address of applicant and owner.
- (iii) north arrow, numerical and graphic scale.
- (iv) date of plan and revision dates with each revision identified.
- (v) a location map showing streets, property lines and zoning district boundary lines within 500 feet of the site, and an index map if the proposed site development is divided into sections or phases or is of such size that more than one sheet for each plan element is provided.
- (vi) a schedule specifying in square feet the area of the lot, certified by a Connecticut Licensed Land Surveyor; the area of wetlands and water courses, as determined by a Certified Soils Scientist and calculated by a Connecticut Licensed Land Surveyor; amount of floor area by use, building ground coverage and total coverage by building and paving and the basis for computation of required off-street parking and loading spaces, all for existing development, proposed development and as required by these Regulations.

e. Property Information, as follows:

- (i) the boundaries of and existing conditions on the Lot based on a survey meeting or exceeding a "Class A-2" type survey as defined in the Regulations of State Agencies adopted pursuant to Conn. Gen. Stats. §20-00b, as amended

(ii) the names of all Abutting Lot owners, as disclosed in the records of the Town Assessor.

(iii) any line delimiting a portion of the Lot to be used under the Application and any zoning District boundary on the Lot.

(iv) location, width and purpose of all existing and proposed Easements and other encumbrance lines.

(v) existing and proposed grading contours at an interval not exceeding two (2) feet, or equivalent ground elevations, based on Mean Sea Level, including identification of a bench mark at the site.

(vi) location of all Wetlands, Watercourses, rock outcrops, wooded areas, high tide line (HTL), floodway and flood hazard area boundaries, established encroachment or Building lines, and other significant physical features.

(vii) U.S.D.A. Soil Conservation Service soils type boundaries and codes.

(viii) the Zoning Commission or other agency reviewing the Site Plan may require submittal of a descriptive report, prepared by an individual qualified in the on-site (in-situ) evaluation and characterization of soils for on-site sewage disposal leaching system suitability, detailing the soils present, evaluation of the results of on-site

soil testing, location of ledge and ground water levels, and providing ratings of soils for suitability as on-site sewage disposal leaching areas (as defined in "Soil Potential Ratings Septic Tank Absorption Fields for Single Family Residences, New London County, Connecticut", dated 1986).

f. Location of Existing and Proposed Buildings and Uses, as follows:

(i) The Height, bulk, Use and location of all Buildings and Structures; typical floor plans or other plans for the use of interior spaces of proposed Buildings; location of heating, air conditioning, ventilation, and similar equipment if located outside the Building;

(ii) Signs.

(iii) fences, walls including retaining walls, including details.

(iv) Outside storage areas.

(v) supporting or Accessory Uses, including underground and overhead services and utilities, as well as any associated above ground equipment.

g. Location, Design and Dimensions for Existing and Proposed Parking, Loading and Circulation, as follows:

(i) The site plan shall include all information necessary to establish conformance with the requirements of Section 18 of these Regulations, Off-Street Parking and Truck Loading Requirements, and shall

also include the calculations utilized to determine the parking and loading areas as depicted on the site plan.

(ii) The site plan shall depict and dimension all access aisles and circulations driveways, the dimensions of all Parking and loading spaces, the total number of such spaces, and any proposed future or expansion parking or loading spaces. In addition, the site plan shall include the location, invert elevations, pipe sizes, flow calculations, and all other similar information as may be required by the Commission's engineering consultant to properly evaluate the stormwater management plan for the site.

(iii) For any site plan which depicts more than two thousand (2,000) square feet of impervious surface, be it Building areas or paved areas, the site plan shall include provisions to retain stormwater runoff so as to produce no increase in peak runoff. The methods used to meet this requirement shall be as prescribed by the Commission's engineering consultant.

(iv) The proposed design, location, and illumination level of all outdoor lighting, particularly in pedestrian and vehicular areas.

(v) sidewalks and other pedestrian ways.

(vi) fire access lanes.

(vii) specifications for parking, loading and circulation improvements.

(viii) off-site roadway improvement and traffic management facilities.

h. Signs and Outdoor Illumination, as follows:

(i) location, size, height, character and illumination of project Signs.

(ii) location, size and message of traffic management Signs.

(iii) location, height, intensity and design of outdoor luminaries, including manufacturer's specifications. [Amended Effective 4/3/95]

i. Landscaping and Open Spaces, as follows:

(i) location of existing trees of 6" caliper or more, excepting densely wooded areas shown under the requirements of Paragraph 13A.2.3e (vi) above.

(ii) location, arrangement, type and size of planting for all landscaped areas.

(iii) trees required for Parking areas and landscape strip along Street Lines.

(iv) lines delimiting areas not to be disturbed and the top and toe of graded slopes.

(v) materials for required transition landscape strips, screening of outside storage areas, including refuse collection facilities and utility lines and mechanical equipment.

- (vi) ornamental paved areas, plazas and courts.
- (vii) a schedule of new plant materials to be used by botanical and common name, size and spacing, and size at maturity.
- (viii) methods of planting.
- (ix) provision to preserve existing trees, vegetation, wetlands and water courses.
- (x) methods to protect plantings from vehicles.
- (xi) special natural features identified for preservation under Paragraph 13A.3.19 and Lot requirement modification therefor.
- (xii) significant archeological sites identified under Paragraph 13A.3.20.

j. Existing and proposed drainage, utilities and related facilities and services, as follows:

- (i) electric, telephone and cable television lines (underground and aboveground).
- (ii) storm drainage including pipe, catch basins, manholes, grates, ditches, detention basins, recharge facilities and swales and the size, specifications and inverts therefor. In any site plan requiring the erection of any structure, grading, drainage work, paving or other improvement, those aspects of the plan shall be prepared, signed, and sealed by a Connecticut Registered Professional Engineer.

(iii) facilities for subsurface sewage disposal systems, including location of seepage tests and deep test pits.

(iv) well locations and facilities for water supply.

(v) underground storage for fuel or other liquids and fill facilities and connecting lines.

(vi) base flood elevation and floor elevation data, as specified in Section 4.4 of these Regulations, based on the datum identified in paragraph 13A.3.3e(v).

- l. Non-Commercial Cutting Plan. For wooded sites, a non-commercial cutting plan in accordance with Section 11.23.4.
- m. Measures for soil erosion and sediment control in accordance with Section 16 of these Regulations.
- n. A signature block for approval by the Zoning Commission or other agency responsible for review of the site plan and date of signing.
- o. The following legend below the signature block: "The statutory five-year period for completion of all physical improvements expires on _____, 20 __."

13A.2.4

Sanitary Waste Disposal Plan. If the applicant proposes to utilize a community sewerage system, as defined in Connecticut General Statutes Section 7-245, a report from the Old Lyme Water Pollution Control Authority indicating that all requirements of Connecticut General Statutes Section 7-246f have been satisfied shall be provided. The applicant shall provide a sanitary waste disposal plan which shall include, at a minimum, the following:

- a. Report of Soil Test and Percolation Data. A Report of Soil Test Data signed by the Town Sanitarian or his representative which shall be in conformance with Section 19-13B20J (classification of soil) of the Public Health Code, as the same may be amended from time to time. All percolation tests and observation test pits for groundwater and ledge shall be dug and, tests performed, in accordance with the Technical Standards of the Connecticut Public Health Code, as the same may be amended from time to time, and shall be supervised and certified by the Town Sanitarian or his designee, who shall provide to the applicant, for inclusion with his Special Permit Application, a verified approval of the application for subsurface disposal in accordance with the Connecticut Public Health Code, as the same may be amended from time to time. At least one (1) observation test pit for groundwater and ledge shall be dug in the designated location for each and every primary and reserve leaching field. Observation test pits for groundwater/ledge shall be conducted during the months of February through May only, and the results of tests conducted during those months may be rejected by the Town Sanitarian if groundwater levels are unseasonably low; and percolation tests may be taken during any month of the year. The Sanitarian may require additional testing should, in his opinion, the existing tests not be adequate or performed during an extremely dry period. All testing shall comply with the State of Connecticut Health Code as updated and revised from time to time.

- b. Soils with Severe Limitations. If any existing soils in the immediate area of the site designated for sanitary waste disposal are classified as having "severe" limitations for on-site sewerage treatment, as set forth in the current Soil Interpretation Record of the U.S. Department of Agriculture, Soil

Conservation Service, New London County (also known as "SCS Soils-5 Form"), as the same may be amended from time to time, and in accordance with the current soils map of the said Soil Conservation Service, then a subsurface sewerage disposal plan shall be presented to the Commission. In addition to the requirements of the preceding paragraph, said plan shall specifically address the methods utilized to overcome the limitations identified in the soils of the site; shall be prepared by a licensed Connecticut Professional Engineer, and shall be accompanied by a written report of the Town Sanitarian or his representative certifying that the plan will resolve the limitations of the soils, and will pose no significant risk to the public health or safety. All sanitary waste disposal systems to be located in the immediate area of soils with "severe" limitations, as set forth above, shall have 100% replacement leaching fields at least equal in size to the original leaching fields, and the location of both the original and replacement leaching fields shall be designated on the site plan. Both the original and replacement fields shall be located in the immediate area of the percolation and deep test pits. All testing shall comply with the State of Connecticut Health Code as updated and revised from time to time.

[Preceding From former Section 32.2.3 , Except as otherwise noted, Amended Effective 3-7-08]

13A.2.5 Protection of Surface and Ground Water Supply.
Pursuant to Connecticut General Statutes Section 8-2, as amended by Public Act 85-279, every application for SITE DEVELOPMENT PLAN shall include an evaluation of the impact of the proposed development upon existing and potential public surface and ground drinking water supplies. Such evaluation shall contain, at a minimum:

- a. A statement describing the nature of the Use of any Buildings or areas of the site and

their method of solid and sanitary waste disposal.

- b. The nature of any discharges anticipated.
- c. The nature of any materials to be stored, processed, or otherwise present on the site, and the period of time for which, and conditions under which, such materials shall be present on the site.
- d. The nature of the ground or surface waters on and around the site, including any public or private domestic users of such waters, their classification, as designated by the Connecticut Department of Environmental Protection's Groundwater Classification System, and the depth to any groundwater, the nature of the soils surrounding such groundwater, and the like.
- e. Measures to be taken by the applicant to control any potential adverse impact on surface and ground drinking water supplies.
- f. Other information which might assist the Commission in determining that such waters will be protected from potential adverse impacts created or increased by the proposed development. Any such evaluation shall be prepared by a qualified geohydrologist or other professional who provides evidence satisfactory to the Commission he/she is qualified to prepare such evaluations. The Commission may refer such evaluations to any governmental agency for review and comment.

The information described in subsections (d), (e) and (f) need only be provided when the information set forth in paragraphs (a), (b) and (c) indicates the presence of materials or processes which have the potential to adversely impact groundwater.

[Preceding Added effective 3-7-08]

The SITE DEVELOPMENT PLAN shall also conform to the requirements of Section 17 of these Regulations (Aquifer Protection Regulations). Any Special Permit required under said Section for a proposed use or site development shall be obtained prior to approval of the SITE DEVELOPMENT PLAN. [From former Section 31.3.11, Amended Effective 3-7-08]

13A.2.6 Water Supply; Certificate for Community Wells. The location and design of the proposed water supply systems shall be provided, including design calculations, materials specifications, hydrostatic testing procedures, and flow testing procedures.

In accordance with Section 8-25a of the Connecticut General Statutes, as amended by Public Act 84-330, any development providing water by means of a "water company", as that term is defined in Connecticut General Statutes Section 16-262m(a), shall provide to the Commission a certified copy of a Certificate of Public Convenience and Necessity issued for the development by the Connecticut Department of Public Utility Control. No application for SITE DEVELOPMENT PLAN involving such a water company shall be deemed complete without said Certificate, unless the applicant shall provide a resolution of the Old Lyme Board of Selectmen waiving said Certificate and agreeing to be responsible for the operation of the subject water company in the event that the company is at any time unable or unwilling to provide adequate service to its consumers. [Added effective 3-7-08]

13A.2.7 Covenants and Restrictions. The applicant shall provide the text of any proposed covenants, easements, deed restrictions, and community organizations necessary to assure the fulfillment of the intent and requirements of these Regulations and the Final Development Plan as approved. [Added effective 3-7-08]

13A.2.8 Architectural Plans. Architectural plans of all proposed buildings and structures, drawn to scale,

and signs and outdoor illumination facilities unless otherwise provided in connection with the site plan, which plans may be preliminary in form but shall include exterior elevation drawings, floor plans and perspective drawings in sufficient detail to indicate the exterior building materials, color, height, bulk, stories, roof line, ornamentation and general character and the interior uses of the floor area, and special exterior features, such as Building- mounted Signs, drive-in windows, Building or roof lighting, roof drainage/gutters, and features on the interior of the Building designed to be capable of being seen from the exterior all prepared, except for drawings for Signs, by an architect or professional engineer licensed to practice in the State of Connecticut; six (6) copies shall be submitted. [From former Section 31.2.3, Amended Effective 3-7-08]

- 13A.2.9 Soil Erosion and Sediment Control Plan: A Soil Erosion and Sediment Control Plan in accordance with the provisions of Section 16 of these Regulations, which Plan may be combined with the site plan submitted under Paragraph 13A.2.3; six (6) copies shall be submitted. [From former Section 31.2.4, Amended Effective 3-7-08]
- 13A.2.10 Wetlands, Water Courses and Coastal Areas. If any part of the Lot affected by the SITE DEVELOPMENT PLAN is within the jurisdiction of the Inland Wetlands and Water Courses Regulations of the Town of Old Lyme, the report and action of the Inland Wetlands and Watercourses Commission of the Town of Old Lyme concerning any regulated activity on the lot shall be submitted with the PLAN. Any plans submitted to the Zoning Commission shall conform, in all relevant respects, to those plans submitted to the Inland Wetlands and Watercourses Commission as the same were approved, or modified and approved, by said Commission. With respect to sites within the Coastal Boundary, the requirements of Section 4.2 (Coastal Boundary) of these Regulations shall be met. [From former Section 31.3.13, Amended Effective 3-7-08]
- 13A.2.11 Traffic Impact Report. for SITE DEVELOPMENT PLANS involving 50 or more new parking spaces

or proposed uses projected to generate either more than 200 vehicle trips per day or more than 100 vehicle trips per day per 1,000 square feet of floor area, a traffic impact report, prepared by a recognized traffic engineer, indicating the expected average daily vehicular trips and peak hour volumes to be generated by all of the uses on the lot and the access conditions at the lot, distribution of such traffic to be generated, types of vehicles expected, effect upon the level of service on the street giving access to the lot and at nearby intersections and the roadway capacity and traffic management improvements needed to accommodate projected traffic; six (6) copies shall be submitted. [From former Section 31.2.5, Amended Effective 3-7-08]

13A.2.12

Additional Reports. the following additional engineering and technical reports prepared by a professional engineer licensed to practice in the State of Connecticut; six (6) copies shall be submitted;

- a. results of potable water supply analyses and tests required under Section 13A.3.9a;
- b. results of test holes and percolation tests for storm drainage and sewage disposals and the basis for design of the sewage disposal system, as required under Section 13A.3.9b;
- c. storm drainage study and runoff computations for design of storm drainage systems; and
- d. identification of source of water for fire protection, and where appropriate and based on evidence of consultation with the appropriate fire department, explanation of provision for a fire well, fire pond, water tank or other source of water adequate for fire fighting purposes; the report shall include evidence that comments from the fire department have been solicited, and considered as received.

[Preceding From former Section 31.2.6, Amended Effective 3-7-08]

13A.2.13 Other.

- a. Other Permits. a list of Federal, State, and other local agencies which have responsibility for approval of, or granting of, permits for the proposed use and site development, and identification of the current status of such approvals and/or permits;
- b. Legal Documents. draft copies of all proposed Easements and other legal documents pertaining to and/or required by the proposed Use and site development.
- c. Sufficiency of Information Presented. Any of the foregoing plans, reports, and evaluations may be presented on one or any number of separate sheets or documents, depending upon the complexity of the application. It shall be the duty of the applicant, however, to provide plans and other documents which incorporate all of the above information, and demonstrate compliance with all of the requirements and criteria of these Regulations, in a way that is clear and comprehensible to the Commission and its staff.
- d. Adequacy of Information to Establish Compliance. All applications shall contain sufficient information to permit the Commission to make the findings required in Section 13A.3 of these Regulations.

[Preceding From former Section 31.2.7 , Amended Effective 1/1/96]

13A.2.14 Review and Modification of Submission. The Zoning Commission or other agency responsible for review of the SITE DEVELOPMENT PLAN submission, upon written request by the applicant, may by resolution a) determine that the required submission of all or part of the information required under paragraph 13A.2.3 through 13A.2.13, except for Sections 13A.2.5, 13A.2.6, 13A.2.9 and 13A.2.10, is not necessary in order to decide on the application and need not be submitted or b)

determine that required submission of part of such information is deferred for submission and decision at a later date, and the Commission or other agency may otherwise determine that additional or alternate information is necessary and required to be submitted in order to make a reasonable decision on the application under the standards of these Regulations. [From former Section 31.2.8, Amended Effective 1/1/96 and 3-7-08]

13A.3 Criteria for Review of Site Development Plans. The Commission shall consider the following criteria in evaluating a SITE DEVELOPMENT PLAN. [Added effective 3-7-08]

13A.3.1 General Standards. The proposed Use, Buildings, Structures and site development shall conform to all of the requirements of these Regulations and shall be designed and arranged as follows:

- a. to protect and enhance the public health, safety, property values, and welfare, in accordance with the purposes of these Regulations (See Section 1 of these Regulations) and Chapter 124 of the Connecticut General Statutes;
- b. to conserve, to the maximum extent practical, the existing terrain, vegetation, and other natural resources of the site;
- c. to be in harmony with the character of the surrounding area, and to enhance the unique rural and historic character of Old Lyme;
- d. to protect nearby residential, historic, and environmentally fragile areas.
- e. to show that reasonable consideration has been given to the matter of restoring and protecting the ecosystem and habitat of Long Island Sound and reducing the amount of hypoxia, pathogens, toxic contaminants and floatable debris therein.

[Preceding From former Section 31.3, Amended Effective 3-7-08]

13A.3.2 Complete Application. The application shall contain all information required by this Section 13A, and the number of copies required, and said information has been prepared by persons possessing the necessary expertise to prepare it. Information shall be presented with adequate clarity and professionalism to permit the Commission to understand it and determine compliance with these criteria. The presentation of a complete application, as described herein, is the obligation of the applicant, and failure to meet this criteria shall be grounds for denial without prejudice to future, complete applications. [Added effective 3-7-08]

13A.3.3 Compliance with Regulations. The application shall conform in all respects with these Regulations, unless a certified copy of a variance from any such provision is submitted with the application, or the Zoning Enforcement Officer has issued a finding that the nonconformance is a legal, pre-existing nonconformity in accordance with Section 9 of these Regulations. Further, the application shall conform to the Old Lyme Subdivision Regulations; the Old Lyme Inland Wetlands and Watercourses Regulations, as evidenced by the submission of an Inland Wetlands Permit issued by the Old Lyme Inland Wetlands and Watercourses Commission, where required; the Public Health Code, as evidenced by a report of the Town Sanitarian or his/her authorized designee; and all relevant provisions of the Connecticut General Statutes, whether or not cited in these Regulations. [Added effective 3-7-08]

13A.3.4 Plan of Conservation and Development. The SITE DEVELOPMENT PLAN shall be in conformance with the purpose and intent of any plan of conservation and development, or supplement or amendment thereto, adopted by the Planning Commission under the provisions of Chapter 126 of the Connecticut General Statutes and pertaining to the area in which the use is to be located, particularly in regard to but not limited to the following:

- a. the provision or improvement of streets in the area of the site which the Use may

require; the provision or improvement of frontage roads used for access to the site; limitations on the location and number of access driveways; and maintenance of safety, convenience and level of service on streets, and avoidance of congestion;

- b. the setback, location and bulk of buildings and structures; the appearance of buildings and structures from any street or highway, or from other lots;
- c. the preservation of natural land form features, wetlands and water courses;
- d. the provision, location and character of landscaping;
- e. the location, character and intensity of outdoor illumination; and
- f. the extent, character, purpose and location of signs.

[Preceding From former Section 31.3.1, Amended Effective 3-7-08]

13A.3.5 Neighborhood. The Use of Premises, Buildings and other Structures, the location and bulk of Buildings and other Structures and site development shall be of a character as to harmonize with and enhance the neighborhood, to accomplish a transition in character between areas of unlike character, to protect property values and to preserve and enhance the appearance and beauty of the community. [From former Section 31.3.2, Amended Effective 3-7-08]

13A.3.6 Access and Circulation. Provision shall be made for vehicular access to the Premises and circulation upon the Premises in such a manner as to safeguard against hazards to traffic and pedestrians in the Street and upon the Lot, to avoid traffic congestion on any Street and to provide safe and convenient circulation upon the Lot and on the Street giving access to the Premises. Access and circulation shall also conform to the following:

- a. The Street giving access to the Lot shall have traffic carrying capacity and roadway improvements and traffic management facilities that are sufficient to accommodate the amount and types of traffic generated by the proposed Use, taking into account access to existing uses along the Street and existing traffic projected to the date the proposed Use will be in effect. Roadway, traffic management and other deficiencies in the Street giving access, which result in congestion or impairment of safety and convenience, may be remedied by the applicant if authorized by the owner of the Street or other traveled way.
- b. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage road driveways and traffic controls within the Street.
- c. Access driveways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any Street.
- d. Driveways into the Lot shall have suitable alignment and grade, not exceeding 10%, as well as transition grades and sight distances, for safe, convenient and efficient access and shall meet the Street Line and travel way of the Street in such a manner as to conform to the established cross section for the Street as may be specified by the Town or State of Connecticut.
- e. Where a Lot has frontage on two (2) or more Streets, the entry and exit from the Street shall be provided where potential for traffic congestion and for hazards to traffic and pedestrians are minimized.
- f. Where reasonable alternate access is available, the vehicular access to nonresidential use of a Premises shall be

arranged to minimize traffic use of local residential Streets and other traveled ways situated in or bordered by residential districts.

- g. Where topographic and other conditions permit, provisions shall be made for circulation driveway connections to adjoining Lots of similar existing or potential use 1) when such driveway connection will facilitate fire protection services, as approved by the Chief of Police and Town Fire Marshal, or their agents, and/or 2) when such driveway will enable the public to travel between two existing or potential sites, open to the public generally, without need to travel upon a Street.
- h. There shall be no more than one (1) driveway connecting from any Lot to any Street, except that 1) separate entrance and exit driveways may be provided where necessary to safeguard against hazards and to avoid congestion and 2) additional driveway connections may be provided, particularly for but not limited to large tracts and Uses of extensive scope, if traffic flow in the Street will be facilitated by the additional connection. Driveways shall not exceed 30 feet in width at the Street Line, or such lesser width as will be sufficient to accommodate the traffic to be generated, unless a greater width is required by Town ordinance or by the State of Connecticut.
- i. The Commission may require that any site plan shall provide for pedestrian walkways and circulation in commercial and industrial parking areas and around Buildings. Walkways along Streets may also be required and should be constructed of slate, brick, or concrete and be a minimum width of five (5') feet. Interior walkways should be constructed of slate, brick, or suitable paving blocks. The Commission may

permit gravel or other surfaces for interior walkways.

[Preceding From former Section 31.3.3 , Amended Effective 3-7-08]

- 13A.3.7 Existing Streets. Along an existing Street where the Lot has frontage or access, proper provision shall be made for grading and improvement of shoulders, and sidewalk areas within the right-of-way and for provision of curbs and sidewalks, as approved by the owner of the Street and in accordance with the pattern of development along the Street. Provision shall be made for turning lanes and traffic controls within the Street as necessary to provide the access specified in Paragraph 13A.3.4. [From former Section 31.3.4 , Amended Effective 3-7-08]
- 13A.3.8 Handicapped Persons. The site plan shall make proper provision for Buildings and site development that are accessible to and usable by physically handicapped persons, such as by 1) provision of walks and ramps of suitable width and grade, 2) inclined curb approaches or curbs cut flush with parking areas, 3) reserved, wide parking spaces, and d) ground level Building entrances. [From former Section 31.3.5]
- 13A.3.9 Parking and Loading. Off-street Parking and loading spaces shall be provided in number and with location and design as specified in Section 18 of these Regulations. [From former Section 31.3.6, Amended Effective 3-7-08]
- 13A.3.10 Lighting. Outdoor illumination facilities shall be designed for safety, convenience and security while minimizing sky glow, safeguarding against discomfort glare and disability veiling glare and avoiding trespass lighting and adverse effect from illumination upon the use, enjoyment and value of property and upon the appearance and beauty of the community. Building-mounted floodlights shall be discouraged. There shall be no change in the height, intensity, location, or other aspects of site or building lighting except as an amendment to any approval granted under this Section. [From former Section 31.3.7, Amended Effective 3-7-08]

13A.3.11 Sanitation. Proper provision shall be made for the water supply, sewage disposal and waste management requirements of the proposed use as follows:

- a. Demonstration of a suitable system of potable water supply to serve the proposed use shall include 1) chemical, bacteriological or other analyses and tests, performed by a licensed water analyst and which meet water standards established by the State Department of Health Services, and 2) pumping tests of the well or wells to be used, conducted for at least 12 hours, determining the yield and maximum draw down. The potable water supply system shall be approved by the Director of Health.
- b. On-site sewage disposal systems shall be designed in accordance with the Connecticut Public Health Code and standards of the Connecticut Department of Environmental Protection (ConnDEP) and with Town ordinances and regulations where applicable. The design of the sewage disposal system shall be approved in writing by the Director of Health, and by ConnDEP when applicable, prior to approval of the SITE DEVELOPMENT PLAN.
- c. Provision shall be made for collection, storage and disposal of solid wastes, accumulated in connection with the proposed use, in a manner approved by the Director of Health. Facilities for management of toxic or hazardous wastes shall be designed by a professional engineer when required by the Director of Health. Waste management shall include control of litter by means of receptacles, fences or other means.

[Preceding From former Section 31.3.8, Amended Effective 3-7-08]

13A.3.12 Storm Drainage. Provision shall be made on the Lot for the management of storm water, including

collection and disposal thereof, in the following manner:

- a. to assure the usability of off-street Parking and loading spaces;
- b. to avoid hazards to pedestrians and vehicular traffic on the Lot and in any Street;
- c. to avoid storm water flow across sidewalks and other pedestrian ways;
- d. to protect Watercourses and Wetlands from pollution, erosion and sedimentation;
- e. to avoid an amount of discharge and time of concentration of flow beyond the capacity of downstream drainage channels; and
- f. to avoid downstream flooding.

Provision shall also be made for the protection or improvement of existing water courses, channels and other drainage systems, on the Lot or downstream from the Lot, as needed to accept the proposed drainage discharge, based on sound design criteria under good engineering practice, taking into account the drainage requirements of the entire watershed in which the lot is located. Provision shall also be made on the SITE DEVELOPMENT PLAN for control of storm water runoff during construction. Analysis of increased runoff from the proposed use shall be based on the appropriate method from Chapter 9 of the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended, unless an alternative method is approved by the Commission or other responsible agency. The 100-year frequency, 24-hour duration, Type III distribution storm shall be used for runoff calculations.

[From former Section 31.3.9 , Amended Effective 3-7-08]

13A.3.13 Utilities. Electric, telephone and cable television lines on the Lot shall be installed underground unless underground installation is determined to be impractical by the Commission or other agency responsible for approval of the SITE DEVELOPMENT PLAN. Lines when necessary to be installed aboveground shall be located, landscaped or screened in a manner to harmonize with the design of the Premises. Utility services located out of

doors, such as transformers and heating and cooling equipment, shall be placed at the side or rear of Buildings being served and screened from view; and if on rooftops, shall be screened in a manner which compliments the architectural style of the Building. [From former Section 31.3.10, Amended Effective 3-7-08]

- 13A.3.14 Emergency Services. Suitable provision shall be made on the lot for access to Lots, Buildings and other Structures by fire, police and other emergency services. Suitable provision shall be made for fire wells, fire ponds, water tanks or access to other water sources for fire protection. [From former Section 31.3.12, Amended Effective 3-7-08]
- 13A.3.15 Outside Storage. See Section 11.27, Special Regulations. [From former 31.3.14 Section , Amended Effective 3-7-08]
- 13A.3.16 Total Ground Coverage. See Sections 8.2.5, and 8.8 and 8.9, Table of General Bulk Regulations. [From former Section 31.3.15, Amended Effective 3-7-08]
- 13A.3.17 Landscaping. Landscaping shall be provided and permanently maintained on the lot to conform to the standards of Section 18 (Off-street Parking and Truck Loading). and to the following:
- a. In addition to standards for landscaping heretofore specified, landscaping shall be provided and permanently maintained with an intent to reduce excessive heat, glare and dust, to provide privacy from noise and visual intrusion, to control erosion of soil and excessive runoff of stormwater, to enable recharge of groundwater and to avoid degradation of groundwater, wetlands and water courses.
 - b. All portions of the Lot not covered by Buildings and other Structures, outside storage areas, areas for off-street Parking, loading and driveways and permitted paved areas shall be suitably landscaped with trees, shrubs, lawns or other suitable landscaping or, if not disturbed by filling, grading, excavation or other construction activity, may be left as natural terrain provided any such area has trees and other vegetation and a location, size and

shape that supports the landscaping plan for the Premises.

- c. For setbacks and buffering from residential districts (including Multi-family Residence Districts), see Section 4.6, General Regulations.
- d. Any parking area accommodating 20 or more cars shall 1) be provided with interior landscaping within the paved portion of the Parking area and 2) have a landscaped area along its perimeter except where the parking area is functionally integrated with an adjoining parking area on an immediately adjacent Lot. Landscaped areas within the interior of the Parking area shall have a minimum size of 100 square feet and a minimum dimension of at least eight (8) feet. Parking areas shall contain no more than 15 spaces in a row or have more than four (4) rows across without an intervening landscaped area. Interior landscaped areas shall be planted with grass or shrubs and with at least one (1) tree for each 20 cars or fraction thereof. The perimeter landscaped area shall have a minimum dimension of five (5) feet and shall be planted with grass or shrubs and with at least one (1) tree for every 50 feet along such perimeter. All such trees shall be of not less than three (3) inches caliper and 10 feet in height when planted. Landscaping required under the following paragraph (e) may, if appropriately located, be counted to satisfy this requirement. Islands within the Parking area shall indicate and assure safe and efficient channelization of both pedestrian and vehicular traffic. The Zoning Commission or other agency responsible for approval of a SITE DEVELOPMENT PLAN may by resolution, upon request of the applicant, modify or adjust one or more of the requirements of this Paragraph for the purpose of recognizing the particular conditions of the site with respect to enhancement of growth potential of landscaping or assurance of safety of site utilization and the proper functioning of site improvements while maintaining the purpose and intent of this paragraph. (Revised 4/3/95)
- e. A strip of land on the lot along and adjacent to the street line and not less than 20 feet in width in C-10

Districts and 30 feet in width in all other Districts shall be landscaped with lawn, shrubs and/or other growing ground cover and provided with one (1) deciduous tree not less than three (3) inches caliper and six (6) feet in height for each 40 feet of lot frontage or fraction thereof. Such required landscaped strip may be crossed with driveways and sidewalks approved under the SITE DEVELOPMENT PLAN. The area in front of the lot between the street line and edge of street pavement shall also be graded and landscaped with lawn or other growing ground cover as may be approved by the owner of the street.

- f. All off-street loading bays or docks visible from any Street or Residence District shall be screened from view by means of fences, walls, embankments or evergreen shrubs or trees.
- g. Landscaping, including trees and shrubs, shall be selected, located and maintained so as to avoid sight line hazards for vehicles and pedestrians within the site and for access to the site from the street.
- h. All plant and other landscaping materials shall be provided in accordance with good landscaping practice and be suitable for survival and growth under the conditions at the site. Landscaping shall be protected from damage by motor vehicles by means of curbs, fences or other devices. Planting islands in Paved Areas shall have suitable area and dimensions to support plantings. Plant materials and landscape design are subject to approval by the Zoning Commission.
- i. Landscaping, including trees, shrubs, fences, walls and other landscape features, provided in connection with an approved site plan to comply with these Regulations shall be maintained, and replaced when deteriorated, for the full duration of the approved use on the lot. Such maintenance and replacement is a continuing requirement for compliance with these Regulations.

[Preceding From former Section 31.3.16 , Amended Effective 3-7-08, except where otherwise noted]

13A.3.18 Signs. All Signs shall conform to the standards of Section 19 of these Regulations. The following are also applicable to Signs:

- a. Signs installed on or at the Lot for the purpose of traffic management shall, to the extent practicable, have a message and be of a size and design established by the Connecticut Department of Transportation for the particular traffic management purpose.
- b. The Commission, in connection with approval of a SITE DEVELOPMENT PLAN under its jurisdiction, may 1) approve an overall Sign design program for the Premises establishing, in advance, the area, location and character of Signs and avoiding need to submit in the future each Sign for individual review and approval, and/or 2) approve a Sign program for additional Signs attached to buildings and designed to be read only by Persons who are pedestrians on the Lot, as such Signs may be needed to identify the location of particular stores, offices or other occupancies.

[From former Section 31.3.17 , Amended Effective 3-7-08]

13A.3.19 Preservation of Natural Features. The SITE DEVELOPMENT PLAN, including proposals for the location and arrangement of Buildings, Structures, driveways, landscaping, drainage, wetlands protection, Paved Areas and other development, shall be prepared with consideration for preservation of the natural assets of the Lot and to minimize changes in the elevation of existing topography. When the Zoning Commission finds that there exist on the Lot significant natural or manmade features (such as water bodies, rock formations, major trees, scenic vistas and distant views, wildlife habitats, historical or archeological sites, or unusual landscaping), the preservation of which would contribute significantly to the livability and values of the general area and thus promote the purposes of these Regulations, such Commission may, after due notice and public hearing as required by law, grant a Special Permit reducing by not more than 25% the minimum Lot shape and/or the Building Setbacks specified in these Regulations, or modifying the required location of the

square on the Lot, provided that the following requirements are met:

- a. The reduction or modification shall be only to the degree necessary to achieve such preservation;
- b. The features to be preserved shall be clearly and accurately shown on the site plan element of the PLAN and their significance described in writing as part of the PLAN submission;
- c. The precise extent of the area within which such features lie shall be accurately delineated on such site plan and this area restricted by notation on the site plan, providing for such area to be preserved in a natural or undisturbed condition;
- d. The reduced Lot shape and/or Building setback requirements and modified location of square shall be shown on such site plan and reference made to this Section of the Regulations by notation thereon; and
- e. The total Lot Area required by the Zoning Regulations remains the same.

[From former Section 31.3.18, Amended Effective 3-7-08]

13A.3.20 Significant Archeological Sites. When a Lot or Premises for which a SITE DEVELOPMENT PLAN is to be submitted has been identified by the State of Connecticut Archeologist as historically or architecturally significant, the SITE DEVELOPMENT PLAN submission shall include the location of the archeological resource, a statement as to the nature of the resource and description of measures being or to be undertaken to protect the resource. [From former Section 31.3.19, Amended Effective 3-7-08]

13A.3.21 Soil Erosion and Sediment Control. Provision shall be made in the SITE DEVELOPMENT PLAN for installation, maintenance and completion of measures for soil erosion and sediment control in accordance with Section 16 of these Regulations. [From former Section 31.3.20, Amended Effective 3-7-08]

13A.3.22 Surface and Groundwater Protection. In reviewing any site plan or use, the Zoning Commission shall consider the

impact on existing and potential public surface and ground drinking water supplies. The application may be denied if the Commission concludes that unreasonable adverse impact will result from the approval of the SITE DEVELOPMENT PLAN. [Added effective 3-7-08]

- 13A.3.23 Water Supply. No SITE DEVELOPMENT PLAN depicting a development to be served by a water company, as defined herein above, shall be approved unless and until a Certificate of Public Convenience and Necessity, or the waiver thereof by the Old Lyme Board of Selectmen, has been obtained in accordance with Section 13A.2.6 of these Regulations. [Added effective 3-7-08]
- 13A.3.24 Buildings and Structures. The overall architectural character of the Premises and Building designs shall not be detrimental to property values in the neighborhood or the Town, and shall preserve and enhance the Town's historic and rural character in terms of scale of Buildings, the preservation of scenic vistas and public access, materials used, roof lines, door and window details, site and Building lighting, street furniture, paving materials, landscaping, Signs, colors, and all other features of the site and Buildings which are visible from the exterior of any Building on the site or from Abutting Lots or Streets, or which may impact the character or quality of life on adjoining properties, in the neighborhood, or throughout the Town. In particular:
- a. Buildings and other Structures shall have an exterior design, including finish and color, that conforms to Paragraphs 13A.3.1. and 13A.3.4. The exterior walls of any Buildings that are visible from any Street or any other Lot shall present a finished appearance by means of materials consistent with the design of the Building as a whole.
 - b. No mechanical equipment shall be located on the roof of a Building, or on the ground, if visible from any Street or from any Residence District unless such equipment is housed or screened from view in a manner consistent with the architectural design of the Building.

[From former Section 31.3.21 , Amended Effective 3-7-08]

- 13A.3.25 Special Standards for WF-20 Zones. See the Special Standards for WF-20 Zones in Sections 8, including 8.4 and 8.9, Area, Yard, and Height Requirements. [From former Section 31.4, Amended Effective 3-7-08]
- 13A.4 Procedures When Commission Action on Site Development Plan is Required. No Use shall be established, Altered, Expanded, or Extended until approval of a SITE DEVELOPMENT PLAN, except as provided in Section 13A.4.11. When a Use, other than a SPECIAL PERMIT USE, is permitted in a District subject to administrative approval of a SITE DEVELOPMENT PLAN by the Zoning Commission, the following procedures, standards and conditions are applicable [From former Section 31.5, Amended Effective 4/1/99] :
- 13A.4.1 Preliminary Consideration. Prior to filing of an application for approval of a SITE DEVELOPMENT PLAN, the future applicant is invited to prepare and present for informal discussion with the Zoning Commission or its land use staff a preliminary or sketch plan of the proposed use and site development. The plan should be drawn to scale, not less than 1" = 40', and should include the location of proposed buildings, access driveways, parking lots, utilities, existing and proposed drainage, wetlands and water courses, test holes and percolation tests and data therefor, and significant natural and manmade features at the site as well as existing contours from available U.S. Geological Survey maps or other sources. While preliminary consideration is not a part of or requisite for formal application, it is expected that an informal discussion with the Commission or its land use staff will assist the applicant with the subsequent formal application, serving the purpose of presenting preliminary plans or concepts and receiving preliminary comments, observations, questions, or areas of concern. Neither the proponent nor the Commission shall be in any way bound by statements made in such informal discussions, their purpose being only to minimize delay, expense and inconvenience to the public, the proponent, and the Commission upon the future receipt, if any, of a formal application. Following any preliminary consideration, the Commission may suggest that the proposal, or certain aspects thereof, be referred to other municipal, State, or Federal agencies for review and comment, or may suggest that additional information is or will be required prior to action on a formal application. [From former Section 31.5.1, Amended Effective 4/1/99 and 3-7-08]

- 13A.4.2 Application and Fee. Application for approval of the SITE DEVELOPMENT PLAN shall be submitted in writing to the Zoning Enforcement officer, shall be accompanied by an APPLICATION for a ZONING PERMIT and shall be accompanied by the following:
- a. an application for approval of the SITE DEVELOPMENT PLAN on forms approved by the Zoning Commission and an application fee as set by such Commission pursuant to Town Ordinance and Section 20 of these Regulations.
 - b. The following persons may apply for a SITE DEVELOPMENT PLAN: An owner, or all of the joint owners, of the property upon which the Use is to be located; the prospective purchasers of such property, pursuant to a written purchase agreement, option agreement, bond for deed, or similar document, provided, however, that the said document accompanies the application and authorizes the prospective purchaser to apply for zoning permits from the Town, or, in the alternative, the written consent of the owner of the fee simple interest accompanies the application; the lessee of a leasehold interest, provided that either the written consent of the owner of the fee simple interest accompanies the application or, in the alternative, that a written lease, which must accompany the application, provides that the lessee is authorized to apply for zoning permits from the Town.
 - c. SITE DEVELOPMENT PLAN submission documents as specified in Section 13A.2.

[From former Section 31.5.2 , Amended Effective 4/1/99 and 3-7-08]

- 13A.4.3 Application Review. When received, the Zoning Commission shall review the application and SITE DEVELOPMENT PLAN submission for completeness, may consult with the applicant and may make determinations concerning the sufficiency of the submission as provided in Section 13A.2.14. Incompleteness of a SITE DEVELOPMENT PLAN submission is cause for disapproval. The Commission shall consider 1) whether a SITE DEVELOPMENT PLAN meets the General and Special Standards set forth in

Section 13A.3; and 2) the potential environmental impact of the proposed project on Town resources and on water bodies adjacent to the Town including Long Island Sound. [From former Section 31.5.3, Amended Effective 4/1/99 and 3-7-08]

13A.4.4 Notices of Consideration.

13A.4.4.1 Notices Mandated by Statute. The Commission shall notify the clerk of any adjoining municipality of the pendency of any application concerning any SITE DEVELOPMENT PLAN application in accordance with Conn. Gen. Stats. § 8-3h.

In accordance with Conn. Gen. Stats. §8-3i, in any SITE DEVELOPMENT PLAN application for any property which is within the watershed of a water company, as defined in Conn. Gen. Stats. §16-1, the applicant shall provide written notice of the application to the water company, provided such water company has filed a map showing the boundaries of the watershed on the Land Records of the Town. Such notice shall be by certified mail, return receipt requested, and shall be mailed at the time of application. The applicant shall submit evidence of such notice to the Commission at the time of application. Such water company may, through a representative, appear and be heard at any hearing on such application.

In addition to the requirements set forth in the preceding paragraphs, the Commission may, in its sole discretion, submit any plans or other information to consultants, employees, or other governmental agencies for comment and recommendations.

13A.4.5 Public Hearing. The Zoning Commission may hold a public hearing regarding any SITE DEVELOPMENT PLAN submission if, in its judgment, circumstances warrant such hearing. The Zoning Commission shall give notice of the hearing in the same manner as required by law for hearings on Special Permits. (Conn. Gen. Stats. §8-3c.)

[From former Section 31.5.4 , Amended Effective 4/1/99 and 3-7-08]

In the event that public hearing is scheduled, the applicant shall also notify all Abutting landowners of record of the date, time and place of the public hearing of the Commission at which said SITE DEVELOPMENT PLAN is to be considered no less than ten (10) days preceding the date of said hearing, and shall submit proof to the Commission of such notification. No notice shall be required for the continuation of a public hearing once it has been opened. [Added effective 3-7-08]

13A.4.6

Action and Notice. The Commission shall review the application for conformance with the criteria of this Section 13A. The Commission may approve, modify and approve, or disapprove the application. If the Commission determines that the application is incomplete, the same may be denied without prejudice to any future complete application. If such re-application is made within one (1) year of the denial without prejudice, the Commission may, in its sole discretion, waive all or a part of the application fee to reflect the cost of staff review expenses previously performed.

The Commission may approve any application subject to certain stipulations and/or conditions of approval as it may deem necessary and desirable for the purpose of preventing or diminishing any noncompliance with the criteria set forth in this Section 13A. Such conditions may specifically include hours of operation, restrictions on days of the week, and similar restrictions as to time. Where appropriate (e.g., for non-structural uses such as tag sales, outdoor events, and the like), the Commission may grant a SITE DEVELOPMENT PLAN which is temporary and will be effective only commencing on, or terminating on, specified dates.

The Commission shall state, upon the record, the reasons for its action, and shall publish notice of such action as required by Connecticut General Statutes. The Commission shall, in addition, send written notice of its decision under the signature of the Commission's Secretary or clerk, by certified

mail, to the applicant within fifteen (15) days of its action. A copy of the decision shall also be transmitted by the Zoning

Commission to the Zoning Enforcement Officer.
[From former Section 31.5.5, Amended Effective 4/1/99 and 3-7-08]

13A.4.7 Filing of Site Plan. A copy of the site plan element of an approved SITE DEVELOPMENT PLAN, and as such PLAN may have been required by the Zoning Commission to be modified, shall be made on translucent polyester film .003 mil thick or better and presented to the Zoning Commission for endorsement of its approval within sixty-five (65) days of such approval. The following are applicable to endorsement and filing of the site plan:

- a. Upon receipt of such copy of the site plan, together with executed copies of any required legal documents in form for recording and the posting of any completion bond required under Section 13A.4.9, the Chairman, Vice Chairman, or Secretary of the Zoning Commission shall endorse the approval of such Commission on such copy and note thereon the date of such endorsement and, as required by Section 13A.4.8, the date of expiration of the period allowed for completion of the work. The applicant shall then be notified by the Zoning Commission that such endorsed copy of the site plan and executed copies of any required legal documents may be obtained from its clerk.
- b. The applicant shall then file in the office of the Old Lyme Town Clerk such endorsed copy of the site plan and shall record in such office any required legal documents received from the Commission's clerk, such filing to take place within 90 days from the date of the endorsement approving such site plan; provided, however, that the Zoning Commission may, by majority vote, extend the time of such filing for up to two (2) additional consecutive period of 90 days, during which periods the approved site plan shall remain valid.

- c. Filing and recording fees shall be paid by the applicant, and the applicant shall, as promptly as filing and recording procedures permit, furnish the Zoning Commission's clerk a memorandum stating the date when the endorsed copy of the site plan was filed and each required legal document was recorded together with the map number(s) assigned to such site plan and the number and page of the volume in which each such legal document was recorded. No ZONING PERMIT shall be issued for the proposed use of the land involved in the proceeding until the aforementioned documents have been recorded.

[From former Section 31.5.7, Amended Effective 4/1/99 and 3-7-08]

13A.4.8 Commencement and Completion of Work. See Section 9.7, Nonconforming Lots, Uses, Buildings, and/or Structures, concerning expiration of Site Plan Approvals. [From former Section 31.5.8, Amended Effective 3-7-08]

13A.4.9 Posting of a Completion Bond. The Zoning Commission as a condition of approving a SITE DEVELOPMENT PLAN may require that the applicant, within 90 days from the date of the endorsement approving the site plan element of such Plan, file with the Treasurer of the Town of Old Lyme a completion bond in an amount approved by the Zoning Commission as security for the satisfactory completion of all of the work shown on such site plan element.

- a. Term and Form of Bond. Such bond shall refer to and identify the various site plan sheets, shall be for a term expiring no earlier than 90 days after the planned completion date of the project, and shall remain in full force and effect until modified or released by the Zoning Commission. The form of the bond shall be satisfactory to legal counsel for the Zoning Commission.
- b. Continuing Effectiveness. Such bond shall remain in full force and effect, regardless of future ownership of the property being developed, until released by vote of the Zoning Commission. The site plan element filed in the office of the Old Lyme Town Clerk shall so state. Where the Zoning Commission deems it appropriate, it may authorize release of bonding in stages. The Commission shall

not authorize final release of a bond until after it shall have received written certification from the applicant and from the Commission's engineer or other technical staff member designated by the Commission that all of the requirements of the SITE DEVELOPMENT PLAN have been met. [Amended Effective 4/3/96]

- c. Prerequisite to Field Work. No field work implementing an approved SITE DEVELOPMENT PLAN shall commence until the required completion bond in content and form acceptable to the Zoning Commission shall have been filed with the Town Treasurer.

[From former Section 31.5.9, Amended Effective 4/1/99 and 3-7-08, except as otherwise noted]

13A.4.10 Minor Changes to Site Development Plans. The Zoning Enforcement Officer shall have the authority to approve minor changes to an approved Site Development Plan if in the judgment of the Zoning Enforcement Officer such changes do not alter the character, quality, density, intensity, types of uses, amenities or other major features of the Site Development Plan as approved, and such changes are in conformity to the requirements of these Regulations. [From former Section 31.5.10 , Amended Effective 9/1/96 and 3-7-08]

13A.4.11 Major Changes to Site Development Plans. If the Zoning Enforcement Officer determines that changes in the Site Development Plan, or any change of Use within a Building or Structure or on a Lot, may alter the overall character, quality, density, intensity, uses, amenities, traffic generation, parking facilities or other major features of the Site Development Plan as approved, said modification shall be made only after approval thereof by the permitting agency. The permitting agency may determine that the modifications are so substantial as to require a new application. [From former Section , Amended Effective 9/1/96]

13.B Special Permits

13B.1 General. Certain uses of land, Buildings and other Structures, and the construction, reconstruction, Extension, moving and Alteration of Buildings, and other Structures and site development in connection therewith, and any changes in site development of a previously approved site development plan, are, as specified in Section 5 of these Regulations, permitted in a District subject to the securing of a Special Permit from the

Zoning Commission, Planning Commission or Zoning Board of Appeals as designated on such SCHEDULES. The provisions which follow establish the application and submission requirements, the GENERAL STANDARDS and SPECIAL STANDARDS applicable to Special Permits and the procedures to be followed by such Commission or Board, hereinafter referred to, for simplicity, as "the Commission.". [From former Section 32.1, Amended Effective 1/1/96, 4/1/99 and 3-7-08]

13B.2 Purpose and Requirement; Waiver.

13B.2.1 Purpose. Uses permitted as Special Permit uses subject to the approval of the Commission are deemed to be permitted uses in the districts specified, subject to the satisfaction of the requirements and standards of this Section. Special Permit uses that may be permitted in a District are unusual uses which under favorable circumstances will be appropriate, harmonious and desirable uses in the District but that possess such special characteristics that each use must be considered as an individual case. [From former Section 32.2 , Amended Effective 3-7-08]

13B.2.2 Special Permit Requirement; Waiver. In any instance involving a Use or Uses requiring a Special Permit as set forth in Section 5 of these Regulations, no land or water areas shall be Used, nor Uses Altered or Expanded in space, time, or intensity, nor Buildings or Structures erected, Altered, Enlarged, or Used until the Commission shall grant a Special Permit in accordance with this Section 13B, or amend a previously granted Special Permit.

The Commission may waive the requirement for a Special Permit where it finds that: (a) One Special Permit Use is being substituted for another similar Use on the same Lot which was previously granted a Special Permit by the Commission; (b) The new Use will require no greater parking or loading than the original, as set forth in Section 18 of these Regulations; (c) The new use shall entail no exterior change to the Building or Premises; and (d) The new Use shall have no impact on the site, the neighborhood, or the Town which is different from the original, such impact to be measured by the standards set forth in Section 13B.4 of these Regulations.

[Added effective 3-7-08]

13B.3 Application Procedure.

13B.3.1 Informal Discussion. Any proponent of a use permitted by Special Permit may request the opportunity to place such proposal on the agenda of a regular or special meeting of the Commission for the purpose of presenting preliminary plans or concepts and receiving preliminary comments, observations, questions, or areas of concern. Neither the proponent nor the Commission shall be in any way bound by statements made in such informal discussions, their purpose being only to minimize delay, expense and inconvenience to the public, the proponent, and the Commission upon the future receipt, if any, of a formal application for Special. Following any informal discussion, the Commission may suggest that the proposal, or certain aspects thereof, be referred to other municipal, State, or Federal agencies for review and comment, or may suggest that additional information is or will be required prior to action on a formal application for Special Permit. [Added effective 3-7-08]

13B.3.2 Who May Apply. The following Persons may apply for a Special Permit: An owner, or all of the joint owners, of the property upon which the Use is to be located; the prospective purchasers of such property, pursuant to a written purchase agreement, option agreement, bond for deed, or similar document, provided, however, that the said document accompanies the application and authorizes the prospective purchaser to apply for zoning permits from the Town, or, in the alternative, the written consent of the owner of the fee simple interest accompanies the application; the lessee of a leasehold interest, provided that either the written consent of the owner of the fee simple interest accompanies the application or, in the alternative, that a written lease, which must accompany the application, provides that the lessee is authorized to apply for zoning permits from the Town.

13B.3.3 Application. Application for a Special Permit shall be submitted in writing to the Zoning Enforcement Officer, shall be accompanied by an APPLICATION for a ZONING PERMIT and shall also be accompanied by the following:

- a. Application and Fee. an application for approval of a Special Permit on forms approved by the Commission or Board having jurisdiction and signed by the applicant and by the owner if different from the applicant, and an application fee as set by

such Commission or Board pursuant to Town Ordinance and Section 20.11. [From former Section 32.3.1, Amended Effective 3-7-08]

- b. Site Development Plan. A site plan and other documentation consisting of the Statement of use, Site Plan, Architectural Plans, Soil Erosion and Sediment Control Plan, Traffic Impact Report and other reports and lists as specified in Section 13A.2 of these Regulations for Site Development Plans. Six (6) copies shall be submitted. The Commission is aware of the holding in the case of SSM Associates Limited Partnership v. Plan & Zoning Commission 211 Conn. 331, 334 (1989). The reference herein to Section 13A.2 is for convenience only to avoid the repetition of the information contained there, and shall not be construed as creating a separate application or request for Site Development Plan review. The materials required to be submitted in connection with a Special Permit application are to allow the Commission to evaluate the Special Permit and determine compliance with the standards of this Section 13B. [From former Section 32.3.2, Amended Effective 3-7-08]

13B.3.4 Review and Modification of Submission. The Commission, upon written request by the applicant, may by resolution 1) determine that the required submission of all or part of the information required under Section 13A.2. is not necessary in order to decide on the application and need not be submitted or 2) determine that required submission of part of such information is deferred for submission and decision at a later date, and the Commission may by resolution otherwise determine that additional or alternate information is necessary and required to be submitted in order to make a reasonable decision on the application under the standards of these Regulations. [From former Section 32.3.3, Amended Effective 3-7-08]

13B.3.5 Complete Application. A complete application shall consist of the application form and fee, together with the required information set forth in this Section 13B. The date of receipt of any such application shall be the next regularly scheduled meeting of the Commission or thirty-five (35) days following, the submission of such application, whichever shall first occur. [Added effective 3-7-08]

13B.3.6 Notices Mandated by Statute. The Commission shall notify the clerk of any adjoining municipality of the pendency of any application concerning any Special Permit in accordance with Conn. Gen. Stats. § 8-3h.

In accordance with Conn. Gen. Stats. § 8-3i, in any Special Permit application for any property which is within the watershed of a water company, as defined in Conn. Gen. Stats. §16-1, the applicant shall provide written notice of the application to the water company, provided such water company has filed a map showing the boundaries of the watershed on the Land Records of the Town. Such notice shall be by certified mail, return receipt requested, and shall be mailed at the time of application. The applicant shall submit evidence of such notice to the Commission at the time of application. Such water company may, through a representative, appear and be heard at any hearing on such application.

13B.3.7 Notice to Abutting Owners. The applicant shall also notify all Abutting landowners of record, as disclosed by the Assessor's records, of the date, time and place of the public hearing of the Commission at which said Special Permit is to be considered no less than ten (10) days preceding the date of said hearing, and shall submit proof to the Zoning Enforcement Officer of such notification. No notice shall be required for the continuation of a public hearing once it has been opened. [Added effective 3-7-08]

13B.3.8 Submission for Review. In addition to the requirements set forth in the preceding paragraph, the Commission may, in its sole discretion, submit any plans or other information to consultants, employees, or other governmental agencies for comment and recommendations. Any application reviewed by the Zoning Commission or the Zoning Board of Appeals may be referred to the Planning Commission for review and report. [From former Section 32.9.1, Amended Effective 3-7-08]

13B.3.9 Time Limits. The Commission shall, within sixty- five (65) days of receipt of any application, schedule a public hearing thereon, said public hearing to be noticed in accordance with the requirements of the Connecticut General Statutes. The applicant or his/her authorized representative shall attend the public hearing, and the absence of the applicant or his/her authorized

representative shall be proper grounds for the denial of the application. Said public hearing may be held open for no more than thirty-five (35) days following the opening thereof. Within sixty-five (65) days following the close of said public hearing, the Commission shall act upon said application. The applicant may request an extension of any of the time limits set forth in this paragraph for a period not to exceed a cumulative total of sixty-five (65) days. These time limits are in accordance with Connecticut General Statutes as of the time of adoption of these Regulations; any subsequent amendment to such Statutes shall control, and be used in place of the preceding, without amendment of these Regulations. [From former Section 32.9.2 , Amended Effective 3-7-08]

13B.4 General Standards. The proposed SPECIAL PERMIT Use, Buildings and other Structures and site development shall conform to all of the requirements of these Regulations including the following GENERAL STANDARDS and any SPECIAL STANDARDS that may be contained in Section 11 (Special Regulations) for particular Uses:

13B.4.1 Complete Application. The application shall contain all information required by this Section 13B, and the number of copies required, and said information has been prepared by persons possessing the necessary expertise to prepare it. Information shall be presented with adequate clarity and professionalism to permit the Commission to understand it and determine compliance with these criteria. The presentation of a complete application, as described herein, is the obligation of the applicant, and failure to meet this criteria shall be grounds for denial without prejudice to future, complete applications. [Added effective 3-7-08]

13B.4.2 Compliance with Regulations. The application shall conform in all respects with these Regulations, unless a certified copy of a variance from any such provision is submitted with the application, or the Zoning Enforcement Officer has issued a finding that the nonconformance is a legal, pre-existing nonconformity in accordance with Section 9 of these Regulations. Further, the application shall conform to the Old Lyme Subdivision Regulations; the Old Lyme Inland Wetlands and Watercourses Regulations, as evidenced by the submission of an Inland Wetlands Permit issued by the Old Lyme Inland Wetlands and Watercourses Commission, where required; the Public Health Code, as evidenced by a report of the Town Sanitarian or his/her authorized designee; and all relevant

provisions of the Connecticut General Statutes, whether or not cited in these Regulations. [Added effective 3-7-08]

- 13B.4.3 Conformance with Criteria of Section 13A.3. Any application for Special Permit shall, at a minimum, conform to all of the GENERAL STANDARDS for SITE DEVELOPMENT PLANS of Section 13A.3. Those standards and criteria are considered the basic ones for all Uses and Premises in Old Lyme, other than Uses permitted as of right, with the criteria of this Section 13B.4 being over and above those of Section 13A.3. [From former Section 32.4.5, Amended Effective 3-7-08]
- 13B.4.4 Character. The location, type, character and extent of the Use and of any Building or other Structure and site development in connection therewith shall be in harmony with and conform to the appropriate and orderly development of the Town and the neighborhood and shall not hinder or discourage the appropriate development and Use of adjacent property or impair the value thereof. [From former Section 32.4.1]
- 13B.4.5. Lot Size. The Lot on which the use is to be established shall be of sufficient size and adequate dimension to permit conduct of the Use and provision of Buildings, other Structures and facilities in such a manner that will be in harmony with and not be detrimental to the neighborhood or adjacent property. [From former Section 32.4.2]
- 13B.4.6 Landscaping. The Premises will be suitably landscaped to be in harmony with adjacent Lots and the character of the neighborhood. [From former Section 32.4.3]
- 13B.4.7 Access. The traffic to be generated by the Use and the provision to be made for vehicular access to the Lot shall assure safety and convenience on the Street and a level of vehicular traffic consistent with the pattern of traffic in the neighborhood. The nature and location of the Use, Buildings, Structures and site development shall be such that there is adequate access for fire protection purposes and within the equipment capability of the applicable fire department. The Commission may require that any site plan shall provide for pedestrian walkways and circulation in commercial and industrial parking areas and around Buildings. Walkways along Streets may also be required and should be constructed of slate, brick, or concrete and be a minimum width of five (5') feet. Interior walkways

should be constructed of slate, brick, or suitable paving blocks. The Commission may permit gravel or other surfaces for interior walkways. [From former Section 32.4.4, amended effective 3-7-08]

13B.4.8 Traffic Access. All driveways, parking areas, paths, and sidewalks shall be interconnected and/or combined, where possible, with adjacent parking areas, driveways, paths and sidewalks for similar uses, to minimize curb cuts and to maximize pedestrian and vehicular movement between adjacent sites without excessive curb cuts, access movements, and congestion. Provision shall be made for such interconnection, and for the extension of any road or driveway, terminating at or upon the subject site so as to serve adjacent undeveloped land in the same or a comparable zone. Such provision shall include rights-of-way to the Town and/or to the adjacent property owner(s). No driveway onto a public street shall exceed thirty (30') feet in width, excluding the radius fillets at the point of intersection with the street, and no proposed driveway shall be closer than one hundred (100') feet to any other existing or proposed driveway, unless the site is of such width that compliance with this requirement would preclude access, in which case the separating distance between driveways shall be the maximum feasible for the site. In the interests of public safety, the number of driveways onto public streets shall be minimized, and, in non-residential zones, access to adjacent sites shall be by common driveways wherever feasible. The Commission may require that any driveway be designed, and easements to adjacent properties be conveyed, in order to facilitate present or future sharing of such driveways. Driveway widths and site lines shall comply with State standards, where applicable. [Added effective 3-7-08]

13B.4.9 Water Supply. No site plan depicting a development to be served by a water company, as defined herein above, shall be approved unless and until a Certificate of Public Convenience and Necessity, or the waiver thereof by the Old Lyme Board of Selectmen, has been obtained in accordance with Section 13A.2.6 of these Regulations. [Added effective 3-7-08]

13B.4.10 Public Health and Safety; Environmental Protection. The site and Building plans shall be designed so as to minimize any delay, inconvenience, and expense of providing for the public health, safety and welfare, including, but not limited

to the following: Adequate access for emergency vehicles and equipment; adequate water supply for firefighting, in accordance with recommendations of the Fire Marshal or his/her designee; adequate utility capacity; Flood proofing measures which may be desirable, even if over and above the minimum requirements of these Regulations or applicable State or Federal standards; protection of the natural environment; potential environmental impact of the proposed project on Town resources and on water bodies adjacent to the Town including Long Island Sound; avoidance of glare visible from Streets or adjacent properties. [Reference to Long Island Sound from former Section 32.9.1; balance added effective 3-7-08]

- 13B.4.11 Appropriateness of Use. The proposed Use shall be appropriate for the designated location with regard to: The size and intensity of the proposed Use, and its relation to existing land Uses, and shall be such as to be in harmony with the appropriate and orderly development of the area in which it is to be situated and will not be detrimental to the orderly development of adjacent properties; the capacity of adjacent and feeder streets to accommodate peak and average traffic volumes, and special traffic characteristics of the proposed use, and the avoidance of non-residential traffic through residential Streets; the development will not hinder or discourage the appropriate development and use of adjacent land and Buildings or impair the value thereof; the obstruction of light or air, or the emission of noise, light, smoke, odor, gas, dust, and/or other offensive emissions without adequate buffering or controls; the overall impact on neighborhood property values, and the special problems of fire or police protection inherent in the proposed use; the preservation of the character of the neighborhood in terms of scale, density and intensity of Use, architectural character, and similar factors; the availability of adequate effluent disposal, water supplies, stormwater disposal systems, and other special burdens on utilities which the Use may entail; the degree of population concentration and building density resulting from the use is not excessive and existing provisions for fire and police protection, transportation, water, sewerage, schools, parks and other public requirements are adequate; the Use may be carried out so as to protect and enhance, and without the undue destruction of, valuable historic or natural resources or the pollution of lakes, streams, and other water bodies, while providing the best possible design of structures and

land uses compatible with the shape, size and topographic and natural character of the site. [Added effective 3-7-08]

- 13B.4.12 Architectural Character, Historic Preservation, Site Design. The overall architectural character of the site and Building designs shall not be detrimental to property values in the neighborhood or the Town, and shall preserve and enhance the Town's historic and rural character in terms of scale of Buildings and Structures, the preservation of scenic vistas and public access, materials used, roof lines, door and window details, site and building lighting, street furniture, paving materials, landscaping, Signs, colors, and all other features of the site and buildings which are visible from the exterior of any Building on the site or from adjoining properties or Streets, or which may impact the character or quality of life on Abutting properties, in the neighborhood, or throughout the Town. Failure to maintain any landscaped area or buffer strip required by these Regulations shall constitute a violation of these Regulations.

In multi-building commercial or industrial developments, all Buildings shall reflect a common architectural theme through the use of similar materials, roof lines, and other exterior treatments.

[Added effective 3-7-08]

- 13B.4.13 Uses In, Adjacent to, or Impacting Residential Areas. In addition to the above, in the case of any use to be located in, or directly adjacent to, or served by way of, a Residential District or area of residential uses, the Commission shall find that:

- a. The location and size of such Use, and the nature and intensity of operations involved in or conducted in connection therewith, shall be such that both pedestrian and vehicular traffic to and from and in the vicinity of the Use will not be hazardous or inconvenient to, or detrimental to the character of the said residential district or conflict with the traffic characteristics of the neighborhood. Commercial and industrial buildings shall be oriented away from residential areas and access to them shall not disrupt or disturb adjacent residential areas or residential zones. Access, parking, service areas, lighting, Signs and landscaping shall be designed so as to protect the residential character of

surrounding residential neighborhoods or residential zones.

- b. Where any Lot, or part thereof, adjoins or is separated by a street from a residential zone, the provisions of Section 4.6 (General Regulations) (concerning buffering) shall apply. In addition, the Commission may require additional setbacks or buffers for Uses which pose special potential for adverse impacts due to their hours of operation, lighting, noise, odor, and any other similar characteristics.
- c. The location and height of Buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the Premises shall be such that the Use will not hinder or discourage the appropriate development and Use of adjacent land and Buildings or impair the value thereof.
- d. No Use shall be permitted which does not meet the requirements of Section 4.5 (General Regulations) (dealing with Performance Standards) of these Regulations.
- e. No outside storage of materials, products or refuse shall be permitted unless specifically authorized by the Commission, and such authorized outside storage shall be screened in such manner as the Commission may require. All loading areas shall be oriented away from residential areas and public ways and adequately screened from view by appropriate landscaping.
- f. All buildings in multi-building developments shall be logically related to provide convenient access to a common open space.

[Preceding Added effective 3-7-08]

13B.4.14 Specific Recommendations and Requirements for Sites and Buildings. The following recommendations and requirements are provided to assist the applicant in determining the specific items which the Commission will examine in evaluating any application for Special Permit, and the preferred or required features, as the case may be:

- a. Mechanicals. All roof-mounted ventilation, heating, and air conditioning equipment, including solar collectors, should, where possible, be recessed or otherwise incorporated into the roof design so that they are not visible from any adjacent property at the height of the proposed Building.
- b. Lighting. Lighting shall be limited to that required for basic security and protection of the Premises. In public commercial, industrial and recreational developments, during operating hours, only sufficient illumination shall be provided for the safe passage and illumination of vehicles and pedestrians, being, in general, illumination to an average level of one-half footcandle per square foot. Lighting standards in most parking areas should not exceed sixteen (16') feet in height, but in no event higher than the height of the building adjacent to area to be illuminated. (See specific requirements in Section 18, Off-Street Parking and Truck Loading.) No lighting shall create glare, and the light source shall be recessed into the body of the luminaire, and shall be designed with reflectors and/or lenses to focus all light downward, with sharp cutoff on the horizontal plane, so that neither the light source nor unreasonable ambient light will be visible from beyond any property line of the site. Pedestrian ways shall be illuminated by light bollards or other low-level lighting standards with shielded light sources. All loading areas, rear entries, and other high crime areas shall be illuminated to the level of parking areas. Building-mounted lighting shall utilize shielded light sources, and shall be of a style and character which is in harmony with the character of the Town. Building-mounted flood-lights, and ornamental Building lighting are discouraged.
- c. Walkways. The Commission may require that any site plan shall provide for pedestrian walkways and circulation in commercial and industrial parking areas and around Buildings. Walkways along Streets may also be required.
- d. Landscaping and Screening. All Parking, service and storage areas shall be reasonably screened by

landscaping and/or fences or walls; the general grading, improvement and landscaping of the site shall be designed so as to protect and enhance the historic and rural character of the Town and the subject neighborhood, and to provide all-season visual buffers between the proposed use and any incompatible use of adjacent property through the use of grade separation, landscaping, buffer areas, and/or open spaces. All parking areas should include landscaped islands to direct vehicular and pedestrian circulation and to reduce the visual impact of large paved areas. All deciduous trees shall have a minimum caliper measured at breast height of two and one-half inches (2 ½" DBH), all evergreen trees shall have a minimum height of six (6') feet, and all shrubs shall be of a size at least one-third their mature potential. All artificial trees, shrubs or grass are prohibited, except for seasonal, festive, or other temporary decoration. The Commission may require that any or all buildings shall have foundation plantings.

[Preceding Added effective 3-7-08]

13B.4.15 Special Standards – Various. The proposed SPECIAL PERMIT use, and the Buildings, Structures and site development proposed in connection therewith, shall also conform to any SPECIAL STANDARDS contained in Section 11, Special Regulations; or any other applicable standards of these Regulations. [From former Section 32.5]

13B.4.16 Special Standards - Planned Residential Cluster Development. Planned Residential Cluster Development (PRCD's), and the Buildings, Structures, and site development proposed in connection therewith, shall also conform to the provisions of Section 12, Planned Residential Cluster Development. [From former Section 32.8, Amended Effective 3-7-08]

13B.5 Action on Applications

13B.5.1 Time Limits. The Commission shall, within sixty- five (65) days of receipt of any application, schedule a public hearing thereon, said public hearing to be noticed in accordance with the requirements of the Connecticut General Statutes. The applicant or his/her authorized

representative shall attend the public hearing, and the absence of the applicant or his/her authorized representative shall be proper grounds for the denial of the application. Said public hearing may be held open for no more than thirty-five (35) days following the opening thereof. Within sixty-five (65) days following the close of said public hearing, the Commission shall act upon said application. The applicant may request an extension of any of the time limits set forth in this paragraph for a period not to exceed a cumulative total of sixty-five (65) days. These time limits are in accordance with Connecticut General Statutes as of the time of adoption of these Regulations; any subsequent amendment to such Statutes shall control, and be used in place of the preceding, without amendment of these Regulations. [From former Sections 32.9.2 and 32.9.3, Amended Effective 3-7-08]

13B.5.2 Action. The Commission shall review the application for conformance with the criteria of this Section 13B. The Commission may approve, modify and approve, or disapprove the application. If the Commission determines that the application is incomplete, the same may be denied without prejudice to any future complete application. If such re-application is made within one (1) year of the denial without prejudice, the Commission may, in its sole discretion, waive all or a part of the application fee to reflect the cost of staff review expenses previously performed.

The Commission may approve any application subject to certain stipulations and/or conditions of approval as it may deem necessary and desirable for the purpose of preventing or diminishing any noncompliance with the criteria set forth in this Section 13B. Such conditions may specifically include hours of operation, restrictions on days of the week, and similar restrictions as to time. Where appropriate (e.g., for non-structural uses such as excavations, outdoor events, and the like), the Commission may grant a Special Permit which is temporary and will be effective only commencing on, or terminating on, specified dates.

The Commission may state, upon the record, the reasons for its action, and shall publish notice of such action as required by Connecticut General Statutes. The Commission shall, in addition, send written notice of its decision under the signature of the Commission's Secretary

or clerk, by certified mail, to the applicant within fifteen (15) days of its action.

[Preceding From former Section 32.9.3 , Amended Effective 3-7-08]

13B.5.3 Endorsement and Filing. Within sixty-five (65) days of the Commission/Board approval, the applicant shall submit one (1) set of final plans on a reproducible material suitable for filing in the Town Clerk's Office and six (6) sets on paper, reflecting all conditions or modifications required by the Commission, and accompanied by signed, sworn statements of the applicant's land surveyor, engineer, architect, and any other professional who has participated in the preparation of the application materials, to the effect that the plans submitted are the same as those approved by the Commission except for the depiction of modifications and conditions required by the Commission/Board in its approval vote. If, upon considering the statements and reviewing the plans submitted, the Commission shall find them to be in accordance with the final approval, and if all required accompanying documents (such as bonds, per Section 13B.6 of these Regulations) have been provided, the plan shall be endorsed by the signature of the Chairman, Vice Chairman, or Secretary of the Commission, as the case may be. Thereafter, it shall be the responsibility of the applicant to file one (1) set of endorsed final plans in the Office of the Town Clerk. In accordance with Section 8-3d of the Connecticut General Statutes, no Special Permit shall be effective until the final, endorsed plans are filed with the Town Clerk, and any plans not so filed within ninety (90) days following the Commission's vote of approval shall become null and void. Any Special Permit site plan filed in the Town Clerk's Office without the endorsement of the Commission's Chairman, Vice Chairman, or Secretary shall likewise be void. Such filing is a prerequisite to eligibility for issuance of a ZONING PERMIT for the proposed Use. The Commission may establish an effective date for the SPECIAL PERMIT, which shall be on or after the date of such filing with the Town Clerk; in the event the Commission shall fail to designate an effective date, such date shall be presumed to be the date of filing with the Town Clerk. [From former Section 32.9.4, Amended Effective 3-7-08]

13B.6 Bond. If the Zoning Commission determines that a bond is required, the applicant shall file a completion bond with the Treasurer of the Town of Old Lyme, in an amount approved by the Commission, to guarantee

satisfactory completion of work shown on any site plan element of the approved Special Permit. The form of the bond shall be satisfactory to the legal counsel to the issuing agency. The approved plans shall be cited in the bond agreement. The Bond may be released only after written certification, that all of the requirements of the Special Permit have been met, is received from the Zoning Enforcement Officer or the project engineer designated by the Commission, as the case may be. [From former Section 32.9.6., Amended Effective 4/1/99 and 3-7-08]

13B.7 Commencement and Completion of Work. See Section 9.7, Expiration of Special Permits and Variances; Zoning Permit. [From former Section 32.9.5, Amended Effective 3-7-08]

13.B.8 Conformance to Approved Plans, Specifications, and Representations; Changes; Enforcement. See Section 20, Administration and Enforcement, of these Regulations.

SECTION 14
ALCOHOLIC LIQUOR

14.1 General. The Regulations which follow pertain to the use of land, Buildings or other Structures or Premises as a "liquor establishment". Special definitions applicable under this Section are as follows:

14.1.1 Alcoholic Liquor and Permits. "Alcoholic Liquor" (alcohol, beer, spirits and wine) and the various types or classes of liquor permits referred to in this Section are as defined in Chapter 545 of the Connecticut General Statutes, as amended, known as the "Liquor Control Act".

14.1.2 Liquor Establishment. Any land, Building or other Structure or Premises where the sale of alcoholic liquor is authorized by a permit issued by the Liquor Control Commission of the State of Connecticut.

14.2 Special Permit. Liquor establishments and a change in type or class of liquor permit applicable to an existing liquor establishment are permitted only after a Special Permit therefore has been secured from the Commission. Requirement to secure such Special Permit is in addition to other requirements of these Regulations such as, but not limited to, submission and approval of a Site Development Plan for the Premises. Application for such Special Permit shall be made and the Commission act on the application as provided in Section 13B.. In addition to the standards and criteria of Section 13B, the Commission:

- a. shall determine whether or not particular requirements of this Section applicable in the various districts are met;
- b. shall give consideration to the effect of the proposed use on present and future residential, commercial or waterfront uses in the vicinity, to objectionable noise, to the manner and schedule of liquor service, to architectural features including signs, to the site plan, including landscaping, to the provision of off-street parking and to traffic safety; and,
- c. may grant the Special Permit subject to conditions deemed necessary by the Commission to protect the public health, safety and welfare and property values under the purposes of these Regulations; or
- d. may disapprove the application if found contrary to the purposes of the Regulations. No Special Permit shall be granted authorizing a liquor establishment to operate under a café permit as defined by the State Liquor Control Commission, nor shall any provision of these Regulations be construed to permit such use. [Amended Effective 2/28/97]

- e. Consumption of alcohol that is Accessory to Full Service Restaurant or a Full Service Restaurant that is Accessory to a Hotel/Motel, Inn, Country Club or Golf Course shall be by a service bar only and not by a bar at which patrons may stand or sit to be served alcoholic beverages. A “service bar” shall be defined as an area for the preparation of alcoholic beverages which are then taken by wait persons employed by the facility and delivered to customers seated at tables or other seating areas.

14.3 Residence and Rural Districts. Within a Residence or Rural District (R, MFR, and RU Districts), no land, Building or other Structure, or Premises, shall be Used as a liquor establishment except as follows:

14.3.1 A dining room in a permitted Inn or a permitted Full Service Restaurant for consumption of alcoholic liquor on the Premises under a restaurant permit, provided that the Use is located on a lot of five (5) acres or more and having not less than 3,000 square feet of lot area for each seating accommodation in the dining room or restaurant and provided further that all Buildings Used for such purpose shall be located not less than 100 feet from any property line and 50 feet from any Street Line; and such Building, if constructed after September 1, 1958 and Used for such purpose, shall not be within a 1,500 foot radius from any other Building Used for such purpose in any District.

14.4 Waterfront Business and Light Industry Districts. Within a Waterfront Business District (WF-20 District) and Light Industry District (LI-80 District), no land, Building or other Structure, or Premises, shall be Used as a liquor establishment.

14.5 Commercial Districts: Within a Commercial District (C-30, C-30S, and C-10 Districts), land, Buildings and other Structures, or Premises, may be Used as a liquor establishment subject to the following requirements:

14.5.1 Spacing from House of Worship or School. No Building, other Structure or Premises shall be Used as a liquor establishment if any entrance to such liquor establishment is located within a 200 foot or less radius from property containing a House of Worship or school building provided, however, that a Building, Structure or Premises is eligible to be used as a liquor establishment within such distance if the House of Worship or school was erected on such property after the lawful commencement of the liquor establishment Use.

14.5.2 Spacing Between Establishments. No Building, other Structure or Premises shall be Used as a liquor establishment as follows:

- a. Within a C-30S Commercial District. For the sale of alcoholic liquor for consumption on the Premises if located within a 750-foot radius of any other premises selling alcoholic liquor for consumption on the Premises, provided that all sales of alcoholic liquor allowed under this Section shall be as an accessory use to the principal use of the serving of meals at a full service restaurant, with alcohol served only to dining patrons.
- b. Within a C-10, C-30 or C-30S Commercial District: For the sale of alcoholic liquor for consumption on the premises if located within a 1500- foot radius of any other Premises used for the sale of alcoholic liquor for consumption on the Premises, except as permitted in 14.5.2a above. [Amended Effective 3/1/01 and 3-7-08].
- c. Within a C-10, C-30 or C-30S Commercial District: For the sale of alcoholic liquor for consumption off the premises if located within a 1500-foot radius of any other premises used for the sale of alcoholic liquor off the premises, which spacing requirements shall not apply to establishments having a grocery store permit for the sale of beer only. [Amended Effective 3/1/01 and 3-7-08].

The 1,500 foot and 750 foot radius requirements are measured in a straight line from any entrance of the liquor establishment to the entrance of any other liquor establishment. [Amended Effective 3/1/01 and 3-7-08].

14.5.3 Increase in Nonconformity. No Building, other Structure or Premises located within less than the 750 foot radius and the 1,500 foot radius specified in paragraph 14.5.2 and used as a liquor establishment under a permit authorizing the sale of beer only shall be changed in use to be a liquor establishment having any other type or class of liquor permit.

14.6 Termination of Liquor Establishment. If any Building, other Structure or Premises has ceased to be used as a liquor establishment, such Building, other Structure or Premises shall not again be used as a liquor establishment until a Special Permit therefor has been secured as provided in this Section, unless within 365 days the Building, other Structure or Premises shall again be occupied and actually used for a period of four (4) consecutive weeks as a liquor establishment under a liquor permit of the same type or class issued by said Liquor Control Commission and permitted by these Regulations.

[From former Section 45, Amended Effective 3-7-08, except as otherwise noted]

Rev. February 20, 2008 to add reference to C-30S in Section 14.5.

SECTION 15
EXCAVATION AND FILLING OF EARTH PRODUCTS

15.1 General, Definitions. Except as provided in this Section, there shall be no excavation, removal or deposit of Material, as defined herein, from or on any Site, as defined herein, in any District of the Town. Special definitions applicable under this Section are as follows:

15.1.1 Material. earth, topsoil, loam, peat, sand, gravel, clay, stone or other earth or mineral material.

15.1.2 Affected Area. the ground or the surface of ground which is to be removed, moved, covered over or otherwise disturbed by the excavation, removal or deposit of "material" from or on any lot or parcel in any District of the Town.

15.1.3 Site. the lot or parcel within which the "affected area" lies.

[From former Section 43.1, Amended Effective ^]

15.2. Exemptions. The following activities are exempt from the provisions of this Section:

15.2.1 excavation, removal or deposit of Material reasonably necessary in connection with the bona fide construction, alteration or repair of a Building, other Structure, a paved area or site development for which a ZONING PERMIT shall have been issued by the Zoning Enforcement Officer.

15.2.2 bona fide landscaping operations, provided that no more than 100 cubic yards of material is to be removed from, placed on, or re-graded within the Site.

15.2.3 the construction of improvements, and the changing of contours, including, but not limited to, the creation of water bodies, in accordance with subdivision construction plans and grading plans approved by the Old Lyme Planning Commission under the provisions of the Subdivision Regulations, Town of Old Lyme, Connecticut.

15.2.4 deposits resulting in the storage on the site of not more than 200 cubic yards of material.

15.2.5 normal maintenance and repair of roads and driveways.

15.2.6 normal excavation and filling of silage, manure and similar farm materials when Accessory to a Farm.

15.2.7 replenishing or adding to the sand on the beaches used for recreational purposes provided, however, that any such operation shall be subject to the Coastal Site Plan Review requirements of Section 42, the Old Lyme Inland Wetlands and Watercourses Regulations, and the issuance of any required State and Federal permits.

15.2.8 except for operations and facilities of the following types located in the Conservation Zone, any sanitary landfill operations of the Town approved by the State Department of Environmental Protection or any other facility for the disposal of solid or liquid waste approved by such Department and operated on land owned by or leased to the Town or operated under contract with the Town for the exclusive use of the Town or persons authorized by the Town to use such facility.

15.2.9 stockpiling of street maintenance material required by the Town.

15.2.10 underground installation of transmission wires and utility lines for which any required State and local permits shall have been issued.

[From former Section 43.2, Amended Effective 3-7-08]

15.3 Special Permits: Eligible Locations. The Zoning Commission, by Special Permit, granted pursuant to the provisions of this Section which follow, may permit the excavation, removal or deposit of material from or on any lot or parcel in any District of the Town provided, however, that no such Special Permit shall be issued if the affected area is in any of the categories specified in Paragraph 15.3.1. but the exclusions of paragraph 15.3.1. are not applicable to the grant of a Special Permit for the limited excavation, removal or deposit specified in Paragraph 15.3.2:

15.3.1 Locations Excluded. A Special Permit shall not be granted for excavation, removal or deposit if the affected area is in any of the following categories:

- a. the Affected Area is located in the Conservation Zone, in a Residence (R) or Multi-Family Residence (MFR) District, or within 1,500 feet of a Residence (R) or Multi-Family Residence (MFR) District.
- b. the Affected Area is located at a distance of 1,500 feet or less from the nearest boundary line of:
 - i. a lot situated outside the applicant's property containing a dwelling which is a) either occupied or fit for occupancy, not located in a Light Industry (LI) District; or

- ii. a parcel of land which has been subdivided within the past five (5) years in accordance with the Subdivision Regulations, Town of Old Lyme, Connecticut, and pursuant to a plan providing for the creation of lots to be used for residential purposes.

Distances to be determined as required above shall be measured in a straight line along the shortest distance between the edge of the Affected Area and the boundary line of the Zoning District, Lot, or Parcel of land involved in the measurement.

15.3.2 Limited Activity in Excluded Locations. A Special Permit, however, may be granted for limited excavation, removal or deposit in locations excluded under Paragraph 15.3.1. when the activity meets the following requirements:

- a. is located outside the Conservation Zone and will not take more than three (3) months to complete and is not one of a series of such projects on the same Lot which will take more than the aforesaid number of months to complete; or
- b. is located outside the Conservation Zone and will not result in the excavation, removal or deposit from or on the Lot of more than 1,000 cubic yards of material; or
- c. is located inside the Conservation Zone and the excavation, removal or deposit is in connection with the landscaping and grading of land for a purpose for which a Building Permit is not required and not more than 300 cubic yards of material will be excavated, removed or deposited.

[From former Section 43.3, Amended Effective 3-7-08]

15.4. Application for Special Permit. Application for a Special Permit to excavate, remove or deposit material from or on any lot in any district of the Town shall be made to the Zoning Commission by the owner of the lot on forms provided by or acceptable to the Commission and signed by the owner or owner's authorized agent. The application shall be submitted to the Zoning Enforcement Officer and shall be accompanied by the following:

15.4.1 Statement. A written statement signed by the applicant a) identifying the site by its location on the Town Map and by the name(s) and address(es) of its owner(s), b) stating the names and addresses of abutting owners as shown in the most recent Grand List, c) providing a description of the nature and an estimate of the quantity of the material to be excavated, removed or deposited, d) setting forth the estimated starting and completion dates of the work and the intended hours and days of the week

during which operations will be conducted, and e) listing the estimated number and types of trucks and pieces of machinery to be used in such operations.

15.4.2 Maps, Plans and Other Data. Four (4) copies of each of the following prepared by a professional engineer or land surveyor, as required by law and licensed to practice in the State of Connecticut:

- a. a drawing drawn to a scale of 1" = 100' showing I) the boundaries and dimensions of the site and of the Affected Area, ii) means of access to the site such as roads and driveways, iii) buildings and other structures and improvements on the site, and iv) easements and utility lines within the site. The Commission may require that such drawing meet the requirements of a Class A2 transit survey;
- b. a survey drawn to a scale of 1" = 100' showing the existing topography of the site drawn with two-foot contour intervals and disclosing all surface drainage, wetlands, water bodies and other natural features such as rock outcroppings and wooded areas;
- c. a report containing an analysis and showing the location of soil borings taken to the depth of any proposed excavation; the Commission may require additional borings if it deems the number taken to be insufficient or not properly spaced;
- d. a drawing and narrative description of measures to be taken to control erosion and sedimentation and which show i) the drainage and estimated runoff of the area to be served by any existing drainage facilities, and ii) all proposed drainage facilities and protective devices to be constructed for the purpose of preventing the collection and stagnation of water and any harmful effects upon surrounding properties from water, erosion or sedimentation in accordance with the criteria of Section 16 of these Regulations;
- e. a topographical map of the same scale and having the same contour intervals as provided for in subparagraphs a. and b. above, showing as of the time when the operation is completed, the final grades, surface drainage facilities, and landscaping, including planting and vegetation to be provided or retained;
- f. a drawing showing proposed vehicular access to the site for use in the proposed operation and proposed work roadways therein, and the location, size and type of any structures to be erected on the site; and

- g. detailed plans for any proposed blasting or storage of explosives in connection with the proposed operations.
- h. The applicant shall submit a re-use plan which will indicate the final land configuration of the parcel. In order to encourage land aesthetics, final slopes may consist of variations of 3:1 and 4:1 ratios. Said plan, subject to approval of the Commission, shall also include provision for ground cover, including top soil, reforestation and seeding. Said re-use plan shall indicate: a) Proposed final condition of the land and its usefulness for development in accordance with the zoning of the premises, based on the remaining natural resource conditions after restoration; b) Improvements to the land resulting from the excavation operation; and c) Evidence (such as borings) that adequate cover will remain over bedrock to permit development of the premises in accordance with its zoning, including adequate depth for drainage, septic systems, and other utility installation.
- i. The applicant shall submit the anticipated haul pattern for the operations, which shall be approved or modified and approved by the Commission. If such haul pattern creates traffic safety hazards, and cannot be modified to remove such conditions, the Commission may deny the application.
- j. Evidence of the approval of the Excavation Operation, where required, by the Old Lyme Inland Wetlands and Watercourses Commission, and the final report of that Commission, as required by Connecticut General Statutes §8-3c.

15.4.3 Additional Information. The Zoning Commission may request the submission of such additional information as it may deem necessary in order to determine whether the public health, safety and general welfare may be endangered by the proposed operation.

15.4.4 Modification of Submission. The Commission may, by resolution, upon written request by the applicant, determine that the required submission of any part of the information required in Paragraphs 15.4.1. and 15.4.2. is not necessary in order for it to decide on the application and need not be submitted.

[From former Section 43.4, Amended Effective 3-7-08]

15.5 Procedure and Conditions for Approval. The Zoning Commission, after due notice and public hearing as required by law, may grant a Special Permit authorizing the excavation, removal or deposit of material as requested in the application, with such conditions or modifications as the Commission may require

per Sections 15.6 and 15.7 below, if the Commission finds that the following standards and conditions will be met:

- 15.5.1 The excavation, removal or deposit of material will not substantially or permanently injure or detract from the appropriate use of adjacent or nearby property or substantially or permanently impair the future usefulness of the affected area after completion of the proposed operations.
- 15.5.2 The excavation, removal or deposit of material will not detract from the public health, safety, convenience or property values.
- 15.5.3 The distances between the area or areas of the proposed excavation, removal or deposit operations and nearby properties containing dwellings are sufficient so that persons living in such dwellings will not be unduly disturbed by noise and dust emanating from such operations.
- 15.5.4 The affected area will be excavated and graded or filled and graded in accordance with the final drawings and plans submitted by the applicant including any modifications made to meet Commission requirements.
- 15.5.5 Slopes resulting from the excavation, removal or deposit to be undertaken will not exceed one (1) foot of rise for three (3) feet of horizontal distance, or such lesser slope as the Commission may specify as necessary for the public health or safety, soil stability, or for the reasonable use of the property after completion of the excavation, removal or deposit. Slopes will be maintained during operations so as not to exceed one (1) foot of rise for two (2) feet of horizontal distance whenever the site is unattended for more than two (2) weeks.
- 15.5.6 No fixed machinery will be erected or maintained on the site.
- 15.5.7 There will be no excavation or removal within 100 feet of any lot line unless such excavation or removal would result in finished grades at or above the elevation of the adjoining street or lot or the owner of the property abutting such lot line shall have consented to such excavation or removal by instrument recorded in the office of the Old Lyme Town Clerk before the approval of such Special Permit.
- 15.5.8 There will be maintained an undisturbed strip of land at least 100 feet wide between any excavated area and any inland wetlands and

watercourse and at least 50 feet wide between any excavated area and any tidal wetlands or waterways.

- 15.5.9 There will be no sharp declivities, slopes, pits or depressions, and proper drainage will be provided to avoid stagnant water, soil erosion and water pollution. Any surface water flowing from an excavated area will flow through appropriate sediment control devices before leaving the site.
- 15.5.10 At no time shall more than five (5) acres, or ten (10%) percent of the premises, whichever is less, be left in an unrestored condition, unless expressly authorized by the Commission due to special circumstances such as topography, weather, or unique site conditions.
- 15.5.11 As each stage of the excavation operation is completed, that portion of the permit premises shall be graded to its final contour lines as shown on the plans, as approved by the Commission, and a layer of arable topsoil, of a quality approved by the Zoning Enforcement Officer, shall be spread over the previously excavated areas, except exposed rock surfaces, to a minimum depth of four (4") inches. The areas shall be mulched and seeded in accordance with current recommendations of the Soil Conservation Service. The cover vegetation shall be stabilized and maintained for a period of twenty-four (24) months following seeding. The Commission may authorize different restoration vegetation for areas which are to be used for recreation or agriculture.
- 15.5.12 No on-site processing of material may be permitted unless such use is expressly requested in the application, and approved by the Commission as part of the Special Permit issued hereunder. The plan submitted in support of the Special Permit shall depict the proposed location of such processing. In any event, no rock crushing or other processing of material shall occur within five hundred (500') feet of any property line or of any street. The Commission may increase or decrease such minimum setback depending on the projected lifespan of the Excavation Operation; the character and use of adjacent or nearby properties; the topography of the property, and its ability to contain or deflect noise and dust; and the presence or absence of specific measures to control noise in the Excavation Operation.
- 15.5.13 The applicant shall make provision for such highway warning signs as are reasonably required by the Commission and authorized by the State Traffic Commission or the Board of Selectmen, as the case may be.

- 15.5.14 After excavation, removal or deposit, the site will be cleared of debris and equipment removed within the time provided in the Special Permit. The site will be left in such condition that natural storm drainage will leave the property at the original natural storm drainage points and so that the area of drainage to any one point is not increased.
- 15.5.15 In the case of excavation or removal, the top layer of soil for a depth of at least four (4) inches will be set aside and retained on the site and will be re-spread over the affected area at the conclusion of the operation and, in the case of deposit, at least four (4) inches of topsoil will be spread over the affected area. No loam shall be sold from any permit premises unless the applicant can conclusively establish that the required four (4") inches of loam would remain to provide the cover specified in the preceding paragraph for all disturbed areas. Deposited soil will have the proper additions of lime and fertilizer as recommended by the New London County Soil and Water Conservation District, Inc. A suitable ground cover will be planted and grown to an erosion resistant condition upon completion of the work in accordance with the approved contour lines. Such work will be completed within the time provided for in the Special Permit.
- 15.5.16 No excavation shall occur within less than four (4') feet of the seasonal high water table. The Commission may require test borings or monitoring wells in order to determine the seasonal high water table both prior to the commencement of excavation and during the period of any SPECIAL EXCEPTION.
- 15.5.17 The affected area or an appropriate portion thereof will be enclosed within a fence of such type, height and location as the Commission may specify, if deemed necessary to meet the purpose of these Regulations.

[From former Section 43.5, Amended Effective 3-7-08]

- 15.6 Alterations of Conditions. The Zoning Commission may adjust any standards or conditions provided in Paragraph 15.5. if in its judgment such adjustment is necessary to maintain the purpose and intent of this Section. [From former Section 43.6, renumbered only Effective 3-7-08]
- 15.7 Additional Conditions. The Commission may establish such reasonable additional standards as it deems necessary to satisfy the purpose of this Section, including but not limited to a) limitations on the days of the week or the hours of the day during which any work, including any blasting, may be performed, b) limitations as to size and type of mobile machinery to be used, c) limitations on

the place and manner of disposal of excavated material, d) requirements as to the control of dust, noise and lighting, and e) limitations on the type of fill material permitted for deposit. [From former Section 43.7, renumbered only Effective 3-7-08]

15.8 Bond. When a Special Permit is approved under this Section, the applicant shall post a bond or otherwise provide suitable security acceptable to and to be held by the Treasurer of the Town of Old Lyme, in form approved by Town Counsel and in an amount approved by the Commission as sufficient to guaranty compliance with the provisions of the Special Permit. [From former Section 43.8, renumbered only Effective 3-7-08]

15.9 Periodic Reports. The Commission may require the holder of the Special Permit issued under this Section to submit periodic reports, prepared by and bearing the seal of a Connecticut licensed land surveyor or professional engineer, showing the status and progress of the excavation, removal or deposit. [From former Section 43.9 renumbered only Effective 3-7-08]

15.10 Duration of Special Permit. Any Special Permit issued under this Section on or after March 7, 1988, shall be valid for a period of two (2) years or for such shorter period as may be requested by the applicant or fixed by the Commission. At the expiration of the period for which a Special Permit has been issued, or at the expiration of any extension of such Special Permit, and after a public hearing, the Commission may extend, or further extend, such Special Permit upon and subject to the terms and conditions of this Section for up to another two (2) year period if the applicant and his property meet the requirements then prevailing for the issuance of a Special Permit under this Section and provided the applicant can show that the operations undertaken on his property relating to the excavation, removal or deposit of material conform to the provisions of the Special Permit last granted the applicant. The Commission shall be empowered to grant such a extension upon and subject to the terms and conditions of this Section notwithstanding the fact that the affected area is located as follows:

- a. in a Rural (RU) District which the Commission has found to have become residential in character, or
- b. at a distance of 1,500 feet or less from the nearest boundary line of a lot containing a dwelling, or
- c. at a distance of 1,500 feet or less from the nearest boundary line of a parcel of land subdivided for residential purposes,

if the applicable state of facts described opposite subparagraphs a., b. or c. above shall have come into existence after the Special Permit sought to be extended was first granted.

[From former Section 43.10, renumbered only Effective 3-7-08]

- 15.11 Expansion of Existing Operations. The expansion or proposed expansion of any operation involving the excavation, removal or deposit of material into any area beyond the boundaries of the lot owned by or leased to the person, firm or other entity conducting such operation at the time of the adoption of this Section shall be subject to all of the provisions of such Section as respects the area of such expansion. Excavation or removal operations which are being conducted at the time of the adoption of this Section shall not be extended within the lot where conducted in a manner which would contravene the restrictions set forth in Paragraph 15.5.7 and 15.5.8 of this Section except as allowed by permits issued prior to such adoption while they remain in force. [From former Section 43.10, Amended Effective 3-7-08]
- 15.12 Termination of Existing Operations. In the interest of public safety and the protection of the environment, the area affected by any excavation, removal or deposit operation which is being conducted at the time of the adoption of this Section shall at the conclusion of such operation be placed by the owner of such property in a condition as follows:
- a. the area shall be free of debris and equipment;
 - b. proper drainage shall have been provided for the area to prevent water stagnation, soil erosion or water pollution from occurring;
 - c. no slope within the area shall exceed one (1) foot of rise for two (2) feet of horizontal distance;
 - d. the area shall have been, or will be, shielded from public view from nearby streets as a consequence of appropriate landscaping such as the planting of trees or bushes on the periphery of the area;
 - e. and whenever soil conditions permit, or if the owner's permit in force at the time of the adoption of this Section so requires, a suitable ground cover shall have been planted within the area and grown to an erosion resistant condition.

Any excavation, removal or deposit operation which has not been actively conducted for a period of one (1) year shall be deemed to have been terminated and the owner of the property within which such operation was conducted shall comply with the provisions of this Paragraph 15.12 and complete the work of so doing within nine (9) months from the end of such one (1) year period. The Zoning Commission may, upon written request, modify any of the requirements of this Paragraph 15.12 if, in its judgment, compliance would place an undue burden upon the property owner. However, the provisions of this Paragraph 15.12 shall not be deemed to relieve such owner of the duty of complying with the provisions of any Special Permit in force regarding site restoration following termination of any excavation, removal or deposit operation.

[From former Section 43.12, renumbered only Effective 3-7-08]

15.13 Permits for Existing Operations. ZONING PERMITS will be required for the continuation of any excavation, removal or deposit operation not exempted by Paragraph 15.2 which is legally in existence at the time of the adoption of this Section and for which a ZONING PERMIT or Special Permit shall not have been issued. Such operations shall not, however, be subject to the restrictions on land use imposed by this Section except that they shall comply with the requirements of Paragraphs 15.11 and 15.12 (including Paragraphs 15.5.7 and 15.5.8 to the extent incorporated in Paragraph 15.11). Such PERMITS will be authorized by the Zoning Commission for periods of up to two (2) years, shall not require a public hearing, and shall be renewable. A presently existing permit or Special Permit issued before March 7, 1988, for an excavation, removal or deposit operation shall be valid until its expiration date, but the holder thereof shall comply with the requirements of Paragraph 15.11 and 15.12 (including Paragraphs 15.5.7 and 15.5.8 to the extent incorporated in Paragraph 15.11.) in addition to any other requirements set forth in such existing permit or Special Permit, provided, however, that if such a permit contains requirements respecting site restoration to be undertaken when such permit and/or the operations conducted thereunder terminate, the permittee, upon complying with such requirements, shall be relieved of the obligation of complying with the site preservation and restoration requirements of Paragraphs 15.11 and 15.12. [From former Section 43.13, Amended Effective 3-7-08]

15.14 Extension of Permits Issued Under Repealed Art. III, Sec. F.16, Expanding the Scope of an Earlier Permit. Upon written request of the permittee, the Zoning Commission, after due notice and public hearing, may extend or further extend for up to two (2) years any permit in effect at the time of such request which expanded the scope of a permit issued before March 7, 1988, pursuant to Section F.16 of Article III of the Zoning Regulations in effect immediately prior to the effective date of these Regulations, any such extension to be upon and subject to the same terms and conditions as are set forth in the permit sought to be extended except as respects its termination date and except as the Commission may, in its discretion, desire to otherwise modify or supplement such terms and conditions in order to satisfy the terms of this Section. In determining whether to grant such an extension, the Commission shall be guided by the standards set forth in Paragraphs 15.5.1 through 15.5.3 of this Section. [From former Section 43.14, Renumbered only Effective 3-7-08]

15.15 Date of Adoption of this Section. References herein to the time of adoption of this Section 15, or its predecessor Section 43, and similar references shall be deemed to refer to March 7, 1988, when this Section, prior to codification and subsequent amendment, became effective. [From former Section 15.15, Amended Effective 3-7-08]

SECTION 17
AQUIFER PROTECTION REGULATIONS

Purpose. The purpose of this Section 17 is to protect existing and future public water supplies and the quality of both surface and subsurface waters by (1) protecting those aquifers within the Town that currently provide, or have the potential to provide in the future, water in sufficient quantities to support high volume public or community wells; and (2) protecting the quality of groundwater that replenishes individual private wells; and (3) protecting the quality of surface waters that flow to the ponds, streams, and rivers of the Town and thence to Long Island Sound. [Added effective 3-7-08.]

17A WATER RESOURCE ZONE

17A.1 General. The purpose of the Water Resource Zone is to protect the public health by preventing contamination of groundwater resources providing existing and potential potable water supply within the Town of Old Lyme. The Water Resource Zone is established as provided in Section 2.4. Special definitions applicable within the Water Resource Zone are as follows:

17A.1.1 Hazardous Material. any substance which because of quantity, concentration, or physical, chemical, or infectious characteristics, poses a significant present or potential hazard to water supplies or to human health if disposed into or on any land or water in the Town of Old Lyme; any substance designated a Hazardous Material by any federal, state or local agency having jurisdiction shall also be deemed a Hazardous Material for purposes of these Regulations. [Revised 4-3-1995.]

17A.1.2 Impervious. impenetrable by surface water.

[Preceding from former Section 34.1, Revised Effective 3-7-08, except as otherwise noted.]

17A.2 Permitted and Prohibited Uses. Within the Water Resource Zone, land, Buildings and Structures may be used for one or more of the Uses permitted in the underlying District, provided, however, that the following Uses, facilities and activities are prohibited (Code N) or are permitted subject to the securing of a Special Permit from the Zoning Commission (E-Z) as provided in Section 13B and this Section 17: [Revised 4-1-99]

	<u>Use, Facility, Activity</u>	<u>Code</u>
17A.2.1	The manufacture, use, storage, transport or disposal of Hazardous Material as a principal activity.	N
17A.2.2	A sanitary landfill, septage lagoon or wastewater treatment facility for municipal or industrial wastes.	E-Z

17A.2.3	Any exposed road salt stockpile.	N
17A.2.4	A junk yard, or truck terminal with more than 10 trucks.	N
17A.2.5	A retail dealer's station for the sale of motor fuels; motor vehicle service facility or repairer's garage having either a limited or a general repairer's license issued by the State of Connecticut; or car wash.	E-Z
17A.2.6	Marine repair shop or facility for storage or sale of marine fuels.	E-Z
17A.2.7	Dry cleaning shop.	E-Z
17A.2.8	Photography processing.	E-Z
17A.2.9	Underground storage of fuel oil, gasoline, or other Hazardous Material, except as may be permitted under Section 17B of these Regulations. [Revised 4-3-1995]	N
17A.2.10	Above-ground storage of Hazardous Material in quantities greater than associated with normal household use, other than fuel storage for building heating purposes.	E-Z
17A.2.11	Any use generating hazardous wastes in quantities greater than associated with normal household use.	E-Z
17A.2.12	A parking area for more than 200 cars.	E-Z
17A.2.13	Rendering impervious more than 30% of the total area of any lot, regardless of size.	E-Z
17A.2.14	Any use resulting in less than 30% of the total area of any lot being retained in its natural vegetative state except for minor removal of existing trees and vegetation.	E-Z
17A.2.15	Any use, other than for a single-family dwelling, having an estimated sewage discharge greater than 1,500 gallons per day.	E-Z

[Preceding from former Section 34.2, Revised Effective 3-7-08, except as otherwise noted.]

17A.3 Application for Special Permit. The application for a Special Permit under this Section 17A shall be accompanied by those materials specified in Section 13A.2 of these Regulations, and by the following as applicable to the particular use, facility, or activity:

- 17A.3.1 a complete list of all chemicals, pesticides, fuels or other potentially hazardous materials to be used or stored on the premises in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all storage containers from vandalism, corrosion and leakage, and to provide for control of spills;
- 17A.3.2 a description of all potentially hazardous wastes to be generated on the premises, including provisions for storage and disposal methods as provided in Paragraph 17A.3.1;
- 17A.3.3 for above-ground storage of hazardous materials or wastes, evidence of professional supervision of design and installation of such storage facilities or containers;
- 17A.3.4 underground piping of hazardous materials or wastes, the construction details and specifications which will allow failure determination without need for substantial excavation;
- 17A.3.5 for runoff from impervious surfaces greater than 30% of total lot area, evidence that such runoff will be recharged on site and diverted towards areas covered with vegetation for surface infiltration to the maximum extent possible; dry wells shall be used only where other methods are infeasible and shall be preceded in the course of flow by oil, grease, and sediment traps to facilitate removal of contaminants;
- 17A.3.6 for disposal on site of domestic wastewater, other than from a single-family dwelling, having an estimated sewage discharge greater than 1,500 gallons per day, evidence of qualified professional supervision of design and installation, including a narrative assessment of nitrate, coliform, and hazardous material impact on groundwater quality; and
- 17A.3.7 any additional information deemed necessary by the Planning Commission.

[Preceding from former Section 34.3]

17A.4 Criteria for Special Permit. After due notice and public hearing as required by law, the Special Permit under this Section 17A shall be granted by the Planning Commission, if the Commission determines that the purpose and intent of the Water Resource Zone has been met and that groundwater quality resulting from the proposed use, facility or activity, including on-site wastewater disposal, will not fall below State of Connecticut standards for drinking water, as defined by the requirements of Section 22a-426 of the Connecticut General Statutes and Public

Health Code Section 19-13-B102. In making such determination, the Planning Commission shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measures failed. [From former Section 34.4.]

- 17A.5 Nonconformity. The provisions of Section 9 of these Regulations shall apply to uses, facilities and activities which fail to conform to this Section 17A, or its predecessor Section 34, but which were legally and actually existing on January 4, 1988, the effective date of this Section as initially adopted. [From former Section 34.5, Amended Effective 3-7-08]

[From former Section 34, Amended Effective 3-7-08]

17B TOWN-WIDE REGULATIONS FOR THE PROTECTION OF SURFACE AND GROUND WATER

- 17B.1 Purpose. No use of land or structure shall be permitted which could pose a threat to the quality of the Town's surface waters, its ground water or its aquifers as identified and mapped by the U.S Geological Survey and classified G.A. and G.A.A. under Connecticut's water quality standards as stated in Section 22a-426 of the Connecticut General Statutes, as amended. [From former Section 48.1.]

- 17B.2 Prohibited Hazardous Materials. Manufacture, use, above-ground or underground storage or disposal of hazardous materials in significant quantities is prohibited, except as allowed in Section 17B.4 of these Regulations. For the purpose of this Regulation, hazardous materials are defined as those substances identified by the U.S. Environmental Protection Agency in Table 302.4 as listed in 40 C.F.R. Section 302.4 (1981) as amended. The amount of any substance which shall constitute a "significant quantity" of such substance is as listed in said Table 302.4. [From former Section 48.2, Amended Effective 3-7-08]

- 17B.3 Prohibited Outdoor Above and Below Ground Storage of Oil and Oil-Based Derivatives. The outdoor above-ground or below-ground storage of oil and oil-based derivatives as listed in 40 C.F.R. Section 112.2 (1981) as amended, is prohibited, except as provided in Section 17B.4 of these Regulations. [From former Section 48.3]

- 17B.4 Installation or Replacement of Heating Oil and Motor Vehicle Fuel Storage Tanks.

- 17B.4.1 Non-residential underground storage tanks for heating oil and motor vehicle fuels as regulated by Section 22a-449 of the Connecticut General Statutes and Section 22a-449(d)1. of the Regulations of the Connecticut Department of Environmental Protection may be installed or replaced with approved double-wall storage tanks, when the installations are designed and constructed in conformance with Connecticut Department of Environmental

Protection Standards and when a permit for such work is issued by the Old Lyme Building Official.

17B.4.2 Existing residential and non-residential underground and outdoor above-ground fuel storage tanks, not regulated under 17B.4.1., may not be replaced. Below-ground and outdoor above-ground storage tanks must be replaced with storage tanks located in the basement, garage or similar part of a building, provided such structure has a concrete floor. If to the satisfaction of the Zoning Enforcement Officer this required placement is not feasible, existing residential and non-residential outside above-ground fuel storage tanks not larger than 275 gallons may be replaced, provided that they are located on a solid concrete slab. This concrete slab must extend one (1) foot beyond all sides of the tank and must be sufficient in bearing the weight of the tank.

All piping shall connect to the top of the fuel oil tank and valves shall not be installed on return piping. The system shall be designed for the maximum pressure required by the fuel oil burning equipment.

All work may only commence after the issuance of a permit by the Old Lyme Building Official.

[Preceding from former Section 48.4.]

17B.5 Failures. Whenever a failure of a tank is discovered, it shall be reported to the Department of Environmental Protection, the Old Lyme Fire Marshal and the Town Building Official and shall have its contents emptied into an approved tank or container within twenty-four (24) hours. Replacement of a failed tank must be completed within thirty (30) days. Replacement shall include the removal and proper disposition of all contaminated materials and/or soils. [From former Section 48.5.]

17B.6 Abnormal Change in Tank Contents. Any abnormal loss, gain or use of stored materials shall require the immediate testing of the installation. [From former Section 48.6, Amended Effective 3-7-08]

[Preceding Section 17B from former Section 48, revised effective April 3, 1995; Amended Effective 3-7-08]

SECTION 18
OFF-STREET PARKING AND LOADING

18.1 General. All Off-Street Parking and loading spaces shall conform to the standards hereinafter specified. For any permitted use hereafter established, Parking Spaces and loading spaces shall be provided off the street for each use of land, buildings and other structures in accordance with the standards hereinafter specified. The following general requirements are also applicable:

18.1.1 Duration. Off-Street Parking and loading spaces required to be provided by this Section shall be permanently maintained and made available for occupancy in connection with and for the full duration of the use of land, buildings and other structures for which such spaces are herein required. Required spaces and access thereto shall not be encumbered by storage or display of materials or vehicles.

18.1.2 Change in Use. If any existing use of land, building or other structures is changed to a use requiring additional Off-Street Parking and/or loading spaces to comply with this Section, the additional Parking Spaces shall be provided for the new use in accordance with the standards hereinafter specified.

18.1.3 Nonconformity. Any use already existing shall continue to conform to these standards to the extent that it conforms at the time of adoption of these Regulations. Any existing use which does not conform to the standards of this Section shall not be changed to a use which would need additional Off-Street Parking and loading spaces to comply with the standards herein unless Off-Street Parking and loading spaces are provided for such new use as required by this Section.

[From former Section 41.1, Renumbered Only Effective 3-7-08]

18.2. Standards for Spaces. For the purpose of this Section, a Parking Space and a loading space shall consist of the following:

18.2.1 Parking Spaces. a space of such shape as to contain a rectangle having the following minimum dimensions and having vertical clearance, access and slope as to accommodate one (1) automobile as follows:

- a. 9.0' by 18.0' to accommodate an automobile 18' in length.
- b. 8.0' by 15.0' to accommodate an automobile 15' in length, when authorized under Paragraph 41.8.2.
- c. 15.0' by 18.0' to accommodate an automobile 18.0' in length and reserved for use by physically handicapped persons, which width may be reduced to 12.0' when the space is at the end of a row of spaces or is one of two or more such reserved spaces side by side in a row.

- d. 8.0' by 22.0' to accommodate an automobile parked parallel with and along an access or circulation driveway.

18.2.2 Loading Spaces. A space of such shape as to contain a rectangle not less than 12 feet in width and 40 feet in length and having a vertical clearance of not less than 15 feet and such access and slope as to accommodate a truck having an overall length of 40 feet, provided, however, that the space shall have greater dimensions for the type of trucks serving the premises as determined in connection with a SITE DEVELOPMENT PLAN submission.

[From former Section 41.2, Renumbered Only Effective 3-7-08]

18.3 Design and Construction Standards. All Off-Street Parking and loading spaces shall be designed and constructed in accordance with the following standards:

18.3.1 Turning. Each Parking Space shall be provided with adequate area for approach, turning and exit of an automobile having an overall length of 18 feet without need to use any part of a public street right-of-way and so that each vehicle crossing the street line is traveling in a forward direction, except that this provision shall not apply to spaces provided in connection with a detached dwelling for one (1) or two (2) families when the sole driveway access to such spaces does not connect to a State Highway. No loading space, including any truck loading bay, ramp or dock, shall be designed or arranged in a manner that a truck must use any part of a public street right-of-way to enter, back into and/or exit from such space.

18.3.2 Improvement, Surfaces, etc. All Off-Street Parking and loading spaces shall be suitably improved, graded, stabilized and maintained so as to cause no nuisance or danger from dust or from storm water flow onto any public street right-of-way. Except for driveways or Parking Spaces serving one (1) or two (2) families, or unless waived per Section 18.8.4, all Off-Street Parking lots shall be surfaced with a Dustless Surface. Except for necessary driveway entrances, and except for Parking Spaces provided in connection with a detached dwelling for one (1) or two (2) families, all Off-Street Parking and loading spaces located within 20 feet of any street or property line shall be separated from such line by a curb, a fence or wall or an embankment. Parking Spaces adjacent to sidewalks shall be provided with a curb or similar device so that cars will not overhang the sidewalk.

18.3.3 Layout. All Off-Street Parking areas shall be provided with parking stalls of suitable angle, width and length and with access aisles of sufficient width and suitable alignment to such stalls as to allow safe and convenient use of each required Parking Space. Provision shall be made for safe and convenient use of Parking Spaces and for circulation within parking areas as follows:

- a. by provision of suitable circulation driveways giving access to parking aisles and provision of suitable access aisles serving Parking Spaces;

- b. by provision for safe pedestrian circulation within parking areas;
- c. by providing for channelized traffic flow within parking areas; and
- d. by suitable markings, curbs, end islands, fences or other devices to encourage proper and efficient use of each Parking Space.

All off-street loading spaces shall be provided with a suitable angle of approach and sufficient width and length to accommodate the types of trucks expected to use the space. No loading space shall be arranged in such a manner as, when the space is in use, to block use of required Parking Spaces or block traffic along circulation driveways and access aisles.

- 18.3.4 Drainage. For uses of land other than single-family dwellings, all parking areas shall provide for proper drainage, efficient maintenance, and snow removal. In accordance with the applicable provisions of Section 4.13 (General Regulations, Stormwater Runoff Control) of these Regulations, stormwater drainage systems shall produce no increase in peak runoff by means of man-made detention ponds or existing natural areas on the site. All stormwater drainage systems shall provide for the trapping and removal of road sand and other water-borne debris. All drainage systems shall be designed to prevent the flow of stormwater onto Town or State roads.

[Added effective 3-7-08.]

- 18.3.5 Illumination. In accordance with Section 13A.3.10 (Site Development Plan, Lighting) of these Regulations, for uses of land other than single-family dwellings, all parking areas shall be illuminated to an average level of one-half footcandle per square foot. Lighting standards in parking areas shall not exceed sixteen (16') feet in height or the height of the tallest roofline of any building on the site, whichever is less. No lighting shall create glare, nor the unshielded light source be visible from any property line of the site. The same standards shall apply to maneuvering lanes and access drives. Pedestrian ways shall be illuminated by light bollards or other low-level standards with shielded light sources. All loading areas, rear entries, and other high crime areas shall be illuminated to the level of parking areas.

[Added effective 3-7-08.]

- 18.3.6 Landscaping and Screening. Landscaping shall be provided in accordance with Section 13A.3.17 and/or 13B.4.14(d) (Special Permit/Exception, Landscaping and Screening) of these Regulations. Specifically, all parking and loading areas shall utilize landscaped islands to define and separate parking rows, maneuvering lanes, and access driveways to prevent random vehicular movement and the appearance of large areas of uninterrupted pavement. Capacity of any parking area shall not

exceed seventy-five (75) spaces, and where more parking is required, two (2) or more parking areas shall be provided, separated by a minimum of fifteen (15') feet of landscaped area. Loading areas shall be screened by fences, walls, or landscaped screens. Non-residential parking and loading areas shall be screened from adjacent residential uses in accordance with the provisions of Section 4.6 (General Regulations, Buffer Requirements for Non-Residential Uses) of these Regulations; provided, however, that required screening along streets may be modified where required to provide safe sight lines.

[Added effective 3-7-08.]

18.3.7 Location – Loading. No off-street loading space or access aisles in connection therewith shall be located in the area required for setback from a Street Line, property line or Residence or Rural District boundary line.

[From former Section 41.3.4, Renumbered Only Effective 3-7-08]

18.3.8 Location – Parking. No Parking Space or access aisle in connection therewith shall extend within less than the following distances of a street line, property line or Residence or Rural District boundary line:

	<u>Street Line</u>	<u>Property Line</u>	<u>Residence/Rural Boundary</u>
WF-20	30'	10'	40'
C-30	30'	12'	25'
C-30S	30'	12'	25'
C-10	20'	12'	25'
LI-80	50'	20'	40'

In Residence and Rural Districts, Parking Spaces and access aisles in connection therewith, except spaces and aisles provided in connection with a detached dwelling for one (1) or two (2) families, shall have the same setback from a Street Line and property line as specified for buildings and other structures in the District. In any District, an access aisle that is a driveway to a street or to another lot and has no Parking Spaces adjacent to it may cross the area required for setback.

[From former Section 41.3.5, Renumbered Only Effective 3-7-08; added C-30S district effective 4-1-09]

18.4 Number of Parking Spaces. It is the purpose and intent of this Section to assure that Off-Street Parking Spaces are provided to accommodate the automobiles of all persons normally using or visiting a use, building or other structure at any one time. Off-Street Parking Spaces shall be provided in numbers as follows and on the same lot with the use, unless a greater number is determined necessary in connection with a SITE DEVELOPMENT PLAN submission:

	Use Classification	Standards
18.4.1	Detached dwelling for one or two families	2 spaces for each family
18.4.2	Multiple dwellings	Per Section 11.28.12
18.4.3	Professional, business office or customary home occupation in a dwelling unit	2 spaces in addition to those required by Paragraph 18.4.1. above
18.4.4	Retail stores, business and professional offices, banks and other financial institutions, medical and dental clinics, and veterinary hospitals	1 space for each 200 square feet of gross floor area
18.4.5	Office buildings not serving the public on the premises	3.25 spaces for each 1,000 square feet of gross floor area
18.4.6	Restaurants and other food and beverage service establishments	1 space for each 3 seats plus 1 space for each 2 employees
18.4.7	Theaters and assembly halls having fixed seats	1 space for each 4 seats
18.4.8	Places of public assembly or public recreation (apart from Paragraph 18.4.7.) including libraries, museums and art galleries	1 space for each 4 legal occupants under the State Fire Safety Code
18.4.9.	Marinas rental boat or mooring	.5 space for each boat slip,

Use Classification	Standards
18.4.10 Manufacturing establishments, warehouses and wholesale businesses area, whichever is greater	1 space for each 1.5 employees or 1 space for each 500 square feet of floor
18.4.11 Hotels, motels and rooms to let in a dwelling	1 space for each room plus 1 space for each employee
18.4.12 Mortuary/Funeral Home feet of floor area devoted to assembly rooms. [Rev. 1-1-96]	1 space for every 25 square

18.4.13. Other Uses: sufficient Parking Spaces shall be provided in connection with any use not listed in paragraph 18.4.1 through 18.4.12 to preserve the purpose and intent of this Section.

[From former Section 41.4, Renumbered Only Effective 3-7-08]

18.5 Loading Space Standards. Each building, other than a dwelling or a farm building, having a ground floor area in excess of 4,000 square feet, shall have one (1) off-street loading space for each 40,000 square feet of gross floor area or fraction thereof, excluding basements.

[From former Section 41.5, Renumbered Only Effective 3-7-08]

18.6. Classification of Uses. Whenever two or more use classifications listed above shall be applicable to a use of land, buildings or other structures, the standard requiring the larger number of Parking Spaces shall apply. Where separate parts of a Building or Structure are used for different use classifications, the number of required spaces shall be the sum of the number of spaces required for each type of use.

[From former Section 41.6, Renumbered Only Effective 3-7-08]

18.7 Joint Use. Joint parking areas and loading spaces may be established by the owners of adjacent lots in order to provide the total number of Off-Street Parking and loading spaces required for the uses for each lot, when such owners demonstrate, in connection with a SITE DEVELOPMENT PLAN submission, that mutual access to such spaces is assured for the duration of the use for which the spaces are required.

[From former Section 41.7, Renumbered Only Effective 3-7-08]

18.8 Modification of Standards. The Zoning Commission or other agency responsible for review of a SITE DEVELOPMENT PLAN submission may in connection with review

and action on such submission and after due notice and public hearing required by law, grant a Special Permit authorizing modification of Off-Street Parking and/or loading standards as follows:

18.8.1. Number. The Zoning Commission or other agency may, by Special Permit, authorize Off-Street Parking and/or loading spaces less in number than specified in paragraph 18.4 and 18.5 if the Zoning Commission or other agency determines that the following standards and conditions are met:

- a. the number of spaces provided on the SITE DEVELOPMENT PLAN are sufficient to accommodate the vehicles of all persons using and visiting the particular use or occupancy of land, buildings or other structures specified in the APPLICATION for a ZONING PERMIT;
- b. there is sufficient and suitable area on the lot to provide the full number of spaces specified in paragraph 18.4. and 18.5.; and
- c. the Special Permit shall be applicable only to the particular use or occupancy of land, buildings or other structures specified in the APPLICATION and such Special Permit and any CERTIFICATE OF ZONING COMPLIANCE issued for the use shall become null and void in the event that such use or occupancy is changed to another use or occupancy.

18.8.2. Small Automobiles. The Zoning Commission may authorize a reasonable number of Off-Street Parking Spaces required in connection with a use specified in Sections 18.4.5. and 18.4.10. to conform to the dimension specified in Sections 18.2.1b. when the following standards and conditions are met:

- a. the use shall consist of a single proprietorship and the number of Off-Street Parking Spaces required is 100 or more; and
- b. there is sufficient and suitable area on the lot to provide the full number of Off-Street Parking Spaces to conform to the dimensions specified in Paragraph 18.2.1a.

18.8.3. Shared Parking. The Zoning Commission or other agency may authorize a particular number of Parking Spaces on a lot to be counted for compliance with the required number of spaces for more than one (1) use on the lot or on another lot when the Commission or agency determines that a) such spaces will be occupied by cars of persons using or visiting two (2) or more such uses on the same trip to the Parking Space, and/or b) such spaces will serve uses having substantially different hours or days of operation.

[From former Section 41.8, Amended Effective 3-7-08]

18.8.4 Alternative Surfaces. The Commission, as part of a Special Permit (but not the Board), may waive the requirement for a Dustless Surface, curbing and painted lines, and permit alternative surfacing with washed gravel, stone dust, or similar materials, provided that:

- a. The Town Engineer shall approve the design and alternative surfacing of the parking area.
- b. Wheel stops shall be provided by anchored timbers, stone, or similar methods.
- c. The applicant shall be responsible for regular maintenance of the surface such that it remains free of puddles, icing, potholes, erosion, dust, and similar defects, and is usable by the public during all weather conditions. Failure to comply with this provision shall constitute a violation of these Regulations, and subject the owner or occupant of the property to the penalties provided by law.
- d. The Commission finds that the character of the neighborhood, the projected intensity of use, the overall size of the parking area, and the nature of the proposed alternative surface make such a waiver appropriate.

[Added effective 3-7-08.]

Rev. February 20, 2008 to correct cross reference in Sec. 18.3.6.

SECTION 19
SIGNS

19.1 **General.** All Signs in all Districts in the Town of Old Lyme shall conform to the following standards and, except as may be otherwise provided for in this Section 19, no sign shall be established, constructed, reconstructed, Enlarged, Extended, moved or Altered unless and until an application for a Zoning Permit has been approved by the Zoning Enforcement Officer. The following Signs and no others shall be permitted and all permitted Signs shall conform to the provisions hereinafter specified. These provisions are deemed to be minimum requirements, and subject to any additional conditions or limitations that may be imposed by the Zoning Commission in connection with the approval of a Site Development Plan or a Special Permit. [From former Section 42.1, amended effective 7-3-95 and effective 3-7-08.]

19.2 **Purpose.** It is the purpose of this Section 19:

19.2.1 To insure against the placement of Signs which are of such size, height or character, are so located or illuminated, or are so numerous as to be inconsistent with the public health, general welfare or safety of the community; and

19.2.2 To prevent the placement of Signs for commercial purposes which are detrimental to property values and the orderly development of land in the Town; and

19.2.3 To protect, preserve, and enhance the historic character of the Town of Old Lyme as a traditional New England community.

[From former Section 42.2, amended effective 7-3-95 and effective 3-7-08.]

19.3 **Definitions.** See the definition of terms in Section 3, Definitions, of these Regulations. [From former Section 42.3, amended effective 7-3-95 and effective 3-7-08.]

19.4 **Standards – All Zoning Districts.** The following standards apply to Signs in all zoning Districts:

19.4.1 **Signs on Buildings or Lots.** Any Identification Sign affixed to a Building, including Wall Signs or Overhanging Signs, shall only identify the enterprise located on the interior side of the wall upon which the Identification Sign is located. Free-Standing Signs shall only identify the enterprise(s) located on the Lot on which such Sign is located. [From former Section 42.4.1 and 42.4.2, amended effective 7-3-95 and effective 3-7-08.]

19.4.2 **Location of Signs.** The following rules govern the placement of Signs:

- a. Roof Signs are prohibited, and no Sign shall be located on the slope of a mansard facade nor extend above the top of the wall of a Building or the top of the face of any overhang or marquee to which it is affixed.

- b. All Wall Signs shall be affixed to and be mounted parallel with either a wall of the Building or the face of an overhang or marquee projecting from the Building and shall not project more than twenty-four (24) inches from the wall of the building. Wall Signs may project into the area required for Yards, however, no part of the Sign or any of its supporting structure shall be closer than five (5) feet from any Street or Property Line except for temporary signs permitted under Paragraph 19.4.8.
- c. All Overhanging Signs shall hang at a ninety (90) or forty-five (45) degree angle from the front or side of the Building.
- d. No Sign shall project over or hang over any sidewalk, driveway, walkway, roadway, parking area, or access way, except that Overhanging Signs may project not more than twenty-four (24) inches into such sidewalk, driveway, walkway, roadway, parking area, or access way, provided that such projection does not occur within eight (8) feet vertical clearance of the ground.
- f. No Free-Standing Sign shall be located within or hang over the right-of-way of any Street.

[Preceding from former Section 42.4.2, amended effective 7-3-95 and 3-7-08.]

19.4.3 Height of Free-Standing Signs. Neither the top of any Free-Standing Sign nor the top of any structure supporting such a Sign shall be higher than 10 feet above the Grade measured vertically. Grade shall be measured from the existing natural Grade prior to site grading. [From former Section 42.4.2, amended effective 7-3-95]

19.4.4 Measurement of Sign Area. Any Sign may be double-faced and, when a double-faced Sign is a Free-Standing Sign, only one (1) Sign Face shall be counted in determining conformity to Sign Area. [From former Section 42.4.2, amended effective 7-3-95 and 3-7-08]

19.4.5 Motion and Illumination. The following rules govern motion and illumination of Signs:

- a. Illuminated Signs shall be limited to:
 - i. Indirectly Illuminated Signs; and
 - ii. Directly Illuminated Signs shall be limited to (1) illuminated letters against an opaque background; or “channel letters” in which the light source is concealed within the rear of an opaque letter, which letter is illuminated it by silhouette against a non-illuminating background surface. Exposed lamp signs, luminous tube signs,

and plastic or glass covered internally illuminated signs and letters are prohibited.

- b. Light emanating from or used for illumination shall not be intense or glaring.
- d. The light source for Indirectly Illuminated Signs shall be shielded or directed so as not to be visible to persons traveling on nearby Streets and so as to minimize sky glow and avoid trespass lighting on adjacent properties.
- e. Colored lights shall not be used for Indirectly Illuminated Signs.
- f. Illuminated Signs used in connection with a business establishment shall not be lit during the hours between 10:00 p.m. and 6:00 a.m. unless the establishment is legally open for business.
- g. Flashing Signs, strobe lights, Moving Signs (including, but not limited to, banners, posters, pennants, ribbons, streamers, spinners, strings of lights and similar devices), Roof Signs, and Sky Signs, are prohibited except to the extent expressly permitted by this Section.
- h. Continuous strip lighting of Buildings and other Structures Lots is prohibited, except as seasonal decoration in November and December.

[Preceding from former Section 42.4.5, amended effective 7-3-95 and 3-7-08.]

19.4.6 Obstructions. No Sign shall be located or maintained so as to be a hazard to traffic or pedestrians, to obstruct any door, window, ventilation system or fire escape or exit, or to cause any other hazard to the public health and safety. [From former Section 42.4.6, amended effective 7-3-95.]

19.4.7 Portable Signs. Portable Signs shall be prohibited in all Districts except as specifically permitted by this Section 19 in Commercial Districts.

- a. Said Sign shall not exceed 3 feet in width and 5 feet in height. The Sign Area of said Sign shall not exceed 12 square feet. Said Sign may be double-faced and, for the purpose of area computation, only one Sign Face shall be counted in determining conformity with the area requirements of this paragraph.
- b. Only one Portable Sign shall be allowed per Lot, except that if the Lot has more than 400 feet of Street frontage in the District, then one additional Portable Sign shall be permitted.

- c. Said Sign shall describe or display only current factual information concerning present activities (including retail sales or services) on the subject Lot.
- d. Said Sign shall not be attached to the ground and shall not extend into the Street Line or sidewalk on said Lot. It also shall not impede sight lines or ingress and egress to said Lot.

[Preceding from former Section 42.4.7, amended effective 7-3-95 and 3-7-08.]

19.4.8 Temporary Signs. Temporary Signs shall be permitted in the zoning Districts specified below subject to the requirements and restrictions on Signs set forth in this Section 19.4.8:

- a. No zoning permit shall be required for the following Signs:
 - i. In Commercial, Industrial and Business Districts only, Temporary Signs may be attached to the inside of a window or placed so as to be seen primarily through a window subject to the restriction that the combined area of such Signs shall not exceed 40% of the area of the window to which they are attached or through which they may be seen; provided, however, that in determining the permissible size of such Signs there shall not be taken into account any signs determined to be exempt under this Section 19. Such Signs shall not remain in place for more than 30 days without being changed.
 - ii. In all zoning Districts, there may be posted on premises which are for sale or rent, one (1) Temporary Sign so stating which is not illuminated and does not exceed six (6) square feet in area.
 - iii. In all zoning Districts, there may be posted on property that is undergoing land development one (1) Temporary Sign so indicating which is not illuminated and does not exceed 12 square feet in area.
 - iv. In all zoning Districts, there may be posted on property where construction, repair or remodeling is in progress one (1) Temporary Sign which is not illuminated and does not exceed 12 square feet in area identifying any one or more of the architects, designers, engineers, construction managers, building contractors or major subcontractors engaged in the project.
 - v. In all zoning Districts, banners, pennants and flags giving notice of events sponsored by governmental units, schools or non-profit organizations may be displayed on the property where the event is

to take place during a period beginning 30 days before the start of such an event and ending 72 hours after the close of the event.

- vi. In all zoning Districts, no more than eight (8) directional signs, each no larger than six (6) square feet, announcing and/or directing the public to events sponsored by governmental units, schools, or non-profit organizations may be posted on or off the property where the event takes place. Such signs shall not be erected more than 10 days before such an event begins and shall be removed within 48 hours after the end of the event.
 - vii. In all zoning Districts, no more than four (4) real estate open-house signs, each no larger than six (6) square feet, may be posted on or off the property on which the open house is held no earlier than the day of the open house. Such signs must be removed within four (4) hours after the close of the open house.
- b. The following signs shall require permits:
- i. In all zoning Districts, there may be posted on property that is undergoing land development one (1) temporary sign so indicating which is not illuminated and which does not exceed 32 square feet in area.
 - ii. In all zoning districts, there may be placed on property where construction, repair or remodeling is in progress one (1) temporary sign which is not illuminated and which does not exceed 32 square feet in area identifying any one or more of the architects, designers, engineers, construction managers, building contractors or major subcontractors engaged in the project.
 - iii. Notwithstanding the provisions of this Section, and upon written application to the Zoning Enforcement Officer, authorization for the establishment of temporary signs for periods not exceeding ten (10) consecutive days, and totaling not more than thirty (30) days in any calendar year, for the purpose of announcing special events not sponsored by governmental units, schools, or non-profit organizations may be given where: (1) the sign face does not exceed 12 square feet in area; (2) No more than one (1) such sign shall be allowed; (3) the sign shall not be illuminated or move; (4) the sign shall be no more than eight (8') feet in height; and (5) the sign shall not obstruct any driveway or street sight line(s) . Any temporary signs exceeding these limits shall require the approval of the Zoning Commission. In a Residential District, any such sign shall pertain only to a use permitted in such District. Approval of signs for special events by the Zoning Enforcement Officer does

not absolve the applicant from obtaining other permits as may be required by State and Local agencies.

- c. Unless otherwise specified in Section 19.4.8, all Temporary signs shall be erected no earlier than 30 days prior to the event to which the sign relates and must be removed no later than 72 hours after the completion of the event to which the sign relates.

[Preceding from former Section 42.4.8, amended effective 7-3-95 and 3-7-08.]

19.4.9 Exempt Signs. The following types of signs shall be exempt from regulation under this Section 19:

- a. Any sign required or authorized under State or Federal law or by the Town of Old Lyme including, but not limited to, traffic and directional signs.
- b. Any flag, pennant or insignia which is the symbol of any governmental unit or non-profit organization or which is displayed for a strictly non-commercial purpose.
- c. Posters or announcements of a governmental unit, school or non-profit organization displayed as a community service.
- d. House numbers and mailbox identifications.
- e. Bulletin boards.
- f. On any premises, one historical plaque not exceeding two (2) square feet in area.
- g. On any premises, one or more of the following, provided each such notice shall not exceed one (1) square foot in area:
 - i. a single notice announcing business hours;
 - ii. a single notice indicating acceptable credit cards;
 - iii. a single notice describing security protection;
 - iv. a single notice respecting membership in trade associations.

[Preceding from former Section 42.4.9, amended effective 7-3-95; and renumbered only effective 3-7-08.]

19.4.10 Miscellaneous. The following miscellaneous provisions shall apply.

- a. Awning Signs: Notwithstanding any other provision of this Regulation, awning signs shall be permitted in Commercial and Business Districts provided, however, that the area of said sign shall be computed as part of the total sign area for the subject building and lot.
- b. Time and temperature signs (without advertising) and with or without illumination shall be permitted in all Commercial Districts, provided that the size (sign face, height, and location) shall conform to all other applicable provisions of these Regulations and provided, however, that the area of said sign shall be computed as part of the total sign area for the subject building and lot.
- c. There shall be allowed one sign near each exit ramp of expressways and each major highway at Town Lines serving as a common directory for non-profit organizations located in Old Lyme. Sign area permitted shall not exceed 6 square feet per organization nor shall it exceed 40 square feet total area.

[Preceding from former Section 42.4.10, amended effective 7-3-95 and 3-7-08.]

19.4.11 Prohibited Signs. The following types of signs are prohibited in all zoning districts:

- a. Any sign so designed and so oriented as to be primarily visible from Interstate No. 95.
- b. Any sign attached to any tree, fence or utility pole and any sign painted directly upon the roof of any building.
- c. Any vehicle or trailer exhibiting any sign and parked in such a location and manner as to indicate that such vehicle is being used for the basic purpose of advertising products sold or directing people to a business or activity located on or near the place where such vehicle is parked.
- d. Any sign painted on the roof of a building.
- e. Portable Signs, such as "A-frame" signs and "Sandwich" signs, except as may be specifically permitted by this Section 19 as "temporary signs" in Section 19.4.8.
- f. Advertising Signs, also known as "Billboards." See Section 6.1.27 of these Regulations.
- g. Flashing Signs.

- h. Moving Signs.
- i. Roof Signs.
- j. Sky Signs.

[Preceding from former Section 42.4.11 and Section 10.1, amended effective 7-3-95 and 3-7-08.]

19.4.12 Removal of Signs. Any sign advertising, identifying or calling attention to the use of property shall be removed therefrom within 30 days after the discontinuance of such use unless such discontinuance is temporary, in which case such use shall either be resumed no later than six (6) months after such discontinuance or such sign shall be removed within such six (6) month period.

[From former Section 42.4.12, amended effective 7-3-95; and renumbered only effective 3-7-08.]

19.5 Standards – Residence or Rural Districts. In addition to the sign prohibitions and restrictions set forth in the preceding paragraphs, the following standards shall apply to signs in Residence and Rural Districts.

19.5.1 Permitted Signs and Their Sizes. Signs in Residence and Rural Districts are limited to the signs listed below in this Section 19.5.1. A sign of a type listed in items a. through b. below may be installed without a sign permit.

- a. On each premises, one (1) sign, not exceeding two (2) square feet in area, identifying the occupant of the premises including any professional or business office or customary home occupation conducted in a dwelling unit.
- b. On private premises, signs intended primarily as warning or traffic signs with no advertising thereon and not exceeding two (2) square feet in area.
- c. At each entrance to a residential development containing one or more multiple dwellings, a planned residential cluster of dwelling units, or a residential subdivision, one (1) sign, not exceeding 12 square feet in area, giving the name of the development.
- d. On property containing one or more multiple dwellings or a farm, church, school or other non-residential facility or use permitted in the zoning district, one (1) sign, not exceeding 12 square feet in area, identifying the facility or use.

- e. Temporary signs to the extent permitted under Paragraph 19.4.8. of this Section 19.

[From former Section 42.5, Renumbered only Effective 3-7-08]

19.5.2 Signs in the Sound View Village District. Recognizing that the Sound View Village District consists of a mix of residential and commercial uses, the following shall apply: Any Use other than a Single Family Dwelling shall be governed by the Sign requirements of Section 19.6.2 below; and Single Family Dwellings shall be governed by the Sign requirements of Section 19.5.1 above; provided however, that the size, number, height and other requirements of Section 19.5.1 shall be deemed to be maximums, and all signs shall be subject to the design requirements of Section 5.13 of these Regulations.

[Preceding Section added effective 4-1-09.]

19.6 Standards – Commercial, Industrial Business and Sound View Village Districts. In addition to the preceding paragraphs of this Section, the following additional standards shall apply to signs in Commercial, Industrial and Business Districts:

19.6.1 Permitted Signs and Their Sizes:

- a. Wall Signs attached to one (1) wall of a building, excluding Overhanging Signs, may have a total area up to, but not exceeding, twenty percent (20%) of the surface area of such wall or 60 square feet, whichever is smaller. Signs attached to any second wall of any such building shall not exceed five percent (5%) of the area of such second wall or 15 square feet, whichever is smaller. No portion of a wall affected by this Section in excess of twelve (12) feet in height above ground level shall be included in the computation of the maximum sign area for such wall. On lots which have road frontage on more than one (1) street, and where a building on said lot has exterior walls facing more than one (1) street, the five percent (5%) area requirement recited above may be increased to not more than ten percent (10%), or 60 square feet, whichever is smaller, for the side of the building facing such additional street.
- b. The total area of Overhanging Signs shall not exceed 10% of the area of the wall upon which they are mounted, or 60 square feet, whichever is the smaller area. No single Overhanging sign shall exceed 10 square feet in area.
- c. On any lot there may be only one (1) Free-Standing sign; provided, however, that for lots having multiple occupancies one (1) additional Free-Standing Directory Sign may be maintained at a

principal access way to such lot identifying the occupants with lettering of uniform size. On a single lot, duplicate directory signs may be maintained at other access points only if such access point is at least 300 feet distance from the nearest other access point having a Directory Sign.

- d. No free-standing Sign, including a Directory Sign, shall have an area greater than 32 square feet, nor a height greater than 10 feet.
- e. Any insignia, logo, icon, trademark, or picture shall be included within the calculation of Sign Area.

[Preceding from former Section 42.6, amended effective 7-3-95, 8-1-97, and 3-7-08.]

19.7 Applications for Sign Permits. In accordance with Section 13A and 13B of these Regulations, any application for Site Development Plan or Special Permit shall include all information concerning Signs. Any amendment to the Signs approved by the Zoning Commission (or, under prior Regulations, the Planning Commission) in connection with the Site Development Plan or Special Permit shall require an application for an amendment to such approval to the Zoning Commission. Such amendments to a Special Permit shall require a public hearing in accordance with Section 13B of these Regulations. Only for sites that have not been approved by the Zoning Commission (or the Planning Commission under prior Regulations) as a Site Development Plan or Special Permit, applications for sign permits shall be made to the Zoning Enforcement Officer on forms provided by or acceptable to the Zoning Commission and shall contain or be accompanied by the following information and drawings:

- 19.7.1 Name and address of the owner of the property or premises where the Sign is to be installed and of the applicant if someone else.
- 19.7.2 Drawing to scale of the proposed Sign showing its Sign Area, height, details of construction and location on the lot or building where it is to be placed.
- 19.7.3 Drawing showing the location and size of existing Signs presently on the same Lot or Premises.
- 19.7.4 Details concerning the method of illumination of the Sign, if any; designation of any moving parts, flashing lights, changeable text, or physical features; such other information as the Zoning Enforcement Officer may require in order to determine compliance with these Regulations.

[Preceding from former Section 42.7, amended effective 7-3-95 and 3-7-08.]

19.8 Applications for Temporary Sign Permits. Applications for Temporary Sign permits, in addition to providing the information and drawings required by the immediately preceding paragraph 19.7, shall include the following data:

19.8.1. The dates of the start and end of the period during which the Sign or Signs are to be displayed.

19.8.2. The name and address of the person responsible for posting and removing the Sign or Signs.

[Preceding from former Section 42.8, amended effective 7-3-95 and renumbered only effective 3-7-08.]

19.9 Signs Within the Historic District. Signs located within the Old Lyme Historic District No. 1, in addition to being subject to these Zoning Regulations, are, as respects their style, material, number, size and location, under the control of the Old Lyme Historical District Commission as provided for in Section 7-47d. of the General Statutes of the State of Connecticut. All such signs must comply with the Commission's policy respecting Signs and are subject to its criteria for the issuance of a Certificate of Appropriateness with respect thereto. [From former Section 42.9, amended effective 7-3-95 and renumbered only effective 3-7-08.]

19.10 Special Permits and Site Development Plans. Provisions respecting signs which may be imposed in connection with a Special Permit or approval of a Site Development Plan are in addition to the provisions of this Section 13. [From former Section 42.9, amended effective 7-3-95 and renumbered only effective 3-7-08.]

[Preceding from former Section 42 , revised effective 7-3-95, 8-1-97, and 3-7-08, except as otherwise noted.]

Rev. February 20, 2008 to measure sign height from existing grade.

SECTION 20
ADMINISTRATION AND ENFORCEMENT

20.0 Intent

It is the intent of this Section to provide for effective administrative procedures to assist in the application and enforcement of these Regulations in order to promote the public health, safety, and general welfare of the community of Old Lyme. [Added effective 3-7-08]

20.1 Zoning Enforcement Officer

The provisions of these Regulations shall be enforced by the Zoning Enforcement Officer who shall be appointed by and shall be the agent of the Zoning Commission. The Zoning Commission may appoint deputies to assist and act for the Zoning Enforcement Officer and, in the event that there is a vacancy in such employee position(s), may include members and alternate members of the Commission itself who may be designated by vote of the Commission. Whenever the term "Zoning Enforcement Officer" is used throughout this Section, it shall be presumed to include all those individuals so designated by the Commission. No Zoning Permit, Certificate of Zoning Compliance, order or other zoning enforcement document shall be issued unless signed or countersigned by the Zoning Enforcement Officer or such deputy zoning enforcement officer. [From former Section 51.1, Amended Effective 3-7-08]

20.2 Enforcement and Penalties

20.2.1 Penalties. Any Person who shall violate any provision of these Regulations shall be subject to penalties in accordance with the General Statutes of the State of Connecticut, in addition to any remedies or penalties provided in these Regulations. [From former Section 53.1, Amended Effective 3-7-08]

20.2.2 Remedies. The Zoning Enforcement Officer shall be empowered to cause any Building, Structure, or Premises to be inspected and examined and to order, in writing, the remedying of any conditions found to exist in violation of any provision of these Regulations, or any permit or approval which has been issued under these Regulations. The owner or agent of a Building, Structure, or Premises where such violation has been committed or exists, or the lessee or tenant of an entire Building or an entire Premises where such violation has been committed or exists, or the agent, architect, builder, contractor or any other Person who commits, takes part, or assists in such violation, or who maintains any Building or Premises in which such violations exist shall be guilty of a misdemeanor punishable as provided in Chapter 124 of the Connecticut General Statutes. The Zoning Enforcement Officer, the Zoning Commission or other proper authority of the Town of Old Lyme, may institute any appropriate action or proceedings to enforce the provisions of these Regulations or to prevent, restrain, correct or abate any violation of these Regulations, and to collect those civil

penalties and costs authorized by the Connecticut General Statutes. [From former Section 53,2, Amended Effective 3-7-08]

20.2.3 Revocation of Zoning Permits, Special Permits, Site Plan Approvals, and Variances. See Sections 20.3.6.9 and 20.7 hereinbelow. [Added effective 3-7-08].

20.2.4 Rules, Policy and Procedure. The Zoning Commission may from time to time by resolution adopt administrative rules, policies, procedures and forms for the enforcement of these Regulations. [From former Section 51.9, Amended Effective 3-7-08]

20.3 Zoning Permit and Certificate of Zoning Compliance

20.3.1 Zoning Permit. No Premises, Building or other Structure, or part thereof, shall be Used, or changed in Use, and no Building or other Structure, or part thereof, shall be constructed, reconstructed, extended, moved or altered until an application for Zoning Permit therefor has been submitted to the Zoning Enforcement Officer and a Zoning Permit therefore has been issued by such Officer. No site development that is subject to these Regulations shall be constructed, reconstructed, established, Extended, moved or Altered, nor shall any such site development be commenced, until an Application for Zoning Permit therefor has been submitted to the Zoning Enforcement Officer and a Zoning Permit therefor has been issued in accordance with the provisions of this Section. As used in this paragraph, the phrase "site development" shall include, but not be limited to, activities such as land clearing, grading or excavation, except that land clearing may be performed in the immediate area of the proposed Building or Structure, and any well to serve such Building or Structure. Where provided by these Regulations, a Zoning Permit may be temporary and limited to a specified period of time. [From former Section 3.1, Amended Effective 3-7-08]

20.3.2 Certificate of Zoning Compliance. No Premises, Building or other Structure, or part thereof, shall be Used or occupied, or changed in Use, until a Certificate of Zoning Compliance therefor has been issued by the Zoning Enforcement Officer certifying conformity with these Regulations. All Certificates of Zoning Compliance shall be issued in accordance with the provisions of this Section. The Commission may provide for such Certificates to be issued by any person or persons designated by it, including any member(s) of the Commission.

[From former Section 3.2 , Amended Effective 3-7-08]

Change in Occupant. No Zoning Permit or Certificate of Zoning Compliance is required

20.3.4 Application for Zoning Permit. Application for a Zoning Permit shall be submitted to the Zoning Enforcement Officer per Section 20.3.1. The Application shall be accompanied by

fees as specified in Section 20.11 and by a Plot Plan as follows [From former Section 51.2, Amended Effective 3-7-08]:

- 20.3.4.1 Plot Plan. The Plot Plan shall show the following information to the extent occurring on or applicable to the particular lot and shall be prepared by and bear the name and seal of a land surveyor, professional engineer, architect and/or landscape architect licensed to practice in the State of Connecticut:
- a. the following information based on survey meeting or exceeding a "Class A-2" type survey specified in the "Code of Recommended Practice for Standards of Accuracy of Surveys and Maps", State Board of Registration for Professional Engineers and Land Surveyors:
 - (i) all Lot lines, the dimensions, radii and angles or bearings for such lines, and the area of the Lot;
 - (ii) the location of monuments, which shall be set at all Lot corners, and iron pins or pipes, which shall be set at all angle points on lot lines;
 - (iii) the location and elevation of a bench mark for elevation control on the Lot;
 - (iv) existing contours at an interval of two (2) feet, unless the Zoning Enforcement Officer determines that such contours are not needed on all or part of the Lot to determine compliance with these Regulations;
 - (v) the High Tide Line (HTL), the Mean High Water Line, referenced to the National Geodetic Vertical Datum (NGVD); and the location of all Tidal Wetlands, delineated in accordance with Conn. Gen. Stats. §22a-29(2); and the location of all Inland Wetlands and Water Courses. Such information shall be depicted both on and within 100 feet of the Lot, or contain a certification that no such Tidal or Inland Wetlands or Water Courses exist; and
 - (vi) the location of existing and proposed Buildings and Structures, and with at least two (2) survey dimensioned tie lines from monuments, pins, lot lines or other identified points to each such Building or Structure;
 - (vii) the Height, dimensions, Use, Total Floor Area and Total Coverage of all Buildings and other Structures, whether existing or proposed;

- (viii) the location, area and dimensions of off-street parking and loading spaces, any construction required in connection therewith and the means of access to such spaces;
- (ix) the location of any existing or proposed on-site sewage disposal systems and water supply wells;
- (x) the location, area and dimensions of any Signs, outside storage areas, site development and landscaping that are subject to the provisions of these Regulations;
- (xi) a statement as to the Flood Insurance Rate Map (FIRM) Map Panel and Flood Zone in the Flood Plain District, the flood plain boundary and elevation data as specified in Paragraph 4.4.5;
- (xii) provision for soil erosion and sediment control in accordance with Section 16;
- (xiii) the signatures, seals, and certifications (as the case may be) of the land surveyor, professional engineer, soils scientist, architect, or other licensed professional involved in the preparation of the plan;
- (xiv) such additional information as may be necessary to determine compliance with the provisions of these Regulations.

- b. The Zoning Enforcement Officer may waive, in whole or in part, the requirement for monuments and corners pins set forth in paragraph ii above where such field identification of boundaries is not necessary to identify such boundaries, such as along highway rights of way or other public land; where stone walls or other permanent physical features correctly identify a boundary; or where lots are under unified ownership and control. [Added Effective 3-7-08]

[Preceding From former Section 51.2.1 , Amended Effective 3-7-08]

20.3.4.2 Modified Plot Plan. For Applications involving only minor improvements or interior alterations, the Zoning Enforcement Officer may determine that a Plot Plan drawn to scale but not certified as provided in Section 20.3.4.1. is sufficient to meet the requirements for the Application. [From former Section 51.2.2, Amended Effective 3-7-08]

20.3.5 Additional Application Requirements. The Application for a Zoning Permit shall also be accompanied by the following when required by these Regulations [From former Section 51.3.1, Amended Effective 3-7-08]:

20.3.5.1 Approval of Special Permit. When a Use, Building, Structure or site development is permitted in a District subject to the securing of a Special Permit from the Zoning Commission, Planning Commission or Zoning Board of Appeals, as the case may be, evidence that such approval has been granted, and that the appeals period therefor has expired, shall accompany an application for a Zoning Permit. The site plan required for a Special Permit by Section 13 of these Regulations may be substituted for the Plot Plan required in Paragraph 20.3.4.1 above, if such plan shows the information and is prepared in accordance with the standards required for such Plot Plan. [From former Section 51.3.1, Amended Effective 3-7-08]

20.3.5.2 Site Development Plan Submission. When submission of a Site Development Plan is required under these Regulations, evidence that such approval has been granted, and that the appeals period therefor has expired, shall accompany an application for a Zoning Permit. The Site Plan required for a Site Development Plan by Section 13 of these Regulations may be substituted for the Plot Plan required in Paragraph 20.3.4.1 above, if such plan shows the information and is prepared in accordance with the standards required for such Plot Plan. [From former Section 51.3.2, Amended Effective 3-7-08]

20.3.5.3 Coastal Site Plan Submission. When a Use, Building, Structure or site development is proposed within the Coastal Boundary established under the provisions of Chapter 444 of the Connecticut General Statutes, a Coastal Site Plan submission shall be made for review and action in accordance with Section 4.2 unless exempted thereunder. Evidence that such approval has been granted, and that the appeals period therefor has expired, shall accompany an application for a Zoning Permit. The Site Plan required for a Coastal Site Plan by Section 4.2 of these Regulations may be substituted for the Plot Plan required in Paragraph 20.3.4.1 above, if such plan shows the information and is prepared in accordance with the standards required for such Plot Plan [From former Section 51.3.3, Amended Effective 3-7-08]

20.3.5.4 Application for Flood Hazard Area Permit. When development, including new construction, substantial improvement and the placement of prefabricated buildings is to be made within a Special Hazard Area, application for a Flood Hazard Area permit shall be made in accordance with Section 4.4. [From former Section 51.3.4, Amended Effective 3-7-08]

[Former Section 51.4 Deleted Effective 3-7-08]

20.3.6 Approval and Issuance. The Zoning Enforcement Officer shall issue a Zoning Permit to authorize the construction, reconstruction, Extension, Expansion, moving or Alteration of a Building, other Structure or site development and shall issue a Certificate of Zoning Compliance for the Use or occupancy of land, Buildings, other Structures, or site development when such Officer determines that all of the requirements of these Regulations have been met. No Zoning Permit or Certificate of Zoning Compliance shall be issued if it is determined that a violation of these Regulations, the Old Lyme Subdivision Regulations, or the Old Lyme Inland Wetlands and Watercourses Regulations, or any permit issued thereunder, is proposed or exists. No Zoning Permit and no Certificate shall be considered issued unless signed by the Zoning Enforcement Officer. One (1) copy of the approved Plot Plan shall be returned by the Zoning Enforcement Officer to the applicant. The following additional requirements shall apply to the issuance of Zoning Permits and Certificates [From former Section 51.5, Amended Effective 3-7-08]:

20.3.6.1 Staking of Improvements/Certified Plot Plan. No Zoning Permit shall be issued by the Zoning Enforcement Officer for any new construction until the applicant has caused stakes or markers to be placed on the lot indicating the proposed location of footings, foundations and other construction and the location of lot lines. Such stakes or markers shall be set by a Connecticut Licensed Land Surveyor in accordance with the plot plan, and marking at least four (4) corners of the Building foundation and also the same corner stakes appropriately offset to avoid disturbance during construction. The Zoning Enforcement Officer may require additional stakes where required to determine compliance with these Regulations. As a condition to the issuance of a Zoning Permit authorizing buildings and structures upon the footing and foundations, the Zoning Enforcement Officer may require a certified copy of the Plot Plan for the lot showing the actual location of such footings and foundations with at least two (2) survey dimensioned tie lines from monuments, pins, lot lines, or other identified points. The staking, markers, survey and Certified Plot Plan shall conform to standards for accuracy specified in Section 20.3.4.1. [From former Section 51.5.1, Amended Effective 3-7-08]

20.3.6.2 Sanitation. Where a proposed use of proposed Building or other Structure or Use involves the installation, extension, relocation or reconstruction of an on-site sewage disposal or water supply system:

- a. No Zoning Permit shall be issued until plans for such system have been approved by the Health Officer.
- b. No Certificate of Zoning Compliance shall be issued until such septic system has been completed, inspected and approved for use by the Health Official, and certification thereof has been provided to the Zoning Enforcement Officer; and
- c. Prior to the issuance of any Zoning Permit, the applicant shall install any private well to serve such Building or Structure, and have the same approved by the Health Official, and certification thereof has been provided to the Zoning Enforcement Officer.

[Preceding From former Section 51.5.2, Amended Effective 3-7-08]

20.3.6.3 Soil Erosion and Sediment Control. When a Soil Erosion and Sediment Control Plan is required by these Regulations, in connection with a proposed Use, Building, other Structure or site development, no Zoning Permit therefor shall be issued until the Control Plan has been certified in accordance with Section 16 and no Certificate of Zoning Compliance therefor shall be issued until the soil erosion and sediment control measures have been completed in accordance with the certified Control Plan. During the course of construction, the Building Official and Zoning Enforcement Officer shall insure continued compliance with these Regulations, and any such Special Permit or variance, including, but not limited to, any erosion control plan approved by the Commission or its authorized agent. Any measures depicted on such erosion control plan shall be installed prior to the issuance of any Building Permit. The Building Official or Zoning Enforcement Officer shall have the authority to require additional or different erosion control measures if those previously approved are found to be inadequate, or if they are not being maintained in accordance with the approved plan. [From former Section 51.5.3 , Amended Effective 3-7-08]

20.3.6.4 Conditions. Any maps, plans, documents, statements and stipulations submitted to and approved by the Zoning Commission, Planning Commission or Zoning Board of Appeals in connection with any action of such Commission or Board under these Regulations, and any conditions of approval attached by the Commission or Board, shall be conditions for issuance of a Zoning Permit and a Certificate

of Zoning Compliance by the Zoning Enforcement Officer.
[From former Section 52.5.4]

20.3.6.5 Conditional Certificate. Upon certification by the applicant that the public health and safety will not be impaired and that there will be compliance with all other laws pertaining to health and safety, the Zoning Enforcement Officer may issue a Conditional Certificate of Zoning Compliance having a duration of not more than six (6) months and renewable only for one additional six (6) month period, for the temporary use of land, buildings and other structures in the process of improvement and completion in accordance with an approved Zoning Permit. If any off-street parking and loading, driveways, drainage, sewage disposal, sidewalks, landscaping or similar site improvements, in connection with a use for which a Site Development Plan has been approved, or a Special Permit granted, are incomplete, the Zoning Enforcement Officer may issue such Conditional Certificate of Zoning Compliance only after the applicant has filed a completion bond, as provided in Paragraph 13.11 or otherwise as the Zoning Enforcement Officer deems sufficient to guarantee completion of the approved site improvements and in form acceptable to the Town Counsel. [From former Section 51.5.5, Amended Effective 3-7-08]

20.3.6.6 As-Built Site Plans.

- a. Requirement by the Zoning Enforcement Officer. As a condition to the issuance of a Certificate of Zoning Compliance for a Use, Building, other Structure or site development that has not been subject to submission and approval of a Special Permit, or Site Development Plan under Section 13, the Zoning Enforcement Officer may require the owner to submit to the Zoning Enforcement Officer a copy of the site plan element, prepared by a land surveyor licensed to practice in the State of Connecticut showing the location of improvements as built in accordance with a survey of "Class A-2" accuracy as specified in Section 20.3.4.1 and, if so required, the owner shall file a copy of such as-built site plan in the Office of the Zoning Enforcement Officer. If such as-built plan depicts substantial departures from the plan approved in accordance with Section 13, the Zoning Enforcement Officer may, in addition to other remedies, require that an as-built plan be filed with the Town Clerk. [From former Section 51.5.6 , Amended Effective 3-7-08]

- b. By the Zoning Commission, Planning Commission, or Zoning Board of Appeals. For any Use, Building, other Structure or site development that has been subject to submission and approval of a Special Permit, or Site Development Plan under Section 13 or Planned Residential Cluster Developments under Section 12, the owner shall submit to the Zoning Enforcement Officer a copy of the site plan element, prepared by a land surveyor licensed to practice in the State of Connecticut showing the location of improvements as built in accordance with a survey of "Class A-2" accuracy as specified in Section 20.3.4.1. If such as-built plan depicts substantial departures from the plan approved in accordance with Section 13, the Zoning Enforcement Officer may, in addition to other remedies, require that an as-built plan be filed with the Town Clerk. The Zoning Commission, Planning Commission, or Zoning Board of Appeals, as the case may be, may waive the requirement for an as-built plan. [From former Section 51.5.6, Amended Effective 3-7-08]

20.3.6.7 Other Permits. Issuance of a Zoning Permit or issuance of a Certificate of Zoning Compliance shall not be construed to constitute compliance with any regulation, ordinance or law other than as expressly indicated by such Permit or Certificate, nor to relieve the applicant from responsibility to obtain any required permit thereunder. The Zoning Enforcement Officer may, at his/her discretion, withhold issuance of a Zoning Permit or Certificate of Zoning Compliance until any such permit has been approved and obtained by the applicant. [From former Section 51.5.7]

20.3.6.8 Time Limits. Any Zoning Permit issued under these Regulations shall expire 12 months from the date of issuance unless a valid Building Permit for the Use, construction and site development authorized by the Zoning Permit is in effect. Furthermore, any Certificate of Zoning compliance may be issued for a specified time period where authorized by these Regulations, or where appropriate to the nature of the particular use. (See, e.g., Section 7.6.1). [From former Section 51.5.8, Amended Effective 12-1-98 and 3-7-08]

20.3.6.9 Compliance with Application; Revocation. All work performed pursuant to a Zoning Permit issued by the Zoning Enforcement Officer shall comply with any and all application forms, plans, or other documents submitted, or

verbal representations made, in connection with the issuance of such Certificate.

In the event that the Zoning Enforcement Officer shall discover that any work is being performed in violation of such Permit, or the said documents or representations provided in connection with its issuance; or in the event that the Zoning Enforcement Officer discovers that, for any reason, the Zoning Permit should not have been issued in the first instance, the Zoning Enforcement Officer may revoke any Permit issued by him/her, in which event the Building Official shall likewise revoke any Building Permit or Certificate of Occupancy issued by him/her, and all work on the subject site shall immediately cease and desist. Such revocation may be appealed to the Zoning Board of Appeals in accordance with the Connecticut General Statutes. [Added effective 3-7-08]

20.3.7 Inspections and Display of Permit. The Zoning Enforcement Officer is authorized to inspect or cause to be inspected any Building, Structure, Lot or Premises to determine compliance with these Regulations. No Zoning Permit and no Certificate of Zoning Compliance shall be issued until the Zoning Enforcement Officer has inspected the Building, Structure, Lot or Premises involved to determine that the Use, Building, other Structure and site development conform to these Regulations. During construction of any kind, Zoning Permits shall be displayed on the Premises. By filing an application for a Zoning Permit or Certificate of Zoning Compliance, the owner and occupant of any Premises shall be deemed to have consented to inspection at reasonable times by the Zoning Enforcement Officer in order to enforce these Regulations and any permits or approvals issued hereunder. [From former Section 51.6, Amended Effective 3-7-08]

20.3.8 Orders. The Zoning Enforcement Officer is authorized to issue a STOP WORK ORDER if the use of Premises, Buildings and other Structures or the construction, reconstruction, Extension, moving or Alteration of a Building, other Structure or site development are not being carried out in compliance with these Regulations or any permit or approval issued hereunder. The Zoning Enforcement Officer shall withdraw such ORDER when there is compliance with these Regulations or any permit or approval issued hereunder. The Zoning Enforcement Officer is authorized to order in writing the remedying of any condition found to be in violation of these Regulations. [From former Section 51.7]

20.3.9 Records. The Zoning Enforcement Officer shall keep records of a) all permits and certificates issued by his/her office, including Zoning Permits and Certificates of Zoning Compliance, the applications therefor, and the fees paid for them, b) all identifiable complaints of any violation of these Regulations, c) all inspections made under these Regulations, and d) all notices of violation and the action taken thereon. [From former Section 51.8]

20.4 Building Permit.

20.4.1 Issuance. In accordance with Connecticut General Statutes §8-3(f), no Building Permit of any kind (including, but not limited to, so-called Foundation Permits, or Permits for repairs or renovations), shall be issued by the Building Official for any building, use or structure without the prior issuance of a Zoning Permit indicating that the plans submitted to the Building Official conform to these Regulations and any Special Permit or variance. Any construction activity which is found to be in violation of the Zoning Permit, or any documents or representations submitted in support thereof, or of these Regulations or any Special Permit or variance issued hereunder may be ordered to cease and desist by the Zoning Enforcement Officer and/or Building Official, and/or any Building Permit issued hereunder may be revoked by the Building Official. In order to carry out the provisions of this Section, the property owner shall allow any officials of the Town of Old Lyme free access to the site. [Added effective 3-7-08]

20.4.2 Amendments. Nothing in this Section shall be construed to require any change in the plans, construction, size, or designated use of a building for which a Zoning Permit has been issued prior to the effective date of these Regulations or any amendment thereto, provided construction shall have been completed in accordance with Section 20.3.6. See Sections 20.7 and 20.8 for special provisions regarding Special Permits and variances.

20.5 Certificate of Occupancy. No Building or Structure shall be occupied or Used, nor any Use of land established, nor shall any addition, extension, or Alteration of any Building, Structure, or Use be occupied or used until a Certificate of Occupancy is issued by the Building Official. In accordance with Connecticut General Statutes §8-3(f), no Certificate of Occupancy shall be issued by the Building Official for any Building, Use or Structure without the prior issuance of a Certificate of Zoning Compliance indicating that the Use, Building, or Structure, as actually established or constructed, conforms to these Regulations and any Special Permit or variance, and any conditions attached thereto, issued by the Commission or the Zoning Board of Appeals, as the case may be, in accordance with

these Regulations. The Building Official may issue a temporary Certificate of Occupancy where a portion of a building, site, or structure is completed and ready for occupancy, in accordance with the bonding procedure set forth in Section 20.8. [Added effective 3-7-08]

20.6 Appeals of Decisions. Any party or person aggrieved by a decision of the Zoning Enforcement Officer shall have a period of thirty (30) days from the date of any action or decision of the Zoning Enforcement Officer to appeal the action or decision to the Zoning Board of Appeals. The Zoning Board of Appeals shall have no jurisdiction to entertain an appeal filed beyond said thirty- day period. [Added effective 3-7-08]

20.7 Site Development Plans, Special Permits, Planned Residential Cluster Developments, and Variances: Deviations, Amendments, Misrepresentations.

- a. In accordance with §8-3d of the Connecticut General Statutes, no variance or Special Permit shall be effective until a copy thereof, certified by the Commission or the Zoning Board of Appeals, as the case may be, containing a description of the premises to which it relates and specifying the nature of such variance or Special Permit, including the Regulation which is varied in its application or to which a variance or Special Permit is granted, copies of all plans, specifications and conditions approved by the Commission/Board, and stating the name of the owner of record, is recorded in the Land Records of the Town of Old Lyme. The same requirement shall apply to Planned Residential Cluster Developments and Site Development Plans, regardless of the agency approving them, and to decisions under these Regulations which are made by the Planning Commission. [Added effective 3-7-08]
- b. No person who has obtained a Site Development Plan approval, Special Permit, Planned Residential Cluster Developments, or variance shall attempt to erect any Building or Structure, or establish any Use of land, which is not in substantial conformance with any element of the plans, descriptions, applications and supporting materials, information, specifications submitted, or any representations of fact made, before the Zoning Commission, Planning Commission, or the Zoning Board of Appeals, as the case may be, without an amendment as provided in these Regulations. Likewise, no person who has obtained a Site Development Plan approval, Special Permit, Planned Residential Cluster Developments, or variance shall violate any condition imposed thereon. Violation of this provision shall be grounds for the Zoning Commission, Planning Commission, or Zoning Board of Appeals, as the case may be, to void said Site Development Plan,

Special Permit, Planned Residential Cluster Developments, or variance, following a public hearing with notice to the subject property owner and permit holder, and to take such other legal action as may be required to secure compliance with said Site Development Plan, Special Permit, Planned Residential Cluster Developments, or variance and the conditions attached thereto. [Added effective 3-7-08]

- c. The Commission may by resolution permit the Zoning Enforcement Officer to authorize minor, non-substantial deviations from approved Site Development Plans, Planned Residential Cluster Developments, and Special Permits. Likewise, the Zoning Board of Appeals may by resolution permit the Zoning Enforcement Officer to authorize minor, non-substantial deviations from approved variances and Special Permits. Likewise, the Planning Commission may by resolution permit the Zoning Enforcement Officer to authorize minor, non-substantial deviations from approved Planned Residential Cluster Developments. The Zoning Enforcement Officer may approve minor modifications of an approved foundation location, provided that all provisions of these Regulations, the Old Lyme Subdivision Regulations, or the Old Lyme Inland Wetlands and Watercourses Regulations, and any conditions or requirements of any permit issued thereunder, continue to be met. [Added effective 3-7-08]
- d. Major and/or substantial changes to Site Development Plans, Special Permits, Planned Residential Cluster Developments, and variances shall be treated as new applications for approval, and shall be submitted and acted upon in accordance with these Regulations. [Added effective 3-7-08]
- e. In the event that the Commission or the Board, as the case may be, determines or discovers that information submitted to it in support of any application for Site Development Plan, Special Permit, Planned Residential Cluster Developments, or variance was incorrect or invalid, the Commission or Board may, following a public hearing with notice to the subject property owner and permit holder, void such approval, and shall state the reasons for such action on the record. [Added effective 3-7-08]

20.8 Performance Bonds.

- 20.8.1 In the event that certain improvements may not be installed at the time of occupancy of a site or building due to weather conditions or other factors beyond the control of the applicant, the Zoning Enforcement Officer may issue a temporary Certificate of Zoning Compliance at the time of the application for a Certificate of Occupancy, provided that he/she shall require a performance bond,

in the form of cash, in an amount necessary to cover one hundred (100%) percent of the construction cost, as estimated at the time of projected completion, to insure the completion of such improvements not more than six (6) months following such occupancy. Such estimate of construction costs shall consist of an itemized list of the items remaining to be completed, the unit cost including both materials and labor, and the total cost for each item. The Zoning Enforcement Officer shall have the authority to approve, or modify and approve, the estimate and the resulting bond amount. All public health and safety components of a project must be completed prior to occupancy or Use of any Premises, Building, or Structure, and may not be bonded. [Added effective 3-7-08]

20.8.2 In the event that the improvements described hereinabove shall not be completed within the time limits contained herein, the Zoning Commission, Planning Commission, Zoning Board of Appeals, or the Zoning Enforcement Officer, as the case may be, shall be authorized to utilize the performance bond to complete such improvements, and to compensate the Town for any administrative expenses incurred in connection with the completion of such improvements. [Added effective 3-7-08]

20.8.3 All bonds posted in accordance with these Regulations shall be effective at least until the completion of the activity or development which they serve to guarantee. No such bond shall require the Town of Old Lyme or any agency thereof to incur any expense or enter into any contract prior to payment of the obligation which such bonds secure. All bonds shall be in such form as the Town Attorney shall require. [Added effective 3-7-08]

20.9 Curb Cuts. No person shall create any access or highway intersecting with any Town road, nor alter any such road in a manner so as to interfere with the storm drainage from or onto any Town road without the approval of the Board of Selectmen or its agent, which approval shall be evidenced by a permit from the Board or its agent. The Board or its agent may require additional improvements to insure emergency access to any lot or parcel, to prevent hazards to the users of Town highways, and to prevent drainage, sight line, or other hazards on adjoining properties. All plot plans submitted in accordance with this Section 20 shall show the exact location of the driveway and all associated or related work to be performed, including all measurements, topography within the public right-of-way, and materials to be used. The information submitted shall be sufficient to demonstrate compliance with this Section. [Added effective 3-7-08]

- 20.10 Certificates for a Use Subject to Performance Standards. An application for a Zoning Permit or a Certificate of Zoning Compliance for a Use which is subject to the Performance Standards of Section 4.5 of these Regulations shall include such information as is necessary to establish that the Use as proposed (at the time of application for a Building Permit) and as constructed or established (at the time of application for a Certificate of Occupancy) complies with the Performance Standards of these Regulations. The applicant shall further provide an affidavit acknowledging the applicability of the Performance Standards, stating that the use as designed or built/established is capable of complying with the Performance Standards, and agreeing to comply with the Performance Standards in the future. No applicant shall be required to reveal any proprietary information or trade secret, and any information provided in compliance with this Section may be treated as confidential upon the request of the applicant, in accordance with Connecticut General Statutes §1-19(b), as the same may be amended from time to time. [Added effective 3-7-08]
- 20.11 Fees: Any Person submitting to the Zoning Commission, Planning Commission or Zoning Board of Appeals, or its agent, or other board or commission having jurisdiction, an application or petition pursuant to these Regulations shall pay to the commission or board, or its agent, to which application or petition is made the application, petition and/or processing fees in the amount established by such commission or board in accordance with the Town ordinance entitled "Ordinance Establishing Procedure for Fee Schedules in Processing Land Use Applications". [From former Section 51.10]

SECTION 21
ZONING BOARD OF APPEALS

- 21.1 General. The Zoning Board of Appeals shall have all of the powers and duties prescribed by these Regulations and the General Statutes of the State of Connecticut. The powers and duties of the Zoning Board of Appeals include the following:
- 21.1.1 to hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the agent of the Commission, or any other official charged with the enforcement of these Regulations;
 - 21.1.2 to hear and decide all matters including Special Permits in which it is required to pass by the specific terms of these Regulations; and
 - 21.1.3 to determine and vary the application of provisions of these Regulations in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare, and property values, solely with respect to a parcel of land where owing to conditions especially affecting such parcel but not affecting generally the district in which it is located, a literal enforcement of these Regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare preserved.

[From former Section 52.1, Renumbered Only Effective 3-7-08]

- 21.2 Policy for Grant of Variances. It shall be the policy of the Zoning Board of Appeals, when exercising the power to determine and vary the application of these Regulations as described in Paragraph 21.1.3., to make all of the following findings:
- 21.2.1 that there exist conditions, fully described in the findings, especially affecting the parcel of land for which a variance is sought, as a result of which conditions a literal enforcement of these Regulations would result in exceptional difficulty or unusual hardship;
 - 21.2.2 that such conditions do not affect generally the district in which the parcel is situated;
 - 21.2.3 that, for reasons fully set forth in the findings, the variance is necessary to relieve the exceptional difficulty or unusual hardship and is the minimum necessary to accomplish such purpose; and
 - 21.2.4 that the variance will be in harmony with the purpose and intent of these Regulations and will conserve the public health, safety, convenience, welfare and property values.

21.2.5 where a variance application is predicated upon the American with Disabilities Act, that the variance sought constitutes a “reasonable accommodation,” as that term has been applied by the courts of the United States for needs of a “disabled person,” as that term is defined in the American with Disabilities Act.

[From former Section 52.2, Amended Effective 3-7-08]

21.3 Conditions: Expiration Date. The Zoning Board of Appeals may in its discretion require any application for a variance or Special Permit under this Section to be accompanied by certification of the Director of Health of the Town of Old Lyme that the proposed provisions for water supply and sewage disposal comply with all sanitary codes, rules and regulations. Applications for Special Permits and variances granted by the Zoning Board of Appeals shall be subject to such terms and conditions as may be prescribed by the Board, but no Building or Use which has or may be authorized by said Board shall be commenced more than eighteen (18) months after the effective date of granting of such Special Permit or variance, and no such use or occupancy shall be permitted unless the same has been substantially completed within three (3) years of said date.

[From former Section 52.3, Revised Effective 3-7-08]

21.4 Use Variances. The Zoning Board of Appeals shall adhere to the following when application is made for a variance of use permitted or prohibited under these Regulations:

21.4.1 Where a use of land, buildings or other structures is permitted in a district subject to administrative approval of a SITE DEVELOPMENT PLAN in accordance with Section 13A of these Regulations, a variance in connection with such use may be granted only subject to submission and approval of a SITE DEVELOPMENT PLAN by the agency designated by these Regulations to review such applications.

21.4.2 Where a use of land, buildings or other structures is prohibited in a district but is permitted in another district subject to administrative approval of a SITE DEVELOPMENT PLAN in accordance with Section 13A of these Regulations, a variance to permit such use may be granted only subject to submission and approval of a SITE DEVELOPMENT PLAN by the agency designated by these Regulations to review such applications.

21.4.3 No variance shall be granted which would permit a use of land, buildings or other structures prohibited in all districts in the Town.

[From former Section 52.4, Amended Effective 3-7-08]

21.5 Appeals and Variances in Flood Plain District. These Regulations impose special requirements applicable in the Flood Plain District as set forth in Section 4.4. The Zoning Board of Appeals shall hear and decide appeals and requests for variances from the Flood Plain District requirements as follows:

- 21.5.1 to hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Zoning Enforcement Officer in the enforcement and administration of Section 4.4;
 - 21.5.2 to issue variances from the standards of Section 4.4 taking into account the general considerations and conditions for variance specified in Paragraph 21.6; and
 - 21.5.3 to issue variances for the repair or rehabilitation of historic structures without regard to the provisions of Paragraph 21.6 upon a determination that i) the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure, and ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- 21.6 Considerations and Conditions for Variance in Flood Plain District. The following considerations and conditions are applicable to action on applications for and grant of variances in the Flood Plain District:
- 21.6.1 Considerations of Variance: When acting on applications for variance of the special requirements of Section 4.4, the Zoning Board of Appeals shall consider
 - a) the technical evaluations and studies that are the basis of Section 4.4, b) the standards of Section 4.4, and c) the following:
 - a. the danger that materials may be swept onto other lands to the injury of others;
 - b. the danger to life and property due to flooding or erosion damage;
 - c. the susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
 - d. the importance of the services provided to the community by the proposed facility;
 - e. the necessity of a waterfront location for the function of the facility;
 - f. the availability of alternative locations for the proposed facility which are not subject to flooding or erosion damage;
 - g. the compatibility of the proposed use with existing and anticipated other development;
 - h. the relationship of the proposed use to the plan of development for the Town and the flood plain management program for that area;

- i. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- k. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

21.6.2 Conditions for Variance. The following are conditions applicable to the issuance of variance of the special requirements of Section 4.4:

- a. No variance shall be issued within a floodway if any increase in flood levels during the base flood discharge will result.
- b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- c. Otherwise, variances may be issued for new construction, and substantial improvements to be erected on a lot of one-half acre or less in area when the lot is contiguous to and generally surrounded by lots with existing structures constructed below the base flood elevation provided that the following criteria are met:
 - i. a showing of good and sufficient cause;
 - ii. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing Town laws, ordinances and regulations.

When issuing a variance, the Board may attach such conditions that it deems necessary to further the purpose and intent of this Regulation.

21.6.3 Residential Floodproofed Basements. A variance may be issued for residential basements below the base flood elevation provided the following conditions are satisfied, in addition to the other standards normally required for granting a variance.

- a. Fully-Enclosed Areas Below Base Flood Elevation: New construction or substantial improvements of buildings that include fully-enclosed areas formed by foundation and other exterior walls below the base flood elevation shall have at least one side at or above grade and shall be designed to preclude finished living space and designed to allow for the automatic entry and exit of flood waters to equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
- i. provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - ii. the bottom of all openings shall be no higher than one foot above grade; and
 - iii. openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions. Other coverings must be designed and certified by an engineer and approved by the Building Official.
 - iv. electrical, plumbing and other utilities are prohibited below the base flood elevation; and
 - v. use of the enclosed area shall be the minimum necessary to allow for parking of vehicles or limited storage of maintenance equipment used in connection with the premises or entry to the living area (via stairway or elevator).

- b. The Zoning Enforcement Officer shall give each applicant for variance written notice specifying the difference between the base flood elevation and the elevation to which the applicant's structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation, up to amounts as high as \$25.00 for \$100.00 of insurance coverage.
- c. The Zoning Enforcement Officer shall maintain documentation on file of the form certifying the degree of floodproofing, and record the elevation of the first floor, the elevation to which the structure is floodproofed, and the base flood elevation. This official shall also maintain a record that the applicant was advised of the insurance ramifications of building floodproofed basements.

21.6.4 Notices and Records. The Zoning Enforcement Officer shall notify the applicant for variance in writing that a) the issuance of a variance to construct a structure below the base flood elevation will result in increased premiums for flood insurance, and b) such construction below the base flood elevation increases risks to life and property. The Zoning Enforcement Officer shall maintain a record of such notice to applicants, shall maintain a record of all variance actions including the justification for their issuance and shall report such variance issue in an annual report to the Federal Insurance Administration.

[From former Section 52.6, Renumbered Only Effective 3-7-08]

21.7 Procedures.

- 21.7.1 The Board shall hold a public hearing on all applications and appeals, and shall publish a notice of said hearing as prescribed by these Regulations and the Connecticut General Statutes as amended.
- 21.7.2 In accordance with Connecticut General Statutes Section 8-6a, whenever an application for a variance is joined with an appeal of any order, requirement or decision of the Zoning Enforcement Officer, the Board shall decide the issues presented in the appeal before considering the variance application.
- 21.7.3 The Board shall hold a public hearing, close such hearing, and render its decision on any application within the time limits imposed by Section 8-7d of the Connecticut General Statutes. The Board may reverse or affirm wholly or partly or may modify any order, requirement or decision appealed from, and make such order, requirement or decision as in its opinion should be made. When acting on an appeal from a decision of the Zoning Enforcement Officer, the Board shall have all the powers of such Officer, but only in accordance with Connecticut General Statutes §8-7,

and only to the extent that the Board's actions deal directly with the subject of such appeal. Such order, requirement or decision, and any grant of any variance, may be subject to such conditions and restrictions as appear necessary to the Board in order to insure that the granting of the application or petition shall be in harmony with the purposes of these Regulations, as set forth in the Preamble to these Regulations, and as set forth in Section 8-2 of the Connecticut General Statutes. In granting any variance, the Board shall describe specifically the exceptional difficulty or unusual hardship on which its decision is based, and why the granting of the variance is in harmony with the purposes of these Regulations.

- 21.7.4 In accordance with Public Act 05.287, §46, the Board shall record by a sound-recording device or competent stenographer each meeting at which the Board deliberates on a formal petition, application, request or appeal.
- 21.7.5 Any conditions or restrictions imposed upon the granting of any application or petition, as set forth in the preceding paragraph, shall be completed within ninety (90) days of the granting thereof, unless the Board, upon the request of the applicant, grants a single extension of ninety (90) additional days, with the total extension not to exceed one hundred eighty (180) days.
- 21.7.6 Any variance in the use of buildings or land which is granted by the Board shall be placed upon the Land Records of the Town of Old Lyme by recording a copy of the variance or exception with the Town Clerk or as otherwise provided by the Connecticut General Statutes as amended, provided that any such filing shall be done no later than ninety (90) days after the approval thereof. Any variance not so recorded shall be null and void.
- 21.7.7 Any variance shall be deemed to incorporate the contents of any site or building plans or other documentation submitted in connection with any variance application, such that there shall be no change or Alteration in such plans or documents without the consent of the Board.
- 21.7.8 The Board shall adopt such procedure as may be necessary to carry out the provisions of this Section.

[From former Section 52.7, Amended Effective 3-7-08]

- 21.8.1 Appeal to Court. Any party aggrieved by any decision of the Zoning Board of Appeals may take an appeal to the Superior Court of the county or judicial district in which such municipality is located in the manner as provided under Section 8-8 of the General Statutes of the State of Connecticut. [From former Section 52.8, Amended Effective 3-7-08]

SECTION 22
PLANNING COMMISSION

- 22.1 General. The Planning Commission shall have all of the powers and duties prescribed by these Regulations and the General Statutes of the State of Connecticut. The powers and duties of the Planning Commission include the following:
- 22.1.1 to adopt and amend the Plan of Conservation and Development in accordance with Conn. Gen. Stats. §8-23;
 - 22.1.2 to adopt and amend Subdivision Regulations in accordance with Conn. Gen. Stats. §8-25 *et. Seq.*, and to hear and act upon applications for Subdivision and Resubdivision under such Regulations in accordance with Conn. Gen. Stats. §8-26, *et. Seq.*;
 - 22.1.3 to hear and decide all matters including Special Permits in which it is required to pass by the specific terms of these Regulations;
 - 22.1.4 to hear and decide all matters including SITE DEVELOPMENT PLANS in which it is required to pass by the specific terms of these Regulations;
 - 22.1.5 to provide reviews and reports on those actions of the Town of Old Lyme specified in Conn. Gen. Stats. §8-24; and
 - 22.1.6 to provide advisory reports to the Zoning Commission on any amendment to these Regulations or to the Zoning Map which is a part hereof, in accordance with Conn. Gen. Stats. §8-3a.

[Added Effective 3-7-08]

- 22.2 Conditions: Expiration Date; Record of Proceedings. The Planning Commission may in its discretion require any application for a Special Permit or SITE DEVELOPMENT PLAN under this Section to be accompanied by certification of the Director of Health of the Town of Old Lyme that the proposed provisions for water supply and sewage disposal comply with all sanitary codes, rules and regulations. Applications for Special Permits or SITE DEVELOPMENT PLANS granted by the Planning Commission shall be subject to such terms and conditions as may be prescribed by the Commission, but no building or use which has or may be authorized by said Commission shall be commenced more than six (6) months after the effective date of granting of such Special Permit or SITE DEVELOPMENT PLAN, and no such use or occupancy shall be permitted unless the same has been substantially completed within 12 months of said date. In accordance with Public Act 05.287, §46, the Board shall record by a sound-recording device or competent stenographer each meeting at which the Commission deliberates on a formal petition, application, request or appeal.

[Added Effective 3-7-08]

22.3 Effective Date and Filing. A Special Permit or SITE DEVELOPMENT PLAN issued under this Section shall become effective at such time as is fixed by the Planning Commission, provided a copy thereof shall be filed in the Office of the Old Lyme Town Clerk and in the Land Records of the Town of Old Lyme.

[Added Effective 3-7-08]

22.4 Appeal to Court. Any party aggrieved by any decision of the Planning Commission on a Special Permit or SITE DEVELOPMENT PLAN may take an appeal to the Superior Court of the county or judicial district in which such municipality is located in the manner as provided under Section 8-8 of the General Statutes of the State of Connecticut. Decisions on SITE DEVELOPMENT PLANS shall not be to the Zoning Board of Appeals, but shall directly to the Superior Court.

[Added Effective 3-7-08]

SECTION 23
EFFECTIVE DATE, REPEAL, VALIDITY, AND AMENDMENTS

23.1 Effective Date and Repeal

23.1.1 Effective Date. These Regulations, and any amendment or change hereto, shall be full force and effect from the date established by the Zoning Commission in accordance with the General Statutes of the State of Connecticut. Specifically, these Regulations shall take effect on January 11, 1941, and as amended thereafter. Whenever in these Regulations phrases such as "the effective date of these Regulations" are used, they shall be deemed to refer to the aforesaid effective date, or the effective date of any subsequent amendment to the subject provision. The adoption hereof shall revoke any inconsistent provision of any prior zoning regulation, but shall not alter the continuity of any prior consistent provision, nor commence a new date for the determination of a legal nonconforming use, building or structure which was nonconforming to prior regulations and remains nonconforming to these Regulations.

23.1.2 Repeal of Prior Provisions, Effect Thereof. The Zoning Regulations of the Town of Old Lyme, Connecticut, previously adopted, all amendments thereto, are repealed coincident with the effective date of these Regulations. The repeal of those regulations, and all amendments thereto, shall not affect or impair any act done, offense committed or right accruing, accrued or acquired or any liability, penalty, forfeiture or punishment incurred prior to the time such repeal took effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been effected.

[Foregoing From former Section 56, Amended Effective 3-7-08]

23.2 Validity

23.2.1 If any section, paragraph, subparagraph, clause or provision of these Regulations is adjudged to be invalid, such adjudication shall apply only to the section, paragraph, subparagraph, clause or provision so adjudged and the remainder of these Regulations shall be deemed valid and effective.

23.2.2 If any section, paragraph, subparagraph, clause or provision of these Regulations is adjudged to be invalid as applied to a particular building, structure or lot, such adjudication shall apply only to such building, structure or lot, and the general application of such section, paragraph, subparagraph, clause or provision to other buildings, structures or lots shall not be affected.

[From former Section 55, renumbered but not amended effective 3-7-08.]

23.3 Amendments

23.3.1 Amendment of Regulations by Zoning Commission. These Regulations, including the Zoning Map and Zoning Districts, may from time to time be amended or changed by the Zoning Commission in accordance with the provisions of Chapter 124 of the Connecticut General Statutes. Proposed amendments and maps of any changes shall be in form satisfactory to the Zoning Commission in accordance with applicable Connecticut Statutes.

23.3.2 Rules for Submission of Petitions to Amend Regulations. Any person, firm or corporation may submit to the Zoning Commission a written petition proposing an amendment or change in these Regulations, including the Zoning Map and Zoning Districts, which petition shall be prepared and include information as follows:

23.3.3 Petition and Fee. Eight (8) copies of the written petition, all signed by the petitioner or the petitioner's attorney or agent duly authorized, shall be submitted together with a petition fee in accordance with the Town ordinance entitled, "Ordinance Establishing Procedures for Fee Schedules for Processing Land Use Applications," as the same may be amended from time to time. The petition may state the petitioner's reasons for the proposed amendment or change.

23.3.3 Amendment of Text. Petitions proposing amendment or change in the text of the Regulations, including permitted uses and standards in Zoning Districts, shall be accompanied by eight (8) copies of both the existing text and the text proposed by the petitioner, with the changes clearly indicated by underlining or otherwise.

23.3.4 Amendment of Zoning Map. Petitions proposing amendment of the Zoning Map and Zoning Districts shall be accompanied by eight (8) copies of the following:

- a. a metes and bounds description of the land to be included in the change and a metes and bounds description of the lot or lots with respect to which the change is requested; and
- b. a map, drawn to a scale of not less than 1"=100', covering the area of the proposed change and all area in the Town within 500 feet of the proposed change, and showing for such area the existing and proposed Zoning District boundary lines, the existing property lines and the names of the current owners of each lot and their addresses as indicated in the Old Lyme Assessor's records; the list of owners and addresses may be separate from the map if properly keyed to the map to identify which owner owns which lot, and the map may be prepared on copies of the Town Assessor's maps if sufficient to show the required information; and
- c. the petition map may show additional information such as existing contours, wetlands, watercourses, wooded areas, buildings, structures and

site improvements as may support identification and understanding of the proposed change.

[From former Section 54, Amended Effective 3-7-08]