

Proposed revisions to the Lyme Zoning and Subdivision Regulations

Dated January 6, 2016

2.14a CUMULATIVE NEGATIVE EFFECT: Any effect that when considered together with any likely current or future regulated activity within the entire District would have a significant adverse effect on the Purpose of the District.

2.15 DISTRICT: A zoning district established by the provisions of Section 3 of these Regulations.

2.16 DISTURBED AREA: An area where the ground cover is destroyed or removed, leaving the land subject to accelerated erosion or providing a host site for invasive species caused by a land disturbing activity.

2.17 DWELLING: A building which contains living, sleeping, and sanitary accommodations for human occupancy.

2.18 EARTH MATERIALS REMOVAL: The removal, excavation or mining of minerals, sand, gravel, clay, bedrock, peat, loam or topsoil.

2.19 EROSION AND SEDIMENT CONTROL PLAN: A scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative, as required in Section 16.

2.20 FAMILY: Any number of individuals related by blood, marriage, or adoption living together as a single housekeeping unit, or a group of not more than five persons keeping house together but not necessarily related by blood or marriage.

2.21 FAMILY DWELLING UNIT: A dwelling or part of a dwelling occupied or intended to be occupied by one family for residential purposes.

2.21.1 FARM AND AGRICULTURE: A farm shall be construed to mean at least five (5) contiguous acres of land, with buildings which are mainly used for and incidental to farming. Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including but not limited to, horses, bees, poultry, fur bearing animals and wildlife, and raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, ponds, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale of any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits or vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoop houses and other temporary structures or other structures used primarily for the raising and as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquiculture" means the farming of the waters of the state and tidal wetlands and the production of protein food,

including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands.

2.21.2 FARM WINERY: Any place or premises, located on a farm in which wine is manufactured from grapes or fruit grown on the farm and sold. Such wine may include any alcoholic beverages, including brandy, obtained by the fermentation of the natural sugar of fruits, such as grapes or apples.

2.22 GRADE: The original grade is the ground level of the naturally occurring topography, prior to any site grading. The finished grade is the ground level adjoining the base of all exterior walls of a building or structure and including any related earth retaining structure such as a retaining wall or berm.

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

2.24 HEIGHT: The vertical distance between a horizontal plane drawn through the highest point of a building or structure, excluding chimneys, cupolas, spires and silos, and the lowest point of a building or structure above natural grade prior to site grading, or which is visible from a new, excavated grade, whichever creates the greater height dimension. **Stair wells for the purpose of human ingress and egress of buildings from below grade with a maximum width of four (4) feet clear passage space and opaque doors are exempt from this provision.** The height of any retaining wall constructed to create a site platform, and of any backfill along the foundation in excess of the existing natural grade, shall be included as part of the measured height.

2.24a HERBACEOUS: Plants having little or no woody tissue. Leaves and stems usually die back to ground level at the end of the growing season.

2.25 HOME OCCUPATION (CUSTOMARY): An accessory use usually conducted for financial gain within a dwelling or accessory building on the same lot by occupants of the dwelling unit, which use is incidental and subordinate to the dwelling use, and which does not in any manner change the residential character of the building premises or neighborhood. See Section 8.2.

2.26 HUMAN OCCUPANCY: The use of an enclosed space having a means of egress, light, ventilation and access to sanitary facilities to house any person or persons for the purpose of living, working or playing.

2.27 IMPERVIOUS SURFACE: Any manmade area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks and paved recreation areas (tennis courts, basketball courts, etc.)

2.28 IMPERVIOUS SURFACE COVERAGE: The percentage which the aggregate total of all impervious surfaces on a lot bears to the total area of that lot.

2.28a INDIVIDUAL NEGATIVE EFFECT: Any effect that when taken into consideration on an individual site basis within the District would have an adverse effect on the Purpose of the District.

2.28b INVASIVE CHARACTERISTICS: When used in the context of plants, grasses, forbs, shrubs and trees means: (i) non-native or introduced species of flora exhibiting aggressive

SECTION 4 RURAL DISTRICTS

4.1 PURPOSE OF RURAL DISTRICTS: To insure a sound residential development of the Town in accordance with the aims of the Plan of Conservation and Development and in keeping with the rural character of the community and the natural features of the land.

4.2 USES PERMITTED IN RURAL DISTRICTS

- 4.2.1 A family dwelling unit, and conversions to two family dwellings only as allowed under Section 7.14. A family dwelling may be located in a manufactured home, but shall not be located in a trailer coach, as defined in these Regulations;
- 4.2.2 A customary home occupation of the occupant of the premises, located in the dwelling occupied by such person as his residence, or in any accessory building, and meeting the requirements of Section 8.1;
- 4.2.3 Accessory Apartments meeting the requirements of Section 8.2
Except as provided in Section 8.2 for Accessory Apartments, no detached accessory buildings shall be used for dwelling purposes unless the lot on which the accessory building is located is conforming.
- 4.2.4 Bed and breakfast establishments of not more than three guest rooms, lodging no more than six people, meeting the requirements of Section 8.3. Bed and breakfast establishments which provide lodging of more than three, but not more than six rooms, and not more than 12 guests, are allowed by Special Permit.
- 4.2.5 Farms and Agriculture, ~~[farming, forestry, truck or nursery gardening, including greenhouses;]~~ as defined in section 2.21.1 including farm wineries as defined in section 2.21.2.
- 4.2.6 Permitted Accessory Uses: Accessory uses customarily incidental to a permitted use on the same lot.

4.3 SPECIAL PERMIT USES: The following uses when specifically approved as a special permit by the Planning and Zoning Commission, in accordance with Section 12, subject to such conditions as said Commission may establish.

- 4.3.1 Schools for pre-kindergarten through 12th grade, operated by or for the benefit of a governmental unit, including nursery schools, but excluding a camp.
 - a. The lot shall contain a contiguous area not less than the following:
 - 1. Nursery school - 2 acres, but not less than the minimum lot area required in the district in which it is located.
 - 2. Elementary school - 5 acres plus 1 acre for each one hundred pupils or fraction thereof.
 - 3. Above the sixth grade - 10 acres plus 2 acres for each one hundred pupils or fraction thereof.

SECTION 6 COMMERCIAL DISTRICTS

6.1 PURPOSE: COMMERCIAL DISTRICTS: To provide areas suitable for retail, commercial and similar activities, predominantly intended to serve the residents of the community, suitably related to residential areas.

6.2 USES PERMITTED IN COMMERCIAL DISTRICTS: All uses within Commercial Districts except those permitted under Section 6.2.1, shall be subject to the site plan requirements of Section 11, unless waived by the Commission or its designated enforcement officer.

6.2.1 Any use permitted in a Rural District as provided in section ~~[4.2]~~ 4;

6.2.2 Business or professional offices and financial institutions;

6.2.3 A retail business or retail service occupation including the manufacture or processing of materials only as incidental to a permitted retail occupation and provided that no objectionable noise, smell or unsightly condition is created which is noticeable off the premises. All activities shall be carried on within a building, except for the display of merchandise within 20 feet of a building;

6.2.4 Restaurants, but not including taverns and cafes;

6.2.5 Automobile service stations, public garages, automobile sales rooms, outdoor automobile sales areas and public parking areas.

6.2.6 Accessory uses customary with, and incidental to, a permitted use.

6.2.7 A family dwelling unit, either attached or detached from other buildings, is allowable on the same lot as a commercial use. If a commercial use or uses occur on a lot, only one family dwelling unit is permitted on the lot; no commercial uses are permitted if there are two single family dwelling units on a lot.

6.2.8 SIGNS, in conformance with Section ~~[24]~~ 22 of these Regulations.

6.2.9 Marine service facilities, marine sales rooms, outdoor marine sales areas and public parking areas coincident with a primary facility use only; provided however, the display of boats and trailers for sale shall not be allowed within 5 feet of a property boundary with existing residential use or within the 6 foot buffer area required by section 6.4 unless otherwise approved by the Planning and Zoning Commission.

6.3 REQUIRED LOT AREA, WIDTH, YARDS, COVERAGE

7.15 DUMPING AND STORING OF REFUSE

- 7.15.1 No dumping or storing of refuse shall be permitted other than the temporary dumping or storage within a building or screened from view from off the premises of small amounts of such material for brief periods pending final lawful disposition;
- 7.15.2 No inoperable motor vehicle or motor vehicle which is incapable of being registered may be stored on any lot except within a building;
- 7.15.3 No refuse not originating on the premises may be disposed of on any lot except at a facility for that purpose operated by the Town of Lyme.

7.16 OFFENSIVE USES

No land, building, structure or part thereof, in any district shall be used in any manner injurious or offensive to a neighborhood because of the emission of odor, fumes, dust, smoke, vibration, noise, unsightliness, light pollution or other cause, or in any manner which will result in the discharge of waste or refuse into any stream or river.

7.17 OTHER USES;

~~[In any zone, a use which is not covered in these regulations as either a permitted use or a prohibited use, shall be allowed only as a special permit granted by the Planning and Zoning Commission.]~~ Intentionally left blank.

7.18 COMMERCIAL CUTTING OF TIMBER

No commercial cutting of timber shall occur without a permit issued by the Lyme Zoning Enforcement Officer. After submission of a commercial cutting plan to said Zoning Enforcement Officer, a permit shall be granted if it is found to be consistent with the minimum standards set forth in Section 17.

7.19 DEER FENCES

Fences commonly referred to as "deer fences" of up to 8 feet in height shall be permitted within property line setbacks provided that the fence is dark in color, of an open mesh design and that zoning permit is issued by the Zoning Enforcement Officer.

7.20 STREAM CROSSING

For applications that include activities involving stream crossings, the applicant shall incorporate, to the maximum feasible extent, standards and practices recommended in the Connecticut Stream Crossing Guidelines as published by the Connecticut Department of Environmental Protection and the Massachusetts Department of Environmental Protection. Copies are available for review in the Lyme Town Hall or can be found on the Connecticut and Massachusetts Department of Environmental Protection websites.

7.21 WATER QUALITY

The Commission, or its duly authorized agent, may require that the applicant design a storm water management plan which conforms, to the maximum feasible extent, to the Connecticut Stormwater Quality Manual, as amended, and published by the Connecticut Department of Environmental Protection. All stormwater management plans shall include measures to capture and treat stormwater runoff and to incorporate low impact development design elements to the extent that is practical. Such design plan shall detail how the stormwater runoff and associated

water quality impacts resulting from the development will be controlled and managed during and after construction, including long term maintenance. The plan must be prepared by an appropriate design professional. Further, the Commission may restrict the use of and/or require substitution of certain Best Management Practices based on maintenance requirements.

The following documents provide further guidance on the purpose, specifications and design elements for stormwater management and low impact development:

- a. Office of Long Island Sound Programs, Fact Sheet for Stormwater Management
- b. Connecticut Department of Environmental Protection, Inland Water Resources Division, Fact Sheet Considering Low Impact Development Principles in Site Design
- c. Rainfall as a Resource, A Resident's Guide to Low Impact Development in Connecticut
- d. Stormwater/LID Review Checklist

These documents are located in Appendix I.

7.22 Setback Surveys: For uses on properties that either contain conservation restrictions or are adjacent to properties that have conservation restrictions an A-2 survey may be required for the purposes of confirming setback requirements in accordance with these regulations,

**SECTION 8
ADDITIONAL REQUIREMENTS FOR CERTAIN USES**

8.1 CUSTOMARY HOME OCCUPATIONS

8.1.1 Purpose: The purpose of this section is to regulate any use customarily conducted entirely within a dwelling, within the principal building on a lot, or within an accessory building, and carried on by the residents thereof, which is clearly incidental and secondary to the uses of the dwelling for residential purpose. The customary home occupation shall conform to the following standards of these Regulations and is an additional use for which an application for a zoning permit and certificate of zoning compliance are required. "Customary Home Occupation" shall include the following activities:

a. Preparation and sale of those items produced in the home, garden, farm or nursery, provided that such items are created entirely on the premises, such as home baking, needlework, dressmaking, tailoring, fruits and produce and home preserves.

b. Preparation and sale of items of arts and crafts based on individual talent, provided such items are created entirely on the premises, such as painting and illustrating, wood carving, cabinet making, ceramics, writing, sculpture, ornamental glass and metal working.

c. Instructional classes and lessons for not more than six students at a time, which are customarily associated with home occupations, such as music, arts and crafts.

d. The conduct of a professional office, where the principal resides on the premises, such as offices for real estate, insurance, accounting, building contractors, architect, lawyer, musician, doctor, physical therapist, engineer and surveyor.

e. A private workshop necessary to the skilled trade of a resident of the premises, provided that there is no manufacture or sale of goods on the premises, such as a workshop for a plumber, electrician, carpenter, heating contractor, painter, paper-hanger, or appliance/electronics repairperson.

8.1.2 A customary home occupation shall not include barber shops, beauty shops, dancing schools, karate schools, restaurants, printing shops, employment agencies, radio stations, dentist offices, or other such uses where traffic, water usage, disposal of waste products, noise, lighting or odors shall significantly exceed that of a typical single family dwelling.

8.1.3 No customary home occupation shall be permitted unless all of the following requirements are met:

a. Such use shall be clearly subordinate to the use of the premises as a residence.

b. No additional on-street parking shall be permitted. Sufficient off-street parking shall be provided at least twenty-five feet from street and lot lines, and it shall be screened from adjoining residential properties.

c. Not more than 25% of the floor area of the residential building shall be so used, nor more than 750 square feet of an accessory building.

d. Not more than three non-residents shall be employed by the home occupation.

e. No finished goods shall be acquired from elsewhere for sale in connection with the home occupation **except that internet resale of items not produced in the home are permitted provided that the items for sale can be shipped by normal United States Postal Service methods and don't result in any additional traffic beyond normal mail delivery.**

f. No home occupation shall create interference with radio and television reception in the vicinity, nor create a health or safety hazard, nor be disruptive to adjacent property or the neighborhood. There shall be no discharges of a hazardous or toxic substance to the air, surface water, ground water or ground.

8.1.4 Application: An application for a home occupation shall be submitted on a form provided by the Town, signed by the applicant, who shall be a resident of the property in which the home occupation is proposed. The application shall include, at minimum, a detailed description of the proposed home occupation and any required machinery, equipment or materials to be used, the number of employees that will be employed, and the written consent of the landowner. A plan shall be submitted showing the floor area of any structures and any outdoor areas to be used by the home occupation. A description of the frequency and type of commercial and customer vehicles associated with the occupation shall also be submitted. When issued, the permit is personal to the applicant and shall not be used by any other person or persons to perpetuate the home occupation. An expansion or alteration of a home occupation shall require a new permit.

8.2 ACCESSORY APARTMENTS

8.2.1 Purpose: The purpose of Section 8.2, Accessory Apartments, is to allow the use of a room or set of rooms within or accessory to a principal residence, as a separate living facility, in order to provide a separate living arrangement which allows privacy within the dwelling unit, permits homeowners a means of obtaining supplemental income, creates housing units for moderate income individuals, and creates housing for small household units within the Town of Lyme.

8.2.2. Eligibility: Accessory apartments may be considered and may be approved in Rural Districts, except Flood Plain Districts. . A permit from the Zoning Enforcement Officer is required for all accessory apartments. An accessory apartment may be permitted in the R-40 District by Special Permit only. In addition, accessory apartments not attached to a principal structure on lots which share a common driveway or private road serving two or more building lots, shall only be allowed by special permit regardless of the zone in which the lots are located.

In addition to other appropriate review standards found in these Regulations, the Commission, in reviewing applications for wireless telecommunication facilities, shall consider:

- a. Detailed analysis of alternative sites, structures, antennae and access as provided by the applicant. Particular attention will be placed upon the siting preferences found in Section 8.4.2 of these Regulations.
- b. Detailed propagation and antenna separation analysis relative to tower height.
- c. Tower sharing or co-location to facilitate the telecommunication needs of municipalities, emergency services and other entities in order to reduce the need to construct additional towers.
- d. Assessment of tower structure type.
- e. Achievement of design characteristics / architectural treatments that mitigate, reduce or eliminate adverse visual obtrusiveness on adjacent areas.
- f. Consideration of future use or re-use of the site, with provisions for facility removal and site restoration.

8.4.6 Accessory buildings and cabinets

All accessory buildings and cabinets associated with wireless telecommunication facilities shall comply with the following:

- a. Within residential zones, the accessory building shall not exceed 450 square feet gross floor area for the initial telecommunication facility, minimal increased floor area is permitted for sharing purposes; and the building shall have a roof line characteristic of other buildings in the vicinity. Only one building per facility is allowed in rural zones.
- b. Each building shall comply with the setback requirements for accessory buildings for the zoning district in which it is located.
- c. If located on the roof of a building, it shall be designed to blend with the color and design of the building to the extent possible, and including any feasible screening considerations.
- d. All ground level buildings, boxes or cabinets shall be surrounded by a chain link or comparable fence and landscaped with a visual screening border of evergreen trees at least six feet in height that are drought and deer resistant; and shall be properly maintained by the facility owner.
- e. All utilities shall be underground.

8.4.7 Abandonment of telecommunications facilities:

A wireless telecommunication facility not in use for 12 consecutive months shall be removed by the facility owner at their expense. This removal shall occur within 90 days of the end of such 12-month period. The Commission shall require a bond or other surety satisfactory to the Town of Lyme to guarantee removal of the facility, and which shall be reviewed every two years. The bond or surety must remain effective for the life of the permit. If there are two or more users of a single tower, this provision shall not become effective until all users cease utilizing the tower.

8.5 Farm Wineries

- 8.5.1 Farm wineries as defined in section 2.21.2 shall only be permitted on a farm. Nothing in these regulations shall prohibit a farm from being created, maintained and operated on a farm at the same time and on which other permitted activities

exist or might come into existence, including without limitation, farming or related agricultural activities which are a use by right on the farm.

- 8.5.2 Farm wineries shall be operated pursuant to Section 30-16 of the Connecticut General Statutes subject to these zoning regulations and such conditions and limitations as may be placed on a farm winery by the Commission as part of a special permit.
- 8.5.3 A farm winery shall have a minimum of two (2) acres dedicated to the growing of grapes, apples or other fruit for the purpose of producing wine on the site.
- 8.5.4 The farm winery permittee shall grow on the premises of the farm winery an average crop of fruit equal to not less than twenty-five percent of the fruit used in the manufacture of wine on the premises by the farm winery.
- 8.3.5 No more than 75% of fruit that is to be used in the manufacture of wine at a farm winery may be imported from alternate sources.
- 8.3.6 A farm winery may only sell or offer for sale or offer samples of tastings of wine manufactured on site by the farm winery in compliance with the requirements of these regulations and the special permit.
- 8.5.7 Neither a farm winery nor any uses accessory thereto may be conducted unless the Commission approves an application for a farm winery special permit, under which the Commission may authorize a person granted the special permit to:
 - a. Produce wine on site
 - b. Offer samples of wine produced on site to visitors and prospective retail customers for tasting and consumption on the site. The tastings shall be limited to one half ounce per vintage with a limit of four vintages served per customer and an additional four ounce glass of a single vintage per customer;
 - c. By appointment only, sell sealed bottles of wine not to be opened or consumed on site and;
 - d. Conduct activities secondary and accessory to the principal use as a farm winery, including but not limited to:
 - (i) The on-site sale of wine related merchandise e.g. corkscrews, hats, tee shirts, wine glasses and other wine related merchandise; and
 - (ii) Such other uses and activities as are clearly secondary and subordinate to a farm winery and customarily associated therewith that the Commission determines may be conducted safely and without undue disturbance to persons and property off the site.
- 8.5.8 Additional Information Requirements. Every application for a special permit for a farm winery and/or for any accessory uses associated therewith shall comply with all procedural and informational requirements of these regulations for special

permits, and contain plans and narratives describing and depicting in detail all aspects of the proposed use(s), including without limitation:

- a. A precise description of each proposed use and activity;
- b. Plans prepared and sealed by relevant professionals, e.g., architects and/or engineers, depicting all buildings and structures to be used to conduct any proposed activity, all on-site parking areas and proposed means of vehicular ingress and egress;
- c. Descriptions (including the proposed locations on the site), plans and specifications for all personal property, equipment, and machinery to be used to conduct any proposed activity;
- d. The days on which the applicant proposes to conduct activities and the hours of operation proposed for each day; and
- e. The proposed occupancy for each proposed use. The maximum occupancy for any particular category of events at the site shall be based in part on the size of the space and/or facility within which the activities are proposed to be conducted, and on other factors related to the safety of the participants and the harmony of the use(s) with the neighborhood.

8.5.9 Farm Winery Parking:

8.5.9.1 Parking: An applicant shall demonstrate to the Commission's satisfaction that adequate parking is available for the farm winery and accessory uses or activities proposed in the application.

8.5.9.2 The applicant shall provide off-street parking sufficient in size and type to accommodate the largest number of vehicles anticipated to be at the site during any permitted activity.

8.5.10 Single family residential structures may be permitted on site subject to all other applicable regulations.

SECTION 12 SPECIAL PERMITS

12.1 PURPOSE

Comprehensive zoning regulations are based on the division of the community into separate districts in which the use of land and buildings are substantially uniform. It is recognized that there are certain uses which, because of their nature, cannot be distinctly classified or regulated so as to be uniformly permitted in a particular zoning district without careful consideration in each case of the impact of such uses upon neighboring uses and the surrounding area, and without careful evaluation of the public need for such uses in the particular locations proposed. Such uses, **as defined in Section 4**, therefore, shall be treated individually through the use of Special Permits.

12.2 AUTHORITY

In all cases where these regulations require approval by special permit, no zoning permit shall be issued by the ZEO except after public notice and hearing in accordance with the General Statutes of the State of Connecticut and upon authorization of the Planning and Zoning Commission.

12.3 APPLICATION FOR SPECIAL PERMIT

12.3.1 Submission of application: Each application for a Special Permit shall be filed with the Zoning Enforcement Officer on a form provided by the Commission at least fourteen days prior to the next regular meeting of the Commission, and shall be accompanied by a fee as established by the Commission. An application will be considered complete when an application form, fee, maps and other materials conforming substantially to the requirements of Section 11 has been received. The information submitted for the Special Permit shall be voted on as part of the Special Permit Application. Failure to submit a complete application shall be grounds for denial of the application.

12.3.2 Official Date of Receipt: The date of official receipt of a Special Permit application shall be the date of the next regularly scheduled meeting of the Commission following the date of submission of a completed application to the ZEO

12.3.3 Public Hearing: The Commission shall hold a public hearing on all applications for a special permit in accordance with the requirements of Section 8-3c of the Connecticut General Statutes

a. Mailing of Hearing Notice: At the beginning of a public hearing held on any application for a Special Permit, the applicant shall present proof that notice of the hearing has been mailed at least 10 days, but not more than 30 days, in advance of the date of the scheduled hearing by certified mail, return receipt requested, directed to each of the owners of records of lots located within 150 feet from the boundaries of the subject properties, as such owners and addresses appear on the last completed Grand List of the Town of Lyme.

b. Affidavit of Compliance: The petitioner requesting the special permit shall, on or before the date of the public hearing, file with the Commission proof of mailing documenting compliance with Section 12.3.3.

SECTION 22 SIGNS

22.1 GENERAL

No sign shall be established, constructed, reconstructed, enlarged, extended, moved, structurally altered unless and until a Sign Permit therefore shall have been issued.

22.2 DEFINITIONS

- a. Sign - any display of lettering, logos, colors, lights, luminous tubes or other graphic representation visible to the public from outside the property and which intends to draw the public's attention thereby; including sign, illustration, insignia, lettering, picture, display, banner, pennant, flag, painting or other device.
- b. Freestanding sign – a self supporting sign not attached to other structure, wall or fence and in a fixed location.
- c. Illuminated sign – any sign which is artificially illuminated, either externally or internally.
- d. Projecting sign - a sign which is attached to a wall or a building in such a manner that its leading edge extends more than six inches beyond the surface to which it is attached.
- e. Temporary sign - any sign which is not permanently affixed to a structure or ground and is intended to be displayed for a limited period of time.
- f. Billboard - a freestanding sign larger than 20 square feet.

22.3 EXEMPT SIGNS: The following signs do not require a permit under this Section. Exempt signs are subject to the limitations of Section 22.4 regarding prohibited signs.

- a. Public signs - Signs of a non-commercial nature and in the public interest, required under State or Federal law, authorized by a public officer such as: traffic signs, safety signs, directional signs, memorial plaques, signs of historical nature and the like.
- b. The flags, pennants or insignia of any nation, or non-profit organization, provided that they may be subject to review by the Commission relative to public safety hazards.
- c. Posting of No Trespassing and No Hunting Signs, Ownership Identification signs such as Land Trust properties. These signs are exempt from the provisions prohibiting attachment to trees and fences.

22.4 PROHIBITED SIGNS: The following signs are prohibited:

- a. No sign shall be attached to a tree, fence or utility pole, or painted or drawn on a rock or other natural features, or painted upon the wall or roof of a building.
- b. No sign, including its support structure, shall protrude above the building peak or the maximum prescribed building height.

- c. Projecting sign – no sign shall project beyond any property line or intrude into yard setbacks, excluding the following: projection up to 15 inches into a driveway or pedestrian way provided the height exceeds ten feet and presents no hazard.
- d. No sign shall have a pulsating, rotating or intermittent illuminating device and including moving signs such as banners, streamers, ribbons, spinners, pennants, strings of lights; except emergency lights.
- e. Continuous strip lighting of structures.
- f. Any sign that presents a hazard to public health or safety.
- g. Billboard, inflatable signs. [~~A-Frame” signs, and sandwich signs~~].
- h. Any vehicle or trailer exhibiting any sign and parked in such a manner as to be an advertisement device for products or activities related to the same or nearby property or premises. This section is not intended to prohibit a normal form of signage or lettering attached to a bus or commercial vehicle.
- i. Off-premises real estate signs are not permitted.

22.5 TEMPORARY SIGNS

No more than two temporary signs advertising special sales or events, not exceeding three square feet each, may be displayed on the premises; temporary signs shall not be illuminated; temporary signs may be attached to 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 window area and such signs shall not be in place for more than 30 days. Temporary signs do not require a sign permit.

22.6 SIGNS IN RURAL DISTRICTS

The following signs are permitted in Residential Districts:

- a. One sign not exceeding 3 square feet in area bearing the name and occupation of the occupant.
- b. One sign not exceeding 3 square feet in area advertising the premises for sale or rent, or advertising a construction or repairing operation being carried out on the premises, while such sign is on display.
- c. No sign shall be constructed, reconstructed, enlarged, extended, moved or structurally altered in such a manner so as to move or rotate mechanically or be illuminated by a light source which visibly flashes, oscillates or otherwise automatically changes in intensity or color, nor shall any sign be permitted which calls the attention of the general public to any commercial activities, services or products not available on the premises where the sign is located.

22.7 SIGN STANDARDS FOR COMMERCIAL AND WATERFRONT BUSINESS DISTRICTS

Sign illumination shall be floodlighting, or with luminous background silhouette signs with opaque letters. Direct and intense or glaring light shall not be visible at streets, adjacent properties or public watercourses. All sign lighting shall be directed downward and screened from neighboring properties. Illuminated signs associated with a business establishment shall

SECTION 23 NONCONFORMITIES

23.1 CONTINUANCE OF NONCONFORMING USES

Any nonconforming use of land, a building, structure, or premises may be continued or changed, and any nonconforming building or structure may be reconstructed and/or repaired, subject to the following:

23.1.1 No nonconforming use may be changed to a different use, without the approval of the Zoning Board of Appeals. Approval for a change to another nonconforming use shall not be granted unless the Board finds (a) or that the new use will be less non-conforming than the existing use; and that (b) the new use will be less intensive than the prior use "Less intensive means that the new use will meet one of more the following criteria: total space occupied, hours of operation, required parking, number of employees, impact on the surrounding area, and impact on public health, safety and convenience.

23.1.2 No nonconforming use, if once changed into a conforming use, shall be changed back into a nonconforming use.

23.1.3 No nonconforming use shall be extended or expanded.

23.1.4 No nonconforming use which has been abandoned for a period of one year shall be thereafter resumed.

23.2 NON-CONFORMING BUILDINGS

23.2.1 No building or structure which does not conform to the requirements of these Regulations regarding building height limit and required yards shall be extended or expanded unless such extended or expanded portion conforms to the Regulations applying to the district in which it is located.

23.2.2 No building or structure which is on a lot which does not conform to the requirements of these Regulations regarding lot area, width of lot, percentage of lot coverage, or parking facilities shall be extended or expanded.

23.2.3 If any nonconforming building or structure shall be destroyed by any means, ~~[to an extent of more than 75 percent of its fair market value]~~, repairs or reconstruction ~~may be made and the non-conforming use continued provided there is no expansion of the existing foot print,~~
~~[shall be made only in accordance with the Regulations for the district in which it is located. Where the cost of such repairs or reconstruction is less than 75 percent of the fair market value of the building, it may be restored and the nonconforming use continued]~~ and further provided that such restoration is started within a period of one year from the date of such destruction and is diligently prosecuted.

23.3 EXISTING NONCONFORMING LOTS

The applicable requirements of these Regulations pertaining to (a) minimum gross lot area, (b) net buildable lot area, and (c) minimum lot width shall not prevent the construction of an otherwise permitted building or structure or the establishment of an otherwise permitted use on a lot which:

3.10 APPEALS

Any person aggrieved by an official decision of the Commission may file an appeal to the Superior Court within fifteen days from the date when the notice of decision was published according to law. The Commission will not endorse the plan until after the time for taking an appeal from the decision has elapsed, or in the event of an appeal, upon termination of such appeal by dismissal, withdrawal or judgment in favor of the applicant.

3.11 POSTING A BOND

Prior to endorsement of the approved plan, the Commission shall require the applicant to post a sufficient bond or other security, in a form and amount acceptable to the Commission and to the Commission's attorney, in accordance with Section 6 of the Regulations.

3.12 ENDORSEMENT AND DELIVERY OF PLAN

One fixed line photographic mylar and two print copies of the approved subdivision or resubdivision map, along with two corrected print copies of any other maps which are part of the approved application, shall be delivered to the Enforcement Officer within thirty days of a Commission vote to approve the subdivision or resubdivision application. Such plans shall contain all modifications or stipulations required by the Commission as part of its approval. All mylars shall contain the raised seal and original signature of the engineer and/or surveyor certifying the plan. **In addition, the legal description of all easements and deeds containing the Schedule A descriptions of the parcels must be submitted with the above and taxes must be paid and up to date.**

Endorsement of the plan by the Commission shall not be executed until the end of the appeal period as set forth in Section 3.10, and until all conditions of approval have been met, including posting of any required bonds and submission of the final corrected plans and executed legal documents **and payment of all owed taxes**. If the applicant fails to comply with this requirement, the Commission may declare the approval null and void.

3.13 COMMISSION ENDORSEMENT OF PLAN:

Upon receipt of final plans including any required modifications, executed legal documents, and the posting of any bond required as part of the approval, the Chairman or Secretary of the Commission shall endorse the final plans, and shall note on the plans the date of approval and the date of project expiration. The applicant will then be notified that the endorsed plans and legal documents are available for recording with the Office of the Town Clerk. All plans shall be