

SECTION 11
SPECIAL REGULATIONS

11.0 Special Regulations. The following uses may be allowed in the Zones indicated in Section 5 (Use Regulations) of these Regulations, only in accordance with the special conditions, requirements, or standards set forth in this section.

11.1 RESERVED

11.2 Golf Courses. The Commission may grant a Special Permit in accordance with Section 13.B (Special Permit) for a golf course, provided that all standards and requirements of that section are met, and, in addition, in compliance with the following provisions:

- a. golf Courses shall be approved only in those Zones where they are permitted in Section 5 (Use Regulations) of these Regulations;
- b. for purposes of these Regulations, compatible recreational facilities, such as outdoor swimming pools and tennis courts, may be considered accessory uses to a golf course, provided that such uses are of such character, size, and intensity as to conform to the definition of accessory uses as set forth in these Regulations;
- c. service of food and the sale of alcoholic beverages from a service bar only for consumption on the premises shall be considered accessory uses to a golf course, provided that such uses are of such character, size and intensity as to conform to the definition of Accessory Uses as set forth in these Regulations, and, provided further that such golf course consists of at least nine (9) holes;
- d. sale or rental of golf clubs, golf accessories, clothing, and similar items in a "pro shop" shall be considered accessory uses to a golf course, provided that such uses are of such character, size and intensity as to conform to the definition of Accessory Uses as set forth in these Regulations;
- e. in considering an application for a golf course, the Commission shall treat the use as a non-residential activity in a Residential Zone and shall take into consideration the size and location of the proposed use, the nature and intensity of the operations involved, the size of the site with respect to the existing or future street(s) giving access to it, and other factors, so as to insure that the proposed golf course shall be such that it will be in harmony with the orderly development of the area. The location, nature and height of buildings, walls and fences shall not discourage the appropriate development and use of adjacent residential land and buildings for residential uses nor impair the value thereof;
- f. the applicant shall provide detailed information concerning the sources of irrigation waters, and volumes required, and the method of distribution

and application. The applicant shall also provide detailed information concerning the fertilizers, herbicides, pesticides, and other chemicals to be employed in the facility, the quantities to be stored on site and the precautions to be taken in their storage and handling, the methods of application and a monitoring plan to ensure early detection of groundwater contamination. In considering an application for a golf course, the Commission shall consider: the potential impacts on the volume of surface and subsurface waters available to surrounding or down-gradient properties and shall require the efficient use of irrigation waters; the use of best management practices for the storage, handling, and application of lawn care chemicals to minimize adverse impacts to ground and surface waters; and, the adequacy of the applicant's long-term groundwater monitoring program.

[Added effective 3-7-08]

11.3 Community Residence for Mentally Ill Adults. A community residence as permitted by State Statutes which houses staff and not more than eight (8) mentally ill adults which is licensed as such by the Connecticut Commissioner of Health Services may be permitted in those Districts indicated in these Regulations upon receipt of a Certificate of Zoning Compliance and a Certificate of Use and Occupancy, provided:

- a. there is no other community residence within one thousand (1,000') feet of its location;
- b. application has been made to the State Department of Health Services with copies to the Regional Mental Health Board, the Regional Mental Health Director, and the Old Lyme Board of Selectmen;
- c. if there are other community residences in Town, the total population of such facilities shall not exceed one (1%) percent of the population of the Town;
- d. All fire code requirements are complied with, including safe exit and fire alarm provisions as recommended by the Fire Marshal.

[Added effective 3-7-08]

11.4 Community Residence for Mentally Retarded Persons. A community residence as permitted under State Statutes which houses not more than six (6) mentally retarded persons and necessary staff persons which is licensed as such by the Connecticut Commissioner of Mental Retardation may be permitted in those zones indicated in these Regulations upon receipt of a Certificate of Zoning Compliance and a Certificate of Use and Occupancy, provided:

- a. all fire code requirements are complied with, including safe exit and fire alarm provisions;

- b. there is no other community residence within one thousand (1,000') feet of its location;

[Added effective 3-7-08]

11.5 Vending Machines. In any application for Site Development Plan or Special Permit under these Regulations, there shall be no vending machines located outside of any principal building, except in a location or locations designated on the site plan submitted in support of such application and approved by the Commission or the Board, as the case may be. For all uses of land which have not received such Special Permit pursuant to these Regulations, no vending machine shall be located on any premises, except immediately adjacent to a principal building on the premises; "adjacent" being defined for the purposes of this subsection as not to exceed one (1') foot from such building. In addition, no vending machine shall have any form of internal illumination.

[Added effective 3-7-08]

11.6 Inns. An Inn shall be located on a lot having an area of at least 5,000 square feet of gross land area for each guest room, in addition to paragraph (b) below.

In addition to the requirements of Section 11.29 below, each Inn shall comply with the following requirements:

- a. the Commission may require or permit that an Inn have a separate dwelling unit with adequate living space for a resident manager to provide for full-time supervision of the facility;
- b. the number of guest rooms permitted on a lot shall be determined as follows: 4,000 square feet of Buildable Land (see Section 8.4) per room if all rooms are on one (1) floor; 2,500 square feet per room if rooms are on two (2) or more floors. For Inns and other transient lodging facilities, a "room" shall be defined as a space separated by walls, full or partial, from other spaces and containing sleeping or sitting accommodations. A so-called "suite" shall be deemed to contain the number of "rooms" indicated on the floor plans and not as a single "room";
- c. each room shall have a minimum liveable floor area of two hundred seventy-five (275) square feet or, alternatively, two hundred twenty-five (225) square feet for fifty (50%) percent of the rooms, provided the remaining fifty (50%) percent contain a minimum of three hundred twenty-five (325) square feet;
- d. the application for Special Permit shall be accompanied by a written report from the Town Sanitarian indicating that the septic system and water supply (existing or proposed) are adequate for the size and intensity of the use proposed;

- e. the site shall be designed to allow safe and adequate access for guests, service vehicles, emergency vehicles and equipment, and safe pedestrian circulation;
- f. the site shall be in a location which is convenient to major arterial roads, fire and other emergency services, and adequate stormwater drainage facilities;
- g. parking and loading shall be in accordance with the requirements of Section 18 (Off-Street Parking and Truck Loading) of these Regulations;
- h. alcoholic beverages may be permitted in accordance with the requirements of Section 14 (Alcoholic Liquor) of these Regulations;
- i. the site shall be designed so as to protect bedroom windows from glare from automobile headlights, street lights, driveway/parking lot lighting, and other light sources on or off the site;
- j. accessory swimming pools shall be adequately enclosed and screened by fencing and landscaping;
- k. all buildings shall be designed to be compatible with the traditional architecture of New England inns, especially with regard to roof pitch, exterior materials and detailing. The objective of this Regulation is to allow new inns which are representative, in architecture, use, scale, and location, of traditional New England inns found in this region.

[From former Section 32.5.4, Amended Effective 3/1/05, and amended effective 3-7-08]

11.7 Reserved.

11.8 Motor Vehicle Gasoline and Service Stations. Any retail dealer's station for the sale of motor fuels, any motor vehicle service facility or repairer's garage or any garage for more than five (5) motor vehicles, or any conversion of any Premises for such purposes or parking spaces accessory to such uses (hereinafter, "motor vehicle service or garage uses") shall be established, except in accordance with the following requirements:

[From former Section 22.2.2, Amended Effective 3-7-08]

11.8.1 No motor vehicle service or garage uses shall be established on a Lot, any part of which is located within 200 feet, as measured by the shortest distance along the public street right-of-way, of any public school or a duly organized school other than a public school, hospital, church, theater or public library.

[From former Section 22.2.2, Amended Effective 3-7-08]

11.8.2 No entrance or exit for motor vehicles in connection with such motor vehicle service or garage uses, and no parking space pertaining thereto, shall be located within 100 feet, as measured by the shortest distance along the public right-of-way, from any part of the residential property of another owner located on the same public street.

[From former Section 22.2.2, Amended Effective 3-7-08]

11.8.3 Any such motor vehicle service or garage uses, and parking spaces in connection therewith, conforming to the above provisions on the effective date of this provision or its predecessor Paragraph 22.2.2 (September 27, 1991), shall be considered conforming even though there may be subsequent establishment of such school, hospital, church, theater or library within the prescribed distances.

[From former Section 22.2.2, Amended Effective 3-7-08]

11.8.4 The location shall be approved by the Zoning Board of Appeals in accordance with the provisions of Connecticut General Statutes Sections 14-321 through 14-322. Such approval shall not be in lieu of the Special Permit required by these Regulations.

[Added effective 3-7-08]

11.8.5 No unregistered motor vehicle and no motor vehicle registered to a dealer shall be stored or parked nearer to the street line than the building line. No motor vehicle parts, wrecked or dismantled vehicles, or equipment, shall be stored outside.

[Added effective 3-7-08]

11.8.6 No gasoline pumps shall be located in front of the building line. All other structures, such as canopies and trash receptacles, but excluding signs, shall be set back at least twenty-five (25') feet from the street line, ten (10') feet from each side lot line, and twenty (20) feet from the rear lot line, unless the Commission shall require larger setbacks pursuant to Section 13.B (Special Permit). All buildings and structures shall be located at least fifty (50') feet from the side line of a contiguous lot in a Residential Zone. A landscaped buffer no less than ten (10') feet in width and a six (6') foot high wooden solid fence shall be placed along any lot line contiguous to a Residential Zone. All lighting on buildings or canopies shall be enclosed and recessed below a horizontal surface of the structure, with lenses or other measures to reduce the visibility of the light source and to prevent glare. No lighting shall be located on any vertical surface of a building or structure, nor directed upward or outward, horizontally, from any such vertical surface.

[Added effective 3-7-08]

11.8.7 Motor vehicle car washes shall be permitted as accessory uses, provided that:

- a. adequate traffic flow patterns are established which prevent conflict with gasoline and service patrons and which prevent waiting traffic from extending into the street;
- b. the site is to be served by public sanitary sewers or approved washwater recycling equipment, and there is no discharge of washwater into or onto the ground or into the septic system;
- c. all site and floor surfaces which may receive washwater shall be pitched to drains connected to public sanitary sewers or approved washwater recycling equipment, and such drains shall be equipped with oil separators and such other equipment as the Commission may require to prevent contamination of the waters of the Town;
- d. no service bay shall face the street line, except on a corner lot where service bays may face one (1) street line. Canopies shall be architecturally compatible with the service station and the design of buildings in the area and lighting shall be recessed and shielded so as to prevent glare from any point outside the area covered by such canopy.

[Preceding Added effective 3-7-08]

11.8.8 Convenience store retail trade shall be permitted as an accessory use, provided that:

- a. adequate vehicular and pedestrian traffic flow patterns are established which prevent conflict with gasoline and service patrons;
- b. Adequate parking for the additional retail trade use is provided in accordance with Section 18 (Off-Street Parking and Truck Loading);
- c. to insure adequate supervision for both the gasoline sale and retail trade uses, there shall be at least one (1) employee on duty for the sale of gasoline and one (1) additional employee for the retail trade use. Depending on the size of the facility and the anticipated volume of vehicular traffic and public activity the Commission may require additional security measures as a condition of the retail trade use;
- d. there shall be no seats, stools, tables, or other facilities for the on-site consumption of food;

- e. restroom facilities shall be provided for employees and may be required by the Commission for customers. To insure adequate supervision for both the gasoline sale and retail trade uses, there shall be at least one (1) employee on duty for the sale of gasoline and one (1) additional employee for the retail trade use;
- f. there shall be no overnight parking associated with the retail trade use, other than for employees.

[Preceding Added effective 3-7-08]

11.9 Motor Vehicle Limited and General Repair and Service.

- 11.9.1 The location shall be approved by the Zoning Board of Appeals in accordance with the provisions of Connecticut General Statutes Sections 14-51 through 14-55. Such approval shall not be in lieu of the Special Permit required by these Regulations.
- 11.9.2 No unregistered motor vehicle and no motor vehicle registered to a dealer shall be stored or parked within the Minimum Required Front Yard. No motor vehicle parts, wrecked or dismantled vehicles, or equipment shall be stored outside.
- 11.9.3 No vehicle entrance or exit to a site shall be located within two hundred (200') feet, measured along the Street, of any entrance to a public playground or a park.
- 11.9.4 No gasoline pumps shall be located in within the Minimum Required Front Yard. All other Structures, such as canopies and trash receptacles, but excluding Signs, shall be set back at least twenty-five (25') feet from the Street Line, ten (10') feet from each Side Lot Line, and twenty (20) feet from the Rear Lot Line, unless the Commission shall require larger setbacks pursuant to Section 13B (Special Permit). All Buildings and Structures shall be located at least fifty (50') feet from the side line of a contiguous lot in a Residential District. A landscaped buffer no less than ten (10') feet in width and a six (6') foot high wooden solid fence shall be placed along any lot line contiguous to a Residential District. All lighting on Buildings or canopies shall be enclosed and recessed below a horizontal surface of the Structure, with lenses or other measures to reduce the visibility of the light source and to prevent glare. No lighting shall be located on any vertical surface of a Building or Structure, nor directed upward or outward, horizontally, from any such vertical surface.
- 11.9.5 Motor vehicle car washes shall be permitted as accessory uses, provided that:

- a. adequate traffic flow patterns are established which prevent conflict with gasoline and service patrons and which prevent waiting traffic from extending into the Street;
- b. the site is to be served by public sanitary sewers or approved washwater recycling equipment and there is no discharge of washwater into or onto the ground or into the septic system;
- c. All site and floor surfaces which may receive washwater shall be pitched to drains connected to public sanitary sewers or approved washwater recycling equipment and such drains shall be equipped with oil separators and such other equipment as the Commission may require to prevent contamination of the waters of the Town;
- d. No service bay shall face the street line, except on a corner lot where service bays may face one (1) street line. Canopies shall be architecturally compatible with the service station and the design of buildings in the area and lighting shall be recessed and shielded so as to prevent glare from any point outside the area covered by such canopy.

11.9.6 All driveways, outdoor storage areas, and other areas to be used by vehicles shall be paved with a Dustless Surface and shall be landscaped with perimeter and interior islands to direct traffic flow and screen working or storage areas.

[Preceding added effective 3-7-08]

11.10 Motor Vehicle and Motor Equipment Storage and Sales. Prohibited in all Districts. See Section 6.1.6 of these Regulations.

[Preceding added effective 3-7-08]

11.11 Reserved for Future Use.

11.12 Restaurants.

11.12.1 Food service shall be primarily to customers seated at tables or at counters within an enclosed Building. There shall be no outdoor seating or eating, provided, however, that the Commission may permit outdoor café service as an Accessory Use to a Full Service Restaurant where the applicant establishes that adequate provisions have been made for litter, public health, insect/pest control, unauthorized access or use, and where the site is suitable for such Accessory outdoor café service.

- 11.12.2 Drive-through service to patrons in vehicles, as either a Principal Use or as an Accessory Use to a Full Service Restaurant, is prohibited. See Section 6.1.29 of these Regulations.
- 11.12.3 Take-out service of food to be consumed off the premises may be permitted as an Accessory Use to a Full Service Restaurant, but, in no event, shall use be made of take-out windows to deliver food or beverages to persons in motor vehicles.

[From Former Section 22.2.1, amended effective 3-7-08]

- 11.12.4 No Full Service Restaurant located as the Principal Use of a Building on a separate Lot shall have fewer than thirty (30) seats for the service of patrons, excluding counter seats, and table seats in a separate bar or tap room. A Full Service Restaurant which is part of a unified shopping center or other multi-use (i.e., more than two Principal Uses) shall have no fewer than ten (10) seats for the service of patrons, excluding counter seats, and table seats in a separate bar or tap room.
- 11.12.5 The foregoing restrictions shall not apply to a Take-Out Restaurant in which the retail sale of specialty foods to be consumed primarily off the premises, with only incidental on-premises consumption, such as ice cream and donut shops, delicatessens, gourmet and health food stores, and the like.
- 11.12.6 High volume, short duration Restaurants, usually referred to as "fast food" Restaurants, are prohibited. See Section 6.1.28 of these Regulations.
- 11.12.7 See Section 14, Alcoholic Liquors, regarding the service of alcoholic beverages in Full Service Restaurants.

[Except as noted, preceding added effective 3-7-08]

- 11.13 Alternative Energy Systems. The Zoning Commission, after due notice and public hearing as required by law, may grant a Special Permit authorizing alternate energy systems, such as solar collectors and wind turbines, to exceed maximum building height subject to the following considerations, standards and conditions:
 - a. the proposed alternate energy system shall not have a detrimental effect on present and future Dwellings in the vicinity;
 - b. the proposed site shall be of adequate size and location to accommodate the alternate energy system, exclusive of supporting guy wires, if any, without encroachment into open space setback requirements; and,

- c. a single wind turbine shall be located on a Lot of 30,000 square feet or more, and furthermore, provided said wind turbine shall supply power for a single structure and/or accessory buildings: 1) the tower height shall not exceed 80 feet measured from its base (ground level) to the centerline of the wind turbine plus one blade length; 2) the tower shall be engineered and commercially available; 3) the wind turbine shall be commercially available; 4) the setback from any Lot Line shall be at least one tower height, which setback requirement pertains to the tower and not to any supporting guy wires; and, 5) such wind turbine shall not exceed 10 (ten) kilowatt generating capacity.
- d. abandonment: the owner of the property where a wind turbine is located shall be required to lower or obtain a demolition permit to remove and properly dispose of the structure within one hundred and twenty (120) days of its abandonment, which shall be defined as the ceasing of continuous production of electricity for longer than six (6) months. If such tower is not removed or lowered within the specified timeframe, the Town of Old Lyme may remove the structure at the owner's expense.

[From former Section 7.3.4, amended effective 6-1-10]

11.14 Hospital, Rest Home and Convalescent Home. The minimum Lot Area shall be five (5) acres, or one-fifth (1/5) of one (1) acre, for each person accommodated, whichever is greater. Required Yards shall be twice those applicable to single family dwellings in the Residence and Rural RU Districts.

[Added effective 3-7-08]

11.15 Commercial Propagation and Growing of Flowers, Plants, Nursery Stock and Berries; Commercial Greenhouses.

11.15.1 Minimum Parcel Size. A commercial greenhouse shall not be permitted on a Parcel less than three (3) acres in area.

11.15.2 Buffering. For the purposes of Section 4.6 (General Regulations), the uses specified in this Section 11.15 shall not be deemed to be non-residential Uses and need not comply with the buffering requirements of Section 4.6, provided, however, that the Commission may require screening and buffering of outdoor storage areas, parking lots, and other components of the Use which are commercial in character.

[Added effective 3-7-08]

11.16 Commercial Cattery, Dog Kennels, Veterinary Hospitals, Veterinary Outpatient Clinics, and Dog Training Facilities.

11.16.1 Commercial Cattery. A commercial cattery shall be located on a lot of not less than two (2) acres. Any Building or enclosure for cats shall be located within the Required Yard for the subject District. The cattery shall meet all of the requirements for operation of a pet shop under State and local law.

[From former Section 32.5.1, amended effective 3-7-08]

11.16.2 Commercial Kennel or Veterinary Hospital. A Commercial Kennel, or a Veterinary Hospital where animals are given medical or surgical treatment and may be boarded and cared for overnight, shall be located on a lot of not less than 15 acres. Any Building or enclosure for dogs shall be located not less than 200 feet from any Lot Line or Street Line. In the case of a Commercial Kennel, the operator of the Kennel shall reside on the Lot where the Kennel is located and enclosed runs shall be provided when site conditions would not restrict noise as a possible nuisance condition affecting another Lot.

[From former Section 32.5.2, Amended Effective 3-7-08]

11.16.3 Veterinary Outpatient Clinic. A veterinary outpatient clinic shall be a Use where small animals are given medical or surgical treatment and such clinic shall be located completely within an enclosed Building with no outside facilities or Accessory Structures for animals. The clinic shall provide no boarding of animals except as required for medical treatment, and the boarding so provided shall be Accessory to the Principal Use as a clinic, shall occupy no more than 20% of the Total Floor Area of the Use, shall provide space for no more than 14 animals, shall be soundproofed and mechanically ventilated to preclude objectionable noise from being audible from off the premises and shall have floor drains, if any, that connect to a sewage disposal system of adequate capacity and not to a storm drain. No Building other Structure or Use shall be considered a permitted Veterinary Outpatient Clinic if it has obtained a commercial kennel license issued by the State of Connecticut.

[From Former Section 32.5.8, amended effective 3-7-08]

11.16.4 Dog Training Facilities. In the C-30 Districts, a Dog Training Facility as defined in these Regulations shall be permitted by Special Permit. Dog owners shall accompany their dogs at all times, and no dogs shall be boarded on the Premises. The Building or that portion of the Building in which the Use is conducted shall contain a minimum of 600 square feet of Total Floor Area as defined in these Regulations with no less than 100 square feet of Total Floor Area for each dog on the Premises at any given time.

[From Former Section 32.5.9, added effective 9/1/99, and amended effective 3-7-08]

11.17 Commercial Livery and Boarding Stables; Riding Academies.

- 11.17.1 Minimum Parcel Size. Commercial livery and boarding stables and riding academies shall be permitted on a parcel of five (5) acres or more in area.
- 11.17.2 Setback. All areas where horses are to be pastured, exercised, or otherwise maintained shall be fenced so as to contain the horses within the property.
- 11.17.3 Waste Control. All manure and stable sweepings from horses in Buildings shall be enclosed in a watertight enclosure designed to prevent the escape of odor or access by insects or other pests. Such container shall be emptied regularly or otherwise disposed of so as to control odor or risks to the public health. No such container shall be located less than one hundred (100') feet from any property line or from any Inland or Tidal Wetland or Watercourse.
- 11.17.4 Maximum Resident Horses. The maximum number of resident horses shall be thirty (30).
- 11.17.5 Use of Buildings. The use of temporary Buildings, Trailers, or tents for the stabling of horses is prohibited. All materials, supplies, and feed, excluding hay, shall be enclosed within a permanent Building.
- 11.17.6 Noise. The premises shall be designed and used so as to avoid noise levels which are a nuisance to surrounding property owners. Public address systems are prohibited.
- 11.17.7 Lighting. There shall be no floodlighting which transmits light outside the Lot upon which it originates.
- 11.17.8 Fire. All Buildings and Structures shall be reviewed and approved by the Fire Marshal to insure the adequacy of fire prevention measures.

[Added effective 3-7-08]

11.18 Trailers.

- 11.18.1 No occupancy of Trailer. No Trailer or recreational vehicle may be Occupied as a Dwelling or Used for human habitation on any Lot in any District.

11.18.2 Storage Trailers, Permanent.

11.18.2.1 Any Storage Trailer located on the same lot for more than 90 consecutive or non-consecutive days in a calendar year shall be considered a Permanent Storage Trailer.

11.18.2.2 In any Commercial, Light Industry, or Waterfront Business District, a Site Development Plan for the Use of a Permanent Storage Trailer may be granted by the Zoning Commission when found to be in compliance with the following provisions:

[From Former Section 49.2.2, amended effective April 1, 1999]:

- a. Permanent Storage Trailer(s) must be located on the same lot as the Principal Structure and no more than one (1) Storage Trailer in the Commercial and Waterfront Business Districts and two (2) Trailers in the Light Industry Districts will be allowed on any Lot.
- b. A Zoning Permit is obtained pursuant to the conditions of Section 20 of these Regulations, Administration and Enforcement.
- c. Proposed Trailer(s) must be suitably screened so as not to be visible from any Lot Line or Street Line, must meet all the Required Yard requirements and must be located to the rear of the Principal Building. Should suitable screening not be possible, a Permanent Storage Trailer may be enclosed with walls and a roof of a design which is weatherproof, structurally sound, and complementary to the Principal Structure.
- d. In no case shall a Permanent Storage Trailer be located in any Residential District.
- e. In no case shall Permanent Storage Trailers be used for human habitation.

11.18.3 Storage Trailer, Temporary.

11.18.3.1 In any Commercial, Light Industry, or Waterfront Business District, a Site Development Plan for a temporary storage Trailer may be granted by the Zoning Commission when found to be in compliance with the following provisions:

[From Former Section 49.3.1, amended effective April 1, 1999]:

- a. One (1) temporary storage Trailer may be located on the same lot as the main structure in the Commercial, Light Industry, or Waterfront Business Districts;
- b. A temporary storage Trailer may not be located on the same lot for a period exceeding 90 days in a calendar year;
- c. Application must be accompanied by a drawing to scale of not more than 40 feet to an inch showing all existing structures, proposed location of temporary Trailer, and the location of buildings on neighboring lots;
- d. Adequate screening must be provided such that the temporary storage Trailer will not create an unsightly condition that would set it apart in its surroundings or reduce property values in the neighborhood;
- e. In no case shall a temporary storage Trailer be located in a Residential District;
- f. In no case shall a temporary storage Trailer be used for human habitation;

11.18.4 Storage Trailers, Construction/Office. In any District, a Zoning Permit for a construction storage or construction office Trailer may be granted by the Zoning Enforcement Officer when found to be in compliance with the following provisions:

- a. Trailer(s) must be located on the project site;
- b. Application must be accompanied by a drawing to a scale of not more than 40 feet to an inch showing all existing and proposed structures, proposed location of Trailer(s) and the location of buildings on neighboring lots;

- c. No Trailer shall be placed in a manner which would create a hazardous or unsafe condition;
- d. No construction Trailer shall be placed at an approved location prior to 2 weeks before the start of construction or site development nor shall it remain for a period greater than 2 weeks after completion of construction or site development;
- e. The Zoning Enforcement Officer may require the relocation or removal of a Trailer(s);
- f. In no case shall a construction storage/construction office Trailer be used for human habitation.

[From former Section 49, Adopted Effective April 3, 1995, Amended Effective 3-7-08 except as otherwise noted]

11.19 Seasonal Use, Year Round Use, and Conversion of a Seasonal Use Dwelling to Year-round Use in the R-10 District.

11.19A Registration for Dwellings in the R-10 District

11.19A.1 Registry for all Dwellings in the R-10 Zone District. For purposes of administration of this section, there shall be a Registry on file with the Zoning Enforcement Officer and in the Town Clerk's Office, of all Dwellings in the R-10 District (the Registry), which Registry shall be recorded on the Land Records of the Town of Old Lyme, said recording to be by listing in the Grantor index, by filing the entire Registry, or as the Town Clerk and the Zoning Enforcement Officer may consider suitable for providing constructive notice of the contents of the Registry. The Registry shall contain those properties in the R-10 District designated as either Year-Round Dwellings or Seasonal Dwellings in accordance with the registration procedure set forth in subsection 11.19A.3 hereof. [Revised effective 12/31/09.]

11.19A.2 Registry; Notice to Property Owners. Commencing upon the compilation of the Grand List effective October 1, 2009 by the Tax Assessor, the Zoning Enforcement Officer shall send notices to all owners of record property within the R-10 District. Ownership shall be determined by use of the Grand List effective October 1, 2009, and the mailing address for the owners as shall be on file with the Assessor. These notices shall be sent by certified mail, return receipt requested, and shall contain the following information:

- a. That the Town of Old Lyme is conducting a registration program for all Dwellings within the R10 Zone District.
- b. A description and explanation of the registration program, as set forth in this Section 11.19A.

c. A copy of the entire zoning file for the property.

d. A copy of the Registration form.

[Preceding Added Effective 12/31/09.]

11.19A.3 Registry; Filing with Zoning Enforcement Officer. Every owner of a Dwelling in the R-10 Zone District must fill out and submit a registration form to the Zoning Enforcement Officer. The owner shall register the Dwelling as either legal Year-Round Use or Seasonal Use.

a. Registration Submissions. Registration shall require the completion of a registration form, containing the following information for conditions prior to December 31, 1999:

(1) the declaration by the property owner of whether, as evidenced by materials, records and evidence in possession of the property owner, the property is legally Seasonal Use or Year-Round Use;

(2) source of potable water, and whether such source is Year-Round or Seasonal; if the source of potable water is a well, evidence that a permit for such well was issued by the Old Lyme Director of Public Health; if the source of potable water is from a community or public water system, evidence that such water system operated Year-Round or Seasonally;

(3) type of septic system; if public sewers, evidence that said system was authorized by the Town of Old Lyme's Water Pollution Control Authority or the Water Pollution Control Authority with jurisdiction over the public sewer system;

(4) the Dwelling's source of heat, and approximate age of the heating system, copies of Building Permits for the installation of such heating system, as well as such evidence of the age of the heating system as the property owner possesses; as well as evidence that the Dwelling complied with the Town of Old Lyme Housing Code of April 28, 1966.

(5) Evidence of occupancy that is indicative of Year-Round Use on or before December 31, 1999. The requirement for occupancy to establish legally, pre-existing, non-conforming Year-Round Use shall not be satisfied by occasional occupancy of a Dwelling without central heat, running water, or other basic requirements for cold-weather occupancy. Even with such basic utilities, sporadic or intermittent off-season occupancy shall similarly not establish Year-Round Use for purposes of the Registry.

(6) Evidence that the Dwelling has been designated as a Year-Round Use in accordance with the resolution of U.S. District Court Docket No. 300CV97 (EBB). The list of properties which have been designated as Year Round Use in accordance with the resolution of U.S. District Court Docket No. 300CV97 (EBB) is on file with the Zoning Department of the Town of Old Lyme as Table 11.19A.3, and is available for inspection during regular business hours of the Department.

(7) Such additional information as the owner may wish to provide in order establish lawful Year-Round occupancy prior to December 31, 1999. All documents, including but not limited to affidavits regarding Year-Round Use, should be included with the registration form.

(8) A fee for the submission of a zoning application, as set forth in the fee table of the Zoning Regulations.

b. Final Date for Submission of Complete Registration form. The final date for submission to the Zoning Enforcement Officer of the completed registration form shall be September 30, 2010. The submission must be delivered to the Zoning Enforcement Officer's office, or must be post marked on or before September 30, 2010.

c. Failure to submit a completed registration form shall result in the form being returned as such to the applicant by the Zoning Enforcement Officer. NOTE: during this part of the process, the Zoning Enforcement Officer, or such other individual as is designated by the Zoning Commission, is not evaluating whether an application is sufficient, simply whether it is complete, in the sense that it has been signed, comes with the appropriate fee and the declaration as to whether the property is Seasonal or Year-Round. The Zoning Enforcement Officer or such other individual as is designated by the Zoning Commission, will not return any application which is complete, irrespective of its merits. A property owner whose registration is returned as incomplete shall have thirty (30) days from receipt of the returned registration form to correct and/or augment the registration form and resubmit it to the Zoning Enforcement Officer.

d. Failure to submit any registration form, or failure to submit a complete registration form, shall result in the property being listed as a Seasonal Dwelling on the Registry. Thereafter, such Dwelling shall not be Used as a Year-Round Dwelling unless it has been approved by the Zoning Enforcement Officer pursuant to Section 11.19A.8 below, or has obtained a Special Permit from the Zoning Commission in accordance with Section 11.19A.7 below.

e. Decision on Registration by Zoning Enforcement Officer or other official designated by the Zoning Commission. At any time on or before September 30, 2011, the Zoning Enforcement Officer, or other official designated by the Zoning Commission, may:

(1) list a property as Seasonal Use or Year-Round Use on the Registry, in agreement with the registration form submitted by the owner of the property;

(2) deny a registration as a Year-Round Dwelling on the Registry by issuing a written decision to that effect; this decision on a registration shall state that the Dwelling may be occupied only as a Seasonal Dwelling as defined by these Regulations;

Notice of the action of the Zoning Enforcement Officer, or other official designated by the Zoning Commission, shall be sent to the owner of the property by certified mail, return receipt requested.

f. All Dwellings for which a registration form was timely filed, and which filed to be placed on the Registry as Year-Round Dwellings, and not denied by the Zoning Enforcement Officer, or by any other official designated by the Zoning Commission, on or before September 30, 2011, shall be designated as legal Year-Round Dwellings for the purposes of these Regulations, and indicated as such on the Registry.

11.19A.4 Criteria for Decision on Registration. In making a determination as to the sufficiency of the evidence to establish Year-Round Use of a Dwelling as of December 31, 1999, the Zoning Enforcement Officer, or other official designated by the Zoning Commission, or, on appeal, the Zoning Board of Appeals, shall consider the following criteria:

a. That as of December 31, 1999, the Dwelling possessed those basic utilities and structural qualities as to allow occupancy in accordance with the Public Health Code, the Building Code, the Housing Code, and other applicable codes and regulations including, but not limited to: heat in all habitable rooms; electricity; running water; effluent disposal; roof, walls, windows and other exterior surfaces sufficient to retain heat and keep out cold, rain, snow or wind.

b. That such utilities (running water, heat, etc.) had been installed in accordance with applicable regulations and codes, such as the Public Health Code, the Housing Code, and the Building Code, and that required permits for the same had been issued by those agencies authorized to issue them.

c. That as of December 31, 1999, the Dwelling had been Used, as that term is defined in these Regulations, as a Year-Round Dwelling. The requirement for occupancy to establish Year-Round Use shall not be satisfied by occasional occupancy of a Dwelling without central heat, running water, or other basic requirements for cold-weather occupancy. Even with such basic utilities, sporadic or intermittent off season occupancy shall similarly not establish Year-Round Use for purposes of the Registry.

d. That the Dwelling has been designated as a Year-Round Use in accordance with the resolution of U. S. District Court Docket No. 300CV97 (EBB). NOTE: compliance with this subsection (d) of Section 11.19A.4 shall obviate the need to demonstrate compliance with the other subsections of this Section 11.19A.4, but shall not remove the requirement of the registrant to complete in full the Registry application.

e. The validity of the documents submitted, such as whether they are certified copies or otherwise validated by a public agency; the source of the documents provided; the probability that witnesses may be biased or otherwise unreliable or that documents have been altered or falsified; and the overall credibility of the evidence and statements submitted.

f. The Zoning Enforcement Officer, or other official designated by the Zoning Commission, may perform his/her own research to determine the validity of the allegations and facts contained in any registration and to confirm or disprove the allegations and evidence submitted in support thereof. [Preceding Added Effective ^.]

11.19A.5 Right of Appeal Decision by Zoning Enforcement Officer, or other official designated by the Zoning Commission. Any person aggrieved by a determination of the Zoning Enforcement Officer, or other official designated by the Zoning Commission, that a Dwelling for which a registration form has been submitted does not

qualify as legal Year-Round Dwelling, but is rather a Seasonal Dwelling as defined by these Regulations, shall have the right of appeal to the Zoning Board of Appeals pursuant to Conn. Gen. Stats. • 8-7 and these Regulations. Similarly, any person aggrieved by any formal determination of the Zoning Enforcement Officer, or other official designated by the Zoning Commission, that a Dwelling registered as a legal Year-Round Dwelling does not qualify as an actual legal Year-Round Dwelling, but is rather a Seasonal Dwelling as defined by these Regulations, shall have the right of appeal to the Zoning Board of Appeals pursuant to Conn. Gen. Stats. • 8-7 and these Regulations. In any such appeal, the Zoning Board of Appeals shall have the authority to determine the scope of any legal off-season occupancy as the evidence may establish; such as, for example, a specified duration of occupancy per visit, number of visits or days per year, and/or number of occupants per visit.

11.19A.6 Correction of Registry Following Appeal. Should any decision of the Zoning Enforcement Officer, or other official designated by the Zoning Commission, be overturned as a result of an appeal to the Zoning Board of Appeals and/or subsequent appeals from that Board to a court of competent jurisdiction, the Registry shall be modified accordingly by the Zoning Enforcement Officer. A copy of the amended Registry or list shall be transmitted by the Zoning Enforcement Officer to the Town Clerk. The Zoning Enforcement Officer shall also give notice in writing to the property owner indicating that the Registry or list has been altered per the decision of the Zoning Board of Appeals or court.

11.19A.7 Effect of Failure to Appeal Zoning Enforcement Officer, or other official designated by the Zoning Commission; Special Permit for Late Filings. Failure to appeal a decision issued in accordance with the preceding paragraph within the time period prescribed by law shall cause such decision or order to be final and unappealable; provided, however, that the Zoning Commission may grant a Special Permit to allow the listing of a Dwelling designated as Seasonal Use on the Registry to be changed to a Year-Round Use where the applicant establishes that one of the following is the case:

Situation #1:

- (i) The owner failed to file a registration form for the Registry for good cause; and
- (ii) The evidence indicates that, had the registration form for the Registry been timely filed, the Dwelling would have been listed as a Year-Round Dwelling by the Zoning Enforcement Officer, or other official designated by the Zoning Commission, in accordance with the criteria of Section 11.19A.4 above; and
- (iii) The Commission determines that designation of the Dwelling for Year-Round Use would not adversely impact the public health, safety, or welfare and would be in harmony with the purpose and spirit of these Regulations; and
- (iv) The Special Permit application to the Commission has been filed no more than ten (10) years after the closure date of the Registry (no later than September 30, 2020).

Situation #2:

- (i) The evidence indicates that conversion of the Seasonal Dwelling has been approved under subsection (k) of section 11.19A.9 below; or

- (ii) The original building permit was expressly issued for a Year-Round Dwelling; or
- (iii) The Zoning Enforcement Officer has, as of the effective date of this amendment (December 31, 2009), issued a formal written determination of Year-Round Dwelling.

11.19A.8 Registry Not Evidence of Compliance with Other Applicable Laws. Designation as Year-Round Dwelling under this Section shall not constitute evidence of compliance with the Public Health Code, the Building Code, or any other applicable laws or regulations.
[Preceding Added Effective 12/31/09.]

11.19A.9 No Conversion Without Application to Zoning Enforcement Officer. A Seasonal Dwelling in the R-10 District which, is not listed as Year-Round on the Registry described in Section 11.19A.3, shall not be converted to a Year-Round Dwelling unless an application for such conversion has been approved by the Zoning Enforcement Officer under the requirements of subsection 11.19B.1 and all other Town officials as appropriate. No Dwelling shall be Used as a Year-Round Dwelling absent conformance with the Building Code, Health Code, Housing Code, Fire Code and such other codes and regulations as may apply. Nothing herein shall be deemed as granting permission or consent to the use of property except in accordance with all such applicable codes and regulations. [From former Section 21.2.5.a, Am ended Effective June 5, 1995; Renumbered only to 11.19.a, effective 3-8-08; Revised and renumbered Effective 12/31/09.]

11.19B Conversion of Seasonal Dwelling to Year-Round Dwelling.

11.19B.1 Application for Conversion. An application to convert a Seasonal Dwelling to a Year-Round Dwelling shall be subject to the following application requirements and standards:

- a. The lot shall contain a minimum of 10,000 square feet and there shall be no more than one Dwelling Unit located on the lot;
- b. The application shall be accompanied by a site plan of the subject premises, prepared and certified in accordance with A-2 standards and in compliance with the requirements of Section 13 of these Regulations, showing the existing house location and the proposed or as-built location and design of the existing subsurface sewage disposal system, as appropriate. The site plan shall, as applicable, demonstrate that the provisions of the Public Health Code of the State of Connecticut regarding Building Conversion, Well Permits and the required separating distances, as the same may be and the required separating distances, as the same may be amended from time to time, are complied with;
- c. The structure's insulation, electrical system and heating system shall comply with the minimum standards then in effect established for a year-round dwelling by the State Building Code and other applicable standards;
- d. In other than flood hazard zones, the space below the structure's lowest floor shall be enclosed with a suitable foundation wall. In flood hazard zones, such enclosure shall be in accordance with the construction and engineering standards then in effect established for new construction within such zones;

e. The Dwelling shall be served by a Year-Round water supply complying with all applicable State of Connecticut Health Department standards then in effect and which shall have been approved and granted a permit for year-round use by the Director of Health of Old Lyme or the Director's authorized agent;

f. If the site is served by an on-site sewage disposal system, said on-site sewage disposal system serving the Dwelling shall comply with applicable State of Connecticut Health Department standards then in effect and which shall have been approved and granted a permit for year-round use by the Director of Health of Old Lyme or the Director's authorized agent who will issue a permit to discharge sewage as required by State Statute. No Certificate of Zoning Compliance shall be issued until such septic system has been completed, inspected and approved for use by the Director of Health or the Director's authorized agent, and a copy of the as-built system and its location, certified by the designing sanitarian or engineer, has been provided to the Zoning Enforcement Officer;

g. If the site is served by a community septic or sewerage system, said community septic or sewerage system shall have been properly approved and permitted by the appropriate Water Pollution Control Authority having jurisdiction over said system as well as by the Department of Public Health or the Department of Environmental Protection, as required by law.

h. No grading, filling or other site development for the proposed dwelling or appurtenant structures or facilities shall cause ponding, flooding or adverse drainage conditions on any adjacent property;

i. In the determination of compliance with this subparagraph, the Director of Health, the Sanitarian, Building Official, Zoning Enforcement Officer or his/her authorized agent, shall make site and structure inspections and/or require the applicant to submit written reports prepared by the suitable professional individual(s) providing information regarding compliance with the noted requirements;

j. The Dwelling and associated Lot shall not contain violations of the Old Lyme Zoning Regulations or the Town of Old Lyme's Housing Ordinance of April 28, 1966;

k. A Certificate of Zoning Compliance shall be issued only upon full compliance with these Regulations. Upon the issuance of the Certificate of Occupancy at the completion of the conversion, the Registry shall be amended by the Zoning Enforcement Officer to reflect the Year-Round Use of the property. A copy of the amended Registry shall be transmitted by the Zoning Enforcement Officer to the Town Clerk for re-recording or otherwise updated as the Zoning Enforcement Officer and the Town Clerk may consider suitable for providing constructive notice of the contents of the Registry.

[Preceding from former Section 21.2.5.c, Amended June 5, 1995; renumbered to 11.19.c effective 3-7-08; renumbered effective 12/31/09.]

11.19B.2 Maintaining Currency of Registry. The Zoning Enforcement Officer shall update the Registry described in Section 11.19A above to reflect conversions approved pursuant to Section 11.19B.1, which Registry shall be kept in duplicate at the Zoning Office and the Town Clerk's Office, where it shall be re-recorded on the Land Records each time it is amended or otherwise updated as the Zoning Enforcement Officer and the Town Clerk may consider suitable for providing constructive notice of the contents of the Registry.

[Preceding Added Effective 12/31/09.]

[From former Section 21.2.5, Amended Effective June 5, 1995]

11.20 Construction or Reconstruction of Year-round Dwelling in R-10 Zone.

- a. No year-round use dwelling shall be constructed on a vacant lot in the R-10 Zone unless an application for such construction has been approved by the Zoning Enforcement Officer and other appropriate Town officials under the application requirements and standards set forth in subparagraph b. hereof;
- b. An application to construct a year-round use dwelling on a vacant lot in the R-10 Zone shall be subject to the following application requirements and standards:
 - (i) The lot shall contain a minimum of 10,000 square feet and there shall be no more than one dwelling unit located on the lot;
 - (ii) The application shall be accompanied by a site plan of the subject premises, prepared and certified in accordance with A-2 standards and in compliance with the requirements of Section 13 of these regulations, showing the proposed house location and the proposed location and design of the subsurface sewage disposal system. The site plan shall demonstrate that the applicable provisions of the Public Health Code of the State of Connecticut, as the same may be amended from time to time, are complied with;
 - (iii) The structure's insulation, electrical system and heating system shall comply with the minimum standards then in effect established for a year-round dwelling by the State Building Code and other applicable standards;
 - (iv) In other than flood hazard zones, the space below the structure's lowest floor shall be enclosed with a suitable foundation wall. In flood hazard zones, such enclosure shall be in accordance with the construction and engineering standards then in effect established for new construction within such zones;
 - (v) The dwelling shall be served by a year-round water supply complying with all applicable State of Connecticut Health Department standards then in effect and which shall have been approved and granted a permit for year-round use by the Director of Health of Old Lyme or the Director's authorized agent;

- (vi) The on-site sewage disposal system serving the dwelling shall comply with applicable State of Connecticut Health Department standards then in effect and shall have been approved for year-round use by the Director of Health or the Director's authorized agent who will issue a permit to discharge sewage as required by State Statute. New construction shall be required to meet the one hundred percent reserve area requirement for septic systems. No Certificate of Zoning Compliance shall be issued until such septic system has been completed, inspected and approved for use by the Director of Health or the Director's authorized agent, and a copy of the as-built system and its location, certified by the designing sanitarian or engineer, has been provided to the Zoning Enforcement Officer;
- (vii) No grading, filling or other site development for the proposed dwelling or appurtenant structures or facilities shall cause ponding, flooding or adverse drainage conditions on any adjacent property;
- (viii) In the determination of compliance with this subparagraph, the Director of Health, the Sanitarian, Building Official, Zoning Enforcement Officer or his authorized agent shall make site and structure inspections and/or require the applicant to submit written reports prepared by the suitable professional individual(s) providing information regarding compliance with the noted requirements;
- (ix) A Certificate of Zoning Compliance shall be issued only upon full compliance with these Regulations.

c. The provisions of subparagraph b. hereof shall be applicable to the partial or total reconstruction of a pre-existing, lawfully existing year-round use dwelling, including such a dwelling damaged or destroyed by fire or other casualty, subject to the following exceptions and limitations:

- (i) To the extent said reconstruction does not conform to the requirements of the Standards in Residence and Rural Districts set forth in Section 8 of these Regulations (Area, Yard, and Height Requirements), said reconstruction shall be allowed within such same pre-existing dwelling footprint and pre-existing actual cubic area occupied or less, with no increase in pre-existing non-conformities;
- (ii) compliance with other provisions of subsection b. shall be required and shall be applicable insofar as possible taking into consideration

the physical dimensions and limitations of the lot as determined by officer having jurisdiction of the subject Code.

[From former Section 21.2.4, Amended Effective June 5, 1995]

11.21 Conversion of Single Family Dwellings to House More Families.

[This Section intentionally left blank.]

[Former Section 32.5.3, deleted effective 3-7-08]

11.22 Telecommunications Facilities.

Purpose. The intent of this section is to provide, to the extent permitted by current law, for the location of wireless telecommunications facilities which shall consist of towers, antennae and accessory telecommunications equipment buildings within the Town of Old Lyme while protecting neighborhoods and minimizing the adverse visual, environmental and operational effects of towers and antennae through careful design, siting and screening. Its purpose is also to provide guidance to the Connecticut Siting Council in its review of wireless telecommunications facilities.

11.22.1 General Standards – Towers.

- a. Towers not requiring FAA painting/markings shall have either a galvanized finish or be painted a non-contrasting blue, gray or black;
- b. No signs shall be permitted on any tower or antenna;
- c. No tower, antenna or other accessory structures or equipment shall exceed the height requirement of the district unless the applicant can demonstrate to the satisfaction of the Commission that such service can only be provided at the location and at the height requested, but in no event shall the total height exceed 199 feet. Further, any proposed tower shall be designed in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional personal wireless service as defined in Section 704 of the Telecommunications Act users if the tower is over 100 feet or for at least one additional user if the tower is over 50 feet but less than 100 feet in height. The Commission may require the tower to be of such design as to allow for future rearrangement of antennas upon the tower and to accommodate antennas mounted at varying heights;

[From Former Section 22.2.5.1(c), amended effective September 15, 1997]

- d. No lights or illumination shall be permitted unless required by the FCC or FAA;
- e. Towers shall be set back at least five hundred (500) feet from any existing residential structure and shall be set back at least seventy-five (75) feet from a property line, or such greater distance as may be determined necessary for safety by the Commission in accordance with fall-zone analysis information provided for the structure proposed;
- f. Monopoles shall be encouraged over lattice structures;
- g. Satellite and microwave dishes attached to monopoles may be permitted only when providing a service to a public agency or when the applicant can demonstrate to the satisfaction of the Commission that such placement shall not have an adverse visual, environmental or operational effect on the neighborhood. In no instance shall any such dish exceed six (6) feet in diameter;
- h. Telecommunication Tower sharing shall be encouraged. Applicants shall provide a description of existing telecommunication towers in the service area and a statement indicating why their telecommunication antennae cannot be mounted on these towers. Such documentation shall include demonstration that the shared use is not technically, legally, or environmentally feasible; or, for telecommunication towers constructed prior to the effective date of this section, that shared use is not economically feasible or that the owner of such facility/facilities has/have refused permission for the shared use. The owner of any telecommunication tower approved under this Section 11.2.5 shall be required to make space available for additional telecommunication antennas to the maximum feasible number of other users, including competitors. Such availability shall be made under commercially reasonable terms and conditions;

[From Former Section 22.2.5.1(h), amended effective September 15, 1997]

- i. Telecommunication facilities shall be placed on existing structures such as building and/or communication towers, or upon the telecommunications equipment building itself, unless the applicant can demonstrate that such placement is not feasible;

- j. Telecommunications facilities shall be placed in locations on the lots where the existing topography, vegetation, buildings or other structures provide adequate screening as determined by the Commission;
- k. Amateur radio operators' equipment as licensed by the Federal Communications Commission (FCC) shall be exempt from this regulation.

11.22.2 General Standards – Antennae.

- a. Antennae shall be attached to a building or structure which is the principal building or structure on the lot or to a tower which has been constructed in accordance with these regulations for such a purpose;
- b. Satellite and microwave dish antennae shall not exceed a diameter of six (6) feet.

11.22.3 General Standards – Telecommunications Equipment Buildings.

- a. No such equipment building shall exceed seven hundred fifty (750) square feet gross floor area;
- b. All such equipment buildings shall comply with all setback and buffer requirements for the district in which they are located;
- c. All such equipment buildings shall be designed so as to be compatible with other buildings in the area;
- d. Multiple equipment buildings for a shared facility shall be attached structures or shall be clustered around the facility;
- e. An equipment building located on the roof of a building shall not occupy more than 15% of the roof area.

11.22.4 The Commission may request the applicant to provide both a description and a map of the provider's proposed network within the Town and in adjacent towns, including the area served by this facility, the location of other facilities, and the overall coverage plan.

11.22.5 All applications shall include a statement as to whether alternative sites were considered and why this site was selected.

11.22.6 If required by the Commission, the applicant shall provide one or more of the following:

environmental analysis of facility site;
environmental analysis of access road;
profile analysis;
balloon simulation;
radio frequency power density modeling and/or testing data;
analysis of facility compatibility;
fall-zone analysis;
propagation and antennae separation analysis.

11.22.7 All towers and antennae shall comply with the provisions of Section 46.9 of these Regulations and no location, or co-location for a shared tower, shall exceed interference levels established by the FCC.

11.22.8 As a condition of any Special Permit granted under the provisions of this section, the applicant shall be required to remove all towers, antennae and ancillary equipment within fifteen (15) months of the date of cessation of use of such equipment for transmission purposes. Upon removal of the equipment, and within six (6) months of said removal, the site shall be restored to such condition as has been approved by the Commission. Each application shall include a plan for such facility removal and site restoration for approval by the Commission as part of the Special Permit.

[From former Section 22.5, Added Effective March 3, 1997, Amended Effective September 15, 97 and 3-7-08]

11.23 Commercial and Non-Commercial Cutting: Cutting and Removal of Forest Tree Species.
[From former Section 44, Effective 3-7-08, per Conn. Gen. Stats. § 23-65k]

11.23.1 General. Except as provided in Section 11.23.4 for Non-Commercial Cutting and forest practices as defined below, cutting or removal of forest tree species is permitted in the Town of Old Lyme only by Site Development Plan in accordance with Section 13A and in accordance with the provisions of this Section. In the administration of this Section, the Commission and the applicant may consult with the Tree Warden of the Town of Old Lyme. Special definitions applicable under this Section are as follows:

a. Commercial Cutting. Any cutting or removal of forest tree species which is not covered under the definition of “non-commercial cutting,” or any cutting or removal of forest tree species which constitutes a “forest practice,” as defined in Conn. Gen. Stats. §23-

65f if the Connecticut Department of Environmental Protection has promulgated forest practices in accordance with Conn. Gen. Stats. §23-65j. Upon the promulgation of such forest practices, forest practices shall be under the exclusive jurisdiction of the Old Lyme Inland Wetlands and Watercourses Commission, per Conn. Gen. Stats. §23-65k. Until such forest practices have been promulgated by the Connecticut Department of Environmental Protection, forest practice as defined in Conn. Gen. Stats. §23-65f shall be governed by this Section 11.23.

- b. Commercial Cutting Plan. A plan showing the applicant's property and the abutting property owners, a description of the activity to be undertaken, and a certification by a public or consulting forester acceptable to the Commission that the plan is consistent with the "Minimum Standards for the Cutting of Timber" set forth in Paragraph 11.23.3;
- c. Non-Commercial Cutting. The minimum cutting or removal of forest tree species on a Lot necessary for the purpose of preparing a site for the construction. Sale of cordwood or other incidental forest products resulting from such maintenance and Lot improvement shall not constitute "commercial cutting."
- d. Non-Commercial Cutting Plan. A plan containing the information set forth in Section 11.23.4.
- e. Slash. The residual tree tops and branches left on the ground after logging.

11.23.2 Commercial Cutting Permit. Commercial cutting is permitted only after a commercial cutting plan therefor has been submitted to and Site Development Plan approval obtained from the Commission. The cutting or removal activities in connection with the following are exempt from the requirement to obtain a permit:

- a. land used for agricultural purposes and cultivation of crops other than forest products;
- b. thinning and clearing in connection with public improvements;
- c. land used for access to abutting land;
- d. cultured Christmas tree area; and

- e. as noted above, cutting or removal of forest tree species which constitutes a “forest practice,” as defined in Conn. Gen. Stats. §23-65f, if the Connecticut Department of Environmental Protection has promulgated forest practices in accordance with Conn. Gen. Stats. §23-65j.

11.23.3 Minimum Standards for Commercial Cutting. Approval for commercial cutting may be granted by the Commission after the commercial cutting plan has been submitted, has been found to be consistent with the following minimum standards and has been approved by the Commission:

11.23.3.1 Stream Protection.

- a. All possible care will be taken to protect continuously flowing streams (which are defined as perennial streams indicated on U.S.G.S. Topographic Maps, scale 1:24,000) and other Inland Wetlands and Watercourses from siltation and other damage during harvest operations. Partial cutting, designed to create uneven-aged stands, will normally be used within 100 feet of these areas. No more than 5% of the merchantable volume will be removed, taking care in the selection of leaf trees to minimize water temperature increases and visual impact; Care should be taken not to fall trees into or across Watercourses. Logging debris accidentally dropped into Watercourses shall be promptly removed;
- b. Harvesting equipment will not ordinarily be allowed in a Watercourse, and the channel should not be altered. All Inland Wetlands and Watercourses crossing shall be as close to a right angle as possible;
- c. After the completion of a harvest operation, banks at Inland Wetlands and Watercourses crossing will be graded and restored to approximately their original condition. Re-seeding with an appropriate grass mixture may be required;
- d. Any and all temporary structures in or across Inland Wetlands and Watercourses shall be removed upon completion of operations.

11.23.3.2 Haul Roads. Careful consideration should be given to the planning and location of main haul or skid roads. All road locations, including alternate routes where advisable, shall be planned prior to harvesting operations. Outstanding considerations are the following:

- a. Location so as to minimize construction or use impact on the land;

- b. Grades in excess of 10%, or 0% gradients, shall be avoided except for short distances;
- c. For each road, landing or skid trail, drainage control systems or stabilization shall be provided and maintained to control water flow;
- d. Unless otherwise stipulated, all roads, main skid trails, landings and sawmill sites shall be stabilized. Temporary culverts shall be removed, water bars installed where necessary, ruts filled or graded out and gutters cleaned;
- e. Where required for erosion control, or were desirable for wildlife conservation, major skid roads, landings and/or sawmill sites shall be limed, fertilized and seeded with an appropriate mixture of grass and legumes.

11.23.3.3 Border Strips.

- a. Within approximately 100 feet of any automobile road, recreation trail or other recreation area, or lot line in proximity to any dwelling, harvesting of trees shall be partial cuttings. Not more than 50% of the merchantable volume should be removed, except in salvage operations, to open up scenic vistas, or in forestry demonstration areas. In high-visibility areas, it will be desirable to create uneven-age stands to provide change and variety in scenery;
- b. Special attention shall be given to leaving unique tree specimens, flowering shrubs and trees, or those species that have value as food producers or den sites for wildlife;
- c. Undesirable sprout growth or brush may be controlled using approved herbicide treatments. Chemicals used in performing this practice must carry a Federal registration and be applied strictly in

accordance with authorized uses, label directions, and Federal and state regulations;

- d. Special consideration shall be given to those border strips in the following situations:
 - (i) Screen clear-cuts, shelterwood cuttings or other heavy cuts that would be deleterious to the natural landscape aesthetics;
 - (ii) Screen yarding and loading areas. Debris removal or control is especially important to these locations.

11.23.3.4 Slash.

- a. No slash will be left within 25 feet of any automobile road, established recreation trail, pond, lake or stream;
- b. Within the remaining width of a border strip, all slash shall be chipped or lopped and scattered, and severely bent, or broken trees shall be dropped and/or lopped so that they do not exceed a height of four (4)feet;

On all other harvest areas, slash, severely bent, or broken trees shall be cropped and/or loped to a height not to exceed six (6) feet.

11.23.3.5. Harvest Methods.

- a. Because of the wide variation in forest types, stand size classes, stocking levels and timber volumes which exist in Connecticut woodlands, there are a variety of methods that can be used either singly or in combination in harvesting and reforestation to meet the stated purpose. These methods include clear-cutting with natural reproduction; direct seeding or planting; seed-tree cutting; selection cutting, including diameter limit harvesting, shelter-

wood cutting, and such other methods as shall be consistent with good forestry practice;

- b. Although even-age management is an accepted silvicultural practice, particularly with hardwood species, its use should be practiced judiciously. A clear-cut area presents a severe visual impact to those unfamiliar with this harvest method. Therefore, clear cutting will have the following restrictions:
 - (i) maximum of five (5) acres in size;
 - (ii) irregular in shape – avoid linear cutting bounds;
 - (iii) soften edges by partial cutting within 50 to 100 feet of clear-cut boundaries;
 - (iv) leave ridge tops uncut, which areas are the most visible; and,
 - (v) in most cases, even-aged management may be accomplished through shelterwood cuttings rather than clear-cutting.

11.23.3.6. Wildlife. The applicant shall evaluate the impact on observed wildlife, especially for any species identified as “threatened,” “endangered,” or “of special concern” by the Connecticut Department of Environmental Protection. The Zoning Enforcement Officer may require special measures to be taken to protect wildlife, including the restriction or prohibition of activities during certain seasons of the year, in certain portions of the site, or in proximity to particular breeding, foraging, or nesting sites.

11.23.3.7 Tree Reproduction. Harvest procedures, properly applied and executed, shall provide for adequate tree reproduction. However, there will be instances where regeneration may be deficient or there are

undesirable tree species. In these cases, steps should be taken to provide the desired stocking.

11.23.3.8 Access Roads.

- a. Access roads and fire lanes shall be left clear of slash when a cutting job is completed. Designated roads shall be graded so as to be passable by fire suppression equipment;
- b. Where access road construction is included in a harvest operation, considerations should be given to construction of loading docks and fire water-holes at strategic locations.

11.23.4 Non-Commercial Cutting. No non-commercial cutting shall be conducted until the approval of a non-commercial cutting plan in accordance with this Section 11.23.4. Non-commercial cutting in connection with a Use for which a Site Development Plan or Special Permit is required shall include a non-commercial cutting plan in accordance with this Section 11.23.4. See Sections 13A.2.3(l) and 13B.3.3(b). No Zoning Permit shall be issued in connection with a use for which a Site Development Plan or Special Permit is *not* required unless a non-commercial cutting plan showing the following information has been submitted to and approved by the Zoning Enforcement Officer:

- a. the existing mix of forest tree species and their approximate height, age and density;
- b. the approximate location (estimated dimensions are satisfactory) of each tree proposed to be cut which is nine (9) inches or more in diameter, measured at a point on trunk four (4) feet above ground;
- c. a description of the cutting or removal activity to be undertaken; and,
- d. any other information that may be necessarily and reasonably required by the Zoning Enforcement Officer.

[From former Section 44, Amended Effective 3-7-08]

11.24 Adult Entertainment.

11.24.1 Purpose and Intent. The purpose of this section is to regulate uses which, because of their nature, are recognized as having potentially serious objectionable operational characteristics, particularly when

concentrated under certain circumstances, thereby having a deleterious effect upon surrounding areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood.

Persons under the age of eighteen may be attracted to adult-oriented establishments and seek to enter or loiter about them without the knowledge or permission of their parents or guardians. Closed booths, cubicles, studios and rooms within adult-oriented establishments have been used by patrons, clients and customers of such adult-oriented establishments for the purpose of engaging in certain sexual acts. Male and female prostitutes have been known to frequent such establishments in order to provide sex for hire to the patrons, clients or customers of such establishments within such booths, cubicles and rooms.

It is not the intent of the Zoning Commission, in enacting these Regulations, to deny any person rights to speech protected by the United States Constitution and/or the Constitution of the State of Connecticut, nor is it the intent of the Zoning Commission to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually-oriented films, video, tapes, books and/or other materials protected by the United States Constitution and/or the Constitution of the State of Connecticut, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually-oriented materials may have to sell, distribute or exhibit such materials.

These Regulations prevent clustering of these uses in any one location and thereby protect health, safety, general welfare, and property values in the Town of Old Lyme.

11.24.2 Definitions.

(i) “Adult entertainment business” shall mean any establishment which is customarily not open to the public generally but only to one or more classes of the public, thereby excluding any minor by reason of age. These include, but are not limited to, one or a combination of the following types of businesses: adult amusement machine, adult arcade, adult bookstore, adult cabaret, adult entertainment enterprise, adult machine, adult motion picture theater, adult novelty business, adult-oriented establishment, adult personal service business;

- (ii) “Adult amusement machine” shall mean any amusement machine that is regularly used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as defined below, for observation by patrons therein;
- (iii) “Adult arcade” means any establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons, each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;
- (iv) “Adult bookstore” means an establishment which has as a principal activity the sale of books, magazines, newspapers, periodicals or other printed matter or photographs, videotapes, video discs and motion picture films, slides, or other photographic reproductions which are characterized by their emphasis on portrayals of human genitals and pubic areas or acts of human masturbation, sexual intercourse or sodomy or any other “specified sexual activity” or “specified anatomical area”, as defined below, or devices or paraphernalia that are designed for use in connection with “specified sexual activities” defined below;
- (v) “Adult cabaret” means a cabaret which features nude and/or partially nude dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers and which excludes minors by virtue of age;
- (vi) “Adult entertainment enterprise” means any exhibition of any motion pictures, video tapes, live performances, displays or dances of any type, which have as a significant or substantial portion of such performances any actual or simulated performance of “specified sexual activities” or exhibition and viewing of “specified anatomical areas” defined below;
- (vii) “Amusement machine” means any machine which upon the payment of a charge or upon the insertion of a coin, slug, token, plate or disk, may be operated by the public for use as a game, entertainment or amusement, whether or not

registering a score and whether or not electronically operated;

- (viii) “Adult motion picture theater” means any establishment having as a principal activity displaying motion pictures, video cassettes, slides or other photographic reproductions characterized by their emphasis on portrayals of human genitals and pubic regions or actions of human masturbation, sexual intercourse, or sodomy for observation by patrons therein and from which minors are excluded by virtue of age;
- (ix) “Adult novelty business” means a business which has as a principal activity the sale of devices of simulated human genitals or devices designed for sexual stimulation and which excludes minors by virtue of age;
- (x) “Adult-oriented establishment” means any premises to which the public, patrons, or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult entertainment, when such establishment is operated or maintained for a profit, direct or indirect;
- (xi) “Adult personal service business” means a business having as a principal activity a person, while nude or partially nude providing personal services for a person of the same or other sex on an individual basis in an open or closed room and which excludes minors by virtue of age. It includes, but is not limited to, the following activities: massage parlors, exotic rubs, modeling studios, body painting studios, wrestling studios, individual theatrical performances. It does not include activities performed by persons pursuant to, and in accordance with, licenses issued to such persons by the State of Connecticut;
- (xii) “Partially nude” means having any or all of the following bodily parts exposed: buttocks, genitals, pubic area, or female breasts;
- (xiii) Specified anatomical areas” means less than completely or opaquely covered: (a) human genitals and pubic region; (b) buttocks; (c) female breasts below a point immediately above the top of the areola; and (d) human male genitals in

a discernibly turgid state even if completely opaquely covered;

- (xiv) “Specified sexual activities” means: (a) human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse, or sodomy; (c) fondling or erotic touching of human genitals, pubic region, buttock or female breasts;
- (xv) “Specified anatomical areas” and “specified sexual activities” as used in these Regulations do not include materials depicted in any medical publications, or films, in any bona fide educational publications or films, in any art or photography publications which devote at least 25 percent of the lineage of each issue to articles and advertisements dealing with subjects of art or photography, in any news periodical which reports or describes current events an which, from time to time, publishes photographs of nude or semi-nude persons in connection with the dissemination of news, or in publications or films which describe and report different cultures which, from time to time, publish or show photographs or depictions of nude or semi-nude persons when describing cultures in which nudity or semi-nudity is indigenous to the population;
- (xvi) Principal activity” means a use accounting for more than 10 percent of a business’ gross revenues, stock in trade, display space, floor space, or movie display time per month.

11.24.3

Specific Conditions. An adult entertainment business may be approved in the Commercial District only, provided the following standards and criteria are met in addition to any other applicable standards, criteria and requirements of these Regulations:

- (i) No such adult entertainment business shall be located within 300 feet of a residential use or district which, pursuant to these Regulations and the Zoning Map of the Town of Old Lyme,, is classified R, MFR, RU or MFRU. If the adult entertainment business is within a shopping plaza, having a developed building of 5,000 square feet in size or larger, then the distance shall be measured from all entrances to such shopping plaza;

- (ii) No such adult entertainment business shall be established within 1,000 feet of another such business;
- (iii) No such adult entertainment business shall be established within 1,000 feet of the property line of any public, private or parochial school, day care center, library, museum, park, playground or other recreational facility, whether commercial or nonprofit, or any other area where numbers of minors regularly travel or congregate, in any zone. Nor shall any such adult entertainment business be located within 1,000 feet of the property line of any church, convent, monastery, synagogue, or similar place of worship, or cemetery;
- (iv) For purposes of this section, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest boundary of the property containing or proposing to contain an adult entertainment use to the nearest boundary of the uses specified in (i), (ii) and (iii) above;
- (v) No accessory apartment or apartments or other dwelling units shall be permitted on the premises of an adult entertainment business;
- (vi) No adult entertainment business shall be conducted in any manner that permits the observation of any material depicting or describing any sexually explicit activities or anatomical areas from any public way. This provision shall apply to any display, decoration, sign, show window or other opening;
- (vii) In accordance with Connecticut General Statutes Section 8-6, these adult entertainment business regulations shall not be varied by the Zoning Board of Appeals to permit an adult entertainment business nor shall such a use be permitted by way of variance;
- (viii) No adult entertainment business shall include the installation of any enclosed booths, cubicles, rooms or stalls within such adult entertainment business for the purpose of viewing adult entertainment;
- (ix) Any adult entertainment business shall state on any Site Plan submitted that any room or other area used for the purpose of viewing adult entertainment shall be well

lighted and readily accessible at all times and shall be continuously open to view in its entirety. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.

- 11.24.4 Application Procedure. Application for a permit for an adult entertainment business shall be made to the Zoning Commission demonstrating compliance with this adult entertainment business regulation. Such permit may expire upon any of the events listed in subsection 11.24.5 below, unless and until such permit is renewed as provided.
- 11.24.5 Required Renewal. Renewal of a permit for an adult entertainment business must be obtained under the following circumstances:
- (i) Purchasers of buildings that have had permits for adult entertainment businesses who want to continue such permits, must obtain a Zoning Permit by demonstrating that all conditions prerequisite to obtaining the original permit continue to be met;
 - (ii) Any such renewal must be referred to the Zoning Commission for consideration. Where a change in circumstance is identified which may create a noncompliance with these Regulations or any permit issued hereunder, the Zoning Commission may require a new application and a demonstration of compliance with all conditions necessary for a approval hereunder.
- 11.24.6 Savings Clause. Should any court of competent jurisdiction declare any section, clause or provision of these Regulations to be unconstitutional or statutorily illegal, such decision shall affect only such section, clause or provision so declared unconstitutional or illegal and shall not affect any other section, clause or provision of these Regulations.

[From former Section 22.2.4, Adopted Effective July 3, 1995, Amended Effective 3-7-08]

11.25 Septage Storage and Transfer Facility.

- 11.25.1 The maximum on-site storage capacity of a septage waste transfer station shall not exceed 100,000 gallons.
- 11.25.2 The operator of a Septage Storage and Transfer Facility shall provide a cash bond of at least \$10,000 (which amount may be increased at the discretion of the Planning Commission) to benefit

the Town in the event that the operator shall default in the requirements of this section or applicable law.

- 11.25.3 All septage storage shall be permitted only in sealed in containers with intake and outlet valves designed to prevent any release of odors or uncontrolled release of effluent.
- 11.25.4 The site shall provide landscaping and ground cover satisfactory to the Planning Commission to minimize any adverse effect on surrounding properties. The Applicant's plans shall depict precautions to be taken to control accidental spills of effluent, either directly, or through the washing of trucks and equipment, and other potential sources of contaminated discharge.
- 11.25.5 A Septage Storage and Transfer Facility shall not operate unless the facility has all licenses and permits required by the Public Health Code, the DEP, the OLWPCA, or other cognizant governmental agency having jurisdiction over such facility.
- 11.25.6 All applications shall include a plan for site restoration and the removal of storage tanks should either of the following conditions occur:
- (i) Violation of the provisions of this regulation so that the site is closed for septage waste storage or transfer; or,
 - (ii) closing of the site for septage waste storage and transfer.

[From former Section 22.2.6, Adopted Effective June 1, 1998]

- 11.26 Assembly Halls, Dance Halls, Bowling Alleys and Other Indoor & Outdoor Recreation Uses. Any building or structure used for assembly halls, dance halls, bowling alleys, and indoor and outdoor recreational facilities (including tennis, handball, paddleball, squash, swimming, skating and similar such activities) shall be located not less than 100 feet from any Residence or Rural District.

[From former Schedule B-2, Item #7, Amended Effective 3-7-08]

- 11.27 Outside Storage of Goods. Outside storage includes the following when not located within an enclosed building: sales, storage and/or display of merchandise, supplies, equipment or machinery; storage of wastes; and manufacture, processing or assembling of goods; but not including the parking of registered motor vehicles in daily use. Outside storage provided in connection with a use for which a Site Development Plan, Special Permit, or a Zoning Permit is required to be submitted under these Regulations shall be located in areas on the lot as shown on such the approved site plan and shall be limited and screened as follows:

- a. No outside storage area shall extend into the area required for building setback from a street line, property line or Residence or Rural District boundary line;
- b. Outside storage areas shall be limited in extent on any lot, either as a percent of the area of the lot or as a percent of the ground floor area of all buildings on the lot, in accordance with the district where located, as follows:

<u>District</u>	<u>% of Lot Area</u>	<u>% of Ground Floor Area of Buildings</u>
* Residence	-	10%
** Rural	-	10%
WF-20	25%	-
C-30	-	10%
C-10	-	10%
LI-80	25%	
-		

- c. All outside storage areas shall be enclosed, except for necessary access drives, by buildings and/or fences, walls, embankments or evergreen shrubs or trees so as to screen the storage area from view from any other lot, from any street and from any portion of a Residence or Rural District, provided, however, that the Board/Commission, in connection with approval of a Site Development Plan or Special Permit under its jurisdiction, may determine that such enclosure is not necessary for all or a portion of necessary and reasonable outside storage that is an adjunct to retail sales.

[From former Section 31.3.14, Amended Effective 3-7-08]

11.28 Special Standards for Multiple Dwellings.

Special Standards – Multiple Dwellings. Multiple dwellings and multiple dwelling projects in Multi-Family Residence and Multi-Family Rural Districts, and the buildings, structures and site development proposed in connection therewith, shall also conform to the following SPECIAL STANDARDS:

- 11.28.1 Number of Units. No multiple dwelling building shall contain more than six (6) dwelling units, and no multiple dwelling project shall contain more than a total of 24 dwelling units.

[From Former Section 32.6.1.a, amended effective July 3, 1995]

- 11.28.2 Minimum Lot Area. The minimum lot area per dwelling unit in a multiple dwelling project shall be 20,000 square feet for each of the first six (6) dwelling units and 15,000 square feet for each additional dwelling unit, exclusive of any wetlands and watercourses, any areas of impervious paving, or any land having a topography exceeding a 30% slope in grade as measured in 40-foot increments.

[From Former Section 32.6.1.b, amended effective July 3, 1995]

- 11.28.3 Number of Projects. No Multi-Family or Multi-Family Rural District, regardless of the number of lots, parcels or tracts that may be encompassed by such District, shall contain more than one (1) multiple dwelling project.

[From Former Section 32.6.1.c, amended effective July 3, 1995]

- 11.28.4 General Setback Requirements. Except for roadways covered in Section 11.28.5, no Structure, parking or service area within a multiple dwelling project shall be located within 100 feet of the multiple dwelling project boundary line, unless said multiple dwelling project boundary line is contiguous to another multiple dwelling project in another Multi-Family District, in which event the minimum setback shall be thirty (30) feet. The Zoning Commission may increase the 100 foot setback requirement where additional setback is required to avoid a significant adverse affect on adjacent property or on public health and safety. Where conditions exist which affect the subject land and are not generally applicable to other land in the area, a reduction of the 100 foot setback requirement of up to 25 feet may be granted by the Zoning Commission. No reduction may be granted if it has a significant adverse effect on adjacent property or on public health and safety.

[From Former Section 32.6.1.d, amended effective July 3, 1995; effective April 1, 1999; and effective 3-7-08]

- 11.28.5 Setback Requirements for Roadways. No roadway, including means of ingress and egress within a multiple dwelling project shall be located within fifty (50) feet of the multiple dwelling project boundary line (except where said roadway accesses a public highway) unless the multiple dwelling project is contiguous to another multiple dwelling project in another Multi-Family District, in which event there shall be no roadway setback. The Zoning Commission may increase the fifty (50) foot setback where additional setback is required to avoid adverse impact on adjacent

property or on public health and safety. Where conditions exist which affect the subject land and area not generally applicable to other land in the area, a reduction of the 50 foot setback requirement of up to 25 feet may be granted by the Zoning Commission. No reduction may be granted if it will have an adverse impact on adjacent property or on public health and safety.

[From Former Section 32.6.1.e, amended effective July 3, 1995; effective April 1, 1999; and effective 3-7-08]

11.28.6 Setback Design Requirements. For the purposes of maximizing the effectiveness of the setbacks specified in Sections 11.28.4 and 11.28.5., the following requirements shall be met:

[From Former Section 32.6.1.f, amended effective July 3, 1995]

- a. At least 75 feet of the setback specified in Section 11.28.4 and 35 feet of the setback specified in Section 11.28.5 shall be left in its natural state, if wooded, or landscaped for visual buffering is not wooded. However, in order to promote sound forest management, clearing of dead or dying trees will be permitted;
- b. In the event that setback areas are disturbed during construction, they shall be restored and supplemented with natural screening;
- c. The Zoning Commission shall require the submission of a landscape plan which demonstrates the visual impact of the project on adjacent dwellings has been minimized.

[From Former Section 32.6.1.f(iii), amended effective April 1, 1999]

11.28.7 Minimum Floor Area. Each dwelling unit in a multiple dwelling shall have a minimum floor area for dwelling purposes of 500 square feet for a one-bedroom unit, plus 120 square feet for each additional bedroom, which floor areas expressly exclude halls, stairways, foyers, closets, porches, bathrooms and basements from eligibility to be counted. The number of bedrooms in each dwelling unit shall not exceed two (2). No floor space having a floor level above the second floor level above the finished grade shall be used for dwelling purposes and no floor space having a floor level below the finished grade shall be used for dwelling purposes except as a recreation, storage or utility room.

11.28.8 Occupancy Limitations. No more than two (2) persons shall occupy any Dwelling Unit consisting of only one (1) room (a so-called “efficiency apartment”) as a regular place of abode. In addition, no more than two (2) persons shall occupy any dwelling

unit containing only one (1) bedroom as a regular place of abode, and no more than a single Family, as defined in these Regulations, shall occupy a Dwelling Unit as a regular place of abode. In determining whether or not a Dwelling Unit consists of only one (1) room or bedroom, halls, stairways, foyers, closets, porches, bathrooms and basements shall not be counted as rooms or bedrooms.

11.28.9 Storage Space. In addition to closet space in a Dwelling Unit, each Dwelling Unit shall be provided with usable enclosed storage space having a minimum floor area equal to 10% of the Dwelling Unit. Hall stairways, foyers, closets, porches, bathrooms and basements shall not be counted in determining floor area for computation of the 10%.

11.28.10 Service Area. Service areas and other service facilities shall be provided as follows:

- a. One (1) or more paved service areas for use as a drying area and for temporary storage of garbage and rubbish shall be provided at the rear of each multiple dwelling. Such areas shall be enclosed and protected by suitable fencing or shrubbery;
- b. Storage of rubbish and garbage shall be in one or more suitable vermin and rodent proof containers having at least a 40-gallon capacity per each Dwelling Unit;
- c. Radio and television facilities shall be served by a master antenna only. No external individual radio or television antennae shall be permitted;
- d. The distance between each Dwelling Unit and the nearest driveway, parking space and garage serving such unit, shall in each instance be not more than 100 feet.

11.28.11 Water Supply. Each Dwelling Unit shall be connected to a water supply meeting the requirements of Section 13A.3.11 and furnishing a minimum daily supply of not less than 450 gallons under adequate pressure. Conn. Gen. Stats. § 16-262m shall be complied with if the water is furnished by a “water company” as defined in that Section.

11.28.12 Garages, Parking Areas, Driveways and Access Roads. Parking, driveway and access facilities shall be provided as follows:

- a. At least one (1) parking space, 11 feet by 22 feet, shall be provided in an enclosed garage for each dwelling unit;
- b. In addition, paved parking areas shall be provided to accommodate one (1) automobile for each dwelling unit, but no single parking area continuum shall contain more than eight (8) parking spaces;
- c. One-way access aisles in a parking area shall have a width of not less than 12 feet, and two-way access aisles in a parking area shall have a minimum width of 24 feet;
- d. Parking areas and driveways serving parking areas and garages shall be suitably paved with a two (2) inch thickness of dense graded bituminous concrete placed on two (2) four-inch layers of compacted gravel sub-base, or equivalent paving;
- e. Bituminous concrete lip curbing or other curbing similar in quality shall be used on all parking areas and driveways where necessary for drainage;
- f. The main access road or roads leading to the multiple dwelling or multiple dwelling project shall be planned and designed in accordance with the “Design and Construction Standards, Town of Old Lyme, Connecticut” and any applicable provisions of the Subdivision Regulations of the Town of Old Lyme.

11.28.13 Minimum Distance Between Dwellings. The minimum distance between any two (2) multiple dwellings shall be 60 feet.

11.28.14 Open Space: The preservation or creation of Open Space (as applied to Use of land for public benefit), as defined in Section 3 of these Regulations, shall be provided by a unified design which:

- a. protects flood plains, inland and tidal wetlands, watercourses, ponds, future public water groundwater sources, steep slopes, and the coastal resources identified in Section 22a-97(7) of the Connecticut General Statutes and preserves, where practicable, unusual rock formations and tree stands;
- b. preserves sites of historic, archeological or scenic value;
- c. promotes the open space programs of the Town Plan of Conservation and Development, the Connecticut River Gateway Commission, the Coastal Area Management Act,

the recommendations of the Planning Commission and those private organizations which are acceptable to the Zoning Commission; and

- d. fosters opportunities for formal and informal recreational activities.

Land to be kept as open space, including but not limited to land to be used for parks, playgrounds and recreation areas, shall be provided and reserved in conformity with Section 5.10 of the Subdivision Regulations except that (i) the quantity of land to be devoted to such purpose shall be as stated below, and ii) at least 25% of the open space land shall be part of the Net Buildable Area within the tract as determined by the Zoning Commission pursuant to the provisions of Section 12.8.2. The Zoning Commission shall require that a land area be set aside for open space equal to or greater than a) 40% of the entire area covered by a multiple dwelling development located in one or more underlying Zoning Districts classified as MFR-80 or MFRU-80 and b) 30% of the entire area covered by a multiple dwelling development located in one or more Underlying Zoning Districts classified as MFR-40 or MFRU-40. The required amount of land area to be devoted to open space for a development located partially in one or more of the Zoning Districts listed in the former group and partially in one or more Zoning Districts listed in the latter group shall be computed separately for the development area located in each of the foregoing two (2) groups of Zoning Districts and the required amounts of open space land areas so obtained added together to determine the total quantity of land area within the boundaries of the development to be set aside for open space.¹

[Added effective 3-7-08]

11.28.15 Multiple Dwellings for Non-Profit Elderly Housing. The standards of Paragraph 11.28.1 through 11.28.12 are applicable to Multiple Family Dwellings for non-profit elderly housing except as follows:

¹This is taken from Section 36.14, except that I changed references to the “Planning Commission” to the “Zoning Commission;” references to the “PRCD” to “the development;” I deleted references to the “Underlying” Zoning District (since this is a multifamily district already); and I deleted references to zones other than MFR zones.

- a. The limitations on number of Dwelling Units in a Multiple Family Dwelling and Multiple Family Dwelling project and the number of Multiple Dwelling projects in a Multi-family Residence or Multi-Family Rural District are not applicable. For Non-Profit or Subsidized Elderly Housing in a Planned Residential Cluster Development in a Multi-Family Residential Zone, reference Section 12, Planned Residential Cluster Development, for the allowable number of Dwelling Units;
- b. Each Dwelling Unit shall be occupied by no more than two (2) persons, at least one of whom is 62 years of age or older;
- c. Each one-bedroom dwelling unit shall contain not less than 550 square feet of enclosed floor space and each two-bedroom dwelling unit shall contain not less than 650 square feet of enclosed floor space, including the space used for halls, stairways, foyers, closets, and bathrooms, but excluding covered porches and other roof portions and basements;
- d. The Multiple Family Dwelling Unit may include accessory community rooms and facilities for the use of the occupants of the Multiple Family Dwellings, as well as utility and maintenance buildings and facilities necessary for support of the Multiple Family Dwellings on the lot;
- e. Enclosed garages are not required. If no garages are included, one and one-half (1.5) paved off-street parking spaces shall be provided for each dwelling unit;
- f. The storage space requirements of Paragraph 11.28.9 are not applicable;
- g. The water supply requirement of Paragraph 11.28.11 may be reduced to 160 gallons per day under adequate pressure to each dwelling unit.
- h. The open space requirements of Section 11.28.14 shall not apply. [Added effective 3-7-08]

[From former Section 32.6, Amended Effective 3-7-08, except as otherwise indicated]

11.29 Special Regulations for Transient Lodgings. The following regulations shall apply to any Inn, Bed & Breakfast, or other lodging for Transients:

- a. Limitation on Occupancy. The purpose of Transient lodging is to provide lodging for Transients, not to constitute *de facto* Dwelling Units. Transient occupancy shall be limited to no more than two (2) weeks followed by absence from the Transient lodging by no less than two (2) weeks. The Zoning Enforcement Officer may require Transient lodgings to maintain and disclose records of occupancy sufficient to demonstrate compliance with this provision; provided such records need not disclose the name of the occupant(s), but only a numeric or other identification to distinguish among occupants;
- b. No Cooking Facilities. No guest room, or portion thereof, shall have any facilities for cooking of food, specifically including stoves, ovens (microwave or otherwise), hot plates, or the like; provided, however, that a room may have a single refrigerator having a capacity of no more than five (5) cubic feet;
- c. Definition of “Guest Room”. A “guest room” shall be defined as a space separated by walls, full or partial, from other spaces and containing sleeping or sitting accommodations. A so-called “suite” shall be deemed to contain the number of “guest rooms” indicated on the floor plan, and not shall not deemed to be a single “guest room”;
- d. Minimum Lots Size. The Lot shall contain no less than 5,000 square feet of land for each guest room;
- e. Accessory Restaurants and Entertainment Areas. Restaurants and rooms for public entertainment shall have an aggregate capacity at one time not in excess of four (4) times the number of guest rooms.

[Preceding from former Section 32.5.4, amended effective 3/1/05, and renumbered and further amended effective 3-7-08]

Rev. February 20, 2008 to remove reference to LI-80S in 11.27.b.