

**ZONING REGULATIONS
FOR THE
TOWN OF KENT, CONNECTICUT
KENT PLANNING & ZONING COMMISSION**

**Last revised on 9/30/13
ORIGINAL ADOPTED 1965**

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ZONING MAPS AND APPENDICES FOLLOW

SECTION 1

PURPOSE AND AUTHORITY

- 1.1. The purpose and intent of the following regulations are to promote the public health, safety, and welfare of the community. The ultimate objectives of zoning regulations are to confine certain classes of buildings and uses to designated localities or districts; to regulate and restrict the use of land and the use, location, height and bulk of buildings and structures and determine the area of yards, courts and other open spaces surrounding them; to prevent activity detrimental to the environment and to prevent destruction of the town's natural resources; to provide for adequate solar radiation, light, air, privacy, and convenience of access to property; to protect the existing and potential public surface and groundwater drinking supplies; to divide the town into zoning districts for such purposes; to adopt maps of said town showing the boundaries and the classification of such districts; and to prescribe penalties for the violation of its provisions. It has among its purposes the stabilization of property uses, the maintenance of property values, the elimination of non-conforming uses, the control of population density in residential neighborhoods, the prevention of overcrowding of land to allow space for adequate water and sewage systems.

- 1.2. The Planning and Zoning Commission of the Town of Kent, Connecticut, in accordance with the provisions of Chapter 124 of the 1958 Revision of the General Statutes of the State of Connecticut, as amended, hereby adopts the following zoning regulations for the Town of Kent, Connecticut.

SECTION 2

RULES AND DEFINITIONS

- 2.1. **RULES.** In the construction of these Regulations, the rules and definitions contained in this Section shall be observed and applied, except where the context clearly indicates otherwise.
- 2.1.1. Words used in the singular may include the plural, and the plural the singular; words used in the present tense may include the future tense.
 - 2.1.2. The word "shall" is mandatory and not discretionary or directory.
 - 2.1.3. The word "may" is permissive.
 - 2.1.4. The word "lot" shall include the words "piece", "plot" and "parcel".
 - 2.1.5. The words "zone", "zoning district", and "district" shall have the same meaning.
 - 2.1.6. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for", and vice versa.
 - 2.1.7. The phrase "these Regulations" shall refer to the entire Zoning Regulations of the Town of Kent.
 - 2.1.8. The word "Section" shall refer to a section of these Regulations, unless otherwise specified.
 - 2.1.9. The word "person" or "applicant" shall include any individual, firm, partnership, corporation, association, organization or other legal entity.
 - 2.1.10. The word "building" shall include the word "structure", and any part thereof.
 - 2.1.11. The word "built" shall include the words "erected", "constructed", "reconstructed", "altered", "enlarged", or "occupied".
 - 2.1.12. The "Town" means the Town of Kent, Connecticut.
 - 2.1.13. The "State" means the State of Connecticut.
 - 2.1.14. The "Commission" means the Planning and Zoning Commission of the Town of Kent, unless otherwise specified.
 - 2.1.15. Any official, agency, commission, board or department is that of the Town of Kent, unless otherwise specified.
 - 2.1.16. The "Zoning Map" means the latest officially adopted Zoning Map of the Town of Kent.
 - 2.1.17. Words which are specifically masculine or feminine shall be interpreted as interchangeable.
- 2.2. **DEFINITIONS.**

ACCESSWAY: A strip of land between a road and a rear lot sufficient to allow the construction of a driveway, in conformity with the regulations, to the existing or proposed principal structure on the said lot.

ACRE: 43,560 square feet

AGRICULTURE: 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 horses, bees, poultry, fur-bearing animals and wildlife, and the 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, 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 any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoopouses 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 "aquaculture" 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. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

ALTERATION: As applied to a structure:

- a. a change or rearrangement in the structural parts;
- b. an enlargement or reduction whether horizontally or vertically; or
- c. the moving from one location or position to another on a lot.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within Kent subject to a one percent or greater chance of flooding in any given year. The area may be designated on the "Flood Boundary and Floodway Map" as a Zone A (A1-A30).

ARTISTS: A person who works in or is skilled in the techniques of any of the fine arts, including but not limited to; painting, drawing, sculpture.

ARTIST'S STUDIO: A location in which an artist practices his art or craft.

AUTOMOTIVE SERVICE STATION: Any building, place or location designed primarily to supply motor vehicles with fuel. It may also provide oils, greases, automobile sundries, or for the inspection, testing, and examination of said motor vehicles, or for the minor repair and replacement of automotive parts but does not include auto body repair.

AWNING: A cover, either moveable or fixed, projecting from a building and supported only by attachment to the building.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT: Less than one-half the story height above grade at the outside walls. A basement shall be counted as a story if the ceiling of such basement is more than five feet above the average grade level at the outside walls.

BED AND BREAKFAST: Sleeping accommodations within an existing dwelling, limited to three bedrooms for paying guests and the serving of breakfast only for such guests, provided the owner of the dwelling shall reside in said dwelling. (Effective 5/7/05).

BUFFER, BUFFER AREA OR BUFFER STRIP: A strip of land free of any building, structure or use other than natural woody growth, landscaping, fencing or screening, designed to shield or block noise, lights or other annoyances, also any such strip of undeveloped land intended to protect wildlife, wetlands, watercourses or watersheds.

BUILDING: A structure having a roof supported by columns or walls intended for the shelter, housing of any person, animal, process, equipment, goods or materials.

BUILDING COVERAGE: The percentage which the aggregate area of all structures on a lot bears to the lot area. [See Appendix A, Figure A-2]

BUILDING HEIGHT: The vertical distance of a structure measured from the average finished grade at the walls of the

structure to the highest point of flat or mansard roofs, including the top of a parapet, or to the mean level between the eaves and the ridge for gable, hip or gambrel roofs. [See Appendix A, Figure A-3]

BUILDING LINE: A line parallel to a street at a distance equal to the required front yard or at a greater distance when otherwise legally established by the Town.

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which it is situated.

CAMPGROUND: Any parcel intended to be used by campers for occupancy by tents or recreational vehicles.

CAMPSITE: The space reserved for a single tent, or temporary structure.

CAMPING TRAILER: A structure standing on wheels, towed or hauled by another vehicle and used for short term human occupancy on camping trips, vacations and similar or analogous activities.

CHANGE OF USE: Any proposed use which differs from the existing use of a structure or lot.

CLEAR CUTTING: Cutting of all trees within a contiguous area measuring either (1) 500 square feet or more in area, or (2) 100 feet in any linear dimension in the aggregate (Effective 9/12/05).

CLUB: The use of land, including structures, for its member and guests accompanying them solely for recreational, social, fraternal, patriotic, political, benevolent or athletic purposes. (Effective 5/7/05).

COMMERCIAL: Interchange of goods or commodities, including the offering or sale of personal and professional services.

COMMERCIAL VEHICLE: A vehicle which is self propelled, has at least a single axle rear end and has a gross vehicle weight of at least 10,000 pounds.

COMMISSION: The Planning and Zoning Commission of the Town of Kent, Connecticut.

COMMUNITY CENTER: A structure occupied by a public or not-for-profit private organization or group for recreational, social or civic purposes, and containing no dwelling units, sleeping accommodations, or public merchandising facilities.

CONVALESCENT HOME: An establishment other than a hospital where three or more persons suffering from, or afflicted with, or convalescing from, any disease, condition or ailment are habitually kept, boarded or housed for remuneration.

CUL-DE-SAC: A dead-end street ending in a circular turnaround.

CURB CUT: The opening along the curb line of a street where vehicles may enter or leave the roadway.

DECK: An unenclosed porch-like structure attached to the outside of a residence or accessory building, generally without a roof.

DISTRICT: A zoning district established by the provisions of Section 5 of these Regulations.

DOCK: The term "dock" includes piers, docks, floats and any other structures which are built or placed into or over a body of water to allow access to that body of water by a person or vessels capable of seasonal removal. (Effective 5/7/05).

DRAINAGE: The controlled removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development.

DRIVEWAY: A private roadway providing vehicular access to a street.

DUMPSTER: A receptacle usually located outdoors for the temporary storage of garbage, rubbish or solid waste materials.

DWELLING, ATTACHED: A dwelling unit attached to one or more dwelling units by a continuous vertical party wall,

without openings except for utilities, which walls extend from basement or cellar to roof.

DWELLING, DETACHED: A dwelling surrounded on all sides by yards and which does not have any roof, wall or floor in common with any other dwelling unit.

DWELLING, MULTIPLE: A building containing separate dwelling units for three or more families.

DWELLING, ONE-FAMILY: A detached building designated for or occupied solely as a dwelling by one family, excepting and excluding a mobile home.

DWELLING, TWO-FAMILY: A detached building designated for or occupied solely as a dwelling by two families, each with its own dwelling unit, excepting and excluding a mobile home. (Effective 5/7/05).

DWELLING UNIT: A room or group of rooms located within a building and forming a single habitable unit with facilities which are used for living, sleeping, cooking and eating.

EARTH: Any material of which the ground is composed, including but not limited to soil, loam, sand, gravel, rock, stone, and clay.

EASEMENT: A right or privilege recognized by law of a person, group or entity to use or occupy the land of another for a specific purpose usually specified in the grant of the easement.

EDUCATION CENTER: A building in excess of 9,000 square feet of gross floor area containing classrooms, training rooms, assembly rooms, conference rooms and administrative offices with on-site parking as determined by the Commission.

EROSION: The detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, ice or gravity.

EXCAVATION: The severance from the earth's surface or removal from the ground of soil, loam, sand, gravel, clay, rock, topsoil or any other earth material.

FAMILY: One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood, marriage, legal adoption or legal guardianship, no such family shall contain more than six persons.

FAMILY DAY CARE HOME: The term "family day care home" shall have the same meaning as set forth in Section 19a-77(a)(3) of the Connecticut General Statutes (2004) as amended. (Effective 5/7/05).

FARM: A tract used principally for agricultural activities, forestry, nursery or truck gardening, or for raising, keeping of livestock and fowl, but excluding the raising of animals for laboratory use or for their fur.

FARM BREWERY: The small scale production of malt beverages from the fermentation of malt with or without cereal grains or fermentable sugars or hops, provided that 20% by weight of said hops, cereal grains and other ingredients, excluding water, are grown by the farmer-brewer on-site or sourced within a 50 mile radius.

FENCE: A barrier of any man-made or processed material or combination of materials erected to surround, separate, screen or buffer areas of land.

FILLING: The process of depositing solid materials, such as but not limited to, soil, sand, gravel, rock or clay. (Effective 5/7/05).

FLAG (or banner): A piece of cloth, paper, or similar materials, anchored to a pole, wire, hook or other device. Flags may be decorative in nature, or they may bear a message, symbol, or emblem.

FLOODPLAIN OR FLOOD-PRONE AREA: Any land susceptible to being partially or completely inundated by water from a river, stream, or body of water.

FLOOR AREA: The sum of the gross horizontal interior areas of all floors contained within a structure, measured from the exterior face of outside walls or from the centerline of a common wall separating two structures. It shall not include

areas below grade when devoted to the following uses: mechanical spaces, parking or storage (when related to the principal use of the building), but shall include all other below grade areas. Stairwells, open porches, balconies, garages or utility rooms shall not be included in determining a floor area. An area below grade shall mean that portion of a building partially underground having one-half or more of its clear height below the grade plane.

FOUNDATION: The base of a structure, which distributes the load of that structure upon the earth.

FRONTAGE: The length of a lot along the line of the street from which a driveway has been provided, or is possible to be provided, for access to the principal structure or use, or possible principal structure or use.

FUR-BEARING ANIMAL: An animal such as mink or fox, which is customarily bred and raised for the use of its pelt for clothing or decoration of clothing.

GARAGE, PRIVATE: A detached or accessory structure or portion of a principal structure for the parking and storage of vehicles belonging to the occupant of the premises.

GARAGE, PUBLIC: A lot or structure used for the storage care, repair or maintenance of motor vehicles for remuneration and/or for the sale of fuel, lubricating substances and motor vehicle accessories.

GENERAL STATUTES: The General Statutes of the State of Connecticut, as amended.

GRADE, FINISHED: The final elevation of the ground surface after development compared to a given reference datum.

GRADING: Any excavating, stripping, cutting, grubbing, filling (including hydraulic fill) or stockpiling of earth, or any combination thereof, which results in a change of contour or elevation.

GROUP DAY CARE HOME: An establishment which offers or provides a program of supplementary care to not less than seven nor more than twelve related or unrelated children on a regular basis for a part of the 24 hours in one or more days in the week.

GUEST HOUSE: An accessory dwelling located on the same lot but separated from a principal dwelling and which serves as living quarters, without kitchen facilities, for non-paying guests or domestic help.

HOME OCCUPATION OR HOME OFFICE: A use which is clearly incidental and secondary to the residential use of the premises and conducted for profit within a dwelling, or within an accessory building on the same lot.

HORIZON OR HORIZONLINE: The line along which the earth appears to meet the sky. For purposes of these Regulations, the terms shall be limited to those portions of the horizon visible from public roads within the Town. (Effective 9/12/05).

HOTEL, MOTEL: An establishment, or part thereof, providing transient lodging accommodations to the general public and which may provide additional services such as rooms for public assembly, the serving of food, and recreational facilities.

JUNK YARD: More than 200 square feet of space used for the storage, collection, processing, purchase, sale, abandonment or accumulation of wastepaper, rags, scrap metal, abandoned vehicles or other scrap or discarded goods, materials, machinery or other types of junk.

KENNEL: One pack or collection of dogs kept under one ownership on a single premise and bred for show or sports but not for commercial purposes.

KENNEL, COMMERCIAL: A commercial establishment where dogs are kept, boarded, treated, groomed, housed or sold.

KITCHEN: A room, place or space within a structure equipped for the preparation and/or cooking of food.

LIVESTOCK: Animals other than household pets which are kept, raised or offered for sale on a farm.

LOADING SPACE: An off-street area or berth for the loading or unloading of commercial vehicles.

LOT: A parcel of land occupied or capable of being occupied by a principal building, structure or use and the accessory buildings or uses customarily incidental thereto. In the case of multiple dwellings and public, institutional, commercial, industrial or agricultural buildings, a contiguous group of buildings under the same ownership may be considered as occupying the same lot.

LOT, AFFORDABLE HOUSING: A lot to be developed solely for the purposes of creating affordable housing in accord with the conditions set forth under CGS Ch. 126a, §8-30g(a)(1) and §8-30g(a)(3) or (6), and Kent Town Ordinance §11-1.2.

LOT AREA: The total area within the lot lines of a lot, excluding any street rights-of-way.

LOT, CORNER: A lot at the intersection of and abutting on two or more streets. [See Appendix A, Figure A-7]

LOT DEPTH: The average distance from the front lot line to the rear lot line; for a corner lot, the greatest average distance from the front lot line to the property line opposite.

LOT LINE: A line bounding the area of a lot.

LOT LINE, FRONT: A lot line separating a lot from a street right-of-way.

LOT LINE, REAR: A lot line which is opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front lot line not less than 10 feet long, lying wholly within the lot and farthest from the front lot line. [See Appendix A, Figure A-7]

LOT LINE, SIDE: A lot line which is not a front lot line or a rear lot line as defined herein.

LOT, REAR: A lot located generally to the rear of another lot and served by an accessway owned by the owner of the rear lot. [See Appendix A, Figure A-7]

LOT WIDTH: The horizontal distance between the side lot lines of a lot, measured in a straight line at but not in front of the required front yard setback line. [See Appendix A, Figure A-4]

MANUFACTURING: The making, processing, fabrication or assembling of goods or wares by manual labor or by machinery.

MOBILE HOME: Any vehicle designed so that it can routinely or periodically be drawn by or carried on another vehicle and which is equipped with bath facilities, flush toilet, and which is designed to be connected to a public water supply and to sewer connections and that can be used for permanent human habitation whether resting on wheels, jacks, piers, or other foundations of any kind, which shall have a width greater than 8 feet and a length greater than 30 feet.

MODULAR HOME: A structure similar to a mobile home except that it cannot routinely or periodically be moved but instead is designed to be carried on a vehicle to its intended site and placed there permanently.

MOTEL: See Hotel

NAMEPLATE SIGN: a sign displayed on an exterior wall or door of a business, identifying the name, owners, proprietors, or occupants of the business.

NON-CONFORMING BUILDING OR STRUCTURE: A building or structure of which the dimensions or location do not conform to all the applicable provisions of these Regulations, but which was legally existing at the effective date of the adoption of these Regulations or of any pertinent amendment thereto.

NON-CONFORMING LOT: A lot which does not conform to the acreage, dimensional or yard provisions of these Regulations but which was legally existing, in separate ownership from any other contiguous lot, at the effective date of the adoption of these Regulations or of any pertinent amendment thereto.

NON-CONFORMING USE: A use of land or of a structure which does not conform to the applicable use provisions of these Regulations but which was legally existing at the effective date of these Regulations or of any pertinent amendment thereto.

NURSERY: Land, which may include greenhouses, devoted to the commercial raising and sale of trees, plants, flowers or shrubs. (Effective 5/7/05).

NURSERY SCHOOL AND/OR DAY CARE CENTER: A facility providing daytime care or instruction for five or more children.

OFFICES, GENERAL: A room, group of rooms, or a building used primarily for conducting the affairs of a business, profession, service, industry or government but excluding any medical services and facilities related to the practice of medicine.

OFFICES, MEDICAL: A room, group of rooms, or a building used primarily for conducting the affairs related to the practice of medicine but excluding any overnight facilities for patients.

OPEN SPACE: A space not occupied by a building or other roofed structures on the same lot as the principal building or use.

ORIGINAL: The conditions existing at the effective date of an application to the Planning and Zoning Commission or Zoning Board of Appeals for permission to change conditions on a piece of property or structure.

PARKING AREA: Any public or private land area designed and used for parking motor vehicles including parking lots, garages, private driveways and legally assigned areas of public streets.

PARKING LOT: An off-street ground level area used for the temporary parking of more than four motor vehicles and available for public use whether for free, for compensation, or to accommodate employees, clients or customers, but not including private driveways.

PARKING SPACE, OFF-STREET: A temporary storage area for a motor vehicle, directly accessible to a street or by means of a driveway or access aisle and not located within a street right-of-way.

PATIO: See Terrace.

PET: An animal that is domesticated and ordinarily kept in the home for personal use or enjoyment.

PLACE OF WORSHIP: A structure intended for the conduct of religious services and which is maintained and controlled by a religious body organized to sustain public worship and recognized as such for non-profit status by the Internal Revenue Service.

PORCH: A deck-like structure which may be enclosed or unenclosed, attached to the outside of a residence or accessory building, and generally having a roof.

PREMISES: A lot together with any structures thereon.

PRIVATE: Confined to, or intended, only for the person or persons immediately concerned; not for the general public.

PROFESSIONAL OFFICE: The office of professionals, including, without limitations, doctors, lawyers, dentists, architects, engineers, artists, musicians, writers, designers, teachers, clergymen and others who, through training or experience, are qualified to perform services of a professional, as distinguished from a business, nature.

PUBLIC: Belonging, or available, to all the people.

PUBLIC AND SEMI-PUBLIC USE: A non-profit or quasi-public use or institution such as a place of worship, library, post office, hospital, school or facility of the Town, State, or Federal government.

RECREATION FACILITY OR STRUCTURE: A facility or structure including recreational activities such as but not limited to: swimming pools more than 18 inches deep, tennis, platform tennis or handball courts and all appurtenances thereto, including fences, walls, screening or lighting.

RECREATIONAL VEHICLE (RV): A vehicle manufactured for temporary living accommodations; to be self-propelled or towed by a motor vehicle, including but not limited to travel trailers, automobile trailers, motor homes, collapsible tent trailers, truck mounted units or van campers but excluding mobile homes all having travel dimensions of a width equal to or less than 8 feet and a length equal to or less than 30 feet.

RESORTS: (REMOVED 5/7/05).

RESTAURANT: Indoor restaurants and other indoor food and beverage service establishments which serve customers only when seated at tables or counters, and where at least 50% of the customer seats are located within an enclosed building. Such establishments may include a food take-out service incidental to the primary permitted use but shall not include establishments where customers are served in motor vehicles or served primarily at food take-out counters.

RIGHT-OF-WAY: The right recognized by law of a person, group or entity to pass over the land of another, either on foot, in a vehicle or on horseback, or to drive animals across the land of another.

SCHOOL, PRIVATE: Any building or group of buildings, the use of which meets the State of Connecticut's requirements for primary, secondary or higher education and which is not operated by the Town or State.

SCHOOL, PUBLIC: Any building or group of buildings, the use of which meets the State of Connecticut's requirements for primary, secondary or higher education and which is operated by the Town or State.

SECTION: The word section as used in these Regulations shall mean all paragraphs starting with the same numbers, unless otherwise stated.

SETBACK LINE: The line parallel to a street or lot line at a distance established by the minimum yard requirements of these Regulations, behind which buildings and structures may be legally erected. [See Appendix A, Figure A-1]

SIGN: Any advertisement, announcement, direction, or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by printing on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure, or surface.

SOIL: Any unconsolidated mineral or organic material of whatever origin.

SOIL EROSION AND SEDIMENTATION - CERTIFICATION: Approval by the Commission or its designated agent that a soil erosion and sediment control plan complies with the applicable requirements of these Regulations.

SOIL EROSION AND SEDIMENTATION - DISTURBED AREA: An area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

SOIL EROSION AND SEDIMENTATION - INSPECTION: The review of sediment and erosion control measures shown on the certified plan.

SOIL EROSION AND SEDIMENTATION - REGULATIONS: Any regulations adopted by a municipality pursuant to Sections 8-2, 8-13d and 8-25 of the General Statutes.

SOIL EROSION AND SEDIMENTATION - SEDIMENT: Solid material, either mineral or organic that is in suspension, is transported, or has been moved from its site of origin by erosion.

SOIL EROSION AND SEDIMENT CONTROL PLAN: A plan that indicates necessary treatment measures to minimize soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and a narrative.

SPECIAL PERMIT: (REMOVED 5/7/05).

STABLE: A place where more than four horses are kept, ridden, boarded, bred, shown, trained, groomed, housed or sold.

STOOP: Any raised building entrance platform with one or more steps leading up to it.

STORY: That portion of the building which is between the surface of a floor and the surface of the next floor above or, in the absence of a floor above, the next ceiling above basement shall be considered as a story if the ceiling of such basement is more than five feet above grade level at the outside wall.

STREET: A road, highway, lane, avenue, boulevard, or any other public or private way, or a way opened to the public or private use, which provides a principal means of access to a lot. "Street" shall be deemed to include the entire width of the right-of-way but shall not include private driveways and private rights-of-way.

STREET, ACCEPTED: A street which has become public by virtue of dedication to and formal acceptance by the Town of Kent.

STREET, LINE: A common line between a lot and a street right-of-way.

STREET, PRIVATE: Any street that has not been accepted by the Town or State for public travel. (Effective 5/7/05).

STREET RIGHT-OF-WAY: The area of a street, between the parallel boundary lines of that street.

STRUCTURE: Anything constructed, the use of which requires permanent location on the ground, or attachment to something having permanent location on the ground, excluding fences measuring six (6) feet or less in height.

STRUCTURE, ACCESSORY: A structure, the use of which is customarily incidental and subordinate to that of the principal structure or use on the same lot.

TELECOMMUNICATIONS FACILITY: A structure constructed to generate, receive, process or relay data and operate as part of a commercial activity or for gain in connection with any form of telephone communication wired or wireless or similar or related activity.

TEMPORARY HOUSING: A structure without any foundation or footings and which is removed when the assigned time period, activity or use for which the temporary structure was erected, has ceased.

TERRACE OR PATIO: An improved, surfaced or graded area located on the ground with no structural supports other than subsurface base material and retaining walls. A terrace or patio located at grade or ground level shall not be deemed a structure.

TOPSOIL: Earth materials, including loam, which are arable and constitute the surface layer of earth material.

TOURIST HOME: (REMOVED 5/7/05)

TRAILER: A structure standing on wheels, towed or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods or objects, or as a temporary office.

TRUCK GARDENING: Land devoted to the commercial raising of produce, which may include greenhouses. (Effective 5/7/05).

USE: The specific purpose or activity for which a building, structure or lot is intended.

USE, ACCESSORY: A use subordinate and customarily incidental to the principal use, structure or land and located on the same lot, or on a contiguous lot under the same ownership, with the principal use of building.

USE, PRINCIPAL: The primary or predominant use of a lot, structure or building.

USE, TEMPORARY: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

VEHICLE, COMMERCIAL: A vehicle which is self propelled, has at least a single axle rear end and has a gross vehicle weight of at least 10,000 pounds.

WATERCOURSE: As defined in Section 22a-38.16 of the General Statutes.

WETLAND: Any land area, including submerged land, which consists of any of the soil types generally designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended, of the Soil Conservation Service of the U.S. Department of Agriculture. In the event of reasonable doubt as to any particular body of water's or area of land's classification as "wetland", the Town Conservation-Inland Wetlands Commission shall determine whether the area in question is a wetland.

YARD: An open space between the facing wall of a structure and the nearest lot line and which is unoccupied except as may be specifically authorized by these Regulations. Any measurement shall be taken at right angle from the nearest lot

line to the nearest point of the structure. [See Appendix A, Figure A-1]

YARD, FRONT: An open space extending across the full width of a lot and lying between the closest edge of the street right-of-way and the nearest facing wall of a principal structure on the same lot. [See Appendix A, Figure A-1]

YARD, REAR: An open space extending across the full width of a lot and lying between the rear lot line of the lot and the nearest facing wall of a principal structure on the same lot. [See Appendix A, Figure A-1]

YARD, REQUIRED: An open space between a lot line and the permitted buildable area within which no structure shall be located except as specifically permitted by these Regulations. [See Appendix A, Figure A-1]

YARD, SIDE: An open space parallel to a side lot line extending from the front yard setback line to the rear yard setback line and lying between the side line of the lot and the nearest facing wall of a principal structure on the same lot. Any yard not a rear yard or a front yard shall be deemed a side yard. [See Appendix A, Figure A-1]

YARD, WIDTH OR YARD DEPTH: The width of side yards and the depth of front and rear yards shall be measured perpendicularly to the respective lot lines.

YOUTH CAMP: Any parcel on which are located living quarters or structures for recreational or educational purposes and accommodating, for profit or under philanthropic or charitable auspices, five or more children under 18 years of age.

SECTION 3

COMPLIANCE WITH REGULATIONS

- 3.1. No building, structure or land shall be used or occupied, in whole or in part, and no building, structure or any part thereof shall be erected, moved or altered except in conformity with all applicable sections of these Regulations.
- 3.2. No building, structure or part thereof shall be constructed, altered, enlarged, moved, gutted, or occupied; no Building Permit, including a permit for a building foundation, shall be issued; and no use of an existing structure shall be undertaken or changed until the Zoning Enforcement Officer has issued a Zoning Permit which certifies conformance of the building, structure or use with these Regulations or with a variance granted by the Zoning Board of Appeals.
 - 3.2.1. A zoning application is not needed for interior alterations, provided there is no change of use, number of uses or number of bedrooms.
 - 3.2.2. CHANGE OF USE. Any change of use proposed for or within an existing structure, occupied or vacant, or for an existing lot, shall require a Zoning Permit from the Zoning Enforcement Officer in accordance with Section 3.2.
- 3.3. Applications for a Zoning Permit shall be made to the Zoning Enforcement Officer at least 5 days prior to application for a Building Permit or for a change of use not involving a Building Permit. No Building Permit shall be issued without the prior issuance of the Zoning Permit.
- 3.4. A Zoning Permit (unless issued in conjunction with an approved Site Plan) shall expire unless construction or development, in accordance with plans as approved, shall be completed within a period of two years from the date of issuance. One extension of such period not to exceed one year may be granted by the Commission.
- 3.5. Applications for a Zoning Permit shall be made on a form to be furnished by the Commission and shall be accompanied by a site or sketch plan, as applicable, (see section 4.2 & 4.3) and shall contain all the information necessary to enable the Commission to ascertain that the proposed structure or use complies with all the provisions of these Regulations.
- 3.6. All applications shall be submitted at least 10 days prior to the monthly Commission meeting.
- 3.7. An application proposing to utilize an existing or a new on-site septic system shall be accompanied by a report from the Town Sanitarian as to the feasibility of said septic system to accommodate the proposed use. An application not accompanied by a report from the Town Sanitarian shall be considered an incomplete application. Any proposed connection to, or proposed extension of, a storm or sanitary sewer system shall require the approval of the Kent Water Pollution Control Authority and, where applicable, Connecticut Department of Environmental Protection, prior to the submission of an application to the Commission.
- 3.8. For any building or other structure approved under these Regulations, after the foundation has been completed and prior to any additional construction thereon, if in the opinion of the Commission a need exists, a certified plot plan drawn by a land surveyor currently licensed to practice in the State, and showing the exact location of said foundation on the site, shall be submitted to the Commission or its authorized representative. Upon confirmation that the location of said foundation is in compliance with these Regulations and any permit issued therefore, additional construction may proceed. A plot plan may be waived by the Commission where the proposed structure is not within ten feet of any setback line or limiting distance as determined by the Commission.

- 3.9. PERMITTED AND PROHIBITED USES. Any use not permitted by right, by Site Plan, or by Special Permit in a zoning district by these Regulations shall be deemed to be prohibited within such district. Where the permissibility of a proposed use is uncertain in a zoning district by these Regulations, the Zoning Enforcement Officer shall make the determination as to whether the proposed use is permitted in that district by right, requires a Special Permit and/or Site Plan approval, or is prohibited.

SECTION 4

SKETCH PLAN/SITE PLAN/SPECIAL PERMIT REQUIREMENTS

- 4.1. APPLICABILITY . Sketch Plan, Site Plan or Special Permit approval by the Commission shall be required for:
- 4.1.1. All applications for Zoning Permits in connection with proposals that will result in new structures or uses or that will change the exterior dimension of an existing structure in any way shall require Sketch Plan or Site Plan approval in accordance with Section 4.2 or 4.3.
 - 4.1.2. Any exterior alteration, renovation or improvement of existing commercial, industrial or campground premises or facilities shall require Site Plan approval as decided by the Commission.
- 4.2. SKETCH PLANS_ Except as provided hereafter, a sketch plan shall be required for all single-family and two-family dwellings, and for additions, or accessory buildings and structures, and accessory uses thereto. A site plan, instead of a sketch plan, shall be required for all such buildings, structures and uses when located in Horizonline Conservation District. If the Zoning Enforcement Officer finds that a sketch plan does not provide sufficient information to determine whether the proposed building, structure or use would comply with these regulations, he or she may require the submission of a foundation as-built survey, prepared, signed and sealed by a Connecticut licensed land surveyor. Sketch plan shall include the following:
- 4.2.1. Plan scale shall be drawn at a scale deemed appropriate by the Zoning Enforcement Officer.
 - 4.2.2. Boundaries, north arrow, dimensions and area of property.
 - 4.2.3. Locations of all existing and proposed buildings and uses, including, but not limited to, driveways or parking areas and abutting streets.
 - 4.2.4. Dimensions of all yards, as required by these Regulations.
 - 4.2.5. Location and description of water supply and sewage disposal facilities.
 - 4.2.6. Soil Erosion and Sediment Control Plan in accordance with Section 17.1.
 - 4.2.7. Address of property and name and address of owner of record.
 - 4.2.8. Location of wetlands and watercourses.
 - 4.2.9. Names of all abutting property owners and streets.
- 4.3. SITE PLANS_ A Site Plan shall be required for all proposed structures and uses other than those for which a sketch plan may be provided pursuant to Section 4.2 of these regulations.
- 4.3.1. Graphic scale, north arrow, date of drawing and of all revisions, name of person preparing the Site Plan. The site plan shall be prepared, signed and sealed by an engineer, surveyor, architect and/or landscape architect, whichever shall be appropriate. Each such professional shall be registered and licensed, as may be necessary, to conduct business in the State of Connecticut.
 - 4.3.2. Address of property, and name and address of owner of record.
 - 4.3.3. A small scale map or insert on large scale map showing location of the property with respect to nearby streets and other landmarks.
 - 4.3.4. Property boundaries, dimensions and area, as shown on an A-1 or A-2 survey.
 - 4.3.5. Locations, dimensions, footprint square footage, floor area, height and building coverage of all existing and proposed buildings and uses including, but not limited to, sidewalks, curbing, walkways, dumpsters, group mailboxes, driveways, parking and loading areas, abutting streets, utility poles,

hydrants and other utility appurtenances, areas to be used for exterior storage and the type of screening to be provided. (See Sections 5.5, 17, 18 and 21)

- 4.3.6. Dimensions of all yards as required by these Regulations. (See Section 5.5)
- 4.3.7. Locations and descriptions of water supply and sewage disposal facilities.
- 4.3.8. Proposed drainage structures and any existing drainage structures on and off the property that may be affected by the proposed buildings or use.
- 4.3.9. A Soil Erosion and Sediment Control Plan in accordance with Section 17.1.
- 4.3.10. Existing and proposed contours drawn at two foot intervals. The approximate amount of earth materials to be filled and removed shall be noted on the plan. If the removal of earth materials is proposed, a special permit application must be filed as per Section 17.2 of these regulations.
- 4.3.11. Location of wetlands, watercourses and floodplains.
- 4.3.12. A planting plan with a plant list and sizes shall be part of the site plan. (See Section 17)
- 4.3.13. Construction limit line identifying all those areas to remain undisturbed and in its natural site.
- 4.3.14. A Reproducible Medium Acceptable for Filing (A.K.A. Mylar) in the Office of the Town Clerk is required for all approved Site Plans, Site Plan Modifications or Special Exemptions unless waived by the Commission. The applicant must submit a Mylar to the Planning and Zoning Office for the Chairman's signature after the fifteen (15) day appeal period. The applicant must file the signed Mylar in the Town Clerk's Office within ninety (90) days after the expiration of the appeal period. Failure to file the Mylar in the required time frame will render the approval null and void. In the event of an appeal of the Commission's approval, if judgment is found in favor of the Commission or applicant, the Site Plan Mylar must be filed with the Town Clerk within ninety (90) days of the decision regarding the appeal.
- 4.3.15. Any other similar information determined necessary by the Commission in order to provide for the proper enforcement of these Regulations.
- 4.4. **WAIVER OF REQUIREMENTS.** Upon written request by the applicant, the Commission may waive one or more of the requirements of Sections 4.2 or 4.3 if the applicant can show, to the satisfaction of the Commission, that the information is not needed to reach a decision on the application. Such waiver shall require an affirmative majority vote of all voting members of the Commission.
- 4.5. **SITE PLAN CHANGES.** If any modification of the Site Plan is made prior to its approval, two corrected copies shall be presented to, and approved by, the Zoning Enforcement Officer prior to the issuance of any Zoning Permit or Building Permit relating to the application.
- 4.6. **PRE-APPLICATION PLAN.** The Commission recommends that, prior to the submission of an official application for approval of a Site Plan, the applicant present a pre-application plan for informal consideration by the Commission. The optional pre-application plan is recommended to facilitate consideration of factors and problems that may be associated with a Site Plan before the applicant proceeds with preparation of official maps, plans and documents required for formal consideration by the Commission. Neither the pre-application plan nor the informal consideration by the Commission, however, shall be deemed to constitute any portion of the official and formal procedure of applying for and approving a Site Plan as contemplated herein or under the provision of the General Statutes.
- 4.7. **SITE PLAN APPROVAL.** When the approval of a Site Plan is the only requirement to be met or remaining to be met under these Regulations for a proposed structure or use, the Commission shall render a decision on such Site Plan within the time required by state law. The Commission may hold a public informational meeting on such application.
 - 4.7.1. The date of receipt of a Site Plan shall be either the day of the next regularly scheduled meeting of the Commission immediately following the day of submission to the Commission or its agent of such Site

Plan, or 35 days after such submission, whichever is sooner.

- 4.7.2. A Site Plan may be approved with modifications by the Commission or denied only if it fails to comply with the standards set forth in these Regulations. A decision to deny or modify a Site Plan shall set forth the reasons for such denial or modification. A copy of any Site Plan decision shall be sent by certified mail to the applicant within 15 days after such decision is rendered.
 - 4.7.3. A Reproducible Medium Acceptable for Filing (A.K.A. Mylar) in the Office of the Town Clerk is required for all approved Site Plans, Site Plan Modifications or Special Exemptions unless waived by the Commission. The applicant must submit a Mylar to the Planning and Zoning Office for the Chairman's signature after the fifteen (15) day appeal period. The applicant must file the signed Mylar in the Town Clerk's Office within ninety (90) days after the expiration of the appeal period. Failure to file the Mylar in the required time frame will render the approval null and void. In the event of an appeal of the Commission's approval, if judgment is found in favor of the Commission or applicant, the Site Plan Mylar must be filed with the Town Clerk within ninety (90) days of the decision regarding the appeal.
- 4.8. SITE PLAN STANDARDS. The Commission may require, as a condition of approval, such modifications of the proposed plans as it deems necessary to ensure that structures and the uses of land area arranged in a manner that protects the public health, safety and general welfare. In additions to all other requirements of these regulations, the Commission shall take into account the character of the neighborhood, as well as the following:
- 4.8.1. The general conformity of the Site Plan with the intent of the Town's Plan of Conservation and Development; however, the Plan of Development shall not take precedence over specific provisions of these Regulations;
 - 4.8.2. The arrangement of buildings, structures and uses on the site;
 - 4.8.3. The adequacy of access for fire, police and ambulance services;
 - 4.8.4.. The adequacy of water, sewage disposal/ treatment and other public facilities to accommodate the development;
 - 4.8.5.. The location, intensity and direction of outdoor lighting and the proposed times for its use; (See Section 17).
 - 4.8.6.. The size, location and type of any outdoor storage facilities, including dumpsters; (See Section 21).
 - 4.8.7. The size, location and type of signs and their appropriateness to the neighborhood. (See Section 19).
 - 4.8.8. Traffic Considerations. Vehicular access shall be provided to the lot in such a manner as to comply with State Standards. The following items of the Site Plan shall be evaluated to determine the conformity of the Site Plan to this standard: (See Sections 17 and 18).
 - a. The effect of the proposed development on traffic conditions on abutting streets.
 - b. The number, locations and dimensions of interior and exterior vehicular and pedestrian entrances, exits, driveways and walkways.
 - c. The visibility in both directions of all exit points of the site and the visibility of a vehicle entering or exiting the site to the driver of a vehicle traveling on the street.
 - d. The location, arrangement and adequacy of off-street parking facilities.
 - e. Interconnection of parking areas via access drives within and between adjacent lots, in order to provide maximum efficiency, minimize curb cuts, and encourage safe and convenient traffic circulation.
 - f. The location, arrangement and adequacy of truck loading and unloading facilities.
 - g. Patterns of vehicular and pedestrian circulation both within the boundaries of the

development and in relation to the adjoining street and sidewalk system.

- h. The location, arrangement and adequacy of parking and access facilities for the physically handicapped in accordance with State requirements.
- i. The location, arrangement and adequacy of landscaping within and bordering parking and loading facilities.

4.8.9 Environmental Considerations. For the protection and preservation of environmental quality the following items of a Site Plan shall be evaluated by the Commission to determine the conformity of a Site Plan to these standards: (See Section 17)

- a. The location, height and materials of walls, fences, hedges and plantings so as to ensure harmony with adjacent development, the screening of parking and loading areas, and the concealment of storage areas, utility installations and other such features.
- b. The prevention of dust and erosion through the planting of ground cover or installation of other surfaces.
- c. The preservation of natural attributes and major features of the site such as wetlands, buffer strips, highly erodible areas, historic structures, major trees, scenic roads and scenic views both from the site and onto or over the site.
- d. The design and arrangement of buildings and necessary facilities and the installation of proper shielding so as to minimize noise levels at the property boundary.
- e. The adequacy of design of the storm drainage system to accommodate any increase in storm water runoff and to minimize soil erosion and sedimentation;
- f. The adequacy of the landscaping treatment, including any buffers and other screening; and,
- g. The impact of noise, odors, lighting, dust and smoke.
- e. The provision of adequate storm and surface water drainage facilities to properly drain the site while minimizing downstream flooding.

4.8.10 Additional Requirements. The Commission may require the following:

- a. Architectural plans which show exterior wall elevations, roof lines, and facade materials of proposed buildings and structures.
- b. Off-site information including but not limited to the location of: buildings, parking areas and curb cuts on adjoining properties, including those across the street; traffic lights and controls, public trees, catch basins, manholes, hydrants, utility poles and utility lines located in adjacent streets; and zoning district boundary lines.
- c. Impact analysis of the development upon water supply, storm drainage, sanitary sewers, traffic with special emphasis on any scenic road impacted, site conditions and/or water, air or noise pollution.
- d. Additional information as the Commission deems necessary to determine compliance of the proposed Site Plan with these Regulations.

4.9 REFERRALS. To assist with its consideration of an application for Site Plan approval, the Commission may refer the plan to any department, agency or official it deems appropriate, to review and comment upon those technical matters which are the concern or responsibility of such department, agency or official. The Commission may require additional technical assistance in evaluating an application, the expense of which is to be paid by the applicant as set forth in Town Ordinance.

- 4.10 PHASING. In cases where the development of the property is proposed to be undertaken in phases, the Commission may grant Site Plan approval limited to each phase of development. Each phase shall be capable of independent existence without the completion of succeeding phases.
- 4.11 BONDING REQUIREMENTS. As a condition of Site Plan approval, the Commission may require that the applicant post with the Town a performance bond to guarantee satisfactory completion of all proposed site improvements (excluding buildings) shown on the approved Site Plan. (See Section 21)
- 4.12 EXPIRATION OF SITE PLAN. All site improvements in connection with an approved Site Plan shall be completed within the time period specified in the General Statutes. Failure to complete all site improvements within such period shall result in automatic expiration of the approval of such Site Plan.
- 4.13 AMENDMENTS. All site improvements shall be carried out in strict compliance with the Site Plan approved by the Commission. Minor amendments to the approved Site Plan may be approved only in writing by the Zoning Enforcement Officer and/or Commission's Engineer upon the written request of the applicant. All other amendments or modifications to the Site Plan shall require the approval of the Commission.
- 4.14 CONTINUANCE. All conditions and improvements shown on the approved Site Plan shall continue in force as long as the use indicated on the approved Site Plan shall be in operation, regardless of any change in ownership of the property.
- 4.15 SPECIAL PERMITS. The Special Permit uses as set forth in these Regulations are deemed to be permitted uses in their respective districts when granted by the Commission, subject to compliance with the requirements and standards set forth in this Section in addition to all other requirements of these Regulations. All such uses are hereby declared to possess such special characteristics that each shall be considered as an individual case.
- 4.15.1 Application Procedure. The Commission shall hold a public hearing on an application for a Special Permit in accordance with the provisions of the General Statutes, as amended.
- a. All applications for a Special Permit shall be submitted in writing to, and in a form prescribed by, the Commission. The Commission shall adopt administrative procedures therefore, including but not limited to application forms, fees, map submission requirements, number of copies, and filing deadlines. Failure of an applicant to comply with these application submission requirements shall be grounds for the Commission to deny such application.
 - b. The application submission shall address all off-site and on-site impacts, requirements, improvements and considerations including but not limited to: building location, traffic, storm drainage, sanitary sewerage, water supply, fire ponds, parking and circulation, landscaping, and environmental and aesthetic considerations. Sufficient information to address these major impacts shall be provided by the applicant, but such information may be generalized or shown in preliminary form except as hereafter noted. Detailed plans for facilities, structures and improvements shall not be required at this time.
 - c. FIRE PONDS. Fire ponds shall be provided where deemed necessary by the Commission and any Fire Pond Plan of the Town Fire Department. A fire pond location shall be based upon the following criteria and subject to approval of the Commission:
 - (1) Closest location in relation to proposed development.
 - (2) On poorly and very poorly drained soil areas within approximately 175 feet of paved road.
 - (3) The site shall be such that the pond can provide a minimum of 60,000 gallons available storage with an adequate and reliable recharge.
 - (4) The location, design and construction of a fire pond shall be completed in reference to Fire Hydrant (non-pressure) Detail and Design Sheet (USDA Soil Conservation Service), and accomplished with the advisory assistance of the USDA Soil Conservation Service and the Litchfield County Conservation

District and the Town Fire Department and subject to approval of the Conservation-Inland Wetlands Commission.

4.15.2 Special Permit Application Requirements

- a. Need for Site Plan Approval. Any Special Permit approved by the Commission shall require a Site Plan application to be submitted and approved in accordance with the provisions of Sections 4.3 through 4.15 prior to the issuance of a Building Permit. The applicant may choose to submit the Site Plan application concurrently with, or subsequent to, the Special Permit application.
- b. All applications for a Special Permit involving the construction of more than 25 dwelling units, 50 parking spaces, or 20,000 square feet of gross floor area, or any proposal which, in the Commission's judgment, would generate high levels of traffic, shall be accompanied by a traffic study prepared by a traffic engineer, evaluating the impact of the proposal on streets serving and/or affected by the development.
 - (1) At a minimum, the traffic study shall include data and information on existing and projected average daily vehicle trips on nearby roads, peak hour traffic, adequacy of rights-of-way and travelways, existing roadway capacity, traffic accidents, the traffic impact of the proposed development, traffic generation data, the location of existing roads within 300 feet of the development site, traffic lights and intersections, and recommendations for safe pedestrian and vehicular circulation, including provisions for safe sidewalks and crosswalks for pedestrians. Where applicable, the applicant shall include the written recommendations of the Connecticut Department of Transportation.
 - (2) Where it is projected that the additional traffic resulting from the proposal will reduce the level of service to C or below, the Commission shall not approve the project unless and until provision has been made for the improvement of said condition.
- c. Additional Information. The Commission may require the submission of such additional information as the Commission deems necessary to determine compliance of the proposed use with these Regulations

4.15.3. Standards for Approval. Except as otherwise provided herein, a use allowed by Special Permit shall conform to all requirements of the zoning district in which it is proposed to be located and the standards contained therein. The Commission may grant a Special Permit after considering the health, safety and welfare of the public in general and the immediate neighborhood in particular, as well as the following factors:

- a. The location and size of the proposed use; the nature and intensity of the operations associated with the proposed use; the size, shape and character of the site in relation to the proposed use.
- b. The location, type, size and height of buildings and other structures associated with the proposed use in relation to one another and in relation to nearby development.
- c. The impact of the proposed use on traffic safety and circulation on nearby streets; the ability of such streets to adequately accommodate the traffic to be generated by the proposed use.
- d. The character of the area in which the use is proposed to be located, and the compatibility of the proposed use with the area.
- e. The impact of the proposed use on the natural characteristics of the site and the surrounding environment.
- f. The adequacy of water supply, sewer or septic facilities, drainage and other public facilities to accommodate the proposed use.

- g. Where the proposed use involves the conversion of a structure designed and built originally for other uses, the adaptability of the structure to the proposed use, particularly in relation to the public health and safety.
 - h. The proposed use shall preserve important open space, views or vistas, scenic roads and other significant features of the natural environment.
 - i. Compliance with Section 17.
- 4.15.4 Conditions and Safeguards. In granting a Special Permit, the Commission may attach such conditions and safeguards as may be required to protect the public health, safety and general welfare and to ensure continued compliance with these Regulations. Such conditions and safeguards may include, but shall not be limited to:
- a. A maximum number of employees.
 - b. Hours of operation.
 - c. Periodic review and renewal of the Special Permit by the Commission to determine continuing compliance therewith.
 - d. Conservation restrictions necessary to protect and permanently preserve unique natural site features.
 - e. Soil erosion and sediment control measures in accordance with the provisions of Section 17.
 - f. A bond in accordance with the provisions of Section 21.
- 4.15.5 Limit of Special Permit. A Special Permit shall authorize only the particular use or uses specified in the Commission's approval.
- 4.15.6 Effective Date. No Special Permit shall become effective until it has been filed in the Town's land records in accordance with the provisions of the General Statutes and the accompanying Site Plan has been approved and filed if required by the Commission.
- 4.15.7 Duration of Special Permit. Unless otherwise established by the Commission, a Special Permit, along with any conditions and safeguards attached thereto, shall remain with the property as long as the use allowed by the Special Permit remains in operation. Such conditions and safeguards shall continue in force regardless of any change in ownership of the property.
- 4.15.8 Non-Compliance with Special Permit. Failure to strictly comply with the documents, plans, terms, conditions and/or safeguards approved by the Commission as a part of the Special Permit shall be a violation of these Regulations. The Zoning Enforcement Officer shall notify the applicant in writing of the specifics of the non-compliance and shall provide a reasonable time period for compliance therewith. Unless there is full compliance within such time period, the Commission may, following a duly advertised public hearing, rescind and revoke such Special Permit.
- 4.15.9 Amendments or Modifications. An approved Special Permit may be amended or modified, provided that application shall be made in the same manner as the original application and subject to the same procedures for approval. Amendments to the Special Permit found to be of a minor nature or which would not substantially alter the Special Permit as determined by the Zoning Enforcement Officer may be approved by the Commission without another public hearing. Amendments to the Special Permit which would substantially alter the Special Permit or increase the existing building coverage or gross floor area of the use by 10% or more may be approved by the Commission only after a public hearing.

4.15.10 Expiration of Special Permit.

- a. A Special Permit shall expire if the Site Plan associated therewith is not submitted and approved within 12 months following approval of the Special Permit. However, an extension of not more than six months may be granted by the Commission upon written request by the applicant prior to the expiration date.
- b. A Special Permit shall expire if the special permit approval is not filed in the Town of Kent's land records within 1 (one) year after approval.

4.16 CERTIFICATE OF ZONING COMPLIANCE.

- a. Prior to the issuance of a Certificate of Zoning Compliance, the Zoning Commission may require an as-built survey to ensure compliance with these regulations. Such as built survey shall:
 1. Be prepared at the same scale as the Site Plan or Sketch Plan by a surveyor registered and licensed to conduct business in Connecticut;
 2. Show the actual installation of all site improvements, the exact location of buildings, and other required items at a level of detail at or exceeding that of the approved Site Plan or Sketch Plan;
 3. Include a certification as to substantial compliance with the approved Site Plan or Sketch Plan; and,
 4. List or show all deviations from the approved Site Plan. (Moved from Section 4.8.19)
- b. If the site improvements cannot be completed because of weather, or if an alteration does not require the vacating of the premises, or if a portion of a building or development is ready for occupancy before the completion of the entire building or development, or for other pertinent reasons, a conditional Certificate of Zoning Compliance may be issued by the Zoning Enforcement Officer for a period not to exceed 180 days, provided that a portion of the posted bond shall be retained in an amount sufficient to cover the cost of completing the remaining site improvements or, if necessary, a new bond shall be posted. Upon satisfactory completion of the remaining site improvements and the written request of the applicant, the Commission shall then release the bond.
- c. In order to ensure that all new or modified lots conform to the Zoning Regulations, any proposed changes in the boundaries of any lot, including any lot line revision, merger or other act that results in an alteration of any existing boundary or lot line must be reviewed by the Planning and Zoning Commission for compliance with those regulations. No certificate of zoning compliance shall be issued for the use of any lot created or modified after the date of approval of this Section until the Commission has made a determination of compliance with the zoning Regulations in effect at the time of the lot creation or modification as the case may be. In order to make such a determination, the Commission may require the submission of deeds, a map or survey, or such other information as the Commission may reasonably find to be necessary. If the Commission determines that a map or survey must be provided, and the Commission thereupon determines that the proposed new or modified lots would comply with the zoning regulations, a copy of the map or survey suitable for recording in the Kent Land Records shall be filed in the office of the Town Clerk before any Certificate of Zoning Compliance is issued for said lot and/or any use thereon. (Moved from Section 21.26)
- d. The Zoning Enforcement Officer shall submit all "as-built" drawings which substantially deviate from the approved Site Plan to the Commission for its determination of acceptance or need for plan amendment.(Moved from Section 4.8.19c.
- e. Certificate of Occupancy. A Certificate of Occupancy shall not be issued by the Building Official until the Zoning Enforcement Officer has determined that the site improvements have been completed in accordance with the approved Site Plan and has issued a Certificate of Zoning Compliance.

SECTION 5

DISTRICTS

- 5.1. DIVISION INTO DISTRICTS. These regulations apply to all land within the Town of Kent unless otherwise prohibited by federal or state law or Town Ordinance. (effective 4/1/06) The remainder of the Town is divided into the following districts:

RU - Rural District

I - Industrial District be divided into two districts

IA. Land within the industrial district bounded by Maple Street Extension and the railroad.

IB. All remaining industrial land.

LWWD - Lake Waramaug Watershed District

HRD - Housatonic River District

RC - Roadside Commercial (Minimum Lot Size 40,000 square feet)

VC-R1 - Village Center Residential (Minimum Lot Size 10,000 square feet)

VC-R2 - Village Center Residential (Minimum Lot Size 30,000 square feet)

VC-C - Village Center Commercial (Minimum Lot size 10,000 square feet)

- 5.2. ZONING MAP. The boundaries of the zoning districts are hereby established as shown on a map entitled "Zoning Map of the Town of Kent, Connecticut" and "Zoning Map of the Village Center, Kent, Connecticut", dated 1995, as may be amended, which are filed in the office of the Town Clerk and which, with all explanatory matter thereon, is hereby declared to be a part of these Regulations.

- 5.3. INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists with respect to the boundaries of any districts shown on the Zoning Maps, the following rules shall apply:

5.3.1 District boundary lines are intended to follow lot lines or center lines of streets, rights-of-way or water courses, or be parallel or perpendicular hereto unless such district boundary lines are fixed by dimensions as shown on the Zoning Maps.

5.3.2 In undivided property or where a district boundary divides a lot, the location of any such boundary shall be determined by the use of the map scale thereon, unless as shown by dimensions on said Map.

5.3.3 All dimensions to or from streets shown on the Zoning Maps shall be taken from the center line of the street right-of-way where such right-of-way has been established, or from the centerline of the traveled portion of the street where the right-of-way has not been established.

5.3.4 Measurements shown to the intersection of two or more streets shall be deemed to be taken from the intersection of the center lines of such streets.

5.3.5 Any interpretation of the Zoning Maps as to zone boundaries or dimensions shall be made by the Commission.

5.3.6 A district boundary which follows a railroad line shall be deemed to be located at the mid point of the main tracks of said railroad line.

5.4. LAND UNDER WATER. Zoning districts shall include land under any rivers, streams, lakes or ponds lying within them.

5.5. AREA & DIMENSIONAL REQUIREMENTS.

	RU	IA, IB	LWWD	VC-R1	VC-R2	VC-C	RC	Unit
Minimum Lot Area	43560	30,000	43560	10,000	30,000	10,000	40,000	sq.ft.
Minimum Lot Width	*	200	*	80	150	*	150	ft.
Minimum Front Yard	40	50 (IA) 100 (IB)	40	30	30	25 ¹	75	ft.
Minimum Side Yards	30	20 (IA) 50 (IB)	30	10	20	15	20	Ft.
Minimum Rear Yard	30	50	30	40	40	40 ²	30	ft.
Maximum Principle Building Coverage w/Accessory	10 *	35 (IA) 15,000 SQ FT GFA 15 (IB) *	10 *	25 30	20 25	35 40	15 *	% %
Maximum Building Height	30	30	30	35	35	35	30	ft.
Minimum Frontage on a Public Street	*	*	*	*	*	50 ³	*	ft.

NOTE: Refer to the appropriate Section in these regulations for dimensions and areas not listed in the preceding chart.

5.6. LOT AREA.

5.6.1. Reduction of Lot Area or Dimension. No lot shall be so reduced, divided, or created that the area, width or other dimensions of the lot or any of its required yards or required open spaces shall be less than prescribed by these Regulations.

5.6.2. Lots on Narrow Streets. In the case of a lot fronting on a street with a right-of-way of less than 50 feet in width, the required front yard shall be increased by one-half the difference between 50 feet and the actual width of the street right-of-way.

5.6.3. Lots Lying in More Than One Zoning District. In the case of a lot lying in more than one district, the provision of the less restrictive district may be applied for a distance of not more than 30 feet into a more restrictive district, provided that such lot has frontage on a street in the less restrictive district, and such 30 foot extension places the less restrictive lot completely in one zoning district.

¹ On existing streets, building lines shall be established at a distance equal to or greater than the average setback distance of all other principle structures within 500 feet in each direction on the same side of the street.

² Where front yards are 40 feet or more, the rear yard may be reduced to 25 feet.

³ Interior lots shall have a right-of-way with a minimum width of 25 feet to a public street.

- 5.6.5. Lots Partially Under Water. In determining the minimum area of any lot, or the minimum area and depth or width of any required yard, the surface area of any lake or pond shall not be used.
- 5.6.6. Odd-Shaped Lots. In cases of uncertainty as to the proper application of any of the requirements of these Regulations to a particular lot because of its peculiar or irregular shape, the Commission shall determine how such Regulations shall be applied.
- 5.6.7. Measurement of Lot Frontage on Curved Streets. Except for rear lots, the minimum lot frontage for lots abutting a cul-de-sac street or a curvilinear portion of a street may be measured along of the required front yard setback line. [See Appendix A, Figure A-4]
- 5.7. REAR LOTS. Rear lots shall be permitted in any Residential district subject to the following conditions: [See Appendix A, Figure A-7]
- 5.7.1. Each rear lot shall have a required front yard 50% greater than that required for the zoning district in which it is located; the required front yard shall be provided at the lot line to which the accessway leads.
- 5.7.2. Each rear lot shall comply with all other lot and building requirements for the zoning district in which it is located.
- 5.7.3. Each rear lot shall have an accessway which has a continuous width of at least 25 feet, which is owned in fee simple by the owner of the rear lot, and which has frontage on a street. The Commission may permit a deeded access through a front lot to a rear lot only under circumstances where there is no other feasible alternative providing access to such rear lot. The area of any easement or right-of-way shall not be included in the required yards, or minimum area of any lot.
- 5.7.4. The width of two adjoining accessways may be reduced to a minimum of 20 feet each, provided that a common driveway shall serve both lots. Where feasible, an accessway shall be located adjacent to a side property line.
- 5.7.5. There shall be no more than two accessways adjoining one another.
- 5.7.6. The area of the accessway shall not be calculated as part of the minimum required lot area of the rear lot.
- 5.8. YARDS.
- 5.8.1. Location of Building. Except as otherwise specifically provided by these Regulations, any permitted building or permitted use shall be located in that portion of the lot not contained in any required front, side or rear yard.
- 5.8.2. Open Space for Each Building. No part of a required yard for any lot, nor any easement or right-of-way shall be included as part of the required yard for any other lot.
- 5.8.3. Projection into Required Yards. Nothing in these Regulations shall prohibit the projection of not more than one foot into a required yard of pilasters, columns, belt-courses, sills, cornices, fire escapes or similar architectural features.
- 5.8.4. Lots Adjacent to Railroads. In the case of a portion of a lot in the Industrial District which lot is contiguous to a railroad right-of-way, a rear or side yard shall not be required along the railroad right-of-way.

5.8.5. Storage and display in Required Yards.

- a. Outside storage or display of merchandise, goods, supplies, machinery, equipment, and motor vehicles, except as such motor vehicles may be allowed in conformity with Section 6.1.8 of these regulations, shall not extend into the area required for setback from a street line, or into the area required for a landscape buffer.
- b. businesses without a porch or yard that is suitable for display of merchandise under 5.8.5.a as above (as determined by the Commission) may display merchandise along one exterior wall of the business, so long as the merchandise:
 - (1) is located within two feet of said wall, and
 - (2) does not interfere with pedestrian or vehicular traffic or sight line (the Commission shall make all such determinations)
- c. Non-profit organizations may apply for an approval for temporary storage or display of merchandise in locations other than those permitted in these regulations.

5.8.6. Yards and Open Space Required for Each Building. Except as otherwise provided herein, no part of any yard or other open space required around a building or structure shall be included as part of the yard or other open space required for any other building or structure.

5.9. EXCEPTIONS TO YARD REQUIREMENTS.

5.9.1. Lots Adjacent to a Railroad. In Commercial and Industrial zones, that portion of a lot contiguous to a railroad line and served by a railroad siding or spur, shall not require a yard or open space.

5.9.2. Stairs and Ramps. Entry stairs, fire escapes and access ramps for the handicapped may extend not more than four feet into any required yard or open space.

5.9.3. Walls and Fences. The yard requirements of these Regulations shall not be applicable to the erection or construction of any fence or wall six feet or less in height.

5.9.4. Lots with a Shared Driveway. In Commercial and Industrial zones, the side yard requirements of these Regulations shall not be applicable along the common side lot line which separates two or more adjoining lots containing no residential uses where such lots share a single driveway entrance and exit onto a street, provided that permanent vehicular access shall be provided to the rear of such lots. [See Appendix A, Figure A-4]

5.10. HEIGHT EXCEPTIONS. The maximum building height limit shall be applied separately for each wing or other distinct portion of a building, and may be increased for any building or distinct portion thereof, by one foot for every two feet by which such building or such portion thereof lies inside the nearest limiting line of any required front, side or rear yard, but not to exceed 40 feet in height. Spires, cupolas, towers, chimneys, flagpoles, solar panels, ventilators, tanks, silos, radio or television aerials and similar structures occupying in the aggregate not more than 5% of the building footprint area and not used for human occupancy, may be erected to a height of 50 feet. Any construction of the aforementioned that would exceed 5% of the building footprint area or a height greater than 50 feet, shall be subject to Special Permit approval

5.11. LOT REQUIRED FOR EVERY BUILDING. Every building hereafter erected shall be located on a lot. Except as otherwise provided herein, there shall be not more than one principal building on a lot.

5.12. PORCHES. A porch, whether enclosed or unenclosed, shall be considered a part of the building for the purpose of determining the size of yard or the amount of building coverage. [See Appendix A, Figure A-2]

- 5.13. TERRACES. A paved terrace shall not be considered a part of the building for the purpose of determining the size of yard or the amount of building coverage, provided, however, that such terrace shall be unroofed and without walls, parapets, or other forms of enclosure and shall not be located within ten feet of any lot line. Such terrace, however, may have an open guard railing not over 42 inches in height. [See Appendix A, Figure A-2]
- 5.14. EXISTING PRIVATE ROADS. An existing private road on which all lots having access to such road are 5 acres or more may service no more than 12 lots and an existing private road on which any lots having access thereto are less than 5 acres may service no more than 6 lots.
- 5.15. ACCESSORY BUILDINGS, STRUCTURES AND USES. Accessory buildings, structures and uses in the rear yard of a corner lot shall not be located within the required yard of any adjacent street.

Section 5A

KENT VILLAGE DISTRICT (KVD)

5A.1 PURPOSE AND INTENT

The Kent Village District (“KVD”) is an overlay district. As such, the provisions and regulations of the KVD under this Section 5A shall be applicable to the land within the KVD boundaries in addition to the regulations that are applicable to the underlying Districts, unless the provisions of this Section 5A expressly provide otherwise. The purpose of the Kent Village District Regulations is to protect and enhance the unique character and scale of the village of Kent as a small New England village in accordance with the goals set forth in the Town of Kent Plan of Conservation and Development. The KVD regulations will ensure that new development or redevelopment of land or modification of buildings within the District are consistent and compatible with the existing village character. These regulations have been adopted pursuant to Connecticut General Statutes Sections 8-2 and 8-2j.

The intent of these regulations is to:

5A.1.1 maintain the existing village scale by encouraging buildings which are generally similar in size and character to the residential style buildings which predominate the streetscape. For reference, a disc is available in Town Hall with a visual inventory of the Kent streetscape.

5A.1.2 preserve the historic and significant structures within the District;

5A.1.3 encourage pedestrian activity within the village center;

5A.1.4 promote and retain a mix of commercial and residential uses (mixed-use) in the commercial district;

5A.1.5 ensure the future cohesiveness and unity of the Kent Village District by connecting any future streets into the existing District road network;

5A.1.6 discourage the widening of existing streets and encourage the width of new streets to be consistent with the existing streets in the Kent Village District; and

5A.1.7 encourage vibrant and diverse residential development consistent with the traditional character of the community that fits harmoniously into the town fabric and helps reinforce the local sense of place.

5A.2 BOUNDARIES

The boundaries of the Kent Village District are hereby established to be those shown on a map entitled “Kent Village District of the Town of Kent, Connecticut”, dated May 10, 2007, as may be amended.

5A.3 APPLICABILITY

Any proposal for any new building or other structure, alteration of an existing building or other structure, alteration of landscaping, including fences and signs, or alteration of parking or pedestrian areas within view of a public street.

5A.3.1 These regulations shall not apply to:

5A.3.1(a) **Routine maintenance:** Activities that occur on a regular basis in order to keep a property in good condition.

5A.3.1(b) **Basic repairs:** Repairs generally considered like for like.

5A.4 APPLICATION PROCESS & REQUIREMENTS

5A.4.1 A Pre-application shall be submitted to the ARB for any proposed activities that do not constitute new construction or substantial reconstruction as determined by the ZEO.

Pre-applications determined by the ARB to conform to the intent of these regulations and the Kent Village District Design Guidelines established by the ARB shall be processed in accordance with the applicable requirements of these regulations and no additional site plan application shall be required.

Pre-applications determined by the ARB not conforming to the intent of these regulations and the Kent Village District Design Guidelines established by the ARB shall require a site plan application from the Planning and Zoning Commission (see section 4) and additional information as outlined in section 5A.4.3. This site plan application shall be reviewed by the ARB prior to review by the Commission.

The ARB shall have 35 days after the official date of receipt of the Pre-application to review and report in writing to the ZEO.

5A.4.2 Pre-applications shall contain the following information:

5A.4.2(a) A completed ARB Pre-Application Form.

5A.4.2(b) Sketch Plan as outlined by Section 4.2 of these regulations.

5A.4.2(c) Photographs showing the location of the proposed activity as well as the surrounding properties.

5A.4.2(d) Copy of the Kent Village District Map with the subject property highlighted.

5A.4.2(e) Elevation drawings (front and side views), section drawings and/or photographic images. These materials shall indicate the existing and proposed roofing, siding, windows, and exterior doors as well as roof pitches, overhangs, eaves, etc. Overall dimensions of the plan and vertical dimensions of the eaves and ridge shall be shown as well as sizes of the windows and exterior doors.

5A.4.2(f) Samples or catalogue “cuts” of proposed roofing, siding, windows and doors. Product sheets may be acceptable.

5A.4.3 Proposed activities for new construction or substantial reconstruction within the Kent Village Center shall require a Site Plan application from the Planning and Zoning Commission (see Section 4) as well as items required by sections 5A.4.2(c), (d), (e) and (f). This site plan application shall be reviewed by the ARB prior to review by the Commission. In addition, the following may be required if determined necessary by the ARB or Planning and Zoning Commission:

5A.4.3(a) A representation of all proposed demolition of any structure or part thereof.

5A.4.3(b) A streetscape illustrating the new proposal to scale and indicating the dimensional relationship between the project and structures on adjacent parcels.

5A.4.3(c) Historical pictures of subject site and surrounding area as available.

5A.4.4 **WAIVER OF REQUIREMENTS.** Upon written request by the applicant, the ARB may waive one or more of the requirements of Section 5A.4.2 if the applicant can show, to the satisfaction of the ARB, that the information is not needed to reach a decision on the application. Such waiver shall require an affirmative majority vote of all voting members of the ARB.

Upon written request by the applicant, the Commission, may waive one or more of the requirements of Section 4.3 if the applicant can show, to the satisfaction of the Commission, that the information is not needed to reach a decision on the application. Such waiver shall require an affirmative majority vote of all voting members of the Commission.

5A.4.5 The Commission recommends that, prior to the submission of an official application for approval of a Site Plan, the applicant meet with the Commission and/or the ARB for informal consideration of any proposals. This is recommended to facilitate consideration of factors and problems that may be associated with a Site Plan before the applicant proceeds with preparation of official maps, plans and documents required for formal consideration. This informal consideration by the Commission and/or the ARB, however, shall not be deemed to constitute any portion of the official and formal procedure of applying for and approving a Site Plan as contemplated herein or under the provision of the General

Statutes.

5.A.4.6 The Commission may seek the recommendations of any town or regional agency or outside specialist with which it consults, including but not limited to, a licensed architect, a licensed landscape architect, a certified planner, the regional planning agency, the municipality's historical society, the Connecticut Trust for Historic Preservation and the University of Connecticut College of Agriculture and Natural Resources. Any reports or recommendations from such agencies or organizations shall be entered into the public hearing record.

5A.5. APPROVAL

5A.5.1 If the Commission approves or denies an application, it shall state upon the record the reasons for its decision. If the Commission denies an application, the reason for the denial shall cite the specific regulations under which the application was denied. Notice of the decision shall be published in a newspaper having a substantial circulation in the municipality;

5A.5.2 No approval of the Commission shall be effective until a copy thereof, certified by the Commission, containing the name of the owner of record and a description of the premises to which it relates, is recorded in the land records of the Town. The Town Clerk shall index the same in the grantor's index under the name of the then record owner and the record owner shall pay for such recording.

5A.6. VARIANCES

In accordance with Section 8-6 of the Connecticut General Statutes, it is hereby specified that no variances may be granted by the Zoning Board of Appeals from the requirements established under this Section 5A.

5A.7 ARCHITECTURAL REVIEW BOARD AND COMMISSION CONSULTANTS

5A.7.1 An Architectural Review Board ("ARB") is hereby established and shall be appointed by the Commission. The purpose of the ARB is to advise the Commission concerning the application's compatibility with the village character as contained in these Regulations. The ARB may meet informally with property owners or prospective developers prior to the formal submission of an application to the Planning and Zoning Commission.

The ARB shall consist of 5 members, the majority of whom shall be Kent residents. No member of the Town of Kent Planning and Zoning Commission shall serve as a member of the ARB. The following is the appointment schedule:

- Year 1- Two people shall be appointed to serve for one-year initial terms and three shall be appointed to serve for two-year initial terms. Each of the five terms shall begin on the same date.
- Year 2-Two people shall be appointed to serve for two-year terms.
- Year 3- Three people shall be appointed to serve for two-year terms.
- Thereafter, appointments shall be made for two-year terms as terms expire.

5A.7.2. Alternatively, the commission may designate a village district consultant for such application who is an architect or architectural firm, landscape architect, or planner who is a member of the American Institute of Certified Planners.

5A.7.3. A member of the Planning and Zoning Commission may be appointed ex-officio member of the ARB for a term of one year.

SECTION 6

RURAL DISTRICT - RU

- 6.1. PERMITTED USES. The following uses shall be permitted subject to applicable provisions.
- 6.1.1. One-family dwellings or two family dwellings.
 - 6.1.2. One or two home occupations in a dwelling or accessory building subject to a Zoning Permit from the Zoning Enforcement Officer in accordance with Section 22.4 and provided the following standards and conditions are met:
 - a. The person conducting each home occupation shall reside in the dwelling unit, and there shall be not more than one non-resident person employed on the premises in connection with such occupation.
 - b. There shall be no evidence outside the dwelling or accessory building, except permitted signs and required off-street parking, that the dwelling or accessory building contains a home occupation.
 - c. A home occupation shall be confined to one floor of the dwelling unit and not more than 25% of such floor area shall be so used. If more than 25% of such floor area is to be used, such use shall be subject to Special Permit approval. If the home occupation is located in an accessory building, such use shall not exceed 600 sq.ft. of floor area.
 - d. No finished consumer goods shall be acquired from sources outside the dwelling unit for sale in connection with a home occupation within the dwelling unit.
 - 6.1.3. The furnishing of rooms or board for hire by the owner of the premises to not more than six individuals, who are not related to the owner by blood or marriage. In counting the number of such individuals members of the owner's family shall in all cases be excluded.
 - 6.1.4. Agriculture, forestry, truck and nursery gardening.
 - 6.1.5. A cemetery established and operated by an ecclesiastical society or cemetery association located in the Town.
 - 6.1.6. A park or playground of a non-profit organization or community association.
 - 6.1.7. Accessory uses and structures customary and incidental to a permitted use on the same premises. All accessory structures used for recreational purposes such as tennis courts, paddle tennis, and swimming pools shall be adequately screened from view from adjacent properties and from a public road. All exterior lighting in connection with such recreational structures shall be located at the minimum height from the ground and the maximum distance from property lines necessary to prevent glare or view of the lighting element from adjacent properties or from a public road.
 - 6.1.8. The parking of more than one commercial motor vehicle may be permitted provided each vehicle is self-propelled, does not have more than a single-axle rear end, does not exceed 11,000 thousand pounds gross vehicle weight, and shall not be located within the required front or side yards or within 20 feet of any lot line and shall be screened from off site view. Vehicles of greater than 11,000 thousand pounds gross vehicle weight shall be subject to Special Permit approval.
 - 6.1.9. Farm equipment shall be parked or stored a minimum of 30 feet from any lot line or be under cover.

- 6.1.10 Docks that are capable of seasonal removal, provided they shall be limited to a total surface area of 150 square feet.
- 6.1.11 A temporary construction trailer for the storage of equipment, to be used for not more than one year, during the construction of a permitted structure. Renewal of permits for (an) additional period (s) of six months (each) may be granted by the Commission upon a showing of need.
- 6.2. SPECIAL PERMIT USES. The following uses may be permitted subject to Special Permit approval in accordance with Section 4.9:
 - 6.2.1. Private schools and private colleges, when located on a lot of at least five acres, and having frontage of at least 400 feet on one street.
 - 6.2.2. A privately-operated hospital, clinic, nursing or convalescent home or similar institution provided that the lot area shall be at least five acres; 4,000 square feet of lot area shall be provided for each bed providing patient accommodation.
 - 6.2.3. Places of worship, parish houses, convents, and similar uses when located on a lot of at least two acres, provided that the building coverage does not exceed 15%.
 - 6.2.4. Telephone exchanges, transformers, substations, sewer or water pumping stations, water tanks, standpipes, water supply reservoirs or reservations, bus or railway waiting rooms or similar public utility uses with no outside service yard or outside storage of supplies unless fully enclosed or screened from public view.
 - 6.2.5. Clubs.
 - 6.2.6. Community centers.
 - 6.2.7. Campgrounds or youth camps, provided that the area is at least 70 acres; 8,000 square feet of lot area shall be provided for each person accommodated. All athletic and other camp facilities shall be located not less than 200 feet from any street line or other lot line. All requirements of Section 20 shall also apply.
 - 6.2.8. Private or commercial golf courses, provided that the lot area shall be at least 20 acres and that all buildings shall be located no less than 100 feet from any street line or other lot line and that no part of the course shall be illuminated for night play.
 - 6.2.9. Commercial livery, boarding or riding stables including facilities for showing and training of horses, provided that they shall be located on a lot of at least five acres.
 - 6.2.10. Veterinary hospitals for the treatment and care of animals. This shall not be construed to mean boarding of animals for compensation. All animal enclosures shall be constructed to attenuate animal noises sufficient to comply with Section 17.4.3. Veterinary hospitals shall be located on a lot of at least five acres.
 - 6.2.11. Nursery schools when located on a lot of at least two acres and having frontage of at least 150 feet, provided that no play equipment shall be located in any required front or side yards.
 - 6.2.12. The temporary use (not to exceed one-year) of a mobile home, trailer or other temporary housing on a lot by the owner of such lot during construction of his dwelling under a valid permit. Under special circumstances, two successive six-month extensions may be granted by the Commission.
 - 6.2.13. One additional dwelling unit per lot located in an accessory structure provided that the owner of said property shall be the occupant of either the dwelling unit or principal dwelling, and that a plan showing proposed layout of living space, septic system and water supply system shall be approved by the Town Sanitarian.

- 6.2.14. A sales office located on the premises where a group of dwellings under construction or recently constructed shall be offered for sale. Only one sign shall be permitted not to exceed two square feet in area; no banners or other advertising devices shall be permitted. Permit approval shall be limited to not more than one year; one or more extensions not to exceed six month periods may be granted by the Commission.
- 6.2.15. Bed and breakfast accommodations within an existing dwelling, limited to three bedrooms for paying guests and the serving of breakfast only for such guests; provided the owner of the dwelling shall reside in said dwelling.
- 6.2.16. One professional office in a dwelling provided the following standards and conditions are met:
- a. The person conducting the office shall reside in the dwelling unit, and there shall be not more than three non-resident persons employed in connection with such office; and,
 - b. The floor area used for the office shall not exceed one-third of the floor area of the dwelling unit.
- 6.2.17. Roadside stands for the sale of local farm produce, grown principally on the premises, provided that they shall meet the following criteria:
- a. Shall be either a detached structure, occupying no more than 100 square feet in area within an existing non-residential farm structure;
 - b. Shall conform to the parking regulations in Section 18.2.4;
 - c. Signage shall conform to Section 19.7e;
 - d. Shall operate only during daylight hours;
 - e. If a detached structure, such structure shall not exceed 12 feet in height;
 - f. If a detached structure, such structure shall be located not less than 20 feet from any street line and not less than 20 feet from any street intersection.
- 6.2.18. Group homes or child day care centers.
- 6.2.19. Farm brewery: It is the intent of this section to preserve and encourage agricultural activities in the Town of Kent.
- a. Finished product shall not exceed 155,000 U.S. gallons per calendar year.
 - b. Finished product to be sold at wholesale, except that limited on-site sales for off-site consumption may be allowed under Special Permit conditions.
 - c. Tours and tasting rooms may be allowed under Special Permit conditions.
 - d. All Special Permit applications shall also comply with Section 4 of these Regulations.
- 6.3. REQUIRED LOT AREA. Each lot shall have an area of not less than one acre for Class 1 soils, 2 acres for Class II soils and 5 acres for Class III soils and shall be of such shape that a square with 100 feet on each side will fit on the lot, with one side of the square along the required setback on the front yard.
- 6.3.1. All lots in excess of 5 acres shall meet soil criteria for Class III soils but shall conform to all other applicable regulations.
 - 6.3.2. In the event that a lot shall have more than one class of soil, the location of the septic system shall determine which class of soil shall be applicable.
 - 6.3.3. For any proposed subdivision, each lot thereon shall be treated as an individual lot.

6.3.4. The map entitled "USDA, Soil Conservation Service, Soil Survey, Town of Kent", is incorporated as part of these Regulations and shall be presumed to show the correct soil classification. This presumption may be rebutted by an applicant based upon a detailed soils survey made by a certified Soil Scientist at the applicant's expense. The Commission may also have the soils verified by the USDA, Soil Conservation Service, Litchfield, when considered necessary.

6.3.5. Minimum Lot Size Based on Soil Types:

Class/Min Lot Size	Soil Map Symbol ⁴⁵
Class I; Min. Lot Size 1 Acre	CaA, CaB, CaB2, CaC, CaC2, ChB, ChC, CrC, DoB, DoC, DvB, GbB, GeC, HbA, HbB, HbC
Class II; Min. Lot Size 2 Acres	CwA, CwB, EsA, EsB, EsC, GrC, HkA, HmA, HkC, HmC, MyA, MyB, MyC, PbA, PbB, PbB2, PbC, PbC2, PdB, PdC, PeC, SnB, SnB2, SnC, SnC2, SpC, SrC, WvA, WvB, WvC, SwA, GaB, GaC
Class III; Min. Lot Size 5 Acres	AnA, AnB, AoB, AoC, ApC, BaA, CaD, ChD, CrD, DoD, FcA, FmC, HeA, HeB, HoC, HrC, PbD, PbD2, PdD, PeD, SrD, SvA, SvB, SwB, SxA, SxC, TwA, TwB, WxA, WxB, WxC, WyA, WyB, WyC, WzA
Class IV ⁶ Wetlands	Am, Bz, Ee, Fr, Gf, Gn, Ke, Lc, Le, Lg, Lm, On, Pk, Pm, Po, Rc, Rd, Rg, Ru, Sb, Sf, St, Wi, WnX, Wp, Ka
Misc.	Bk, Bl, FaE, FmE, GeE, HrE, HxC, HxE, Ma, PbE, Rh, Tg, Gravel Pits.

6.3.6. For affordable lots created under section 11-1.2 of the Code of Ordinance of the Town of Kent, and CGS Ch. 126a, §8-30g(a)(1) and §8-30g(a)(3) or (6), the Planning and Zoning Commission may, by special permit, reduce the minimum lot area based on soil types to no less than one acre for such lot provided that a septic plan has been approved by the Health District or Town Sanitarian.

6.4. AREA AND DIMENSIONAL REQUIREMENTS.

6.4.1. No accessory structures, except garages, shall be located closer to the street than the principal dwelling unless not visible from the street or approved as a special permit in accordance with the provisions of Section 4.9 of these regulations.

6.4.2. Location of small structures. Accessory structures which are used solely for the storage of lawn and garden tools and ordinary household equipment and which have a gross floor area of 100 square feet or less may be located no less than 10 feet from the rear or side lot lines upon application to and permission by the Commission.

⁴ Refer to Know Your Land, Soil Conservation Service, U.S. Dept. of Agriculture, Connecticut Cooperative Extension Service, UCONN, Storrs, CT 06268.

⁵ Refer to Litchfield County Connecticut Soil Survey, U.S. Department of Agriculture Conservation Service: U.S. Government Printing Office, Washington, DC; November 1970.

⁶ On-site investigation by a Commission approved soil scientist is required for determining minimum lot size and suitability of limitation for any intended use.

SECTION 7

VILLAGE CENTER-RESIDENTIAL: VC-R1 AND VC-R2

- 7.1. PERMITTED USES. The following uses shall be permitted subject to Sketch Plan or Site Plan Approval in accordance with Sections 4.2 through 4.8 and other applicable provisions of these Regulations:
- 7.1.1. One-family dwellings.
 - 7.1.2. Two-family dwellings.
 - 7.1.3. One home occupation in a dwelling subject to a Zoning Permit from the Zoning Enforcement Officer in accordance with Section 22.4 and conformance with Section 6.1.2.
 - 7.1.4. The letting of rooms or furnishing of board by the owner of the premises to not more than six individuals in addition to the owner's family.
 - 7.1.5. The keeping of horses, cows, sheep, goats and poultry by the owner of the premises provided there shall be at least one acre of land totally available for each grazing animal. If more than three animals shall be kept on a lot, an additional one-half acre of totally available grazing land, over and above the basic three acre requirement, shall be required for each additional animal. Commercial kennels shall be prohibited.
- 7.2. ACCESSORY USES AND BUILDINGS.
- 7.2.1. No accessory building or guest house shall be used for residence purposes except as living quarters for non-paying guests or domestic help. No accessory building shall be greater than 20 feet in height except for guest houses. A swimming pool for private use shall be considered an accessory structure and shall adhere to the applicable yard requirements. Specifications for a pool shall conform to the State Building Code. Pumps, filters, heaters and tanks shall be suitably screened.
 - 7.2.2. Guest houses shall not contain a floor area larger than 25% of the gross floor area of the principal dwelling, shall be no greater in height than the principal dwelling, and shall be located on the same lot as the principal dwelling.
 - 7.2.3. Accessory buildings and guest houses used for residence purposes shall have their floor areas added to the total area of the principal dwelling, and the total aggregate of these areas shall not exceed the applicable maximum building coverage.
 - 7.2.4. No part of any guest house or accessory building shall be located in front of the building line of the principal dwelling.
 - 7.2.5. Accessory uses of a dwelling or lot shall include the raising of crops or fruit and the keeping of family flocks of poultry, but shall not include the commercial raising or keeping of poultry, fur-bearing animals or swine, nor commercial kennels or veterinary hospitals.
 - 7.2.6. Barns or garages may be used as temporary housing on a lot by the owner of such lot during construction of his dwelling under a valid permit. The length of this permit may not exceed one-year. Under special circumstances two successive six-month extensions may be granted by the Commission.
- 7.3. OTHER PERMITTED USES.
- 7.3.1. Tag Sales - provided they shall be engaged in only by immediate members of the family residing on the premises and shall be limited to two a year, each of not more than three days duration.

7.4. AREA AND DIMENSIONAL REQUIREMENTS.

7.4.1. Front Yard

- a. On existing streets in VC R-1 and VC R-2 Districts, building lines shall be established at a distance equal to or greater than the average setback distance of all other dwellings within 500 feet on the same side of the street.
- b. On undeveloped or proposed streets in the VC R-1 and VC R-2 Districts, the building lines shall be set back at least 30 feet from any proposed or existing street line.

7.4.7. Any principal dwelling so placed on a lot that its front faces one of the side lot lines shall have the side facing its street of access in line with the mean building line. The front of such a dwelling shall be at least 20 feet in VC R-1 and at least 30 feet in VC R-2 from the side lot line which it faces. The distance of the rear of such a building from the opposite side lot line shall conform to the side yard dimension requirements.

7.4.8. Other than Section 7.4.7, placement of a dwelling on a lot shall conform to front, side and rear yard requirements as if that dwelling fronted on the street of access.

7.4.9. Through lots (lots fronting on two streets) may have either street as their street of access but shall conform to Section 7.4.1 in regard to the yard requirements on their street of access.

7.4.10. Each street line on a corner lot shall be deemed to be a front lot line, and the required yard along them shall be the required front yard. The yard opposite the shortest front lot line shall be considered a rear yard, and the other, or others, shall be considered side yards. [See Appendix A, Figure A-7]

7.4.11. Lots not fronting directly on a public street shall have a right-of-way width or frontage of at least 25 feet in the VC R-1 District and 30 feet in the VC R-2 District.

7.4.12. Accessory buildings shall be located at least 10 feet from side and rear lot lines.

7.4.13. Accessory buildings or structures connected by roofs or breezeways shall be considered part of the principal dwelling.

7.4.14. No building shall exceed 35 feet in height.

7.5. SPECIAL PERMIT USES. The following uses may be permitted in the VC R-1 and VC R-2 districts subject to Special Permit approval in accordance with Section 4.9.

7.5.1. Community houses.

7.5.2. Philanthropic, charitable or non-profit institutions.

7.5.3. Hospitals, nursing homes, or convalescent homes, providing minimum lot size shall be one acre and providing all buildings shall be located at least 25 feet from any street or lot line.

7.5.4. (REMOVED 5/7/05).

7.5.5. Playgrounds.

7.5.6. Places of worship.

7.5.7. Multiple dwellings and accessory buildings, providing there shall be a minimum lot size of one acre; there shall be no other principal uses on the lot; and subject to the following provisions:

- a. Each lot shall contain at least 4,000 square feet for each dwelling unit.
- b. Each building shall not contain more than eight dwelling units.

- c. Each lot shall have frontage of at least 100 feet on a public street. Interior lots shall have at least 25 feet of right-of-way on a public street.
 - d. Each lot shall be located so that its vehicular access and egress shall be on to a street of sufficient width and capacity to accommodate any increase in traffic. A driveway permit shall be obtained from the Connecticut Department of Transportation or from the First Selectman, as applicable.
 - e. The maximum building coverage for multiple dwellings and accessory buildings shall not exceed 25% of the lot area.
 - f. No proposed development shall be approved unless connected to the Town sanitary sewer system.
 - g. Each multiple dwelling project shall provide facilities for the disposal and collection of garbage and refuse which facilities shall be in conveniently located areas, properly enclosed and screened from view.
 - h. No building shall exceed a height of 35 feet, and no space having a floor level below the finished grade shall be used for dwelling purposes other than for one janitor's apartment per multiple dwelling permit.
 - i. Multiple dwellings and accessory buildings shall be located a minimum of 25 feet from the front lot line or, if there is no established street line, a minimum of 50 feet from the center of the paved road, 20 feet from the side lot lines and 40 feet from the rear lot line.
 - j. No parking area or other use shall be located within 25 feet of any front lot line or within 10 feet of any rear or side lot line.
 - k. The distance between any multiple dwelling and any side of another multiple dwelling on the same lot shall be not less than 50 feet.
 - l. Any conversion of an existing structure to multiple residences shall be considered an interior change and shall require the same lot size and setbacks as a single family dwelling in the zone in which it is located.
- 7.5.8. Roadside stands for the sale of farm produce, home cooking, needlework and similar items provided the major part of such items shall be grown or produced on the premises on which the stand is located.

SECTION 8

VILLAGE CENTER COMMERCIAL: VC-C

- 8.1. PERMITTED USES. The following uses shall be permitted subject to Site Plan approval in accordance with Sections 4.3 through 4.8 and other applicable provisions of these Regulations:
- 8.1.1. Banks, including drive-in banks, and other financial institutions.
 - 8.1.2. Medical or dental offices or out-patient clinics.
 - 8.1.3. Restaurants.
 - 8.1.4. Retail stores.
 - 8.1.5. Funeral homes or mortuaries.
 - 8.1.6. Flower shops, nurseries or greenhouses.
 - 8.1.7. Printing, lithography, photocopying, publishing or graphic arts establishments.
 - 8.1.8. Personal or household service establishments including barber shops, beauty shops, interior decorators, laundromats, plumbing or electrical stores or other similar establishments for the sale or repair of appliances or the provision of other services.
 - 8.1.9. Telephone exchanges or public utility offices.
 - 8.1.10. Offices.
 - 8.1.11. Lumber yards for the storage of lumber, millwork or related materials when such storage shall be incidental to the retail sale of such material and provided that such material shall be stored in buildings or properly screened from adjoining properties by fences, walls or evergreen plantings.
 - 8.1.12. Contractor's offices provided that the storage of contracting equipment and supplies shall be incidental to the primary permitted use of the premises and provided that such equipment and supplies shall be stored in buildings or properly screened from adjoining properties by fences, walls or evergreen plantings.
 - 8.1.13. Single family or two family dwellings.
 - 8.1.14. Bakeries, delicatessens, ice cream parlors, coffee shops and similar floor retail and serving establishments which serve customers primarily at food take-out counters. If indoor seating accommodations are provided, such seating area shall not exceed 15% of the gross floor area, not to exceed a maximum of 15 seats. Such establishments shall not serve customers at drive-in windows or in motor vehicles.
 - 8.1.15. Libraries.
- 8.2. SPECIAL PERMIT USES. The following uses may be permitted subject to Special Permit approval in accordance with Section 4.9 and other applicable provisions of these Regulations:
- 8.2.1. Community houses or public assembly halls.
 - 8.2.2. Recreation centers, including bowling alleys, but excluding amusement parks except the temporary use of such amusement parks. Non-profit organizations may be permitted use of a parcel for amusement purposes for no more than seven days in any calendar year.
 - 8.2.3. Public swimming pools which conform to State specifications.

- 8.2.4. Hospitals, convalescent hospitals, nursing homes or rest homes.
- 8.2.5. Automotive service stations or establishments for the sale, storage and/or repair of motor vehicles, subject to a Certificate of Approval by the Kent Zoning Board of Appeals; recreation vehicles, and lawn and garden equipment, provided that all shall meet State requirements, and provided that no vehicle entrance or exit for such an establishment shall create a traffic or fire hazard, and provided that any equipment or supplies shall be stored in buildings or properly screened from adjoining properties by fence, walls or evergreen plantings.
- 8.2.6. Places of worship.
- 8.2.7. Theaters or movie houses.
- 8.2.8. Child day-care centers; adult day care centers.
- 8.2.9. Hotels or motels.
- 8.2.10. Mixed residential and commercial use at a maximum dwelling density of two (2) units per building except that the Commission, in order to facilitate adaptive reuse of older buildings, may allow up to ten (10) dwelling units in any building that was in existence on April 1, 2006. In no event, however, shall the Commission allow more than six (6) dwelling units per acre. (Effective 4/1/06)
- 8.2.11. The temporary use (not to exceed three days in any calendar year) of parking areas or driveways for the display or sale of items by a non-profit organization.
- 8.2.12. Veterinary hospitals for the care and treatment of animals. This shall not be construed to mean the boarding of animals for compensation. All animals are to be housed within the confines of the hospital which shall be constructed to attenuate animal noises sufficient to comply with Section 17.4.3 of these regulations.
- 8.2.13. Artists' studios.
- 8.2.14. Commercial Structures in excess of 9,000 square feet of gross floor area, but not exceeding 18,000 square feet of gross floor area on lots with an area of at least 60,000 square feet providing not more than 9,000 square feet of gross floor area is on each floor, and the Commission finds that the design location on the lot, materials, architecture and landscaping minimize the size of the building so its presence will be in harmony with the New England character and appearance of the village center streetscape consistent with the provisions regarding the village center district in the Kent Town Plan and Kent Character Study and Open Space Plan.
- 8.2.15. Education Center.
- 8.3. PERMITTED ACCESSORY BUILDINGS, STRUCTURES AND USES.
 - 8.3.1. Any accessory buildings, structures or uses, customarily incidental and directly related to the operation of the permitted, principal use.
 - 8.3.2. Off-street parking and loading in accordance with Section 18.
 - 8.3.3. Signs, in accordance with Section 19.
- 8.4. GENERAL PROVISIONS.
 - 8.4.1. New uses or habitable structures shall be permitted only if supplied with public water and served by a sanitary sewer system or other sewage disposal system approved by the State Department of Environmental Protection.
 - 8.4.2. No commercial structure may be erected or modified so as to have a gross floor area in excess of 9,000 square feet, except as approved pursuant to Section 8.2.14.

SECTION 9

INDUSTRIAL DISTRICT

- 9.1. PERMITTED USES. The following uses shall be permitted subject to Site Plan approval in accordance with Sections 4.3 through 4.8 and provided that there shall be no unreasonable emission of dust, smoke, odor, noise, vibration, toxic or hazardous materials or substances, or glare beyond any lot line, in accordance with Section 17.4, subject to the provisions of Section 21.5. and applicable state and federal laws and further provide that the Commission may, in its discretion, require vegetation and other screening for any structure or permitted activity.
- 9.1.1. Research laboratories provided that no vivisection or other experimentation on live animals shall be allowed.
 - 9.1.2. Office buildings.
 - 9.1.3. Agricultural equipment or supplies.
 - 9.1.4. The manufacture, compounding, processing, packaging or treatment of articles, materials or goods.
 - 9.1.5. Printing, photoengraving, or bookbinding.
 - 9.1.6. Carpentry or woodworking.
 - 9.1.7. Fabrication or installation of glass.
 - 9.1.8. Lumber or building material storage or sale.
 - 9.1.9. Accessory buildings or uses customarily incidental to a permitted use.
 - 9.1.10 Warehouses.
 - 9.1.11 Firehouses
 - 9.1.12 Artist's Studios
- 9.2. SPECIAL PERMIT USES. The following uses may be permitted subject to special permit approval in accordance with Section 4.9 and other applicable provisions of these regulations.
- 9.2.1 Mixed Residential and Industrial Use at a maximum dwelling density of two (2) units per lot
 - 9.2.2. Any other industrial or commercial use which is similar in its essential characteristics to those listed above.
- 9.3. ADDITIONAL REGULATIONS. The required front yard shall not be used for storage or any other purpose inconsistent with proper landscaping treatment. Not more than one-half of the area of the required front yard shall be occupied by driveways or parking facilities.
- 9.4. AREA AND DIMENSIONAL REQUIREMENTS. Where a side or rear lot line adjoins land devoted to a commercial or residential use, a 100 foot setback shall be required and screening may be required in accordance with Section 4.10.

SECTION 10

LAKE WARAMAUG WATERSHED DISTRICT (LWWD)

- 10.1. PURPOSE. To protect a carefully defined area of land within the Lake Waramaug Watershed so as to control and reduce groundwater pollution, phosphorus and sediment inflow to Lake Waramaug. Lake Waramaug is an environmentally valuable natural resource for not only the Town, but also the entire State as it is the second largest natural lake in the State and serves as a major recreational resource for State residents. The Lake Waramaug Watershed District is an overlay district in addition to the underlying Rural District.
- 10.2. PERMITTED USES. The following shall be permitted uses subject to other applicable regulations:
- 10.2.1. All uses, including Special Permit uses, shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts including severe erosion, mass soil movement, water pollution, and any addition of phosphorus to the lake, whether during or after construction.
 - 10.2.2. Open space uses which do not require moving, removing or otherwise altering the position of earth, stone, sand, gravel or water except for flood control or erosion control measures.
 - 10.2.3. Game management, fishing, hunting where permitted, camping and picnicking in specified areas and other recreational activities.
 - 10.2.4. Farming, plant nurseries, pastures, golf courses, trails, forest management, horticultural and other agricultural uses that do not significantly alter the natural character of the watershed.
 - 10.2.5. Maintenance or reconstruction of existing public ways and bridges.
 - 10.2.6. Docks that are capable of seasonal removal.
- 10.3. SPECIAL PERMIT PROCEDURES. All uses not specified in Section 10.2 and permitted by right in the Rural District shall be subject to Special Permit approval in accordance with Section 4.9. In reviewing a LWWD Special Permit application, the following standards, in addition to those of Section 4.9, shall apply.
- 10.3.1. All uses shall not adversely affect water quality or create a danger of phosphorus or other toxic effluent or sediment inflow to the lake.
 - 10.3.2. All uses shall not adversely affect air quality through release of noxious fumes, gases or other emissions or through creation of significant amounts of dust or other particulate matter.
- 10.4. ADDITIONAL REQUIREMENTS.
- 10.4.1. In acting upon a LWWD project proposal, the Commission may take into consideration the recommendation of Federal, State, or Regional Agencies, other Town departments, and outside specialists with which it consults.
 - 10.4.2. No part of any septic system or reserve area shall be located within 100 feet of any watercourse or wetlands.
 - 10.4.3. No construction of any kind, including excavation, building, driveways, grading, disturbing of any soil or depositing of any fill shall take place within 100 feet of any watercourses or wetlands, unless the proposed area to be disturbed is separated from the watercourse or wetland by a public street.
 - 10.4.4. In the event of a conflict with provisions in other sections of these Regulations, the more restrictive provision shall apply.

SECTION 11

HOUSATONIC RIVER DISTRICT (HRD)

- 11.1. PURPOSE. To protect, in a cooperative effort with neighboring towns, with appropriate uniform standards, the Kent segment of a carefully defined area of land designated as the Housatonic River Corridor, which is deemed to be flood prone, environmentally sensitive and to possess many valuable natural resources and historic sites. The Housatonic River District is an overlay district in addition to the underlying Rural District.
- 11.1.1. The Inner Corridor represents the combined streambelt limits based on soil type criteria as determined and mapped by the Litchfield County Soil Conservation Service, and the 100 year flood hazard limits based on land contours as determined and mapped under the Federal Flood Insurance Program, whichever is greater, as shown on the Zoning Map. Route 7, which bisects the corridor, is a state designated scenic road.
- 11.1.2. The Outer Corridor represents that portion of the immediate river watershed lying between the Inner Corridor and the top of the valley ridge, excluding the Village Center and delineated by lines drawn from peak to peak along the ridge line as shown on the Zoning Map.
- 11.2. INNER CORRIDOR PURPOSE. To establish land use standards for the Inner Corridor.
- 11.3. INNER CORRIDOR PERMITTED USES. The following shall be permitted uses:
- 11.3.1. Open space uses which do not require moving, removing or otherwise altering the position of earth, stone, sand, gravel or water except for flood control or erosion control measures.
- 11.3.2. Game management, fishing, hunting where permitted, camping and picnicking in specified areas and other recreational activities.
- 11.3.3. Farming, plant nurseries, pastures, golf courses, trails, forest management, horticultural and other agricultural uses that do not significantly alter the natural character of the corridor.
- 11.3.4. Maintenance or reconstruction of existing public ways and bridges.
- 11.3.5. Except for uses stated above, all other uses permitted in this Section within the Inner Corridor shall be subject to Special Permit approval in accordance with Section 4.9.
- 11.3.6. Special permit site plan shall show the inner Housatonic River corridor boundary line. The applicant is also responsible for notifying the Kent representative on the Housatonic River Commission by return receipt requested.
- 11.4. INNER CORRIDOR STANDARDS. In reviewing an HRD Special Permit application, the following general requirements in addition to those of Section 4.9 shall apply:
- 11.4.1. Air or Water Pollution Control. No use shall be permitted which would adversely affect air quality through release of noxious fumes, gases, or other emissions, or through creation of significant amounts of dust or other particulate matter. No activity shall locate, store, discharge or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature, that run off, seep, percolate, or wash into surface stream or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- 11.4.2. Soil Erosion and Sedimentation Control. See Section 17.1.
- 11.4.3. Flood Control. No use shall be permitted which would create a danger of flood damage or obstruct flood flows. The 100 year flood area shall be as shown on the applicable Federal Flood Insurance Rate

Map. Within this area all new construction or substantial improvement of residential structures shall be elevated to or above the level of the 100 year flood; all new construction or substantial improvements to non-residential structures shall be elevated to or above the level of the 100 year flood or together with attendant utility and sanitary facilities, shall be flood-proofed up to the level of the 100 year flood. All such activities are to be in accordance with the Federal Flood Insurance Regulations as administered by the Commission.

- 11.4.4. Mineral Exploration and Excavation. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods as are in accordance with the provisions of Section 17.
- 11.4.5. New Subsurface Sewage Disposal Systems. Such systems shall be allowed only if designed by a Connecticut licensed sanitary engineer and approved by the Town Sanitarian.
- 11.4.6. Insecticides, Herbicides and Fertilizers. Use of these shall be prohibited except as recommended according to the standards established by the County Extension Service as the same may be amended.
- 11.4.7. Signs. Subject to the provisions of Section 19.
- 11.4.8. Scenic Resources. All possible care shall be taken to protect scenic vistas, scenic roads, and unique aesthetic features such as prominent ridgelines, large trees and stone walls from damage, obstruction or other degradation. (See Kent Land Trust Southern Gateway Resource Map.)
- 11.4.9. Historic/Archeological Sites. The State Archaeologist will be consulted where any proposed land use will impact on identified areas of potential archeological or historic remains. Where it is found that the project may adversely impact a historical or archaeologically sensitive area or feature, a plan shall be submitted by the applicant to demonstrate measures to be taken to mitigate such impacts and protect and preserve such sites and features.
- 11.5. OUTER CORRIDOR PURPOSE. To establish a review procedure for Zoning Permits which will guard against pollution, erosion, sedimentation and establish other basic safeguards on development activity which, although occurring at some distance from it, could adversely affect the Housatonic River.
- 11.6. OUTER CORRIDOR PERMITTED USES. For uses permitted in these Regulations within the Outer Corridor, the following procedures shall be required:
 - 11.6.1. Activities involving construction or earth moving, shall be reviewed with regard to soil types in exposed areas to determine whether provisions shall be made for special erosion and sediment control in accordance with current guidelines available from the U.S. Department of Agriculture Soil Conservation Service.
 - 11.6.2. All permits involving installation of subsurface sewage disposal systems shall be reviewed using the Soil Conservation Service interpretation of the soils and slopes involved in order to identify those specific areas where existing minimum lot sizes are most likely to be inadequate to support a permanent subsoil sewage system or where special design engineering of the system may be required by the State Health Code.

SECTION 12

ROADSIDE COMMERCIAL DISTRICT - RC-40

- 12.1. PERMITTED USES. Any use permitted in the Rural District, as set forth in Section 7 of these regulations and subject to the limitations and restrictions therein contained.
- 12.2. SPECIAL PERMIT USES. Any use permitted in the Village Center Commercial District as set forth in Section 8 of these regulations and subject to the limitations and restrictions therein contained, subject to Special Permit approval in accordance with Section 4.9 and other applicable provisions of these Regulations.

SECTION 13

AQUIFER PROTECTION ZONE (APZ)

- 13.1. **PURPOSE.** To provide safeguards to protect water quality in those aquifers identified as an existing or potential source of potable water.
- 13.2. **BOUNDARIES.** The boundaries of the APZ shall be as shown on map filed in Town Hall titled "Aquifer Protection Zone - Town of Kent" dated December 22, 1980, as amended, drawn at a scale of 1 inch = 2,000 feet.
- 13.3. **GENERAL PROVISIONS.** Within the boundaries of the APZ, no land or structure shall be used except in compliance with the provisions of these Regulations. The APZ shall be superimposed on existing land use zones. In the event of a conflict between any provisions of this Section and any other Section, the more restrictive requirements shall apply.
- 13.4. **PERMITTED USES.** All uses which are permitted by right or Special Permit in the existing underlying zones, except those listed in Section 13.5, shall also be permitted by right or Special Permit in the APZ with the following exceptions, restrictions and requirements:
 - 13.4.1. Sanitary waste water discharge to on-site septic systems shall not average more than the equivalent of one single-family dwelling unit per two acres.
 - 13.4.2. New or enlarged manure storage sites, wastewater lagoons and holding ponds shall be submitted for approval to the State Department of Environmental Protection.
 - 13.4.3. Fuel Storage Tanks
 - a. The use of fuel storage tanks smaller than 550 gallons for underground storage shall be prohibited.
 - b. Fuel storage tanks shall be designed and constructed to prevent leakage and shall be of noncorrosive material for underground storage.
 - c. Installation of underground fuel storage tanks shall be avoided in high groundwater areas unless tanks shall be installed to compensate for the buoyancy and corrosion characteristics of the groundwater and soil in the specific area.
 - 13.4.4. All uses shall not affect water quality or create a danger of phosphorous or other toxic effluent or sediment inflow into the aquifer or other groundwater.
- 13.5. **PROHIBITED USES.**
 - 13.5.1. Road salt storage and loading facilities.
 - 13.5.2. Sanitary landfills and dumps.
 - 13.5.3. Septage lagoons.
 - 13.5.4. Large scale use or storage or manufacture of hazardous wastes as identified by Sec. 3001 of the Resource Conservation and Recovery Act.

SECTION 13A

HORIZONLINE CONSERVATION DISTRICT

- 13A.1 PURPOSE OF THE DISTRICT: The purpose of this Horizonline Conservation District is to conserve and protect the hill summits and ridges which form the high horizon visible from the Town's system of roads while allowing reasonable, appropriate and compatible uses of the land. The specific goals of the District include the preservation of scenic views and vistas that are critically important to the rural landscape and character of the Town, and the minimization of erosion and sedimentation hazards caused by the development and use of steep hillsides and ridges.
- 13A.2 BOUNDARIES: The Horizonline Conservation District shall comprise all of those areas shown and designated as "Horizon Belts" on a map entitled "TOWN OF KENT, CONNECTICUT Horizonline Conservation Districts," filed in the office of the Town Clerk and dated 4/14/05, as it may be amended by the Commission. The map, with all explanatory matter thereon, is hereby declared to be a part of these Regulations.
- 13A.3 NATURE OF THE DISTRICT: The Horizonline Conservation District shall be deemed to be an overlay district. All property within the Horizonline Conservation District shall be subject both to the provisions of Section 13A of these Regulations and to all regulations applicable to the underlying zoning districts, except as those regulations may be expressly modified by the provisions of Section 13A. The term "underlying zoning districts" shall mean those zoning districts shown on the zoning maps described in Section 5.2 of these Regulations and such other overlay districts as may have been created elsewhere pursuant to these Regulations.
- 13A.4 DEVELOPMENT RESTRICTIONS AND PROCEDURES:
- 13A.4.1 Applicability. Except as provided below, no construction, erection, alteration or placement of any building or structure, and no excavation, filling or grading of land, clear cutting of trees, or cutting of two or more trees greater than 24 inches in diameter (measured at a height of four feet from the ground surface), shall be allowed within the Horizonline Conservation District unless the Commission approves a Site Plan for such activity in accordance with section 4 of these Regulations, as well as this Section 13A.4. An accessory structure less than 150 square feet in area and 12 feet in height shall not require Site Plan approval unless the structure would also require clear cutting of trees, or cutting of two or more trees greater than 24 inches in diameter.
- 13A.4.2 Site Plan Requirement.
- a. Minimum Requirements. In addition to the requirements in Section 4.3 of these Regulations, all Site Plans submitted for activity within the Horizonline Conservation District must include:
1. The indication of any tree removal either by noting individual trees or stands of trees to be removed.
 2. Architectural drawings that show exterior wall elevations, roof lines and façade materials of proposed buildings and structures.
- b. Potential Additional Requirements. If the Commission finds that additional information is necessary to allow adequate review of a Site Plan in accordance with the standards set forth in Section 13A.4.3 of these Regulations, it may require any or all of the following:
1. A physical demonstration of the potential visual impact of the proposed activity or structure by use of such measures as a balloon, platform or colorful markers, of such size and color as to be readily visible from a public road, and at an elevation to be prescribed by the Commission on the basis of the specific nature of the proposed activity.

2. Field marking by a licensed surveyor or other qualified individual of points deemed relevant by the Commission.
3. Such other information as the Commission may reasonably determine to be helpful in determining whether the proposed activity complies with the standards set forth in Section 13A.4.3 of these Regulations.

13A.4.3 Site Plan Standards. No site plan shall be approved for any activity described in Section 13A.4.1 of these Regulations unless the Commission finds that the site plan complies with the applicable standards set forth in Section 4 of these Regulations, as well as the following additional standards and criteria:

- a. The applicant must demonstrate that efforts were made to minimize the visual impact of the proposed structure and/or clear cutting on the horizon, and to minimize the use, disturbance and grading of steep slopes, as well as potential erosion and sedimentation. Such efforts must be demonstrated in terms of the placement of the structure and/or the location of the clear cutting on the lot; the use of colors, shapes and other architectural features and the preservation or emplacement planting of vegetative screening to enable the structure to blend in with the natural features of the horizon to the extent practical. The applicant must demonstrate particular care to avoid the removal of trees along or near the crest of a hill, summit or ridge so as to cause an interruption of the tree line along the horizon when the hill, summit or ridge is viewed from a public road.
- b. Except as provided in subsection d, no site plan shall be approved in which an existing structure that is fully or partly obscured from view from Town roads would be rendered substantially more visible along the horizon as a result of additional construction or expansion of the structure, the removal of vegetation, or any movement of earth materials.
- c. Except as provided in subsection d, no site plan shall be approved in which clear cutting occurs in a contiguous area having any dimension, measured within the Horizonline Conservation District, longer than two hundred feet.
- d. If the Commission finds that the provisions of subsection b or c would prohibit the reasonable development of any lot, it may approve a site plan for such development, provided that reasonable efforts have been made to minimize the impact on the natural and scenic character of the horizon and to prevent erosion, sedimentation and stormwater damage.

13A.5 APPLICABILITY OUTSIDE THE DISTRICT: No site plan shall be required pursuant to Section 13A.4.1 of these Regulations for any activity occurring outside of the Horizonline Conservation District, regardless of whether other portions of the same lot are located within the District. The Zoning Enforcement Officer shall be authorized to make the initial determination, based upon available information, of whether a proposed activity would occur within any portion of the Horizonline Conservation District. If the applicant disagrees with such determination, the applicant may either (1) provide additional information, such as surveyor's or engineer's mapping or flagging, to the Zoning Enforcement Officer to assist in establishing the location of the District boundary in relation to the proposed activity; (2) request that the issue be referred to the Commission for determination; or (3) proceed in accordance with Section 13A.4.

13A.6 WAIVER OF REQUIREMENTS: Upon written request by the applicant, the Commission may waive one or more of the requirements of Section 13 A.4.2 if the applicant can show, to the satisfaction of the Commission, that the information is not needed to reach a decision on the application. Such waiver shall require an affirmative majority vote of all voting members of the Commission.

SECTION 14

NON-CONFORMING LOTS, NON-CONFORMING USES, NON-CONFORMING STRUCTURES, AND NON-CONFORMING USES OF STRUCTURES AND LAND IN COMBINATION

- 14.1. PURPOSE. Within the zoning districts established by these Regulations or by amendments that may later be adopted, there exist lots, uses, and structures which were lawful at the time these Regulations were adopted or amended but which would be prohibited, regulated, or restricted under the provisions of these Regulations or future amendments. Such lots, uses, and structures are declared by these Regulations to be non-conforming. It is the intent of these Regulations to permit these non-conformities to continue until they are removed but not to encourage their survival. It is further the intent of these Regulations that non-conformities shall not be enlarged upon, expanded or extended if such a change would increase the non-conformity, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- 14.1.1. Non-conforming uses are declared by these Regulations to be incompatible with permitted uses in the districts involved. After the effective date of adoption or amendment of these Regulations, a non-conforming use, a non-conforming structure, or a non-conforming use of a structure and land in combination shall not be extended or enlarged by the attachment to a building or land of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
- 14.1.2. To avoid undue hardship, nothing in these Regulations shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of these Regulations and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.
- 14.2. NON-CONFORMING LOTS. In any district, a principal building and customary accessory buildings may be erected on a lawful lot existing as of the effective date of adoption or amendment of these Regulations. This provision shall apply even though such lot fails to meet the lot area or lot width requirements of the district in which such lot is located, provided that the yard dimensions and requirements other than those applying to lot area or lot width shall conform to the requirements of the district in which such lot is located.
- 14.3. NON-CONFORMING USES. Where a lawful use exists at the effective date of adoption or amendment of these Regulations which use is no longer permitted under these Regulations as adopted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- 14.3.1. Such non-conforming use shall not be enlarged or increased, nor extended to occupy a greater floor area or area of land than was occupied at the effective date of adoption or amendment of these Regulations.
- 14.3.2. Such non-conforming use shall not be moved in whole or in part to any portion of the land other than that occupied by such use at the effective date of adoption or amendment of these Regulations.
- 14.3.3. If such non-conforming use is superseded by a permitted use, it shall thereafter conform to the requirements of the district in which it is located, and the non-conforming use shall not thereafter be resumed.
- 14.3.4. Such non-conforming use may be changed to another non-conforming use by the Commission following a public hearing. In approving such a change, the Commission shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Commission may attach such conditions and safeguards as may be

required to protect the public health, safety and general welfare and to ensure continued compliance with these Regulations. Such conditions and safeguards may include, but shall not be limited to: a maximum number of employees, hours of operation or improvements to existing public facilities to accommodate the proposed use.

14.4. NON-CONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of these Regulations which could not be built under the provisions of these Regulations as enacted or amended by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

14.4.1. Such non-conforming structure shall not be enlarged or altered in a manner which increases the non-conformity but may be altered to decrease the non-conformity.

14.4.2. If such non-conforming structure is damaged or destroyed by any means, it may be repaired or replaced to an extent which does not increase the non-conformity. Such repair or replacement shall commence within six months after the damage or destruction occurs and shall be completed within 18 months after commencement. If such repair or replacement is not accomplished within such time periods, the structure shall be reconstructed in conformity with the requirements of the district in which it is located.

14.4.3. A nonconforming structure may be moved within its existing lot so long as such move decreases its nonconformity.

14.5. NON-CONFORMING USES OF STRUCTURES AND LAND IN COMBINATION. Where a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of these Regulations which is no longer permitted under the provisions of these Regulations as enacted or amended, such lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

14.5.1. Any existing structure devoted to such non-conforming use shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered in a manner which increases the non-conformity, except to change the use of the structure to a use permitted in the district in which it is located.

14.5.2. Any non-conforming use of a structure may be extended throughout any part thereof which was manifestly arranged or designed for such use at the time of adoption or amendment of these Regulations, but no such use shall be extended to occupy any land outside the structure.

14.5.3. Provided no structural alterations are made, such non-conforming use may be changed to another non-conforming use upon approval by the Commission following a public hearing. In approving such a change, the Commission shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Commission may require appropriate conditions and safeguards in accord with the provisions of these Regulations.

14.5.4. If such non-conforming use is superseded by a permitted use, it shall thereafter conform to the requirements of the district in which it is located, and the non-conforming use shall not thereafter be resumed.

14.6. REPAIRS AND MAINTENANCE.

14.6.1. Ordinary repairs may be made or remodeling done to any structure devoted in whole or in part to a non-conforming use, provided that such work does not increase the non-conformity.

14.6.2. Nothing in these Regulations shall be deemed to prevent the strengthening or restoring to a safe condition of any non-conforming structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

- 14.7. USES UNDER SPECIAL PERMIT PROVISIONS NOT NON-CONFORMING USES. Any use which is permitted by Special Permit in a district under the provisions of these Regulations shall not be deemed a non-conforming use in such district.

SECTION 15

CONSERVATION DEVELOPMENT

- 15.1. PURPOSE. To permit variation in residential developments which would not otherwise be possible; to permit flexible site design so that development may be constructed in harmony with, and preservation of, natural resources; and to permit residential developments which are sensitive to parcel configuration, topography, natural resources, solar access, and the surrounding area.
- 15.2. LOCATION AND MINIMUM PARCEL SIZE. A Conservation Development may only be permitted by Special Permit in accordance with Section 4.9 for parcels containing more than 10 acres in a Rural District and more than 5 acres within a Village Center Residential District subject to the following conditions in addition to conforming to the requirements of the Kent Subdivision Regulations.
- 15.3. APPLICABILITY. An applicant may apply to the Commission for Conservation Development as an alternative to a conventional subdivision. In those cases where the subject site contains unique natural resources, historic, scenic or other recognized cultural features or significant sensitive environmental features, the Commission may require the proposed subdivision to be submitted under Conservation Development regulations.
- 15.4. PERMITTED USES.
 - 15.4.1. Single-family unattached dwellings.
 - 15.4.2. Playgrounds, recreation areas, parks, open spaces, and natural areas.
 - 15.4.3. Accessory uses and structures such as private garages, swimming pools, clubhouses, recreation facilities, and other structures and facilities which are customarily incidental and subordinate to the principal uses.
 - 15.4.4. Farm and agricultural buildings and farm fields mowed seasonally or farmed.
- 15.5. BUILDING HEIGHT. No building or structure shall be greater in height than 30 feet.
- 15.6. OPEN SPACE PRESERVATION. A minimum of 40 percent of the Conservation Development area and all other open space containing more than one acre shall be preserved as open space, preferably in one continuous parcel. Only areas containing a minimum of one acre with a minimum dimension of 100 feet and free of any impervious surfaces shall qualify for the open space requirement.
 - 15.6.1. Such open space shall be readily accessible to all dwellings in the development by street or by pedestrian way. It shall have adequate vehicular access for service and maintenance.
 - 15.6.2. If such open space were determined by the Commission not to be left in its natural state, it shall be suitably graded and landscaped and shall have adequate provisions for drainage.
 - 15.6.3. The Commission may require that such open space be located so as to be used in conjunction with similar adjoining areas, either existing or potential.
 - 15.6.4. The open space area shall be noted on the plan as "Reserved for Open Space Purposes".
 - 15.6.5. Land marked "Reserved for Open Space Purposes" on the plan shall be donated to a non-profit conservation organization and the land shall be maintained as open space in perpetuity. The donation of open space land to said organization shall not require the consent of adjacent property owners.
 - 15.6.6. If evidence acceptable to the Commission is not submitted confirming acceptance of the open space by a non-profit conservation organization, as a condition of approval of the Conservation Development by the Commission, a document acceptable to the Commission's legal counsel shall be filed by the

applicant in the office of the Town Clerk which document:

- a. Shall establish an association of property owners to maintain the land reserved for open space purposes, with power to assess the members for all necessary costs;
- b. Shall be binding on all future owners;
- c. Shall be perpetual;
- d. Shall not be affected by any change in zoning or land use;
- e. Shall assure appropriate maintenance of the reserved land;
- f. May be enforced by such association of property owners, adjoining property owners, the Town or its delegee by appropriate court action; and,
- g. Shall provide that if maintenance, preservation or use of the open space no longer complies with the provisions of the document, the Town or its delegee may take all necessary action to assure compliance and assess against the association all costs incurred by the Town or its delegee for such purposes.

15.7. MAXIMUM DENSITY OF DEVELOPMENT. A sketch layout of a conventional subdivision plan shall be submitted by the applicant to the Commission for the sole purpose of establishing the maximum number of building lots that may be permitted. Said plan, in a generalized format, shall meet the requirements of the Town's Subdivision and Zoning Regulations as to the layout of lots and roads for single-family dwellings in accordance with the provisions for Rural District regulations. The maximum number of building lots to be permitted shall not exceed the number of lots shown on the sketch plan and determined by the Commission to represent a reasonable subdivision of the land. The Commission's action in making such determination shall not be construed as approval under the Connecticut General Statutes for said concept subdivision plan or any other subdivision plan, either in the present or future, which shall be a derivation of said concept subdivision plan.

15.7.1. The Commission may permit a 20% increase in the number of permitted single family dwellings in a Conservation Development if the areas to be preserved as open space are identified as Class I soils and are identified on the United States Department of Agricultural map as prime or important farmland or are in active farmland uses. The increase shall be based on the total number of dwellings that could be built under a conventional subdivision plan.

15.8. REDUCTION IN LOT SIZES AND YARDS. The maximum reduction in lot area, yards and setbacks for individual lots shall not normally exceed 50 percent of that normally required by Section 6.3. Additional changes or reductions may be considered to align lots with existing stone walls or other physically existing boundaries or lanes. Otherwise the limit shall be 50% of the dimensions normally required by Section 6.3 and shall comply with the following:

15.8.1. Lot area: minimum 20,000 square feet; maximum 40,000 square feet.

15.8.2. Side or rear yards: minimum 15 feet.

15.8.3. Front yard setback: minimum 20 feet.

15.8.4. Building coverage: maximum 15 percent.

15.8.5. Minimum square requirement: 100 feet each side, with one side along the required front yard setback.

15.8.6. Site perimeter setback: structures shall be setback a minimum of 150 feet from any property line on the perimeter of the site except where such property line shall abut another Conservation Development site or shall abut severe topography, water bodies, or other unique physical conditions, in which case the Commission may permit a lesser setback.

- 15.9. ALTERNATIVE DEVELOPMENT CONCEPT. The Commission may permit a Conservation Development wherein the land and common facilities shall be under single common ownership, in which case individual lots and yards shall not be required; however, no structure shall be within 30 feet of another structure nor closer than 20 feet to a road. The Commission shall determine which of the other requirements and conditions of this section shall be applicable. If a proposal under the Alternate Development Concept shall not constitute a subdivision under the provisions of the General Statutes, said proposal shall also comply with the provisions for a Special Permit in accordance with Section 4.9.
- 15.10. WATER SUPPLY/SEWAGE DISPOSAL. All water supply and sewage disposal systems shall be designed and constructed in accordance with procedures set forth in these Regulations, applicable State laws and local ordinances. Documentation shall be submitted by the applicant regarding the quality and quantity of the proposed water supply. The design and construction of the proposed water supply and sewage disposal systems shall be subject to approval by the Town Sanitarian. Where individual on-site septic systems are not deemed feasible, a community sewerage system may be utilized.
- 15.11. FIRE PONDS. Fire ponds shall be provided in accordance with Section 21.4.
- 15.12. ROAD AND DRAINAGE STANDARDS. Roads and drainage shall be constructed to conform with the latest Town specifications and requirements except where an existing farm lane or road can be used to service no more than four units and said lane shall be passable during all months and without steep (more than 10% grades. Such lanes shall be at least 18 feet wide.
- 15.13. SITE LAYOUT STYLE. All buildings shall be located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible.

SECTION 16

AFFORDABLE SINGLE OR MULTIFAMILY HOUSING SPONSORED BY THE TOWN OF KENT

Affordable single or multifamily housing sponsored by the Town of Kent may be allowed as a special permit in any zone except the Lake Waramaug Watershed District, the Aquifer Protection Zone or the Housatonic River District with the exception of parcels abutting the east side of Maple Street Extension located within the Rural District. The special permit application shall require a public hearing according to the procedural requirements of the Connecticut General Statutes and these regulations and shall be reviewed and decided subject to the satisfaction of: the requirements for a site plan as specified in Sections 4.3, 4.5 and 4.6; the general standards and requirements for a special permit as specified in Section 4.9; and, the following specific requirements.

- 16.1. PURPOSE. The purpose of this Special Permit is to provide the opportunity for Town sponsored affordable housing in suitable locations throughout the Town according to a site design that is compatible with the character of the Town and the neighborhood.
- 16.2. ELIGIBLE APPLICANTS. Applicants or co-applicants for this special permit shall be limited to the following:
 - 16.2.1. The Town of Kent or a Town authorized housing agency, such as the Kent Housing Authority; or,
 - 16.2.2. A Community Housing Development Corporation meeting the requirements of the Connecticut General Statutes, Section 8-217 as amended.
- 16.3. DEMONSTRATION OF NEED. The application shall include information demonstrating a local need for the type and amount of proposed housing.
- 16.4. MINIMUM LOT AREA. The minimum lot area shall be the same as required for the zone in which the lot is located. The lot shall be of a size, shape and terrain adequate to accommodate the proposed number of building and dwelling units.
- 16.5. MINIMUM YARD, MAXIMUM COVERAGE, MAXIMUM HEIGHT AND BUFFER REQUIREMENTS. Lot Width shall be as required for the zone in which the lot is located. All building and parking areas shall be setback from lot lines a minimum distance as required for the front, side and rear yard for the zone in which the lot is located. All building and parking areas shall cover no more than the maximum percent of lot coverage as required for the zone in which the lot is located. Buildings shall not exceed the maximum building height as required for the zone in which the lot is located.

Where an application involves land within or abutting a single family residential zone and the Commission determines that the location and arrangement of buildings and improvements requires a site design and landscape buffer plan, the applicant shall be required to submit such a plan prepared by a Connecticut licensed landscape architect. The plan shall show that the proposed buildings are in scale with adjoining residences and blend into the existing neighborhood by use of building forms, height, material, and landscaping.

- 16.6. MAXIMUM NUMBER OF DWELLING UNITS ON A SITE. The maximum number of dwelling units on a site served by onsite water and sewage disposal facilities shall be 4 units per "usable" acre of land. The maximum number of multiple dwelling units per "usable" acre permitted on a site served by both public water and the Town of Kent public sewer system shall be the same as permitted for multiple dwellings under Section 7.5.7 of these regulations.

For the purpose of this regulation "usable" land shall be defined as land other than the following areas which shall be shown on a site plan map as specified as the following:

- 16.6.1. Regulated inland wetlands and watercourses as defined in the Kent Inland Wetlands Regulations and shown on the Kent Inland Wetlands Map, the boundaries of which shall be located in the field by a

certified soil scientist and mapped by a Connecticut licensed surveyor;

- 16.6.2. 100 year flood hazard areas as defined by the Federal Emergency Management Agency (see Flood Hazard Areas Map on file in the office of the Planning and Zoning Commission), the boundaries of which shall be certified by a Connecticut licensed engineer;
- 16.6.3. Land subject to existing easements which prohibit building development, the boundaries of which shall be certified by a Connecticut licensed surveyor; and,
- 16.6.4. 50% of all land with a slope in excess of 25% as delineated on the site plan map showing topographic contours based upon a field or aerial survey and certified by a Connecticut licensed surveyor.

Based upon the above required information as shown on a site plan map, the applicant's engineer shall certify the total "usable" land in square feet or acres and the total number of dwelling units permitted on the site.

NOTE: The above requirements establish only the total possible number of dwelling units which could be permitted on a site. It does not specify or require that the dwelling units be concentrated in any particular area of the site. For example, under the formula defined above a site that has a high percentage of land considered not suited for building [such as inland wetland soils], will have a lower total number of dwelling units which could be permitted on a different site that has the same total area with a low percentage of wetlands or other land considered not suited for building.

- 16.7. CONVERSION OF EXISTING BUILDING. Existing buildings may be converted for the purpose of creating affordable housing. A one family dwelling may be converted for the purpose of affordable housing on the condition that there will be no substantial exterior modification and the residence will retain its appearance as a single family dwelling. The Maximum number of dwelling units permitted in an existing building converted for affordable housing purposes shall be four (4).
- 16.8. PARKING REQUIREMENTS. Each dwelling unit shall have two off street parking spaces. Parking spaces in an enclosed garage shall count toward this requirement only where a deed restriction or covenant or other legally binding measure limits the use of the garage space to parking.
- 16.9. ACCESSWAY AND OTHER IMPROVEMENTS. All improvements (accessway, drainage, erosion and sediment control, etc.) shall be designed by a professional civil engineer. the accessway shall have a paved width, grade and alignment suitable for the number of proposed dwelling units and for safe access by emergency vehicles.

SECTION 17

ENVIRONMENTAL AND RELATED REGULATIONS

17.1. SOIL EROSION AND SEDIMENT CONTROL PLAN.

- 17.1.1. A Soil Erosion and Sediment Control Plan (hereinafter called a Control Plan) shall be submitted with any application for development when the disturbed area of such development shall cumulatively be more than one-half acre.
- 17.1.2. Exemptions. A single-family dwelling that is not a part of a subdivision of land shall be exempt from these Control Plan regulations.
- 17.1.3. Provisions. A Control Plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for certification are found in the Connecticut Guideline for Soil Erosion and Sediment Control (1985), as amended. Alternative principles, methods and practices may be used with prior approval of the Commission. Said plan shall contain, but not be limited to:
- a. A narrative describing the development project and time schedule for:
 - (1) all major construction activities indicating the anticipated start and completion of development;
 - (2) creating and stabilizing of disturbed areas;
 - (3) grading operations; and,
 - (4) applying erosion and sediment control measures and facilities onto the land;
 - b. Design criteria, construction details, detailed installation/application procedures and maintenance program;
 - c. A site plan map showing:
 - (1) existing and proposed topography;
 - (2) proposed area alterations;
 - (3) disturbed areas; identifying the extent of all proposed clearing and grading activities; and,
 - (4) location of and other detailed information concerning erosion and sediment control measures and facilities.
- 17.1.4. Issuance or Denial of Certification. The Commission shall either certify that the Control Plan complies with the requirements and objectives of this Section or deny certification when the development proposal does not comply with this section. Nothing in this Section shall be construed as extending the time limits for the approval of any application under Chapters 124, 125A or 126 of the General Statutes.
- 17.1.5. Installation and Maintenance. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan. All control measures and facilities shall be maintained in effective condition to ensure compliance with the certified plan.
- 17.1.6. Inspection. Municipal inspections during development shall ensure compliance with the certified plan and that control measures and facilities have been properly performed, installed and maintained.

- a. In the case of a subdivision in which individual lots are to be sold and developed over a period of time, and in which the cumulative effect of developing all lots and related improvements will result in a disturbed area of more than one-half acre, said Control Plan shall be submitted on a lot by lot basis to the Commission for its review and approval prior to the issuance of a Zoning Permit for each lot. In addition, a note shall be added to the map for said subdivision, and in the deed for each lot, stating that no development shall take place on any lot until the Control Plan for said lot has been approved by the Commission.

17.2. REMOVAL OF EARTH MATERIALS.

17.2.1. Purpose. To regulate the removal of certain earth materials from the ground and from the property on which they are located in a manner that will not adversely affect the surrounding neighborhood; that will not result in unsafe, unsightly or unsanitary conditions; that will result in land which in the future can be put to a use permitted by these Regulations; and that will protect the land from erosion and sedimentation.

17.2.2. General Provisions.

- a. Except as otherwise provided herein, there shall be no removal of earth materials from any property in any zoning district.
- b. Nothing in this Section shall prevent the grading of property or the moving of earth materials entirely within the lot lines of a single parcel, provided that no earth materials shall be removed from such parcel to any other property.

17.2.3. Special Permit for Earth Removal. The removal of earth materials from any property shall only be permitted as part of a bonafide construction project, as evidenced by an approved Site Plan, Sketch Plan, an approved Subdivision Plan or a valid Building Permit subject to a Special Permit in accordance with Section 4.9 except in direct connection with and in accordance with:

- a. The construction of a well or septic system approved by the Health Department, utility line, fence or landscaping on premises when in conjunction with a use permitted by the Zoning regulations provided that the activity does not result in more than 300 cubic yards removed off site;
- b. An excavation which is made solely for a foundation or cellar hole approved by the Commission or the Zoning Enforcement Officer, provided that no more than 300 cubic yards of earth material is removed from the premises;
- c. A bona fide agriculture, nursery, or bedding plant operation;
- d. Removal of contaminated soils under the direction of the Department of Environmental Protection;
- e. Dredging of a watercourse approved by the Kent Inland Wetlands Commission; and
- f. Approved subdivision roads;
- g. When not associated with the above activities, a quantity of no more than 100 cubic yards of earthen material on any lot within a twelve month period.

17.2.4. As part of the Special Permit application, the applicant shall submit maps, plans and cross-sections prepared, signed and sealed by a surveyor and an engineer registered and licensed to practice in the State which, at a minimum, contain the following information:

- a. The boundaries of the entire property, the location and extent of the earth removal operation, any wetlands and watercourses, any wooded areas (denoted by foliage lines), and all intersecting streets within 200 feet of the property;
- b. Existing contours of the entire property and for 20 feet beyond, and proposed final contours of the

area of the earth removal operation. Contours shall be based on U.S. Coastal and Geodetic datum and drawn at intervals of not more than two feet in the area of the earth removal operation and five feet elsewhere. Existing contours shall be based upon an actual field survey or an aerial survey with established ground elevations;

- c. The amount of material, in cubic yards, proposed to be removed from the area of the earth removal operation;
- d. Longitudinal and transverse cross-sections of the area of the earth removal operation at intervals of not more than 50 feet, showing existing contours and proposed final contours;
- e. A Soil Erosion and Sediment Control Plan in accordance with Section 17.1;
- f. The location, surface treatment and grading of truck access to the property;
- g. The location, type, size and purpose of any existing and proposed buildings, structures or equipment proposed to be used for storage or areas for the stockpiling of materials;
- h. The natural topography of the property shall be preserved to the maximum extent possible;
- i. No trees five inches or greater in caliper measured four feet above ground level shall be removed unless so approved by the Commission;
- j. The proposed excavation shall be certified by the Commission's Engineer as being the minimum depth of excavation necessary to accomplish the proposed project;
- k. No processing of earth materials shall be permitted;
- l. In granting a Special Permit for earth removal, the Commission may attach such conditions and safeguards as may be required to protect the public health, safety and general welfare and to ensure continued compliance with these Regulations, including but not limited to:
 - (1) The days and hours of operation;
 - (2) The area of the property to which the earth removal operation shall be confined;
 - (3) The extent of stockpiling of materials on the property;
 - (4) Protective measures to minimize the annoyances of noise, dust and flying rock; and,
 - (5) The location of vehicular access into and out of the property.
- m. If, at any time, the Commission finds that the earth removal operation is not being conducted in accordance with the Special Permit as approved, the Commission shall order the applicant to cease the operation and, following a duly noticed public hearing, may revoke the Special Permit.

17.3. FILLING OF LAND.

17.3.1. General Provisions.

- a. The filling of land shall require the approval of the Commission unless the filling shall be for the express purpose of preparing the land for immediate development in accordance with an approved subdivision plan or, an approved Site Plan, an approved sketch plan or the amount of fill to be deposited shall be less than 400 cubic yards in any 12-month period, or the deposit shall be one of topsoil for the purpose of improving an agricultural use.
- b. Except as otherwise provided herein, the filling of land shall be subject to Site Plan approval in accordance with Sections 4.3 through 4.8 and with the requirements of this Section.
- c. In granting or renewing a filling operation, the Commission may attach such conditions and

safeguards as may be required to protect the public health, safety and general welfare and to ensure continued compliance with these Regulations, including but not limited to:

- (1) The days and hours of operation;
- (2) The extent of stockpiling of materials on the property;
- (3) The location of vehicular access into and out of the property;
- (4) A date of expiration of the operation;
- (5) Soil erosion and sediment control measures in accordance with Section 17.1; and,
- (6) Protective measures to minimize the annoyances of noise, dust and flying rock.

- d. An approved filling operation shall not become effective until the applicant posts a bond with the Commission in accordance with Section 21.
- e. An approved filling operation may be renewed by application to the Commission in accordance with the provisions of this Section. The Commission may require an amended Site Plan showing topographical changes to date or any other information necessary for further review of the operation.

17.3.2. Standards for Filling Operations. The filling of land under this Section shall comply with the following standards:

- a. Provision for adequate drainage shall be made for storm drainage control.
- b. The fill material shall consist of earth fill, woody vegetation and masonry only. No trash, garbage, building materials, asphalt, plastic, or junk of any nature shall be permitted.
- c. Trees, stumps, logs and woody vegetation shall not be nested but shall be distributed throughout the area in layers, alternating with layers of suitable material, in such a manner that all voids shall be filled. Where practical, woody vegetation shall be reduced by chipping or other approved methods.
- d. Dust shall be kept to a minimum at all times by the use of calcium chloride or other acceptable means. Anti-tracking pads shall be utilized at points where trucks enter public roads.
- e. The filling of the site shall be carried out in a safe and orderly manner. All fill shall be compacted to provide stability of material and to prevent undesirable settlement. The Commission may require tests or other information to verify the placement and cover of filled materials. The final slope of any fill shall be no greater than 1 to 2.

17.4 Cubic Yardage of Disturbance

17.4.1 Cubic yardage of disturbance shall be measured by the total volume of proposed excavated material;

17.4.2. Town Engineer review and approval shall be necessary to certify the minimum cubic yards of disturbance that has been proposed by the applicant is necessary to accomplish the project for the following proposals:

- a. Structures with a footprint of 3,000 square feet or more;
- b. Driveways over 1,200 feet long

17.4.3. Town Engineer consultant fees will be charged to the applicant as stated in the fee schedule, and or as amended, under section 11-4 of the Town of Kent Ordinance.

- 17.5. ENVIRONMENTAL AND PERFORMANCE STANDARDS. The use of land, buildings, and other structures shall be conducted in accordance with the following performance standards. All applicants for Site Plan approval under these Regulations shall demonstrate that the use they propose shall conform to the following standards, except as such use may be governed by the provisions of Connecticut revised statutes Section 19A-341 as the same may be amended:
- 17.5.1. Particulate Matter and Smoke. No offensive dust, dirt, fly ash or smoke shall be emitted into the atmosphere. In no case shall dust be emitted in excess of one cubic centimeter of settled matter per cubic meter of air. Smoke or other air contaminants shall not be discharged into the atmosphere from any single source of emission for a period or periods aggregating more than three minutes in any one hour which is
- a. as dark or darker in shade than that designated as No. 2 on the Ringelman Chart as published by the United States Bureau of Mines; or
 - b. of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke designated as No. 2 on the Ringelman Chart.
- 17.5.2. Odors, Gases and Fumes. No noxious, toxic, or corrosive fumes or gases shall be emitted. Offensive odors noticeable off the premises where the use is located shall not exceed the standards established as a guide by Table III (Odor Thresholds) in Chapter 5, "Air Pollution Abatement Manual" Copyright 1951, as amended, by the Manufacturing Chemists Association, Inc., Washington, D.C.
- 17.5.3. Noise. No noise which is objectionable due to volume, duration, frequency or shrillness shall be transmitted outside the property from which it originates. In no case shall such noise exceed 80 decibels during daylight hours or 55 decibels from 10 PM to 7 AM, measured at any lot line, as registered on the dbA network of a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association.
- 17.5.4. Water Pollution. No discharge into any watercourse, groundwater, wetlands or storm sewers shall be permitted except in accordance with applicable local, State and federal requirements.
- 17.5.5. Vibrations. No vibrations noticeable outside the property from which it originates shall exceed the standards of the U.S. Bureau of Mines, Bulletin No. 442, as amended.
- 17.5.6. Hazardous, Toxic, Radioactive and Similar or Analogous Materials.
- a. No hazardous, toxic, radioactive or similar or analogous materials shall be permitted except as the same shall be kept and maintained at all times in strict compliance with all applicable local State and Federal requirements. The terms "Hazardous, Toxic, Radioactive and similar materials" shall include but not be limited to all substances, compounds or materials which appear on any list of hazardous, toxic, flammable, explosive, corrosive, poisonous, noxious or other similar or analogous substances promulgated by any governmental body as the same may be from time to time amended, and the levels or amounts of such substances which are used as bases by the applicable governmental agency for determining the toxicity, radioactivity, corrosivity and the like of such materials shall prevail in determining whether or not this paragraph shall apply. In making such determination the Commission shall employ experts, specialists or consultants as it may deem necessary or desirable and may in addition require such studies, analysis or certifications from the person or entity which desires to store, process, reprocess, manufacture, refine, market, use, sell, offer for sale or dispose of such materials as the Commission in its absolute discretion deems necessary to process a permit for such activity. Any operation of any kind involving any such materials shall require a special permit from the Commission and shall in addition to any requirements set forth therein, comply with all the requirements set forth in 4.9 of these regulations, including the necessity for a public hearing, which may not be waived under any circumstances.
 - b. The storage, processing, reprocessing, manufacturing, refining, marketing, using, selling, offering for sale or disposition of any such materials shall be limited in all cases to the industrial or commercial zones.

- c. This section will apply to all substances or materials which possess the characteristics of hazardous, toxic, radioactive, flammable, explosive, corrosive, poisonous, noxious or other similar or analogous materials as defined in any State or Federal statute or regulation but which have been specifically exempted from such definition by action by either of such governments for whatever reason.
- d. In the event the Commission grants a permit for the storage, processing, reprocessing, manufacturing, refining, marketing, use, selling or offering for sale or disposition of any such materials, it may in its discretion require a bond from the applicant or its successors or assignees to be maintained during the entire period of such operation in the amount and form that the Commission in its discretion shall deem sufficient to insure against all risks arising out of or in any way connected with such activity, including but not limited to claims for damages or personal injury, costs of closure and monitoring, repairs and any reconstruction necessary to reflect changes in applicable technology.

17.6 LANDSCAPING REQUIREMENTS.

17.6.1. Purpose. All disturbed portions of multi-family and non-residential developments not otherwise used for buildings, structures, parking areas, loading areas, walkways or similar purposes shall be suitably landscaped and permanently maintained with trees, shrubs and other landscape materials, as approved by the Commission as part of the Site Plan.

These landscaping and screening requirements are intended to accomplish the following purposes:

- a. To provide natural visual screening of parking and loading areas.
- b. To reduce surface water runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
- c. To minimize environmental nuisances such as glare and noise.
- d. To moderate the microclimate of parking areas by providing shade, by absorbing reflected heat from paved surfaces and by creating natural wind breaks.
- e. To ensure public safety by using landscaping materials to define parking and loading areas and to manage internal vehicular and pedestrian circulation.
- f. To enhance the overall appearance of new development by providing a variety of landscaping materials that are consistent and compatible with the existing natural vegetation in the area.

17.6.2. General Requirements.

- a. The development of the site shall conserve as much of the natural terrain and existing vegetation as possible, shall preserve sensitive environmental land features such as steep slopes, wetlands and large rock outcroppings, and shall preserve public scenic views and historically significant features.
- b. Major trees shall include any appropriate varieties as approved by the Commission.
- c. Shrubs shall include any of the appropriate varieties of evergreen or deciduous bushes as approved by the Commission.
- d. All plant material shall be native species where possible, nursery grown and conform to the standards of the American Association of Nurserymen.
- e. At the time of planting, trees shall be balled and burlapped and shall be of the following minimum size (caliper measurements to be taken four feet above ground level):

- (1) Shade trees: 2 1/2 inch caliper

- (2) Evergreen trees: 6 foot height
 - (3) Flowering and other deciduous trees: single stem - 2 inch caliper, clump form - 8 foot height
- f. Trees and shrubs within five feet of any paved areas shall be varieties capable of withstanding damage from salt.
 - g. Mulched planting beds of an appropriate size shall be placed around all trees and shrubs to retain moisture. Acceptable mulching material shall be shredded bark, wood chips or other organic substitute, at least four inches in depth.
 - h. Suitable ground cover shall be placed on all disturbed site areas not covered by paving, buildings or mulching for trees and shrubs.
 - i. No stone or gravel shall be used for ground cover within four feet of walkways unless the material is suitably contained within its area.
 - j. Where feasible, existing trees shall be saved; if grading is required in their vicinity, trees shall be appropriately welled or mounded to protect them from damage.
 - k. No trees five inches or greater in caliper as measured four feet above ground level shall be removed unless so approved by the Commission.

17.6.3. Parking Lot Landscaping.

- a. Parking areas containing 10 or more parking spaces shall contain at least one major tree and two shrubs per ten parking spaces or major fraction thereof, planted within and along the perimeter of the parking area.
- b. Parking areas containing between 20 and 99 parking spaces shall contain a minimum of 15 square feet of interior landscaping area per parking space, distributed among the end islands, interior islands and planting strips.
- c. Parking areas containing 100 or more parking spaces shall contain a minimum of 20 square feet of interior landscaping area per parking space, distributed among the end islands, interior islands and planting strips.
- d. Trees within and along the perimeter of parking areas shall be varieties which provide shade or are capable of providing shade at maturity.

17.6.4. Screening shall be provided for areas including but not limited to parking, loading, dumpsters, storage or groundfixed mechanical equipment adjacent to residential properties or visible from the street. Acceptable screening materials shall include:

- a. Evergreen hedges having a minimum height of six feet at the time of planting;
- b. Solid fences or walls having a minimum height of six feet, if approved by the Commission;
- c. Earthen berms; or,
- d. Any combination of the above materials.

17.6.5. Buffers. [See Appendix A, Figure A-6]

- a. A landscaped buffer shall be provided for any use in a Business or Industrial zone which is adjacent to or across the street from a Residential zone, for any multi-family use, or for any non-residential use in a Residential zone.

- b. The buffer shall be a minimum of 30 feet in width.
- c. The buffer shall be of evergreen plantings of such species, height and spacing as, in the judgment of the Commission, will effectively screen the use from the view of adjoining properties.
- d. No structures or paving shall be permitted within the buffer.
- e. The Commission may allow a wall or fence of appropriate location, height and design to be substituted for all or a portion of the landscaped buffer if, in its judgment, such wall or fence would provide comparable screening of the use from the view of adjoining properties. Such Commission approved fence shall not be subject to the setback and yard requirements of these regulations.

17.6.6. Modifications of Landscaping. Where existing topography and/or existing vegetation provides adequate landscaping, ground cover, screening and/or buffers, the Commission may modify the landscaping requirements of this Section.

17.6.7. Maintenance of Landscaping.

- a. All landscaping shall be maintained in a healthy growing condition. Landscaping which dies or becomes unhealthy shall be replaced with appropriate new landscaping during the following planting season.
- b. All landscaping maintained so as not to interfere with public utilities, restrict vehicular or pedestrian access or otherwise constitute a traffic hazard.
- c. Required fences or walls shall be maintained in good condition.

17.7. OUTDOOR LIGHTING. Other than for single-family or two-family residential uses.

17.7.1 Outdoor lighting of parking areas and loading areas shall be provided by full cut off lighting fixtures mounted on lamp posts.

- a. Lamp posts shall be the minimum height necessary to provide adequate illumination, but in no case shall exceed a height of 20 feet.
- b. Lamp posts in parking areas shall be placed within landscaped areas (i.e., end islands, interior islands, planting strips) and shall be recessed at least three feet from curbs.

17.7.2. Where lighting shall be required, light intensity at ground level shall be a minimum of .2 foot-candles and a maximum of 4 (four) foot-candles.

17.7.3. Walkways shall be adequately lighted; the use of bollard lighting for such purpose is encouraged.

17.7.4. All lights shall be full cut off, directed down and shall not be visible at a height greater than six feet above the ground level at any lot line.

17.8 WATER SUPPLY/SEWAGE DISPOSAL. All water supply and sewage disposal systems shall be designed and constructed in accordance with procedures set forth in these Regulations, applicable State laws and local ordinances. The design and construction shall be subject to approval by the Town Sanitarian.

17.9 WATER POLLUTION CONTROL. No activity shall locate, store, discharge, or permit the discharge of treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that run off, seep, percolate, or wash into surface, stream or ground water so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to terrestrial or aquatic life.

SECTION 18

PARKING, LOADING, DRIVEWAYS, ACCESS

18.1 PARKING

18.1.2 **PARKING FACILITIES REQUIRED.** Off-street parking facilities shall be provided in accordance with the following requirements to serve all buildings and developments permitted pursuant to these regulations. Such parking facilities shall be sufficient to accommodate the motor vehicles of all occupants, employees, customers, residents, and other persons normally visiting or expected to use such building or premises at any one time.

18.1.2.1 Unless otherwise specifically approved by the Commission, required parking facilities shall contain not less than the minimum spaces or areas set forth below, exclusive of driveways and ramps necessary for access. Indoor parking may be included in the required spaces or area. All parking space dimensions shall be exclusive of driveways, ramps, or other access areas.

18.1.2.2 Except as otherwise provided for herein, off-street parking spaces shall be located on the same lot as the principal use they are designed to serve.

18.1.2.3 No parking area which serves a use in a Commercial or Industrial District shall be permitted on land in a Residential District; no access to such parking area shall be permitted across land in a Residential District.

18.1.3 **MINIMUM PARKING REQUIREMENTS.** The following requirements shall be considered the minimum number of parking spaces required for each use. The Commission shall have the right to require additional spaces if it determines that the number of spaces required were not adequate for special circumstances. GFA means Gross Floor Area.

18.1.3.1 The minimum number of parking spaces required for other uses not listed below shall be as determined by the Commission based on consideration of similar uses, a parking requirement analysis, or standards available from recognized authorities.

18.1.3.2 Where the minimum number of parking spaces required for a particular use is to be determined by the Commission, the Commission shall be guided by the nature, intensity and/or mix of the proposed use, including projected attendance, the number of employees, visitors and/or customers, and the experience of similar facilities elsewhere.

18.1.3.3 PUBLIC AND SEMI-PUBLIC USES, RESIDENTIAL USES

<u>USES</u>	<u>MINIMUM NUMBER OF SPACES REQUIRED</u>
a. Dwellings	2 per dwelling unit
b. Multi-family dwellings	2.5 per dwelling unit
c. Housing for the elderly	0.75 per dwelling unit
d. Boarding, rooming or lodging houses, bed and breakfasts	2 plus 1 per bedroom
e. Home offices, home occupations	2 per dwelling unit plus 1 per non-resident employee
f. Daycare center	1 per 10 enrollees plus 5 in a clearly delineated drop off/pick up area
g. Group Homes	2 per home, plus 1 per 2 employees
h. Hospitals	2 per 3 beds
i. Nursing or convalescent homes	1 per 3 beds
j. Civic associations, fraternal organizations, social clubs	1 per 3 seats in the auditorium
k. Public or private schools non-profit	as determined by the Commission
l. Places of worship; funeral homes	1 per 3 seats, plus additional spaces as may be required by the Commission (one seat = 24 linear inches of pew bench)
m. Public or semi-public buildings not otherwise listed	1 per 3 seats in portion of building used for services
n. Museums, art galleries, or similar cultural facilities	1 per 500 s.f. GFA
o. Education center	as determined by the Commission

18.1.3.4 AGRICULTURAL AND RECREATIONAL USES.

a. Roadside farm stands	1 per 100 s.f. of sales GFA
b. Commercial nurseries; commercial greenhouses	1 space per 250 s.f. GFA accessible to retail customers
c. Campgrounds; youth camps; resorts	as determined by the Commission
d. Country clubs; golf courses	as determined by the Commission
e. Commercial recreation facilities, enclosed, such as skating rinks, gymnasiums, tennis or racquet clubs health and fitness clubs, bowling establishments	1 space per 200 s.f.
f. Commercial recreation facilities, not enclosed	1 space per 3 persons at outdoor facilities maximum occupancy, plus 1 space per 200 s.f. GFA of buildings

18.1.3.5 BUSINESS USES, EXCEPT AUTOMOTIVE USES.

a. Amusement and entertainment facilities with fixed seats	1 per 200 s.f. of GFA plus additional spaces as determined by the Commission
b. Amusement and entertainment facilities, not enclosed and without fixed seats	1 per 3 seats or 1 per 100 s.f. of GFA, whichever is greater
c. Amusement and entertainment facilities, enclosed but without fixed seats	1 per 250 s.f. of GFA first floor; 1 minimum of 4 spaces per 300 s.f. of GFA other floors;
d. Hotels, motels, tourist homes	1.5 per bedroom, plus additional spaces as may be required by the Commission
e. Restaurants or similar eating or drinking establishments	1 space for every 3 seats plus 2 for every 3 employees in maximum shift
f. Retail stores not otherwise listed; personal service establishments not otherwise listed	1 space for 200 s.f. of GFA. Excluded shall be the areas devoted to offices, storage, repair service areas not open to the public, entrance and exit foyers, employee lounges, dressing rooms and toilet facilities
g. General, professional or business offices, non-medical	1 per 200 s. f. of GFA
h. Banks or other financial institutions	1 per 200 s.f. of GFA
i. Medical or dental offices or clinics	1 per 150 s.f. of GFA
j. Schools operated for profit	1 per 1,000 s.f. of GFA; minimum of 5 spaces
k. Self-service storage facilities	1 per ten compartments
l. Shopping centers	1 per 400 s.f. of GFA
m. Studios of dance, photography, artistic endeavors graphic design or similar	1 per 200 s.f. of GFA

18.1.3.6 BUSINESS USES, AUTOMOTIVE.

b. Sale or rental of automobiles, trucks, boats or recreational vehicles	1 per 400 s.f. of GFA for sales
c. Gasoline stations with sale of convenience items/food products/snacks	1 per 100 s.f. of retail space
d. Automotive repair and service facilities	2 per service bay

18.1.3.7 INDUSTRIAL USES

a. Manufacturing or research facilities; wholesaling or distribution facilities	1 per employee during daily workshop period with visitor's parking areas to be determined by the Commission in its review of site plans
b. Lumberyards; building materials suppliers	1 per 1,000 s.f. of GFA
c. Building, construction or landscape contractors' yards	1 per 1,000 s.f. of GFA
d. Public warehousing and storage, excluding self-storage	1 per 1,000 s.f. of GFA

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18.1.3.8. Every building or structure used for commercial (except offices), industrial or service uses, or any other building where large amounts of goods are received or shipped, shall be provided with truck loading and unloading space as follows:

Floor Area	Loading Space Requirement
Not more than 20,000 s.f.	1 space of not less than 400 s.f.
20,000-39,999 s.f.	2 spaces of not less than 400 s.f. each
40,000-99,999 s.f.	3 spaces of not less than 400 s.f. each
100,000 s.f. or more	4 spaces of not less than 400 s.f. each

18.1.3.9. WAIVERS AND EXCEPTIONS

a. INTENT. It is the intent of these regulations that all structures and land uses be provided with a sufficient amount of off-street motor vehicle parking, while allowing for some flexibility of site design to accommodate the unique characteristics of individual properties and minimize impervious surfaces. This section of the regulations is intended to set standards for conditions under which a waiver or exception from the general parking requirements may be allowed. The Commission may require the submission of a parking demand analysis, suitable to the Commission in source and scope, as part of any request for a waiver or exception from the general parking requirements.

b. WAIVERS. All or part of the off-street parking requirements, except for residential use parking requirements, may be waived by the Commission where the proposed site planning, design, and construction includes the following:

1. Sufficient publicly owned parking spaces within 500 feet of the proposed development site.
2. Access to a regularly scheduled transit stop within 500 feet of the proposed development, with service available during commuting hours
3. Direct access from a bikeway used exclusively by bicycles and pedestrians to the proposed development
4. Provision of a regularly scheduled, municipally supported shuttle bus service from the development to an alternate safe, secure, and convenient parking facility

c. PARKING REDUCTION REQUESTS. If the applicant believes that the required parking amounts are in excess of what is needed for the proposed use, the applicant may submit a request with justification to the Commission for a reduction in parking space requirements. The Commission will consider and act on this request.

d. SHARED PARKING.

1. Where a site development plan proposes shared parking by different uses on a single parcel or by uses on adjacent separate parcels, the following standards shall apply:
 - i. A legally enforceable shared parking agreement assuring access to and use of such parking by all parties to such agreement for the term of the approved uses for which the parking is required, satisfactory to the commission and legal counsel, shall be executed as a condition of any approval of shared parking under this section;
 - ii. Shared parking spaces shall not be reserved for the exclusive use of

- iii. individuals or groups;
 - iii. All shared parking spaces shall be located within 500 feet of the main building entrance of the recipient use;
 - iv. A parking demand analysis shall demonstrate the adequacy of any proposed reduction in required spaces;
 - v. The site development plan shall demonstrate safe and convenient pedestrian access to the uses for which the parking is proposed and between and among parking areas including well marked pedestrian crossings, signage, and adequate lighting; and
 - vi. The site development plan shall include such landscaping, lighting, and other improvements as may be required by these Regulations.
2. The Zoning Commission may reduce the number of required parking spaces when a site development plan proposes shared parking meeting the standards above, as follows:
- up to 25% reduction in required spaces where uses occur during the same time of day and on the same days;
 - up to 50% reduction in required spaces where uses occur at different times of day or on different days; and
 - up to 75% reduction in required spaces for theaters and public assembly that are used primarily in the evening or on weekends where other uses are operated primarily during daytime or only on weekdays, respectively.

18.1.3.10. SPECIFICATIONS FOR OFF-STREET PARKING. Except as otherwise specified herein, the requirements for parallel, angled and perpendicular parking shall be as follows (see appendix A-5):

- a. Each off street parking space shall measure at least nine feet in width by eighteen feet in depth except for handicapped spaces which shall conform to State regulations.
- b. Curb lengths shall measure:
 - 1. 23 feet for parallel parking
 - 2. 13 feet for 45 degree parking
 - 3. 10 feet for 60 degree parking
 - 4. 9 feet for 90 degree parking
- c. The number, size, designation, location, and markings of parking spaces for the handicapped shall be in conformance with Section 14-253a of the Connecticut General Statutes, as amended and the Connecticut Building Code (Section 29-252, as amended).
- d. Site design shall make every effort to preserve as much of the native vegetation as possible.
- e. All parking lots as defined by these regulations shall show adequate drainage by the following standards:
 - 1. Adequate data shall be submitted basing calculations and capacity on a 25 year storm.
 - 2. Run off shall not cross sidewalk or direct lines of pedestrian walkways.
 - 3. Use of low impact development techniques to manage stormwater consistent with the Connecticut Department of Environmental Protection Stormwater Quality Manual is encouraged.
 - 4. Surface pitch shall be shown.
- f. Parking lots shall have no greater than a 5% slope.

18.2 ACCESS AISLES. The following are the minimum requirements for driveways and access aisles other than for single-family dwelling and two-family dwellings.

18.2.1 Access aisles and driveways for one-way travel shall be a minimum of:

- a. 13 feet for parallel parking and 45 degree angle parking
- b. 16 feet for 60 degree angle parking
- c. 20 feet for 90 degree angle parking

18.2.2 Access aisles and driveways for two-way travel shall be a minimum of:

- a. 24 feet for parallel parking, 45 degree and 90 degree angle parking

18.3 DRIVEWAYS- No more than two lots may be accessed off of one driveway. A third lot may be permitted subject to the following conditions:

- a. The lot is declared an affordable housing lot to be developed solely for the purposes of creating affordable housing in accord with the conditions set forth under CGS Ch. 126a, §8-30g(a)(1) and §8-30g(a)(3) or (6), and Kent Town Ordinance §11-1.2.
- b. Only one single family dwelling unit may be permitted on the lot.
- c. Section 5.7.3 regarding the rear lot requirement for an accessway which has a continuous width of at least 25 feet does not apply.
- d. The entire driveway utilized by this lot must be brought into conformity with the driveway requirements outlined in these regulations.
- e. A shared driveway agreement by the owner and all holders of easements of such driveway must be filed on the land records prior to the issuance of a zoning permit.

18.3.1 Permit Requirements

- a. No building or structure to be served by a newly constructed or relocated driveway shall be used or occupied, in whole or in part, until such driveway shall be constructed in accordance with the specifications and requirements hereinafter set forth and a permit therefore approved by the Commission.
- b. An application for a driveway permit shall show:
 - 1. The location, width, length, and grades of the proposed driveway;
 - 2. The effect which the driveway shall have upon drainage, including calculations of water flow, if requested by the Commission, to insure public safety;
 - 3. The materials used in the construction;
 - 4. A Soil Erosion and Sedimentation Control Plan in accordance with Section 17.1.
- c. To insure that a driveway shall be constructed or relocated in accordance with the requirements of this Section, the Certificate of Occupancy for the building or structure to be served by such driveway shall not be issued by the Building Official until the Commission certifies that such driveway has been constructed or relocated in conformity with the requirements of this Section, provided however that the Commission, in addition to or in lieu of the foregoing, may require a bond in accordance with Section 21.
- d. The applicant shall agree to hold the Town harmless against any action for personal injury or property repair of the street which may result from the exercise of this permit. The maintenance of the proposed driveway shall be the responsibility of the owner of the property serviced by the driveway.
- e. Combination of curb cuts and access drives to parking for more than one use shall be encouraged and may be specified by the Commission on any Site Plan approval.

18.3.2 Specifications

- a. All driveway entrances shall be paved with bituminous concrete from the traveled portion of the intersecting street a distance of 20 feet or to the property line whichever distance is greater, provided however, that paving of driveway entrances shall not be required if the intersecting street is unpaved.
- b. All newly constructed or relocated driveways shall be constructed in accordance with the following specifications:

1. The maximum width of the driveway curb cut at the intersection of the street shall not exceed:
 - (a) Residential Driveway: 30 feet
 - (b) Commercial Driveway: 50 feet
2. Sufficient drainage systems shall be installed to prevent the runoff of water or other material from said driveway onto the intersecting street and shall be drained in such a manner that no storm-water runoff shall impact on adjacent properties, except as modified by Section 18.4.2.c.1.
3. The centerline of a driveway entrance shall intersect the street as near to a right angle as is practicable for a distance of at least 30 feet back from the traveled portion of the intersecting street but the angle of intersection of the centerline of the driveway entrance with such street shall not be less than 60 degrees nor more than 120 degrees.
4. A driveway intersecting a street shall have a minimum sight distance of not less than 150 feet in each direction.
5. A driveway may be any length but the maximum grade shall not exceed 15% at any portion of its length, and the maximum grade of the first 15 feet shall not exceed 5%.
6. The minimum traveled surface width of a driveway shall be 10 feet.
7. For every 1,000 linear feet of driveway 1 passing area (9' x 25') shall be provided.

c. When culverts or other drainage systems shall be required to control the flow of water:

1. If the water shunted by such culverts or drainage systems establishes a flow of water onto an adjoining parcel of land, a permanent drainage easement shall be obtained; and,
2. If the water shall enter a street culvert system, permission from the Board of Selectmen, the Department of Transportation and/or Property Owners Association, whichever is applicable, shall be obtained to use such culvert.

18.3.3 Driveways within the Industrial District

- a. A continuous strip not less than six feet wide shall be maintained between the street line and the balance of a lot in the Industrial District which strip shall be suitably landscaped and maintained in good appearance. This strip shall not be traversed by more than two driveways, except that there may be one additional driveway for each additional 200 feet of frontage in excess of 200 feet. Unless otherwise approved by the Commission, driveways shall not be less than 25 feet and not more than 50 feet in width, measured at and parallel to the street line.
- b. There shall be no more than one exit and one entrance driveway to a lot unless otherwise approved by the Commission. Along State highways, frontage roads to service multiple uses shall be encouraged. Driveways shall not exceed 30 feet in width or 10% in grade.

18.4 ADDITIONAL PARKING, DRIVEWAY AND ACCESS AISLE REQUIRMENTS FOR ALL DISTRICTS

18.4.1 No parking area or portion thereof, including parking spaces, driveways and access aisles, shall be located within the required front yard, except a driveway perpendicular to the street, no more than 30 feet in width progressing directly from the street to a garage or parking area, or driveways which serve as parking areas for one and two-family dwellings except as allowed in section 9.3. (see figure A-6) The Commission recommends, when possible, that all parking be located behind the plane established by the front of the building.

18.4.2 No parking area or portion thereof, including parking spaces, driveways and access aisles, shall be located within 10 feet of any side or rear property line except as written below:

- a. Shared driveways and shared access aisles between adjoining properties shall not have a setback requirement along the shared property line.
- b. Driveways within a rear lot accessway shall not be located within 5 feet of any side or property

line.

c. In lieu of the 5 and 10 foot requirements, the Commission may approve appropriate screening.

18.4.3 No parking area or portion thereof, including parking spaces, driveways and access aisles, shall be located within six feet of any portion of a building other than for garage entrances or loading area aprons. Such six-foot clear area shall be used for walkways, plantings or other landscaping.

18.4.4 All driveways, parking and loading areas shall have an all-weather surface suitable to the use intended, capable of providing free and safe movement of all vehicles customarily using the facility.

SECTION 19

SIGNS

- 19.1. PURPOSE. These sign regulations are intended to 1) regulate the use of signs and flags by businesses and public, and political, and charitable organizations, 2) to address the need for adequate business identification, advertising and visual communication within the Town through the display of attractive, well-designed signs, and to recognize the Town's responsibility to promote public safety, protect property values, minimize visual clutter and enhance the physical appearance of the Town.
- 19.2. CLASSIFICATION OF SIGNS. Signs shall be classified by structural type and by functional type.
- 19.2.1. Structural Types of Signs.
- a. Freestanding sign - a sign placed on the ground or supported by one or more uprights, poles or other supports placed in or upon the ground.
 - b. Wall sign - a sign attached to the exterior wall of a structure in such a manner that the wall becomes the support for, or forms the background surface of, the sign and which does not project more than 15 inches from the structure.
 - c. Projecting sign - a sign which is wholly or partly dependent upon a building for support and which projects more than 15 inches from the building.
 - d. Roof sign - a sign mounted on, against or directly above the roof or on top of or above the parapet of a building or structure.
 - e. Marquee or canopy sign - a sign attached to the vertical face of a building marquee or canopy.
 - f. Portable sign - a sign which is not permanent, affixed to a building, structure or the ground.
- 19.2.2. Functional Types of Signs.
- a. Identification sign - a sign, located on the premises, which indicates the name, address and/or identifying symbol of:
 - (1) a development containing two or more occupants such as a professional office building, a residential development, an industrial park or commercial shopping center; or,
 - (2) a school, park, church, hospital, or other public or semi-public facility.
 - b. Nameplate sign - a sign, located on the premises, which indicates the name and occupation or profession of each occupant of the premises.
 - c. Real estate sign - a sign which pertains to the sale, lease or rental of the premises, or a portion of the premises, on which the sign is located.
 - d. Construction sign - a temporary sign, located on the premises on which construction is taking place during the period of such construction, which may indicate the names of the design professionals, contractors, owners, financial supporters, sponsors, and/or similar individuals or firms having a role or interest with respect to the structure or project.
 - e. Billboard - a sign which directs attention to a business, commodity, service or entertainment conducted, sold, offered or manufactured at a location other than the premises on which the sign is located.

- f. Business sign - a sign which directs attention to a business, commodity, service or entertainment conducted, sold, offered or manufactured on the premises on which the sign is located. Such signs shall include those of individual retail, wholesale, industrial or commercial establishments.
- g. Directional sign - a sign limited to directional messages, principally for pedestrian or vehicular traffic, such as "one way", "entrance" or "parking".
- h. Temporary sign - a sign which announces a business opening, a festival, a bazaar, a tag sale or a political campaign.

19.3. GENERAL PROVISIONS.

- 19.3.1. Signs shall not conflict with the corner visibility requirements.
- 19.3.2. Signs shall be so located as to not obstruct or interfere with the visibility of vehicular or pedestrian traffic.
- 19.3.3. Signs shall be so located as to not obstruct or interfere with the view of any traffic control sign, signal or device.
- 19.3.4. These Regulations shall not prohibit or regulate the installation by or under the direction of the Town, State or federal government of street signs, emergency signs, traffic control signs, warning signs or directional signs.
- 19.3.5. These Regulations shall not be construed as prohibiting signs intended for viewing principally from within a building provided any such illuminated signs shall not be visible from a public road.
- 19.3.6. The area of all existing signs on a lot which are visible from a public road shall be counted toward the maximum sign area allowable on that lot by these Regulations. The number of existing signs on a lot shall be counted toward the maximum number of allowable signs on that lot.
- 19.3.7. Directional signs shall not contain advertising.
- 19.3.8. Non-profit organizations may be granted a permit for temporary display of a flag, banner, or sign that would not otherwise be permitted by these regulations. Such application shall list the location, size, and duration of display.
- 19.3.9. Display of a United States national flag, or a flag of the State of Connecticut, shall not require a permit under these regulations. Display of such flags shall meet all requirements of these Regulations, including but not limited to Sec. 19.3 and 19.4.

19.4. SIGN DESIGN AND AREA.

- 19.4.1. Computation of Sign Area.
 - a. The area of a sign shall be computed from the outer dimensions of the frame, trim or molding by which the sign is enclosed.
 - b. When a sign consists of individual letters, symbols or characters, its area shall be computed as the area of the smallest rectangle which encloses all of the letters, symbols or characters.
 - c. When a sign consists of two or more faces, only one face of the sign shall be used in computing the sign area if the faces are parallel to and within 12 inches of each other. Otherwise, all faces of the sign shall be used to compute the sign area.

19.4.2. Standards for Wall Signs.

- a. No wall sign shall extend beyond the outer edge of any wall of the building to which it is attached.
- b. A marquee sign may extend the full length of the marquee but shall not extend beyond the ends of the marquee.
- c. A wall sign shall be parallel to the wall to which it is attached and shall not project more than 15 inches therefrom.
- d. No wall sign shall be painted directly upon any wall except as may be approved by the Commission.
- e. No wall sign shall extend above the eaves of the building to which it is attached.

19.4.3. Standards for Freestanding Signs.

- a. In residential districts, the height of any freestanding sign shall not exceed six feet, except as limited by paragraph 19.4.3b hereof. In non-residential districts, the height of any freestanding sign shall not exceed the height of the building to which it relates or a height of 12 feet, whichever is less. If the premises on which the sign is located does not contain a principal building, the sign shall not exceed a height of six feet. The height of the sign shall be measured from the ground to the top of the sign or to the top of the structure supporting the sign, whichever is higher.
- b. The bottom edge of a freestanding sign shall be at least seven feet above ground level when located in an area where the public walks or where it would impair visibility.
- c. No part of any freestanding sign shall be located within five feet of any property line.
- d. Except as otherwise provided for herein, only one freestanding sign shall be permitted on a lot for each street from which the lot has vehicular access, even if there is more than one building or use on that lot.

19.4.4. Standards for Projecting Signs.

- a. The bottom edge of a projecting sign shall be at least seven feet above ground level when located in an area where the public walks.
- b. No projecting sign shall extend more than six feet from the wall to which it is attached.

19.5. SIGN ILLUMINATION.

19.5.1. When a sign is externally illuminated, the light source shall be shielded so that the beams or rays of light do not shine or reflect directly onto adjacent properties or streets.

19.5.2. Illuminated signs located on a lot adjacent to, or across the street from, any residential district shall not be illuminated between the hours of 10:00 PM and 7:00 AM.

19.6. PROHIBITED SIGNS. The following signs shall be prohibited in all districts:

19.6.1. Flashing, rotating, moving or animated signs.

19.6.2. A-frame, sandwich board, or portable signs, except when permitted as a temporary sign.

- 19.6.3. Attention-getting devices such as pennants, valances, flags and banners [(except governmental and non-profit),] streamers, searchlights, string or festoon lights, flashing lights, balloons or similar devices designed for purposes of attracting attention, promotion or advertising.
- 19.6.4. Roof signs.
- 19.6.5. Signs not expressly permitted by these Regulations.
- 19.6.6. Signs which could be mistaken for or confused with a traffic control sign, signal or device.
- 19.6.7. Billboards.
- 19.6.8 Internally illuminated signs.
- 19.7. PERMITTED SIGNS.
 - 19.7.1. Signs Permitted in All Districts Without a Sign Permit.
 - a. One temporary real estate sign for each street frontage of the lot on which the sign is located, such sign not to exceed six square feet in area in residential districts or 12 square feet in area in non-residential districts.
 - b. Directional signs, such signs not to exceed three square feet in area.
 - c. One temporary contractor's sign, not exceeding six square feet in area, when displayed on a building in process of construction.
 - 19.7.2. Signs Permitted in All Districts With a Sign Permit.
 - a. Signs pertaining to service club meetings, such signs not to exceed six square feet in area.
 - b. Temporary signs, provided that:
 - (1) a temporary permit has been issued by the Zoning Enforcement Officer indicating the nature, size, location and tenure of the signs;
 - (2) the permit shall be valid for a period not to exceed 30 days; and
 - (3) the signs shall be removed within three days after the event.
 - c. One construction sign for each street frontage of the lot on which the sign is located, such sign not to exceed six square feet in area in residential districts or 12 square feet in area in non-residential districts.
 - d. One identification sign, not to exceed six square feet in area, to identify a public or semi-public facility. The identification sign for a place of worship, school, museum or similar institution may include, as part of its sign area, a non-electronic bulletin board on which messages and announcements of activities and programs can be displayed.
 - 19.7.3. Signs Permitted in the Rural District and Village Residential Districts.
 - a. One identification sign, not to exceed six square feet in area, to identify a unified development or other permitted non-residential development.
 - b. One nameplate sign, not to exceed two square feet in area per dwelling, to identify occupant, a home occupation or professional office.

- c. One sign, not exceeding six square feet in total area, for a permitted business or professional use carried on by a resident within a dwelling or accessory building as a home occupation or specialty sales.
- d. One sign, not exceeding six square feet in total area, for a Special Permit use.
- e. Signs, not exceeding two signs in number and six square feet in total area, for farm produce stands. Signs shall be located on the premises and not less than 5 feet from any street line.
- f. Temporary signs for public, political or charitable purposes provided they shall be in place for no more than 30 days and shall be removed within three days after the event. A permit shall not be required.
- g. Signs on the premises of places of worship, schools and non-profit institutions, which signs shall not exceed six square feet in total area and which may or may not be part of the architecture of the building.

19.7.4. Signs Permitted in the Village Commercial District and Industrial District.

- a. Two business or nameplate signs, as applicable, per building occupant, provided that:
 - (1) no freestanding sign shall exceed 18 square feet in area;
 - (2) no projecting sign shall exceed 12 square feet in area; and,
 - (3) no wall or marquee sign shall exceed one square foot in area for each linear foot of the face of the building (or, if the building contains two or more occupants, the portion thereof allocated to the occupant) to which the sign will be attached.
- b. One identification sign, not to exceed six square feet in area, for permitted home occupations or professional offices.
- c. Off-site signs may be permitted only for business or industrial uses to the rear of other businesses or industrial uses subject to Commission approval.
- d. In addition to other signage allowed in this section, a business may display a single flag not larger than 15 square feet (calculated as the area of the minimum rectangle which will encompass the flag or banner) during the hours when that business is open. A permit shall be required for the flag, and the application shall state the location and manner in which the flag will be displayed. The ZEO may decide on the application directly and issue an administrative permit, or may refer the application to the full Commission.
 - (1) Flags may be displayed as wall mounted, freestanding, or projecting, and shall be subject to the applicable standards for signs which are similarly displayed (see Section 19.4).
 - (2) Flags that are displayed for sale shall be considered to be merchandise, and subject to applicable sections of these regulations.

19.7.5. Signs Permitted in Developments Containing Two or More Occupants, in the Village Commercial, Industrial, and Roadside Commercial Zone.

- a. A unified commercial, industrial, office or mixed-use development containing two or more businesses may have an identification sign not to exceed 18 SF which identifies the development. In addition, each of the businesses thereof may have a wall or projecting sign, as allowed in these Regulations, and a nameplate sign not to exceed 3 SF.

- b. Each sign within a unified development shall be subject to the individual signage requirements of this Section.
- c. The design and placement of signs within a unified development shall be harmonious with one another.

19.8. ALTERNATIVE SIGNAGE PROGRAM FOR LARGE DEVELOPMENTS. Due to the complexities of site design and occupancy associated with large developments such as shopping centers, office parks and mixed-use facilities, the owner of a unified non-residential development containing more than 10,000 square feet of gross floor area may as part of an application for Site Plan approval, also submit to the Commission, for approval of a Sign Permit, an "alternative signage program" differing from the standards contained in this Section.

19.8.1. Such signage program shall, at a minimum, contain the information required under Section 19.9.2 for the issuance of Sign Permits.

19.8.2. In issuing such a Sign Permit, the Commission shall find that such signage program would:

- a. be consistent with the purpose of this Section and these Regulations, and
- b. result in a more comprehensive and attractive arrangement and display of signs than could otherwise be accomplished under the standards of this Section, and
- c. result in overall design that enhances identification of the individual businesses within the development.

19.9. SIGN PERMITS.

19.9.1. Except as otherwise provided herein, no sign shall be constructed, erected, altered or otherwise changed unless a Sign Permit has been approved by the Commission.

19.9.2. All applications for a Sign Permit shall be signed or countersigned by the owner of the lot on which the sign will be located and shall be accompanied by the following:

- a. For freestanding signs, a plot plan of the premises and, for any signs attached to structures, a measured elevation drawing of the building facade, each drawn to scale, showing the location, dimensions and area of all existing and proposed signs on the premises; and,
- b. Plans and specifications of the proposed sign, including its dimensions, area, maximum and minimum height, design, materials, method of construction, method of illumination and if such sign shall be temporary, the length of time it shall be in place.

19.9.3. Signs denoting activities or events sponsored by a non-profit or charitable organization shall conform to these regulations and shall require approval by the Commission, but shall not require a fee.

- a. Application for such approval may, at the discretion of the ZEO, be handled administratively or be referred to the Commission.
- b. Such approval may be renewed automatically through written notification to the Commission that the conditions and duration of display of the sign are consistent with the original approval.

19.10. SIGN MAINTENANCE AND REMOVAL.

19.10.1. All signs, together with their supports, braces, guys and anchors, shall be kept in good working order and safe condition.

19.10.2. The owner of the lot on which the sign is located shall be directly responsible for keeping such sign, including its illumination sources, in good working order and safe condition.

19.10.3. Unsightly, damaged, deteriorated signs or signs in danger of falling shall be put in order or removed

upon written notice by the Zoning Enforcement Officer to the owner of the lot on which the sign is located.

- 19.10.4. Any sign which pertains to a business no longer conducted on the premises where such sign is located shall be removed by the owner of the lot on which the sign is located within 30 days following cessation of the relevant activity.
- 19.10.5. Any lawful existing sign may remain and may be repaired but shall not be altered or enlarged except as provided for in this Section.

SECTION 20

CAMPGROUNDS AND YOUTH CAMPS

- 20.1. All campgrounds and youth camps, hereinafter collectively referred to as “property”, including those in existence at the time of the adoption of these Regulations (as amended May 4, 1984) shall not be expanded in either area, additional structures or number of sites unless a Special Permit in accordance with Section 4.3 through 4.9 has been approved, and, in addition, shall be subject to the following special regulations:
- 20.1.1. The property management shall comply with the provisions of the Connecticut Public Health Code relating to family campgrounds, Ct. Reg. 19-13-B97, as amended.
 - 20.1.2. Management of the property shall maintain on-site occupancy and provide 24 hour supervision in-season. Management of the property shall maintain an up-to-date register indicating the names of campsite occupants, and the assigned camp number, the name of the occupants, and the location on the property, permanent address, dates of arrival and departure, and registration numbers of all motor vehicles and trailers on the property. A current copy of said registration shall be available for inspection by the Commission or its duly appointed agent at all times the property is open.
 - 20.1.3. Property sites may be used by recreational vehicles, equivalent facilities constructed in or on automobile vehicles, and tents. Facility occupancy shall be limited to the time period between May 15 of any year until November 15 of the same year. No more than 50% of the sites shall be made available for recreational vehicles to be rented or leased by the property. Only recreational vehicles registered to the property may be rented or leased by the property. No camper occupant shall remain on a property for more than 30 consecutive days. Off-season dead storage of recreational vehicles registered to the property shall be allowed provided they shall be stored in an area not visible from the lake or roadway. No habitation shall be allowed during dead storage. The intent of this section is to allow short-term recreational occupancy of the property and to prohibit extended or full season residency.
 - 20.1.4. Campgrounds or youth camp accessory uses may be the following: management headquarters, recreation structures and facilities, toilets, showers, swimming facilities, coin-operated laundry facilities, general stores and snack bars, all subject to the following restrictions:
 - a. Such establishments and the parking areas primarily related to their operations shall not occupy more than 10 percent of the area of the property exclusive of the roadways, building space, overflow fields, sites and buffers.
 - b. Such establishments shall be restricted in their use to occupants of the property.
 - c. Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the property.
 - d. There shall be no sale of alcoholic beverages.
 - 20.1.5. Minibikes, motorcycles, snowmobiles, all-terrain-vehicles, motorboats, general and outside public address systems shall not be operated on premises except in emergencies or declared by the Town, State or Federal Government or emergency situations involving life or property.
 - 20.1.6. A buffer strip of not less than 200 feet on front, side, and rear lot lines shall be maintained except on designated swimming and boating areas. This area shall be naturally wooded or planted in such a way as to provide appropriate screening and shall be naturally wooded or planted in such a way as to provide appropriate screening and shall be posted as to the boundaries of the campsite on the inner side of such buffer strip. No campsite shall be constructed within 300 feet of a lake or river.

- 20.1.7. Prior to the issuance of a Zoning Permit for any exterior alteration, expansion or change of use of the physical facilities of the property, a site plan therefore shall be subject to approval in accordance with the provisions of Section 4.3 through 4.8.
- 20.1.8 The youth camp management shall comply with the provisions of the Connecticut Public Health Code relating to youth camps Ct. Reg. 19-359 through 19-3b27a.

SECTION 21

SUPPLEMENTARY REGULATIONS

- 21.1. JUNK AND WASTE MATERIALS. No more than one inoperable or unregistered motor vehicle may be stored on any lot including property of a motor vehicle business licensed by the State for a period in excess of 60 days except within a building. No scrap or waste material shall be stored on any lot unless within a building or screened from view from off the premises, except that a 90 day period shall be allowed for removal of scrap or waste material resulting from a construction operation, fire, flood or similar emergency.
- 21.2. REFUSE CONTAINERS. Provision shall be made for the collection, storage, control and disposal of solid wastes by means of receptacles, or other means approved by the Commission. Refuse containers shall be reasonably screened from public view except on collection day.
- 21.3. MISCELLANEOUS SITE FEATURES Other than for single-family or two-family residential uses.
- a. Walkways.
- (1) Walkways shall be provided in such locations as to separate pedestrian movement from vehicular movement wherever feasible.
 - (2) Walkways shall facilitate pedestrian movement between parking areas and building entrances, between the development and the street, and between buildings in a multi-building development.
 - (3) All walkways within parking areas and along the perimeter thereof shall be a minimum of five feet in width.
 - (4) Walkways shall be of a suitable material as approved by the Commission.
- b. Dumpsters.
- (1) No dumpster shall be located within any front yard or within the required side or rear yards when the applicable setback is adjacent to any Residential district or any lot containing an existing residential use.
 - (2) Dumpsters shall be screened in accordance with the requirements of Section 17.5.4.
 - (3) No dumpster shall be so located as to interfere with normal vehicular movement.
 - (4) In multi-family developments, suitable area shall be set aside within the dumpster screening area to accommodate recycling bins.
- c. Mailboxes. In multi-family developments or multi-businesses, group mailboxes shall be so located as to not interfere with normal vehicular movement.
- 21.4. TRAILERS.
- 21.4.1 No permanent resident trailers shall be allowed in any district.
- 21.4.2 Visiting camper trailers used for human habitation may be parked on a lot occupied by a detached dwelling or on a vacant lot for a period of not more than two weeks in any calendar year.
- 21.4.3 An unoccupied camping trailer may be stored within applicable set backs.

21.5. VISIBILITY AT INTERSECTIONS. No planting, fence, wall or barrier to vision more than two feet in total height above the street pavement shall be placed or erected on that portion of a corner lot bounded by the intersecting front lot lines and an arc of 25 feet radius from the point of intersection of said lot lines. [See Appendix A, Figure A-8]

21.6. BONDING REQUIREMENTS

a. Posting of Performance Bond.

- (1) An itemized estimate of the cost of the site improvements shall be prepared by the applicant, including a separate inflation factor for the estimated construction period, and shall be submitted to the Commission's Engineer for approval.
- (2) The bond shall be posted with the Town for an initial period of 18 months unless an extension of time shall be requested by the applicant and granted by the Commission.

b. Reduction of Performance Bond. Upon the completion of at least 25%, 50% or 75% of the cost of the bonded site improvements, the applicant may request in writing a reduction of the bond. The Commission shall cause the site to be inspected by the Zoning Enforcement Officer, the Commission's Engineer, and/or other appropriate Town officials to determine if the portion of the required site improvements for which the reduction is being requested has been satisfactorily completed in accordance with the approved Site Plan. Based upon these findings, the Commission may authorize the reduction of such bond.

c. Release of Performance Bond/Posting of Maintenance Bond. Before the release of a performance bond, the Commission:

- (1) Shall require the applicant to submit "as-built" drawings in accordance with Section 4.8.19; and,
- (2) May require that the applicant post a maintenance bond to be retained for a period of two years after vegetative cover and plantings have been installed in order to guarantee the survival of landscaping and to ensure any other relevant improvements.

d. Form of Bond. Performance and maintenance bonds required under this Section shall:

- (1) Be in a form and with security satisfactory to the Commission; and,
- (2) Be in the form of cash; a certified check payable to the Town; a savings passbook in the name of the Town to be held in escrow by the Town, together with a letter from the applicant stating that the passbook is being provided in accordance with the approved Site Plan and may be drawn against by the Town, if necessary; or other forms of collateral as approved by the Commission.

SECTION 22

ADMINISTRATION

22.1. INTERPRETATION OF THESE REGULATIONS. In their interpretation and application, the provisions of these Regulations shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and welfare. These Regulations are not intended to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to law, relating to the use of lots, buildings or structures; nor are these Regulations intended to interfere with, abrogate or annul any easements, covenants or other agreement between parties, provided, however, that where these Regulations impose a greater restriction upon the use or height of buildings or structures, or require larger yards, courts, or other open spaces than are imposed or required by existing provisions of law or ordinance, or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of these Regulations shall control.

22.2. ENFORCEMENT. These Regulations shall be enforced by the Zoning Enforcement Officer who is hereby empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereon in violation of any provisions of these Regulations or, when the violation involves grading of land or the removal of earth, to issue in writing a cease and desist order to be effective immediately.

The owner or agent of a building or premises where a violation of any provision of these Regulations 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 owner, agent, lessee or tenant of any part of a building or premises in which such violation has been committed or exists; or the agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation exists shall be subject to penalties in accordance with the provisions of Section 8-12 of the General Statutes, as may be amended.

22.3. PENALTIES. Any person shall be subject to penalties in accordance with the provisions of Section 8-12 of the General Statutes, as may be amended, who:

22.3.1. Having been served by the Zoning Enforcement Officer with an order to discontinue any such violation, fails to comply with such order within 10 days after such service; or,

22.3.2. Having been served with a cease and desist order with respect to a violation involving grading of land or removal of earth, fails to comply with such order immediately; or,

22.3.3. Continues to violate any provision of these Regulations in the manner named in such order.

22.4. ZONING PERMITS.

22.4.1. All Zoning Permits shall be issued as specified by the provisions of Section 5 of these regulations which shall also govern structures and uses which shall require such permits.

22.5. ZONING AMENDMENTS.

22.5.1. Authority. The Commission, either on its own initiative or by the petition of others, may amend these Regulations or the Zoning Map, in accordance with the provisions of the General Statutes.

22.5.2. Application. All petitions requesting an amendment to the Zoning Regulations and/or Zoning Map shall be submitted in writing to and in a form prescribed by the Commission. The Commission may deny a zoning petition for incomplete information having been submitted.

22.5.3. Referrals.

- a. Any proposed amendment to the Zoning Map or Zoning Regulations affecting the use of a zoning district any portion of which is within 500 feet of the Town line shall be referred by the Commission to the appropriate regional planning agency, as required by the General Statutes.
- b. To assist with its consideration of any petition to amend these Regulations or the Zoning Map, the Commission may refer such petition to any department, agency or official it deems appropriate, to review and comment upon those technical matters which are the concern or responsibility of such department, agency or official.

22.5.4. Limitations for Zoning District Change. Except where a proposed zone change is to extend an existing zoning district, no area of land having less than 300 feet of frontage on one street shall be changed from one zoning district to another zoning district except by the affirmative vote of two-thirds of the Commission.

22.5.5. Public Hearing. The Commission shall hold a public hearing on all proposed amendments to these Regulations or to the Zoning Map, shall decide thereon, and shall give notice of its decision as required by the provisions of the General Statutes.

SECTION 23

ZONING BOARD OF APPEALS (ZBA)

- 23.1. **POWERS AND DUTIES.** The Zoning Board of Appeals (ZBA) shall have all the powers and duties prescribed by Chapter 124, Section 8 and by Chapter 250, Section 14 of the General Statutes, and by these Regulations, which powers and duties are summarized and more particularly specified below. None of the following provisions shall be deemed to limit any of the authority of the ZBA that is conferred by general law.
- 23.1.1. Appeals. The ZBA shall have the authority to hear and decide upon any appeal where it is alleged that there is an error in the order, requirements, decision or determination of the Zoning Enforcement Officer. No question of hardship shall be involved in such an appeal, and the action of the ZBA thereon shall be limited to the question of whether or not, and to what extent such order, requirement, decision, or determination was a correct interpretation of the subject provision of these Regulations.
- 23.1.2. Variances. The ZBA shall have the authority to vary or adjust the strict application of these Regulations in only those cases where the unusual size, shape or topography of a lot or other unusual physical conditions pertaining to it or to any building situated thereon make it impossible to strictly apply a specific provision of these Regulations to such lot without resulting in exceptional difficulty or unusual hardship, so that substantial justice shall be done and the public health, safety and welfare secured.
- 23.1.3. Location of Motor Vehicle Uses. The ZBA shall have the authority to hear and decide upon all requests for Certificates of Approval for motor vehicle sales, services and repair uses in accordance with the General Statutes. Such authority shall not supersede the Commission's authority to hear and decide upon requests for Special Permits for such uses.
- 23.1.4. Use Variances.
- a. No use variance shall be granted by the ZBA which would permit:
 - (1) A use prohibited either implicitly or explicitly by these Regulations;
 - (2) The expansion of a non-conforming use;
 - (3) The number of dwelling units on a lot to exceed the maximum allowed in the district in which the lot is located; or,
 - (4) A use otherwise allowed by Special Permit in the district in which the use is located.
 - b. Use variances may be granted by the Zoning Board of Appeals only in the Industrial zone.
 - c. Prior to a public hearing on any application for a use variance, the ZBA shall transmit the application to the Commission for its review and comment. Any report submitted by the Commission to the ZBA shall be read into the record of the public hearing of the subject application.
- 23.2. **GENERAL RULES.**
- 23.2.1. Appeals. All appeals to the ZBA from an order, requirement, decision or determination of the Zoning Enforcement Officer shall be taken within such time as is prescribed by a rule adopted by the ZBA. Such appeals shall be made in writing on a form prescribed by the ZBA and shall be accompanied by a filing fee to cover the cost of processing the appeal.
- 23.2.2. Application. All applications for variances shall be submitted in writing in a form prescribed by the ZBA. The ZBA may deny an application for incomplete information having been submitted.

- 23.2.3. Referrals. To assist with its consideration of an appeal or application, the ZBA may refer such appeal or application to any department, agency or official it deems appropriate, to review and comment upon those technical matters which are the concern or responsibility of such department, agency or official.
- 23.2.4. Public Hearing. The ZBA shall hold a public hearing on all appeals and applications for variances, shall decide thereon, and shall give notice of its decision in accordance with the provisions of the General Statutes.
- 23.2.5. No variance shall be granted by the ZBA unless it finds:
- a. That there are special circumstances or conditions, fully described in the findings of the ZBA, applying to the lot or structure for which the variance is sought, which are peculiar to such lot or structure and do not apply generally to lots or structures in the neighborhood and which have not resulted from any willful act of the applicant subsequent to the date of adoption of the regulation from which the variance is sought, whether in violation of the provisions herein or not;
 - b. That, for reasons fully set forth in the findings of the ZBA, the aforesaid circumstances or conditions are such that the particular application of the provisions of these Regulations would deprive the applicant of the reasonable use of the lot or structure, that the granting of the variance is necessary for the reasonable use of the lot or structure, and that the variance as granted by the ZBA is the minimum adjustment necessary to accomplish this purpose;
 - c. That the granting of the variance shall be in harmony with the general purposes and intent of these Regulations and the Town's Plan of Development and shall not be injurious to the neighborhood or otherwise detrimental to the public health, safety and welfare; and,
 - d. That the granting of the variance is not based upon the nonconformity of neighboring lots, uses, buildings or structures, nor upon a financial or economic hardship.
- 23.2.6. Whenever the ZBA grants a variance, it shall include in its minutes as part of the record the reason for its decision, the specific provision of these Regulations which was varied, the extent of the variance and the specific hardship upon which its decision was based.
- 23.2.7. In exercising any of its authority, the ZBA may attach any conditions and safeguards as may be required to protect the public health, safety and general welfare, and to ensure ongoing compliance with these Regulations. Violation of such conditions and safeguards shall be deemed to be a violation of these Regulations.
- 23.2.8. Any variance granted by the ZBA shall become effective upon its filing by the applicant in the office of the Town Clerk and in the Town land records.
- 23.2.9. Any variance granted by the ZBA which is not recorded within one year from its effective date shall be null and void.
- 23.2.10. If the ZBA denies a variance, it shall not be required to hear an application for the same variance or substantially the same variance for a period of six months after the date of denial, unless the circumstances associated with the application have substantially changed. A change in ownership of property or any interests therein shall not be deemed a substantial change.
- 23.2.11. No appeal or variance shall be granted that would alter, revise or otherwise change any of the conditions attached to the granting of a Special Permit by the Commission, if such conditions are more restrictive than otherwise provided for in these Regulations or if such conditions do not refer to specified standards in these Regulations.

SECTION 24

VALIDITY AND EFFECTIVE DATE OF REGULATIONS

- 24.1. VALIDITY. If any section, paragraph, subdivision, clause or provision of these Regulations is adjudged to be invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of these Regulations shall be deemed valid and effective.
- 24.2. EFFECTIVE DATE. The effective date of these Regulations shall be June 1, 1995.

SECTION 25

TELECOMMUNICATIONS

25.1 SPECIAL PERMIT FOR TELECOMMUNICATIONS FACILITIES AND TOWERS.

- a. Preserve the character and appearance of the Town of Kent while allowing adequate telecommunications services to be developed.
- b. Protect the scenic, historic, environmental, and natural or man-made resources of Kent.
- c. Locate towers and/or antennas in a manner which protects property values, as well as the general safety, health, welfare and quality of life of the citizens of Kent and all those who visit this community.
- d. Minimize the total number and height of towers throughout Kent.
- e. Provide standards and requirements for the regulation, placement, design, appearance, construction, monitoring, modification and removal of telecommunications facilities and towers.
- f. Require the sharing of existing towers, and the clustering of new facilities or towers where possible.
- g. Locate towers so that they do not have negative impacts such as – but not limited to – attractive nuisance, noise, and falling objects.
- h. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify telecommunications facilities.
- i. Promote the reduction of assets conducive to tourism, one of the Town’s basic industries.

25.2 CONSISTENCY WITH FEDERAL LAW:

These regulations are intended to be consistent with the Telecommunications Act of 1996 in that: a) they do not prohibit, or have the effect of prohibiting, the provision of Personal Wireless Services; b) they are not intended to be used to unreasonably discriminate among providers of functionally equivalent services; c) they do not regulate Personal Wireless Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC’s regulations concerning such emissions.

25.3 DEFINITIONS AND WORD USAGE:

The following terms shall have the meanings indicated. The word “shall” or “will” indicate mandatory requirements; “may” is advisory and indicates recommendations which are not mandatory.

Adequate Coverage: Coverage is considered to be “adequate” within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station. In the case of cellular communications in a rural environment like Kent, this would be a signal strength of at least –90 Bm for at least 100% of the coverage area. It is acceptable for there to be lacunae within the area of adequate coverage where the signal is less than –90 dBm, as long as the signal regains its strength to a level in excess of –90 dBm further away from the base station. For the limited purpose of determining whether the use of a repeater is necessary or desirable, there shall be deemed not to be adequate coverage within said lacunae. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain strength of greater than –90 dBm.

Adequate Capacity: Capacity is considered to be “adequate” if the grade of service (GOS) is p.05 or better for median traffic levels offered during the wireless service facility in question. The GOS shall be determined by the use of standard Erlang B Calculations. As call blocking may occur in either the land line or radio portions of a wireless network, adequate capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, adequate capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with the total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

Antenna: A device which is attached to a tower or other structure for transmitting or receiving electromagnetic waves. Examples include, but are not limited to, whip, panel, and dish antennas.

Available Space: The space on a tower or structure to which antennas of a telecommunications provider are both structurally and electromagnetically able to be attached.

Base Station: The primary sending and receiving site in a wireless telecommunications network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

Bulletin 65: Published by the FCC Office of Engineering and Technology specifying radiation levels and methods to determine compliance, as the same may be amended.

Camouflaged Facility: Any telecommunications facility that is designed to blend into the surrounding environment, such as towers and/or attached equipment designed to look like trees or barn silos, etc.

Channel: The segment of the radiation spectrum from an antenna which carries one signal. Any antenna may radiate on many channels simultaneously.

Co-Location: The use of a single mount on the ground by more than one carrier (vertical co-location), and/or several mounts on an existing structure by more than one carrier.

Commission: The Planning and Zoning Commission of the Town of Kent.

dBm: Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt (1/1000th watt), correctly written as “dBm”.

Electromagnetically Able: The determination that the new signal from and to the proposed new antennas will not significantly interfere with the existing signals from and to other facilities located on the same tower or structure as determined by a qualified professional telecommunications engineer. The use of available technologies to alleviate such interference shall be considered when making this determination.

Elevation: The elevation at grade or ground level shall be given in Above Mean Sea Level (AMSL). The height of the wireless service facility shall be given in Above Ground level (AGL). AGL is a measurement of height from the natural grade of a site to the highest point of a structure. The total elevation of the wireless service facility is AGL plus AMSL.

EMF: Electromagnetic Fields, often expressed in wavelengths or frequencies to indicate their placement on the electromagnetic spectrum. The radio frequencies usually radiate away from their generating source – hence wireless capability. The radio frequencies are identified between 3 kilohertz to 300 gigahertz and include AM and FM radio, TV, radar, cellular/PCS technologies, emergency fire and police, paging services, and satellite broadcasting among many others. Microwaves are a portion of the radio frequencies.

Environmental Assessment (EA): An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a wireless communication facility is placed in certain designated areas such as wetlands and sensitive habitats.

ERP: Effective Radiated Power

Equipment Shelter: An enclosed structure, cabinet, shed or box located at the Base Station designed principally to house batteries and electrical equipment used in connection with Personal Wireless Service transmissions.

Facility Site: A property, or any part thereof, which is owned or leased by one or more telecommunications providers and upon which one or more telecommunications facility(s) and required landscaping are located. This includes any lot or location, having met all other criteria in this telecommunication facilities may be able to provide Adequate Coverage and Adequate Capacity to a significant portion of the Town of Kent.

Fall Zone: The area on the ground within a prescribed radius from the base of a wireless communications facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FCC: Federal Communications Commission. The Federal agency responsible for regulating telecommunications in the United States.

FCC-97-326: A report and order which sets new national standards for exposure to radiofrequency emissions from FCC regulated transmitters.

GHZ: Gigahertz. A measure of electromagnetic radiation equaling one billion hertz.

Grade of Service: A measure of the percentage of calls which are able to connect to the Base Station, during the busiest hour of the day. Grade of Services expressed as a number, such as p.05, which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better Grade of Service.

Height of Tower: The vertical distance from the highest point of the structure, plus any device attached to the grade before construction.

Hertz: One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

Licensed Carrier: A Company authorized by the FCC to construct and operate a wireless communications facility.

Location: References to site location as the exact longitude and latitude, to the nearest tenth of a second, with bearing or orientation referenced to true North.

Major Modification Of An Existing Facility: Any change, or proposed change in power input or output, number of Antennas, change in Antenna(s) type or model, repositioning of Antenna(s), change in number of Channels per Antenna above the maximum number approved under an existing Special Permit.

Major Modification Of An Existing Tower: Any increase, or proposed increase in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving, and/or relaying antennas, and/or equipment.

MHZ: Megahertz. A measure of electromagnetic radiation equaling one million hertz.

Monitoring: The measurement, by use of instruments in the field, of non-ionizing radiation exposure at a site as a whole, or from individual telecommunications facilities, towers, antennas, or repeaters.

Monitoring Protocol: The testing protocol, such as the Cobbs Protocol, or the FCC Regulations (Title 47, Part 1, Section 1.1307 referenced as IEEE C95.3 1991), or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements (Reports 86 and 119) which is to be used to monitor emissions and determine exposure risk from existing and new telecommunications facilities. The Kent Planning and Zoning Commission may, as the technology changes, require by written regulation the use of other testing protocols. A copy of the current Monitoring Protocol shall be on file with the Town Clerk.

Monopole: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal, or a wooden pole with below grade foundations (see Towers).

Mount: The structure or surface upon which antennas are mounted, including the following four types of mounts:

ROOF MOUNTED – on the roof of a building

SIDE MOUNTED – on the side of a building

GROUND MOUNTED – mounted on the ground (see Tower)

STRUCTURE MOUNTED – mounted on a structure other than a building

Omnidirectional (Whip) Antenna: A thin rod that transmits and receives signals in all directions

Panel Antenna: A flat surface antenna usually developed in multiples

Personal Wireless Services: Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, Personal Communications Systems (PCS), specialized mobile radio services, and paging services.

Personal Wireless Service Facility: All equipment (including Repeaters) with which a Personal Wireless Service provider broadcasts and receives the radiofrequency waves which carry their services, and all locations of said equipment or any part thereof. This facility may be sited on one or more towers or structure(s) owned and permitted by another owner or entity.

Radial Plots: Radial plots are the result of drawing equally-spaced lines (radials) from the point of an antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial; a threshold plot uses a mark to indicate whether that point is strong enough to provide adequate coverage – i.e. the points meeting the threshold of adequate coverage. The drawback is the concentration of points close to the antenna and the divergence of points far from the site near the ends of the radials.

Radiated-Signal Propagation Studies Or Coverage Plots: Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tool for determining whether a site will provide Adequate Coverage for the telecommunications facility proposed for the site.

Radio Frequency Engineer: An engineer specializing in the design, review, and monitoring of radio frequency technologies.

Regulated Facility, Service, and/or Site: The equipment, towers, mount, antennas and other structures subject to local zoning regulation. This includes all telecommunication services not exempt from local regulation under the provision of the Connecticut General Statutes and the authority of the Connecticut Siting Council, or not exempt from local regulation pursuant to the Telecommunications Act of 1996, or other such federal legislation or federal authority.

Repeater: A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive Adequate Coverage directly from a Base Station.

Security Barrier: A locked, impenetrable wall, fence or berm that completely seals off area from unauthorized entry or trespass.

Separation: The distance between two or more respective arrays of antennae.

Standing Wave Phenomenon: A localized concentration of energy. This can occur, for instance, when radio frequencies that are supposed to take off into space, concentrate around metal objects instead (metal roofs, certain architectural supports, water towers, guy wires, etc), creating "RF hot spots" that exceed federal guidelines.

Structurally Able: The determination that a Tower or structure is capable of carrying the load imposed by the proposed new Antennas under all reasonably predictable conditions as determined by professional structural engineering analysis.

Telecommunications Facility: All equipment (including repeaters) with which a telecommunications provider broadcasts and receives the radiofrequency waves which carry its services and all locations of said equipment or any part thereof. This facility may be sited on one or more towers or structures owned and permitted by another owner or entity.

Teleport: A facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmitting the C-Band (4-6GHz) spectrum.

Tiled Coverage Plots: Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Unlike radial plots, tiled plots provide a uniform distribution of points over an area of interest; usually the same grid will be used as different sites are examined, and it is not necessary that the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. This method requires substantially more topographic data and longer (computer) execution time than radial plots, but is preferable for comparative analysis.

Tower: A support structure intended to support antennas and associated equipment. Examples include:

Guyed Tower: A monopole tower or lattice tower that is tied to the ground or other surface by supporting cables.

Lattice Tower: A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

Monopole Tower: The type of mount that is self-supporting with a single shaft of wood, steel, fiberglass, or concrete, and a platform (or racks) for panel and whip antennas arrayed at the top.

25.4 EXEMPTIONS AND DISALLOWANCES:

The following wireless telecommunications facilities are exempt from the regulation: police, fire, ambulance and other emergency dispatch; amateur (HAM) radio, citizens band radio; Also exempt from this regulation are antennas used solely for residential household television and radio reception, and satellite dishes measuring 2 meters or less in diameter. No personal wireless service facility shall be considered exempt from this regulation for any reason, whether or not said facility is proposed to share a tower or other structure with such exempt uses. Teleports utilizing the satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites are not allowed in the Town of Kent.

25.5 PROVISIONS FOR HIRING INDEPENDENT CONSULTANTS

- a. Due to the complex technical character of the information to be provided by an applicant pursuant to these regulations and the monitoring, testing and inspection of facilities and operation provisions, the Commission shall hire such consultants as it deems reasonably necessary to assist it with such the determinations as are to be made by it concerning such matters. All expenses incurred by the Commission for such services as part of an application process shall be deemed to be part of the application fee and paid by the applicant. All expenses incurred by the Planning and Zoning Commission for such consultation services incurred in performing its monitoring, testing and inspection shall be paid by the applicant or current permittee. Any failure to pay such expenses shall constitute a violation of the permit and automatically cause the revocation of the permit and all rights thereunder.
- b. Any consultants hired by the Commission shall be qualified professionals with an appropriate combination of training, record of service, and/or certification in one of the following fields: a) telecommunications/radiofrequency engineering; b) structural engineering; c) assessment of electromagnetic fields; and, if determined by the Commission, d) other fields.
- c. Upon submission of a complete application for a special use permit, the Commission will provide its independent consultant(s) therewith for their analysis and review.

- d. Applicants for any special permit shall obtain written permission from the owners of the proposed property(s) for facility(s) site(s) for the Town's independent consultant(s) to conduct any necessary site visit(s).
- e. Upon submission of a complete application, the independent consultant(s) will provide an estimate for the cost of reviewing the application. The Commission will forward this estimate in writing to the applicant. The applicant will pay this fee during the review process, separate from the general application fee, and include this fee as part of the application process. No application will be processed without full payment. In lieu of estimates, the Commission may require the applicant to fund an account which the Town may draw upon to insure reimbursement of such fees.
- f. The consultants shall work under the direction of the Kent Planning and Zoning Commission. Copies of any consultant's findings and reports shall be made available to the applicant not less than seven (7) days prior to any meeting of the Commission to consider the consultant's report, and the applicant shall be given opportunity to respond to said report in writing and at the next hearing when the consultant's report(s) will be considered.
- g. Written minutes for all public meetings connected with any application shall be taken by stenographers who shall be paid by the applicant.

25.6 FINDINGS OF THE KENT PLANNING AND ZONING COMMISSION

- 25.6.1 Special Permits: No tower or telecommunications facility shall be erected, constructed, or installed without first obtaining a special permit from the Commission. A special permit is required for: a) new tower construction or major modification of an existing tower(s) or repeater(s); b) telecommunications facilities or major modification of existing facilities, to be mounted on a tower or structure.
- 25.6.2 Applicable Regulations: In acting on the special permit application, the Commission will proceed in accordance with Section ___ of the Kent Planning and Zoning Regulations for special permits.
- 25.6.3 Findings By The Commission: The applicant shall comply with the requirements set forth in Section 51 inclusive, and shall provide all information reasonably required to permit the Commission to make a decision. The Commission shall, in consultation with independent consultants, make all of the following applicable findings before granting the special permit.
 - a. Applicant is not already providing Adequate Coverage and/or Adequate Capacity to the Town of Kent.
 - b. Applicant is not able to use an existing tower/facility, either within or outside of Kent, either with or without the use of Repeaters, to provide Adequate Coverage and/or Adequate Capacity to the Town of Kent.
 - c. Applicant has endeavored to provide Adequate Coverage and Adequate Capacity to the Town of Kent with the least number of towers and antennas which is technically and economically feasible.
 - d. Applicant will be providing at least 50% of coverage to the Town of Kent.
 - e. Efforts have been made to locate new towers adjacent to existing towers.
 - f. Applicant has agreed to rent or lease available space on the tower under the terms of fair-market lease, with reasonable conditions and without discrimination against other telecommunications providers.

- g. Proposed telecommunications facility(s) or tower(s) should make use of available municipal lands if those lands conform with appropriate setbacks for this regulation, and where visual impact can be minimized.
- h. The proposal shall comply with rules as adopted in FCC-97-326 and procedures outlined in FCC Bulletin 65 as they may be amended regarding emissions and exposure to electromagnetic radiation, and that the required monitoring program shall be paid for by the applicant.
- i. Towers and telecommunications facilities shall be located so as to minimize the following potential impacts:
 - (1) Visual Aesthetic: Unless adequate coverage and adequate capacity cannot otherwise be achieved, towers shall be sited off ridgelines, and where their visual impact is least detrimental to highly rated scenic areas such as, but not limited to those sites designated as scenic. In determining whether or not a tower will have an undue adverse visual impact on the scenic or natural beauty of a ridge or hillside, the Commission shall consider, but not be limited to:
 - a. The period of time, and the frequency of viewing, during which the proposed tower would be seen by the traveling public on a public highway.
 - b. The degree to which such tower was screened by topographic features;
 - c. Background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
 - d. The distance of the proposed tower from the viewing vantage point and the proportion of the facility that is visible above the skyline.
 - e. The number of vehicles traveling on a public highway or waterway at or near the critical vantage point;
 - f. The sensitivity or unique value of the particular view affected by the proposed development.
 - (2) Devaluation Of Property. Siting shall be in as low population density areas as possible.
 - (3) Safety Hazards: In cases of structural failure, ice accumulation and discharge, and attractive nuisance.
 - (4) Electromagnetic Radiation: In the case the tower, guy wires, or telecommunications facility is found to exceed the FCC guidelines.

25.6.4 Documentation Of Denial: Any decision of the Kent Planning and Zoning Commission to deny an application for a special permit under this regulation shall be in conformance with 47 U.S.C.#332(7) (B) (iii) of the Telecommunications Act of 1996, in that it shall be in writing and supported by substantial evidence contained in a written record.

25.7 GENERAL PROJECT/SITE REQUIREMENTS

25.7.1 Applicants: If the applicant is not the landowner, the landowner will be considered a co-applicant and must submit the required documentation under Section 51 of these regulations.

25.7.2 Access Roads And Underground Utilities: Where new telecommunications towers and facilities require construction of, or improvements to an access road, to the extent practicable such road shall follow the contour of the land and be constructed or improved within existing forest areas, and not in open fields. Utility or service lines shall be buried underground. The Commission shall require input from the Chiefs (or their designees) of Fire, and other Emergency services regarding the adequacy of emergency access for the planned drive or roadway to the site.

- 25.7.3 Landscaping/Screening: Screening shall be required at the perimeter of the site. If the tower or facility site is in a wooded area, a natural vegetated buffer strip of undisturbed trees shall be retained for at least 100' in depth, and at least 15' in height at all times around the perimeter, and only minimally disturbed where the access drive is located.

If the tower or facility site is not in a wooded area, a vegetated barrier at least 50' deep and 10' high around the perimeter shall be planted by the applicant. It shall be of a type that has the potential to reach a height of at least 15 feet at maturity. Existing vegetation surrounding the site shall be preserved and maintained to the greatest extent possible. All landscaping shall be properly maintained to ensure its good health and viability at the expense of the owner(s). All areas disturbed during project construction shall be replanted with vegetation. Applicant shall obtain a financial surety (to be determined by the Commission) to cover the cost of the remediation on any damage to the landscape which occurs during the clearing of the site. The Commission may require landscaping in excess of any written requirements as is deemed reasonably necessary in order to enhance compatibility with adjacent residential and non-residential land uses. All plants and plantings shall conform to all sections of these regulations applicable hereto.

- 25.7.4 Fencing And Signs: The area around the tower and communication equipment shelter(s) may be completely fenced for security. Use of razor wire is not permitted. A sign of no greater than two (2) square feet indicating the name of the facility owner(s) and a 24 hour emergency telephone number, either local or toll-free, shall be posted adjacent to the entry gate. In addition, no trespassing or other warning signs, and the federal registration plate (where applicable) shall be posted on the fence or as required to meet federal and/or state requirements.

- 25.7.5 Building Design: Communication equipment shelters and accessory buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12' high or 750 square feet. The buildings shall be used only for the housing of equipment related to the site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building. Buildings and related structures shall use materials and textures that will blend them into the natural setting to minimize the visual impact. Building shall be finished or painted in stealth or neutral color tones.

- 25.7.6 Height Of Towers: New towers shall not exceed the minimum height necessary to provide adequate coverage for the telecommunications facilities proposed for use on the tower. Applicant may submit a request for additional height to accommodate future sharing, and shall provide design information to justify such additional height. In no event shall towers exceed 150' measured from the grade at the base of the tower before construction to the highest point shown on the facility plan. The Commission will hire an independent consultant to verify adequate coverage and justify tower height at the applicant's expense.

- 21.7.7 Tower Finish : New tower(s) shall have a galvanized finish unless otherwise required by the Commission. The Commission may require the tower(s) to be painted or otherwise camouflaged to minimize the adverse visual impact.

- 25.7.8 Tower Sharing/Camouflaging: Tower(s) must be of a structural type which will maximize potential sharing. Applicant must demonstrate the future utility of such structure for expansion of service for applicant and other future applicants. The Commission reserves the right to require stealth designs such as towers made to resemble trees or other structures.

- 25.7.9 Use Of Repeaters: The applicant shall demonstrate that it is not reasonably able to assure adequate coverage or to create adequate coverage in the Town of Kent from base stations located in other towns or to fill holes within the area of otherwise adequate coverage by use of repeaters. Site plan review before the Commission shall be required. Applicants shall detail the number, location, power output, and coverage of any proposed repeaters in their systems and provide engineering data to justify their use.

- 25.7.10 Coverage Area: If primary coverage (greater than 50%) from proposed telecommunications facility is outside of the Town of Kent, then a permit shall be denied unless the applicant can demonstrate an inability to locate within the Town which is primarily receiving service from the proposed facility.
- 25.7.11 Commercial Advertising: Commercial advertising shall not be allowed on any antenna, tower, or accessory building or communications equipment shelter.
- 25.7.12 Lighting: No external lighting is permitted, except for manually operated emergency lights for use only when operating personnel are on site.
- 25.7.13 Noise: Noise-producing equipment shall be sited and/or insulated to guarantee that no increase in noise above ambient levels measured at the property line occur. Noise levels pre and post shall be submitted at the commencement of operation and after each change or upgrade at the facility.
- 25.7.14 Navigation: No tower or telecommunications facility that would be classified as a hazard to air navigation, as defined by the Federal Aviation Regulations (Title 14 CFR as amended) is permitted.
- 25.7.15 Lot Size/Setback Requirements: Tower setbacks shall be measured from the base of the tower (unless guy-wired) to the nearest point along each property line of the parcel on which it is located.
- a. The minimum lot size for any telecommunications tower(s) or facilities shall be 10 acres.
 - b. No Repeater shall be closer than 200' to a dwelling unit measured at ground level, nor less than 35' above the ground.
 - c. Where guy wire supports are used, setbacks will begin at the base of the guy wire anchor(d) to the ground, not at the base of the tower.
 - d. No telecommunications facility or tower, including guy-wire anchors and protective fencing, if any, shall be located.
 - (1) Closer than 1,500' horizontally to any structure existing at the time of application which is used as a primary or secondary residence; to the property of any school (both public and private); to any church; or to any other public building. Primary or secondary residences are those dwelling units that include toilet facilities, and facilities or facilities for food preparation and sleeping.
 - (2) Closer than 1500 feet horizontally to any boundary line of the property upon which the tower(s) or facilities are located except, this restriction may be reduced to 200' if the applicant has obtained an easement from the owners of all properties located within 1500' precluding such owners, their heirs, successors, administrators and assignees from locating any structure used for a primary or secondary residence, private or public school, church or other public structures within 1500' of such towers or facility.
 - (3) Within the habitat of any state or federal, listed rare, threatened or endangered species of wildlife or plants.
 - (4) Within 75' horizontally of any Kent, State of Connecticut, or federally regulated wetlands.
 - (5) Within 75' of the outer riparian zone measured horizontally from any river or perennial stream.
 - (5a) Within 150' from a vernal pool.

- (6) Within 1500' of any historic building or property listed, or capable of being listed, on the State or Federal Register of Historic Places.
- (7) Within 500' horizontally of any known archaeological site. (The Commission may consult the State Archaeologist as to the Archaeological office for assistance in determining the existence or significance of any proposed site).
- (8) The Fall Zones for guy wire towers shall be at least 4 times the tower height; and for non-guyed towers, 2 and one half times the tower height.
- (9) In reviewing special permit applications, the Commission may allow the Fall Zones to extend within a neighboring property if it finds that a substantially better design will result from such a reduction.

Such neighboring property shall not be developed and will be subject to a legally binding agreement, secured by the applicant, preventing development during the time the tower is in place and holding the owner of such neighboring property harmless from any damages based upon or connected with the existence of such fall zone.

25.8 GENERAL APPLICATION REQUIREMENTS AND REQUIRED DOCUMENTATION:

The following shall be required in all applications:

25.8.1 Contract With Provider: An applicant for a telecommunications tower or facility special use permit must be a telecommunications provider, and/or must provide a copy of its lease/contract with an existing telecommunications provider. A special permit will not be granted for a tower/facility to be built on speculation. Copies of all lease/contracts must be provided with the application. The applicant will also provide copies of any applications in other towns within a 10 mile radius of the proposed site. The Commission may submit this copy to any other host town for review and comment.

25.8.2 Appropriate Signatures/Contacts: All applications shall require that the landowners, if separate from the tower owners and/or service providers, be co-applicants. Required documents include 1 each displaying original signature(s) and 5 photocopies. The following shall be provided:

- a. Signature(s) of landowner(s), applicant(s) tower owner(s).

An affidavit from the owner of the property acknowledging responsibility for the removal of a tower or facility that is deemed "abandoned" or unsafe by the Commission, or is in violation of this section or whose permit has expired and has not been reviewed by the Commission.

- b. Landowners shall also provide an affidavit expressing written consent for co-application, and copies of any and all leases or other agreements with tower owners, applicant(s) or other service providers.

- c. Contacts: The applicant shall submit the exact legal name, address or principal place of business and telephone number of the following:

- (1) Applicant. If any applicant is not a natural person, it shall also give the type of business entity and that the state in which it is registered. If any applicant is a corporation, trust, association, or other organized group or legal entity, it shall also provide the state under which it was created or organized and the date of such creation.

- (2) Person to whom correspondence or communications in regard to the application are to be sent. Notice orders and other papers may be served upon the person so named, and service shall be deemed to be service upon the applicant.

- (3) Person to be contacted in the event of an emergency involving the facility. This should be someone available on a 24 hour basis who is authorized by the applicant to act on behalf of the applicant regarding an emergency situation.
- (4) Owner of the property on which the proposed tower shall be located, and of the owner(s) of the tower on which the proposed facility shall be located. Written permission of the owner(s) to apply for the special use permit on the proposed property or facility site(s) for the town's independent consultant(s) to conduct any necessary site visit(s).
- (5) Identification, address, telephone number and contact person for each proposed service provider who might be named as an applicant, in addition to the landowner.

d. The Names And Addresses Of The Record Owners Of All Abutting Properties.

25.8.3 Evidence Of Need:

- a. Existing Coverage: Applicant shall provide written documentation demonstrating that existing telecommunications facility sites in Kent, in abutting towns, and within a 30 mile radius of the proposed site cannot reasonably be made to provide Adequate Coverage and/or Adequate Capacity to the Town of Kent. The documentation shall include, for each facility site listed which is owned or operated by the applicant, the exact location (in longitude and latitude, to degrees, minutes and second to be nearest tenth of a second), ground elevation, height of the tower or facility, type of antennas, antenna gain, height of antennas on tower(s), output frequency, number of channels, power output and maximum power output per channel. Potential adjustments to these existing facility sites, (including changes in antenna type), orientation, gain, height or power output shall be specified. Radial or tiled coverage plots showing each of these facility sites, as they exist, and with adjustments as above, shall be provided as part of the application.
- b. Repeater: Applicant shall demonstrate with written documentation that it has analyzed the feasibility of repeaters in conjunction with all facility sites listed in compliance with 16.8.2A (above) to provide Adequate Coverage and/or Adequate Capacity to the Town of Kent. Radial or tiled coverage plots of all repeaters considered for use in conjunction with these facility sites shall be provided as part of the application.
- c. Indirect Service: Applicant shall demonstrate which portion of a tower or facility and which antennas, if any, are to reduce or eliminate reliance on land-lines, or otherwise provide communications capability to the applicant, as opposed to providing direct service to customers. Such provision of indirect service may be considered if reasonable alternatives are not available and the overall effect is consistent with the purposes set forth in Section 16.1 of this regulation.
- d. Five Year Plan: All applications shall be accompanied by a written five-year plan for the utilization of the proposed facilities. This plan should include justification for capacity in excess of immediate needs, as well as plans for any further development within the Town of Kent.
- e. The applicant shall further demonstrate with written documentation that it has investigated all available "state of the art" alternative technologies which might be effectively employed to provide Adequate Coverage and/or Adequate Capacity to the Town of Kent in lieu of its proposed facility.

25.9 REQUIRED LEGAL AND TECHNICAL DOCUMENTATION:

The following documents are required in all applications:

- 25.9.1 Federal/State Permits: Applicant shall submit copies of all pertinent submittals and showings pertaining to: FCC permitting/licensing; Environmental Assessments and Environmental Impact Statements; FAA Notice of Construction or Alternation; Aeronautical Studies; all pertinent data, assumptions and calculations relating to service coverage; and all pertinent calculations and measurements data and related to non-ionizing radiation emissions and exposure, regardless of whether categorical exemption from routine environmental evaluation under the FCC rules is

claimed. Copies of all information submitted in compliance with requirements of the Connecticut State Siting Council and the Connecticut Department of Public Utilities shall also be submitted.

- 25.9.2 Surety: Details of proposed method of financial surety as required in Section 16.7.C (Landscaping/Screening), 16.16 (Abandonment), 16.17 (Duty Of Remove) and 16.18 (Failure To Remove) of these regulations.
- 25.9.3 Commitment To Available Space: Applicants for new tower construction or modification permits shall provide a written, irrevocable commitment valid for the duration of the existence of the tower, to rent or lease available space for co-location on the tower at fair market prices and terms, without discrimination against other telecommunications providers.
- 25.9.4 Lease Of Tower: Applicants for a special use permit for a facility to be installed on an existing tower shall provide a copy of its lease/contract with the owner of the existing structure.
- 25.9.5 Applications/Plans For other Facility Sites: Applicants shall submit any applications or plans for other facility sites within a 10 mile radius of the Town of Kent. Applicants shall submit any existing facility sites within a 30 mile radius for all towers and facilities of the Town of Kent.
- 25.9.6 Site Plans And Maps: Required are physical plant plans, prepared, stamped and signed by a professional engineer. Survey plans shall be stamped and signed by a land surveyor registered in Connecticut. Signal propagation and radio-frequency studies, plots and related material shall be prepared clearly identified and signed by a qualified radio-frequency engineer. Power density calculations shall be in accordance with "worst case" formulas in the Office of Engineering and Technology (FCC Bulletin 65, August 1997) as amended or superseded. Radial plots shall be in bright colors, showing clear demarcations between signals strengths. Plans shall be on 24"X36" sheets, on as many sheets as necessary, and at scales which are no smaller (i.e. no less precise) than listed below. Each plan sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and original seal(s) and signature(s) of the professional(s) who prepared the plan. Proposed site plans (include 5 copies) require the following:
- 25.9.6.1 Location Map: Copy of a portion of the most recent U.S.G.S. Quadrangle Map, at a scale of 1:25:000, and showing the area within at least two miles from the proposed tower site. Indicate the tower location and the exact latitude and longitude (degrees, minutes, and seconds to the nearest tenth).
- 25.9.6.2 Vicinity Map: At a scale of 1"= 416' (1:5000) with contour intervals no greater than 10 feet (3 meters) showing the entire vicinity within 2500' radius of the tower site, and including the topography, public and private roads and driveways, buildings and structures, bodies of water, wetlands, landscape features, historic and archaeological sites, and habitats for endangered or threatened species. Indicate the property lines of the proposed tower site parcel and of all abutters to the tower site parcel (from assessor's maps or available surveys). Indicate any access easement or right of way needed for access from a public way to the tower and/or facility site, and the names of all abutters or property owners along the access easement or who have deed rights to the easement. Locate all residential or commercial structures, schools, churches, or public buildings within 1750' of the proposed Base of the Tower.
- 25.9.6.3 Existing Conditions Plan: A recent survey of the area within 500' of the tower site at a scale no smaller than 1"= 40' with topography drawn with a minimum of 2' contour intervals, showing existing utilities, property lines, existing buildings or structures, stone walls or fence lines, wooded areas, existing water wells and springs, individual trees with diameters greater than 12" within a 200' radius from the base of the proposed tower (labeled with their species and current heights). Show the boundary of any wetlands or floodplains or watercourses, and of any bodies of water included in the area encompassing 500' from the tower or any related facilities or access ways, or appurtenances. The survey must have been completed, on the ground, by a land surveyor registered in Connecticut at least two years prior to the application date.

25.9.6.4 Proposed Site Plan: Proposed facility site layout, grading and utilities at the same scale or larger than the Existing Conditions Plan (above).

- a. Proposed tower location and any appurtenances including supports and guy wires, if any, and any accessory building (communication equipment shelter or other). Indicate property boundaries and setback distances to the base(s) of the tower and to the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements. Where protective fencing is proposed, indicate setback distances from the edge of the fencing.
- b. Indicate proposed spot elevations at the base of the proposed tower and at the base of any guy wires, and the corners of all appurtenant structures.
- c. Proposed utilities, including distance from source of power, sizes of service available and required locations of any proposed utility or communication lines, and exact locations of the underground route. Detail plans for emergency power generation including:
 - (1) Demonstration of percent of electrical demand being proposed in event of loss of commercial power.
 - (2) Type of fuel, storage method and expected means and frequency of fuel delivery to the site for power generation.
 - (3) Amount of generator time based on historic power reliability for the area of the facility, proposed frequency and duration of tests, and description of muffler system and methods for noise abatement.
 - (4) Feasibility of wind and/or solar power in conjunction with storage batteries.
- d. Limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alteration.
- e. Any direct or indirect wetlands alteration, disturbance or impact, proposed or incidental to such proposal.
- f. Detailed plans for drainage of surface and/or sub-surface water; plans to control erosion and sedimentation both during construction and as a permanent measure.
- g. Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, etc.; any exterior lighting or signs.
- h. Plans of proposed access driveway or roadway and parking area at the tower site. Include grading, drainage, traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.
- i. Plans showing any changes to be made to an existing facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking or other infrastructure as a result of a proposed modification of the facility.

25.9.6.5 Proposed Tower And Appurtenances Plan: (Include 5 Copies)

- a. Plans, elevations, sections and details at appropriate scales but no smaller than 1"=10'.
- b. Two cross sections through proposed towers drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing, and showing any guy wires or supports. Dimension of the proposed height of tower above average grade at tower base. Show all proposed antennas, including their location on the tower.

- c. Details of proposed tower foundation, including cross-sections and details. Show all ground attachments, specifications for anchor bolts and other anchoring hardware.
- d. Detail of proposed finish of the tower.
- e. Indicate relative height of the tower to the tops of surrounding trees as they presently exist, and the height to which they are expected to grow in ten years.
- f. Illustration of the modular structure of the proposed tower indicating the heights of sections which could be removed or added in the future to adapt to changing communications, conditions or demands.
- g. A professional structural engineer's written description of the proposed tower structure and its capacity to support additional antennas or other communications facilities at different heights and the ability of the tower to be shortened if future communications facilities no longer require original height.
- h. A description of available space on the tower, providing illustrations and examples of the type and number of telecommunications facilities which could be mounted on the structure.

25.9.6.6 Proposed Communications Equipment Shelter Plan:

- a. Floor plans, elevations, and cross sections at a scale no smaller than $\frac{1}{4}'' = 1'$ of any proposed appurtenant structure.
- b. Representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials.

25.9.6.7 Proposed Equipment Plan:

- a. Plans, elevations, sections and details at appropriate scale, but no smaller than $1'' = 10'$.
- b. Number of antennas and repeaters, as well as the exact locations of antennas and of all repeaters (if any) located on a map as well as by degrees, minutes and seconds to the nearest tenth of latitude and longitude.
- c. Mounting locations on tower or structure, including height above ground.
- d. A recent survey of the facility site at a scale no smaller than $1' = 40'$ showing horizontal and radial distances of antenna(s) to nearest point on property line, and to the nearest dwelling unit.
- e. Antenna(s) types, manufacturer(s), model number(s).
- f. For each antenna, the antenna gain, and antenna radiation pattern.
- g. Number of channels per antenna, projected and maximum.
- h. Power input to the antenna(s).
- i. Power output from the antenna(s).
- j. Output frequency of the transmitter(s).

- k. For modification of an existing facility with multiple emitters, the results of an intermodulation study to predict the interaction of the additional equipment with existing equipment.

25.9.6.8 Visibility Maps/Sight Lines:

- a. A minimum of eight (8) view lines in a zero (0) to two (2) mile radius from the site, shown beginning at True North and continuing clock-wise at forty-five degree intervals.
- b. Applicant shall utilize the U.S.G.S. Quadrangle map, at a scale of 1"=400' with vertical scale of 1"= 40'. Trees shall be shown at existing heights and at projected heights in ten years.
- c. A map of the Town of Kent on which any visibility of the proposed tower from a public way (including all existing public rights of way), shall be indicated.

25.9.7 Balloon Tests: Within 35 days of submitting an application, the applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height of the tower and within 50 horizontal feet of the center of the proposed tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant at 7 and 14 days in advance of the first test date. The applicant shall inform the Commission and all abutting property owners, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours some time between 9:00AM and 5:00PM on the dates chosen.

25.9.8 Visual Analysis: The applicant shall develop and submit a written analysis of the visual impact of the proposed tower. This analysis shall include photographs of the balloon test taken from at least 10 different perspectives within the Town of Kent.

25.10 MONITORING AND EVALUATION OF COMPLIANCE: The Kent Planning and Zoning Commission, and the Zoning Enforcement Officer shall have authority over the hiring of independent engineers to enforce monitoring and compliance with this section, to be paid for by the applicant in this case as part of its application fee.

25.10.1 Monitoring Protocol: The Commission will consult with an independent engineer regarding the choice of a monitoring protocol to be used. This may include the Cobbs Protocol, the FCC OET Bulletin 65, Edition 97-01, August 1997, referenced in FCC Regulations, Title 47, Part 1, Section 1.1307 as IEEE C95.3 1991, or any other protocol that the Commission adopts as the technology changes. The same protocol will be used from year to year until such time as new protocols are developed.

25.10.2 Pre-Testing: After the granting of a special permit and before the facility begins transmission, the applicant shall pay for an independent consultant RF engineer, chosen and hired by the Commission, to monitor the background levels of EMF radiation around the proposed facility site and at appropriate distances from it, and/or at any repeater locations to be utilized for the applicant's wireless facilities. The independent consultant shall use the specified monitoring protocol. A report of the monitoring results shall be prepared by the independent consultant and submitted to the Planning and Zoning Commission.

25.10.3 Post-Testing: Within 30 days after transmission begins, the owner(s) of any wireless services located on the tower/facility site shall pay for an independent consultant RF engineer, chosen and hired by the Commission, to conduct testing and monitoring of EMF radiation emitted from said site, and to report results of said monitoring as follows:

- a. There shall be routine annual monitoring of emissions on the anniversary date of the instillation of service by an independent RF engineer using actual field measurements of radiation, utilizing the monitoring protocol. This monitoring shall measure levels of EMF radiation from the facility site's primary antennas as well as from repeaters (if any). A report of the monitoring results shall be prepared by the RF engineer and submitted to the Zoning Enforcement Officer.
 - b. Any major modification of an existing facility, or the activation of any additional permitted channels, shall require new monitoring.
- 25.10.4 Excessive Emissions: Should the monitoring of a facility site reveal that the site exceeds the current applicable FCC standards and guidelines, then the owner(s) of all facilities utilizing the site shall be notified. In accordance with FCC requirements, the owner(s) must immediately reduce power or cease operation as necessary to protect persons having access to the site, tower, or antennas or the general public. In addition, the owner(s) shall submit to the Commission and the Building Inspector an analysis of what caused the problem and a plan for the reduction of emissions to a level that complies with the FCC standards within 10 business days of non-compliance. Failure to accomplish this reduction of emissions within 15 business days of initial notification of non-compliance shall be a Zoning Violation subject to fines and such other remedies as are otherwise available to the Town, Commission or ZEO pursuant to Connecticut General Statutes. Such fines shall be payable by those providers with antennas on the facility site, until compliance is achieved. Each day the facility emissions are in excess of FCC standards shall constitute a separate zoning violation.
- 25.10.5 Structural Inspection: Tower owner(s) shall pay for an independent consultant, a licensed structural engineer chosen and hired by the Commission, to conduct inspections of the tower's structural integrity and safety. Guyed towers shall be inspected every three years. Monopoles and non-guyed lattice towers shall be inspected every five years. A report of the inspection results shall be prepared by the independent consultant and submitted to the ZEO, the Town of Kent Planning and Zoning Commission. Any major modification of an existing facility which includes changes to the tower dimensions or antenna numbers or type shall require a new structural inspection.
- 25.10.6 Unsafe Structure: Should the inspection of any tower reveal any structural defect(s) which, in the opinion of the independent consultant renders that tower unsafe, the following actions must be taken: Within 10 business days of notification of unsafe structure, the owner(s) of the tower shall submit a plan to remedy the structural defect(s). This plan shall be submitted within 10 business days of the submission of the remediation plan, and completed as soon as reasonably possible. Failure to accomplish this remediation of structural defect(s) within 10 business days of initial notification shall be a Zoning Violation subject to fines. Such fines shall be payable by the owner(s) of the tower until compliance is achieved.
- 25.11 CO-LOCATION AND TOWN SERVICES: Licensed carriers shall share facilities and sites with other licensed carriers where feasible, thereby reducing the number of stand-alone facilities. The conversion of a single-use facility to a co-location shall be considered a modification. The Commission may require as a condition of approval of the special permit that the tower/facility owners dedicate a space on the facility for the Town of Kent municipal emergency services for public health and safety purposes. Any such dedications and/or improvements to existing emergency services will be negotiated prior to approval of the special permit.
- 25.12 SEPARATION OF TOWERS: Separation distances between communications towers shall be applicable for and measured between the proposed tower and those towers that are existing and/or have received special permit approval. The separation distances shall be measured by drawing a straight line between the base of the existing tower and the base of the proposed tower pursuant to the site plan. The separation distance (listed in linear feet) shall be as follows:
- a. Lattice – 5000 linear feet
 - b. Guyed – 5000 linear feet
 - c. Monopole (150' in height) – 3,500 linear feet

- d. Monopole (80' to 150' in height) – 2,500 linear feet
- e. Monopole (less than 80' in height) – 500 linear feet

The separation distances listed above may be modified by the Commission depending on other site criteria in co-locations.

25.13 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA): NEPA applies to all applications for wireless communications facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CRF ch1) as amended. The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any wireless communications facility proposed in, or involving, any of the following:

- a. Wilderness areas
- b. Wildlife preserves
- c. Endangered species habitat
- d. Historical site
- e. Indian religious site
- f. Flood plain
- g. Wetlands
- h. High intensity white lights in residential neighborhoods
- i. Excessive radiofrequency radiation exposure

25.13.1 At the time of application, an Environmental Assessment that meets FCC requirements shall be submitted to the Commission for each regulated facility site that requires such an environmental assessment to be submitted to the FCC.

25.13.2 The applicant shall identify and assess the impact of the proposed facility on areas recommended for conservation in the Kent Plan of Development, as well as the state plan of conservation and development.

25.13.3 The applicant will also list the location, type and amount (including trace elements) of any materials proposed for use within the facility that are considered hazardous by federal, state or local governments.

25.14 FEE SCHEDULING AND BONDING:

25.14.1 Application Fees: Upon submission of signed application that meets all of the criteria herein described, including all supporting documents and maps, and application fee shall be submitted to the Town of Kent in relation to the fee schedule.

25.14.2 Financial Surety: As a condition of approval of a special permit, the applicant shall provide in cash a separate Demolition Bond in an amount determined and approved by the commission. The bond shall be for a duration, and in a form and manner of surety as determined by the Commission, with provision for inspection and town removal of facilities in the event of failure to perform by the responsible parties as defined in Section 16.17 (Duty of Removal) and shall include an inflation factor of at least 3% per year during the projected lifetime of the subject facility or tower.

25.14.3 Performance Bonds: The Commission will require additional Performance Bonding, payable at the time of application, as deemed necessary to protect facility building site(s) during construction; and to hire independent consultants/engineers to review applications and monitor facilities.

25.14.4 Independent Consultants Fees: At the time of application, the Commission may require a separate escrow fund, in an amount to be determined, to cover independent consultant's fees.

25.15 INSURANCE AND INDEMNIFICATION:

25.15.1 Insurance: The Town of Kent shall not enter into any lease agreement, or otherwise authorize a tower site or facility by any telecommunications service provider until and unless the Town obtains assurance that such operator (and those acting on its behalf) having adequate insurance as determined by the Commission. At a minimum, the following insurance requirements shall be satisfied:

- a. A telecommunications facility operator shall not commence construction or operation of the facility without obtaining all insurance required under this section and approval of such insurance by the contractor or subcontractor to commence work on its contract until all similar such insurance required for the same has been obtained and approved by the Commission. The required insurance must be obtained and maintained for the entire period the telecommunications facility is in existence. If the operator, its contractors or subcontractors do not have the required insurance, the Town will order such entities to cease operation of the facility until such insurance has been obtained and approved by the Commission.
- b. Certificate(s) of insurance verifying such insurance shall be filed with the Commission at the time of application. For entities that are entering the market, the certificate(s) shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse of coverage. Such certificate(s) should provide the name, address and telephone number of the insurance carrier; and identify an agent in case of inquires.
- c. The certificate(s) of insurance shall contain a provision that coverages afforded under such policies shall not be canceled until at least thirty (30) days prior written notice has been given to the Town. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Connecticut.
- d. Where applicable, in the event that the insurance certificates(s) provided indicates that the insurance will terminate or lapse during the term of the lease agreement with the Town, then in that event the telecommunications facility(s) operator shall furnish a renewed certificate of insurance as proof that equal and like coverage remains in effect for the balance of the lease term, at least thirty (30) days prior to the expiration of the date of such insurance.
- e. A telecommunications facility operator and its contractors or subcontractors engaged in work on the operator's behalf shall maintain minimum insurance in the amounts determined by the Commission to cover liability, bodily injury, and property damage. The insurance shall cover, but not be limited to the following exposures: premises, operations, and certain contracts. Such coverage shall be written on an occurrence basis and shall also be required under any lease agreement between the Town and the telecommunications facility operator.

25.15.2 Indemnification: The Town shall not enter into any lease agreement or otherwise authorize tower siting by a telecommunications service provider until and unless the Town obtains an adequate indemnification from such provider. This indemnification must at lease:

- a. Release the Town of Kent from, and against, any and all liability and responsibility in or arising out of the construction, operation, or repair of the telecommunications facility. Each telecommunications facility operator must further agree not to sue or seek any monies or damages from the Town in connection with the above mentioned matter.
- b. Indemnify and hold harmless the Town of Kent its elected and appointed officers, agents, servants, and employees, from and against any and all claims, demands, or causes of action whatsoever kind of nature, and the resulting losses, costs, expenses, reasonable attorney's fees, liabilities, damages, orders, judgements or decrees, sustained by the Town or any third party arising out of, or by any reason of, or resulting from, or

out of each telecommunications facility(s) operator's agent's, employee's, or servant's negligent acts, errors or omissions.

- c. Provide that the covenants and representations relating to the indemnification provision shall survive the term of any agreement and continue in force and effect as to the responsibility of the party to indemnify.

25.16 ABANDONMENT AND DISCONTINUATION OF USE:

Any telecommunications facility which ceases to operate for six (6) consecutive months shall be deemed to be abandoned and removed within ninety (90) days. "Cease to operate" is defined as not performing the normal functions associated with a telecommunications facility and its equipment on a continuous and on-going basis for a period of six (6) consecutive months. Determination of the date of abandonment shall be made by the Zoning Enforcement Officer who shall have the right to request documentation and/or affidavits from the telecommunications tower owner/operator/service provider(s) regarding the subject of tower usage. Failure or refusal for any reason by the owner/operator/service provider(s) to respond within twenty (20) days to such request shall constitute prima facie evidence that the communications tower has been abandoned. Upon a determination of abandonment and notice thereof to the owner/operator/service provider(s), the owner(s) and all others listed as responsible parties in 60.17 (below), shall remove the tower and all facilities, and restore the site to its original condition within 90 days. At the time of removal, the facility site shall be remediated such that all telecommunications facility improvements which have ceased to be utilized are removed. If all facilities on a tower have ceased to operate, the tower shall also be removed, and the site shall be revegetated. Existing trees shall only be removed if necessary to complete the required removal. Applicant shall, as a condition of the special use permit, provide a cash bond payable to the Town of Kent and acceptable to the Commission to cover the cost of removal of the telecommunications facility, and the remediation of the landscape, should the facility cease to operate together with an inflation factor as set forth in Section 21.24.2 hereinabove. Any special permit granted for the facility will automatically expire.

25.17 DUTY TO REMOVE: The following are considered jointly and severally to be the responsible parties for tower/facility removal and site remediation:

- a. The owner of the abandoned tower (and concurrently, the operator of the abandoned tower.)
- b. The owner of the land upon which the abandoned tower is located.
- c. The lessee, if any, of the land upon which the tower is located.
- d. The sublessee or sublessees, if any, of the land upon which the tower is located.
- e. Any communications service provider who, or which, by ceasing to utilize the tower or otherwise failing to operate any of its transmitters for antennas on the tower for which it leased space or purchased the right to space on the tower for its transmitters or antennas, and by such ceasing or failure to utilize the tower, in fact caused the tower to become abandoned.
- f. Any person to whom, or entity to which, there has been transferred or assigned any license issued by the FCC and under which the tower owner/operator operated the tower/facility.
- g. Any person or entity which has purchased or otherwise attained all or a substantial portion (more than 10%) of the assets of the tower owner/operator/service provider(s).
- h. Any entity which has merged with, or which has arisen or resulted from a merger with, the tower owner or operator or service providers(s).
- i. Any person or entity which acquired the owner or the operator of the abandoned tower.
- j. Any parent or subsidiary of any of the foregoing which happens to be a corporation.
- k. Any managing partner of any of the foregoing which happens to be a limited partnership.

l. Any partner of any of the foregoing which happens to be a general partnership.

25.18 FAILURE TO REMOVE: In the event that the responsible parties have failed to remove the tower and/or restore the facility site within 90 days, the Town of Kent may remove the tower and restore the site using the surety bonds deposited at the time of application, and may thereafter initiate judicial proceedings against the responsible parties for any portion of the cost not covered by the cash bond.

25.19 FUTURE NON-CONFORMING USES: If at any time the Commission finds that the technologies pertaining to communications towers/facilities have changed such that wireless communications can be readily provided with no towers (such as satellite systems), or with towers or other structures that are substantially less intrusive to residential and commercial areas, and substantially more aesthetic for neighborhoods and commercial areas, or in that the service providers in the county and/or their customers, are making frequent uses of the new technologies (above 30% for customer use, or above 30% of business revenue base per service provider), in the installation of new communication systems, or in the expansion of existing systems (whether such installation or expansion are occurring in Kent or elsewhere), the Commission may declare to be non-conforming uses all communications towers then existing in the Town of Kent. The Commission shall declare such towers/facilities to be non-conforming uses in an ordinance which amends these regulations to make such towers/facilities non-permitted uses altogether in residential and commercial areas. The Commission will then determine if the new technologies are appropriate uses for the pre-existing site. If it determines that the upgrading of the facilities are appropriate uses, the Commission may determine that the new technologies are permitted uses, or special exceptions requiring special permits.

The Commission may then set such time limits as are reasonably and legally permissible for the service providers and tower owners/operators to remove non-conforming towers and replace them with the new technologies. This paragraph shall be effective only if, and to the extent not prohibited or pre-empted, by state or federal law.

25.20 PERMIT EXPIRATION: A special permit granted pursuant to this section shall expire five (5) years from the date of approval. The special permit may be renewed for a new five (5) year period on applications to the Commission, in a form prescribed by the Commission, submitted to the Commission not later than ninety (90) days before the existing special permit expiration date. Upon such a renewal application, the applicant shall affirmatively demonstrate that all the conditions which form the basis of the initial approval set forth in section 60.6.3; 60.7.10; 60.8.1; 60.8.2 and 60.8.4 remain as those conditions existed on the date of the initial approval.

25.21 SEVERABILITY CLAUSE: The invalidity of any section or provision of this regulation shall not invalidate any other section or provision hereof.

SECTION 26

WIND TURBINES, TOWERS AND ENERGY PRODUCING WIND DEVICES

26.1 PURPOSE

The purpose of this regulation is to allow the safe, effective, and efficient use of small wind energy systems at a capacity of 5-50 kW, which are installed to reduce the on-site consumption of utility supplied electricity, subject to reasonable conditions that will protect the public health, safety and welfare. Such systems are not to be utility scale, where the primary use is electrical generation to be sold on the wholesale electricity market.

26.2 APPLICABILITY

- a. This section applies to all proposals to construct on-site wind facilities at a capacity of 5-50 kW Rated Nameplate Capacity.
- b. Any physical modification to existing wind facilities that materially alters the type, or increases the size, of such facilities or other equipment may require a special permit subject to section 4.15.
- c. The construction of a Wind Facility shall be permitted in the RU zoning district subject to the issuance of a Special Permit in accordance with this Section and Section 4 of these Regulations.

26.3 DEFINITIONS

Commission: The Kent Planning and Zoning Commission.

On-Site Wind Facility: A wind turbine, tower and appurtenant structures located at a residential, agricultural, institutional, or municipal facility.

Height: The vertical distance from the average finished ground level at the main tower edges to the highest point of the structure, including any blade, lightning rod or antenna. If a blade extends above the tower at any point in its arc, then the tip of the rotor blade at its highest point, or blade-tip height shall be used.

Rated Nameplate Capacity: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

Substantial Evidence: Such evidence as a reasonable and prudent person might accept as adequate to support a valid conclusion.

Wind Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission lines and support structures, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

Wind Monitoring or Meteorological Tower: A temporary tower erected for a period not to exceed 12 months, equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

Wind Turbine: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, accelerator platform or nacelle body, and one or more rotors, with two or more blades for each rotor.

26.4 GENERAL REQUIREMENTS

- a. No wind facility shall be erected, constructed, installed or modified so as to change bulk or height, without first obtaining a Special Permit from the Kent Planning and Zoning Commission (“the Commission”) in accordance with the application requirements and review procedures of Section 4 of these Regulations.
- b. Required Findings-No special permit shall be granted unless the Commission finds in writing that:

1. Any wind facility will be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts on adjoining properties and the surrounding neighborhood or on the natural characteristics of the site and immediate surrounding area and will pose no hazard to pedestrians or vehicles on any public right of way;
 2. The proposed use and site development will not threaten public health, safety, welfare and are appropriate for and compatible with the neighborhood surrounding the site, based on consideration of the “standards for approval” provided in Section 4.15.3 of these Regulations;
 3. The wind facility comports with the siting and design standards of this Section and the applicable provisions and requirements of Sections 4, 6, 13A, 17 and 19 of these Regulations;
 4. The applicant has demonstrated that adequate and appropriate facilities will be provided for the proper operation of the use.
- c. Such permits may also impose reasonable conditions, safeguards and limitations on time and use, and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind facility, should any occur.
 - d. Temporary (not to exceed 12 (twelve) months) Wind Monitoring or Meteorological Towers, when associated with planning for a wind facility, shall be permitted in the RU zoning district, subject to issuance of zoning and building permits for a temporary structure, and subject furthermore to all applicable regulations concerning lot area, setbacks, open space, parking, and building coverage requirements. Additionally, Wind Monitoring or Meteorological Towers shall not exceed two (2) feet width at the base of tower and one hundred twenty five (125) feet in height.
 - e. Compliance with Laws, Ordinances and Regulations - The construction and operation of all such proposed wind facilities shall be consistent with all applicable local, state and federal requirements, including, but not limited to, all applicable safety, construction, environmental, electrical, communications and aviation requirements. With respect to noise requirements, see Section 17.4.3 of these Regulations.
 - f. Proof of Liability Insurance - Before construction may begin, the applicant shall be required to provide evidence of liability insurance in an amount and sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility. This coverage shall comply with current industry standards.
 - g. Site Control - At the time of its application for a special permit, the applicant shall submit documentation of actual or prospective legal rights for the use and possession of the project site sufficient to allow for the intended purpose. If required, the application shall also include documentation concerning the right to use setback areas and access roads. Site Control shall include the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

26.5 GENERAL SITING STANDARDS

- a. Height - Wind facilities shall not exceed 125 feet in height.
- b. Setbacks - Wind facilities shall be setback, as measured from the center of the tower: (a) from the nearest existing habitable structure, a distance equal to 1.5 times the overall blade tip height for a wind facility that has exposed blades and 1.5 times the overall height for a wind facility that has shrouded blades, and (b) from any property boundary line or road a minimum of 200 (two hundred) feet.
- c. The Commission may reduce the minimum setback distance as appropriate based on site-specific considerations, if the project satisfies all other criteria for the granting of a special permit under the provisions of this section.

26.6 DESIGN STANDARDS

- a. The Wind turbine, tower, blades and all other components shall have a non-reflective finish or coating.
- b. Lighting and Signage
 1. Lighting - Wind facilities shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be designed to minimize glare on abutting properties and, except as required by the FAA, be directed downward with full cut-off fixtures to reduce light pollution.
 2. Signage
 - a. Signs on the wind facility shall comply with the requirements of the town's sign regulations, and shall be limited to those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger; those required by state or federal law; or educational signs providing information about the facility and the benefits of renewable energy.
 - b. All signage shall be located at the base of the facility.
 - c. All signage shall conform to the requirements of section 19.
- a. Advertising - Wind facilities shall not be used for displaying any advertising, except for reasonable identification of the manufacturer or operator of the wind energy facility located at the base of the facility.
- b. Utility Connections - Utility connections and transmission lines shall be buried. Electrical transformers for utility interconnections may be above ground, if required by the utility provider.
- c. Appurtenant Structures - All structures appurtenant to such wind facilities shall be subject to applicable regulations concerning the bulk and height of structures, as well as regulations determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.
- d. Support Towers - Monopole and space frame/lattice towers are the only permissible support towers for Wind Facilities. No guy wires shall be permitted.

26.7 SAFETY, AESTHETIC AND ENVIRONMENTAL STANDARDS

- a. Emergency Services - The applicant shall provide a copy of the project summary and site plan to the local emergency services entity, as designated by the Commission. Upon request, the applicant shall cooperate with local emergency services in developing an emergency response plan.
- b. Unauthorized Access - The Wind Facility shall be designed to prevent unauthorized access.
- c. Shadow/Flicker - Wind facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that flicker does not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.
- d. Noise - The Wind Facility shall conform to any applicable provisions of the Torrington Area Heath District (TAHD) Noise Control Regulation and all other applicable noise laws, regulations and statutes including section 17.4.3 of these Regulations.
- e. Land Clearing, Soil Erosion and Habitat Impacts - Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility

and is otherwise prescribed by applicable laws, regulations, and ordinances including, but not limited to sections 17 and 13A, Horizon Conservation District.

26.8 MONITORING AND MAINTENANCE

- a. Facility Conditions - The applicant shall maintain the wind facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and the director of Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind facility and any dedicated access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of construction and operation.
- b. Modifications - All modifications that increase bulk, increase height or change the location of a wind facility made after issuance of the special permit shall require amendment of that special permit by the Commission.

26.9 ABANDONEMENT OR DECOMMISSIONING

- a. Removal Requirements - Any wind facility which has reached the end of its useful life, or has been abandoned, shall be removed. When the wind facility is scheduled to be decommissioned, the applicant shall notify the town by certified mail, including the proposed date of discontinued operations and plans for removal. The applicant or current owner shall physically remove the wind facility no more than 180 days after the date of discontinued operations. At the time of removal, the wind facility site shall be restored to the state it was in before the facility was constructed, from grade level and above, but excluding any need to replace trees or other vegetation that may have previously occupied the site, and similarly excluding the need to reconstruct structures once present, or the site may be converted to any other legally authorized use. More specifically, decommissioning shall consist of:
 - 1. Physical removal of all wind facilities, structures, equipment, security barriers and transmission lines from the site.
 - 2. Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
 - 3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Commission may allow the owner to leave landscaping or certain visible foundations in order to minimize erosion and disruption to vegetation.
- b. Abandonment - Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Commission. The Commission shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant or current owner fails to remove the wind facility in accordance with the requirements of this section within 180 days of abandonment, or the proposed date of decommissioning, the town shall have the authority to enter the property and physically remove the facility. In the case of town removal, all costs incurred by the Town of Kent to remove and dispose of a wind facility and the restoration of its site shall be reimbursed by the property owner to the town within 30 days of the completion of the work.

26.10 SUPPLEMENTAL APPLICATION INFORMATION

- a. In order to assess the visual impact if any proposed wind facility installation the Commission may require additional information including but not necessarily limited to:
 - 1. Photographic simulations or temporary erection of a crane or flight of a suitable inflated object to simulate the proposed tower height *in situ*, and
 - 2. A shadow-cast plan map showing the extent of shadow from the proposed tower in all seasons.
- b. If determined necessary, the Commission may require engineering documentation to demonstrate that the proposed facility will create no radio or television interference.

- c. Upon a determination of necessity by the Commission, the applicant shall submit a plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting (other than FAA-required lights), screening vegetation or structures. Lighting shall be designed to minimize glare on abutting properties, except as required by the FAA.
- d. The Commission may require a plan for maintenance of access roads and storm water controls, as well as a plan for general procedures for operational maintenance of the wind facility.

26.11 TERM OF SPECIAL PERMIT

A special permit issued for a wind facility shall be valid for 25 years, unless extended or renewed. The time period may be extended, or the permit renewed, by the Commission. Any request for extension or renewal must be submitted at least 180 days prior to expiration of the special permit. The submission of an extension or renewal request shall allow for continued operation of the facility until the Commission acts. Upon the expiration of the special permit (including extensions and renewals), the wind facility shall be removed within 180 days as required by this section.

26.12 COMPLIANCE DOCUMENTS

If required under previous sections of this regulation, the applicant will provide with the application:

- a. Proof of liability insurance that satisfies 26.4.f of this section,
- b. Certification of height approval from the FAA, or documentation showing that this is not necessary,
- c. A statement that satisfies Section 17.4.3 of these regulations, including a listing of existing and maximum projected noise levels from the wind facility.