

SECTION 4
GENERAL REGULATIONS

4.1 Permitted and Prohibited Uses.

- a. Permitted Uses. No Buildings or Structure shall be erected, altered, extended, converted, enlarged or reconstructed in such a manner as to be designed, arranged or intended for any purpose other than the Uses permitted in the District in which the Building or Structure is located, except as provided in Section 9 (Non-Conforming Lots, Uses, Buildings, and/or Structures) of these Regulations. Likewise, no Lot, Building, or Structure shall be used, designed or arranged for any purpose other than the Uses permitted in the District in which that Lot is located, except as provided in Section 9 of these Regulations.
- b. Prohibited Uses. Any Use of a Lot, Buildings or Structures not specifically set forth in these Regulations as a Permitted Use shall be deemed to be a prohibited Use. Without in any way limiting the generality of the foregoing, those Uses set forth in Section 6 (Prohibited Uses) of these Regulations are expressly prohibited in all Districts.

[Added effective ^]

4.2 Coastal Boundary.

- 4.2.1 General. The Coastal Boundary is established under the provisions of Chapter 444, Section 22a-94, of the Connecticut General Statutes (C.G.S.), which Boundary may be amended from time to time by the Connecticut General Assembly and is shown on the Coastal Boundary Map for the Town of Old Lyme. Coastal Resources are as defined in Section 22a-93, C.G.S. and as located on the Coastal Resources Map and the Tidal Wetlands Map for the Town of Old Lyme prepared by the Connecticut Department of Environmental Protection. It shall be the responsibility of the Person filing an APPLICATION FOR ZONING PERMIT to determine whether or not the Lot, or any portion thereof, is located within the Coastal Boundary and which and where Coastal Resources are found on the Lot.

[From former Section 35.1 , Amended Effective ^]

- 4.2.2 Coastal Site Plan Review. All Buildings and other Structures, including Shoreline Flood and Erosion Control Structures, or part thereof, and all uses of land, Buildings and other Structures, and changes in Use, located fully or partially within the Coastal Boundary are subject to Coastal Site Plan Review requirements and procedures and shall be referred to the Department of Environmental Protection, office of Long Island Sound Programs, as specified in Conn. Gen. Stats. §22a-105 through 22a-109.

[From former Section 35.2, Amended Effective ^]

4.2.3 Exemptions. The following activities are hereby exempted from Coastal Site Plan Review requirements under the authority of Conn. Gen. Stats. §22a-109(b) but are not exempted from the provisions of Section 4.2.11 and 4.2.12 below:

- a. gardening, grazing and the harvesting of crops;
- b. minor additions to or modifications of existing Buildings or detached Accessory Buildings, such as garages and utility sheds;
- c. construction of new or modification of existing Structures incidental to the enjoyment and maintenance of residential property including, but not limited to, walks, terraces, driveways, swimming pools, tennis courts, docks and detached Accessory Buildings;
- d. construction of new or modification of existing on-premises Structures, including fences, walls, pedestrian walks and terraces, underground utility connections, essential electric, gas, telephone, water and sewer service lines, Signs, and such other minor Structures, as will not substantially alter the natural character of coastal resources as defined in Section 22a-93(7), C.G.S., or restrict access along the public beach;
- e. construction of an individual single-family residential structure, except when such structure is located on an island not connected to the mainland by an existing road bridge or causeway or except when such structure is in or within 200 feet of the following coastal resource areas as defined in Section 22a-93(7), C.G.S.: tidal wetlands, coastal bluffs and escarpments, beaches and dunes, and rocky shore fronts;
- f. activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife and other coastal land and water resources;
- g. interior modifications to Buildings;
- h. minor changes in Use of a Building, other Structure, Lot or property except those changes occurring on a Lot adjacent to or Abutting coastal waters.

[From former Section 35.2.1, Amended Effective ^; and 35.5, Amended Effective 7-3-95 and Effective ^]

4.2.4 Applicability of Exemptions. The exemptions from Coastal Site Plan Review requirements listed in paragraph 4.2.3 shall apply to the following plans and applications:

- a. site plans submitted to the Zoning Commission in accordance with Conn. Gen. Stats. §22a-109;
- b. SITE DEVELOPMENT PLANS submitted for particular uses, buildings and other structures as required by these Regulations;
- c. applications for Special Permits submitted under these Regulations for consideration by the Zoning Commission, Planning Commission or Zoning Board of Appeals;
- d. applications for a variance submitted for consideration by the Zoning Board of Appeals in accordance with Conn. Gen. Stats. §8-6(3) and Section 21 of these Regulations;
- e. applications for approval of subdivision or resubdivision by the Planning Commission in accordance with Conn. Gen. Stats. §8-25;
- f. applications for commercial tree cutting permits under Section 11.23 of these Regulations; and,
- g. a referral of a proposed municipal project to the Planning Commission in accordance with Conn. Gen. Stats. §8-24.

[From former Section 35.2.2, Amended Effective 3-7-08]

4.2.5 Application Requirements. Except as exempted under paragraph 4.2.3, the Person filing an APPLICATION FOR ZONING PERMIT, an application for a Special Permit or variance, an application for approval of a subdivision or resubdivision, or proposing a municipal project in accordance with Conn. Gen. Stats. §8-24, pertaining to land within the Coastal Boundary shall file with the appropriate commission or board a Coastal Site Plan and application on such form as prescribed by the commission or board. Pursuant to Conn. Gen. Stats. §22a-105 and §22a-106, a Coastal Site Plan shall include the following information:

- a. a plan showing the High Tide Line (HTL), the Mean High Water Line, referenced to the National Geodetic Vertical Datum (NGVD) and the location of Tidal Wetlands delineated in accordance with Conn. Gen. Stats. §22a-29(2);
- b. the location and spatial relationship of coastal resources on and contiguous to the site;
- c. a description of the entire project with appropriate plans, indicating project location, design, timing, and methods of construction;

- d. an assessment of the capability of the resources to accommodate the proposed use;
- e. an assessment of the suitability of the project for the proposed site;
- f. an evaluation of the potential beneficial and adverse impacts of the project;
- g. a description of the proposed methods to mitigate adverse impacts on coastal resources.

In addition, the applicant shall demonstrate that the adverse impacts of the proposed activity are acceptable and that such activity is consistent with the coastal policies of Conn. Gen. Stats. §22a-92.

[From former Section 35.2.3, Amended Effective 3-7-08]

4.2.6 Criteria for Action by Commission or Board. In addition to reviewing Coastal Site Plans for compliance with any other applicable standards, requirements, or criteria set forth by these Regulations, the commission or board with jurisdiction shall review Coastal Site Plans for compliance with the following criteria established in Conn. Gen. Stats. §22a-106:

- a. consistency of the proposed activity with the applicable policies in Conn. Gen. Stats. §22a-92;
- b. the acceptability of potential adverse impacts of the proposed activity on coastal resources as defined in Conn. Gen. Stats. §22a-93(15);
- c. the acceptability of potential adverse impacts of the proposed activity on future water-dependent development opportunities as defined in Conn. Gen. Stats. §22a-93(17); and,
- d. the adequacy of any measures taken to mitigate the adverse impacts of the proposed activity on coastal resources and future water-dependent development opportunities.

[From former Section 35.2.4]

4.2.7 Action by Commission or Board. The Commission or Board with jurisdiction shall approve, modify, condition, or deny the Coastal Site Plan for the proposed activity on the basis of the criteria listed in Conn. Gen. Stats. §22a-106 to ensure that the proposed activity is consistent with the coastal policies in Conn. Gen. Stats. §22a-92 and that the potential adverse impacts of the proposed activity on both coastal resources and future water-dependent development opportunities are acceptable.

[From former Section 35.2.5]

- 4.2.8 Reasons for Action by Commission or Board. Pursuant to Conn. Gen. Stats. §22a-106, the Commission or Board with jurisdiction shall state in writing the findings and reasons for its action with respect to any Coastal Site Plan approved, conditioned, modified, or denied. Further, in approving any Coastal Site Plan, the commission or board with jurisdiction shall make a written finding that:
- a. the proposed activity with any conditions or modifications imposed by the commission or board is consistent with the coastal policies in Conn. Gen. Stats. §22a-92;
 - b. that the proposed activity incorporates as conditions or modifications all reasonable measures which would mitigate potential adverse impacts on both coastal resources and future water-dependent development activities; and,
 - c. that the potential adverse impacts of the proposed activity on coastal resources and future water-dependent development opportunities with any conditions or modifications imposed by the Commission or Board are acceptable.

[From former Section 35.2.6]

- 4.2.9 Time Limits; Notification of Action. In accordance with Conn. Gen. Stats. §22a-105 through 22a-109, hearing notification requirements, time limits for making a decision, and decision publication and notification requirements for Coastal Site Plans shall be as set forth in the Connecticut General Statutes for the type of permit or approval being requested.

[From former Section 35.2.7]

- 4.2.10 Violations. In accordance with Conn. Gen. Stats. §22a-108, any activity undertaken within the Coastal Boundary without the required Coastal Site Plan review and approval shall be considered a public nuisance and shall be subject to enforcement remedies authorized in that section.

[From former Section 35.2.8]

- 4.2.11 Soil Erosion and Sediment Control Adjoining Coastal Resources. Any Lot which contains, adjoins or is within 50 feet of rocky shorefront, coastal bluffs and escarpments, beaches and dunes or tidal wetlands as defined in Conn. Gen. Stats. §22a-93 shall be subject to the soil erosion and sediment control measures specified in Section 16 of these Regulations.

[From former Section 35.3, Amended Effective 3-7-08]

4.2.12 Construction or Enlargement of Certain Buildings Adjoining Coastal Resources.

Except as otherwise provided in Section 4.3, no Building or other Structure, the construction or establishment of which requires excavation, filling or grading of land, shall be newly constructed, Enlarged or Extended so as to increase its Building area or be moved within 50 feet of any rocky shorefront, coastal bluffs and escarpments, beaches and dunes or tidal wetlands as defined in Conn. Gen. Stats. §22a-93. It shall be the responsibility of the applicant for a ZONING PERMIT, Special Permit or variance under these Regulations to determine whether any of the aforesaid coastal resources are located on or within 50 feet of the Lot where the Enlargement is proposed, and, if any such resources are so located, to portray the same on the site plan submitted for review under the provisions of this Section. Nothing in this Regulation, however, shall prevent the restoration or reconstruction of a Building or Structure damaged or destroyed by fire or other casualty, subject to the limitations set forth in Section 9 of these Regulations.

[From former Section 35.4, Amended Effective 7-3-95 and Effective 3-7-08]

4.2.13 Special Standards – WF-20 District. In the Waterfront Business District (WF-20), the Zoning Commission, in evaluating proposed Special Permit Uses and the Buildings, Structures and site development proposed in connection therewith, shall conduct the Coastal Site Plan Review specified in this Section and shall determine whether or not the proposal would have an adverse impact on future water dependent development opportunities and whether or not such impact is acceptable under the goals and policies of any Plan of Conservation and Development adopted by the Old Lyme Planning Commission and the Connecticut Coastal Management Act. For purposes of such determinations, adverse impacts consist of the following:

- a. locating a non-water dependent Use at a site in the District that is physically suited for a water-dependent Use for which there is a reasonable potential demand;
- b. replacement of a water-dependent Use with a non-water dependent Use; or,
- c. siting of a non-water dependent Use which would substantially reduce or inhibit existing public access to marine or tidal waters.

In determining the acceptability of potential adverse impacts of a Special Permit proposal involving the combining of two or more Uses, at least one of which is a non-water dependent use, the Zoning Commission shall consider whether or not the water-dependent Use or Uses or the non-water dependent Use or Uses is the primary Use of the Lot.

[From former Section 32.7 , Amended Effective 3-7-08]

See Section 4.3, Tidal Waters Protection, below.

4.3 Tidal Waters Protection.

Tidal River Protection, Other Than Connecticut River. Except as provided in Section 4.10.3 for the Connecticut River or any of its tributaries or associated wetlands, no Building or other Structure, including drainage structures, septic systems and wells, shall extend within less than 50 feet of the mean high navigable waters of any tidal Watercourse or associated wetlands, provided, however, that the Zoning Commission, in accordance with the provisions of Section 13B, may grant a Special Permit authorizing a marine facility or any Building or other Structure which is Accessory to a Principal Use on the Lot to extend within such 50-foot distance provided that the facility is not intended for Human Occupancy and that the proposed facility and site development are consistent with the purposes for which the Connecticut River Gateway Conservation Zone has been established and will not detract from the natural or traditional riverway scene. See Section 4.2, Coastal Boundary; and Section 4.10.3, Conservation Zone, for the setback from the Connecticut River or any of its tributaries or associated wetlands.

[From former Section 7.4.7, Amended Effective 7-3-95, Effective 4/1/99, and also former Section 32.5.6; Amended Effective 3-7-08]

4.4 Flood Hazard Regulations.

4.4.1 General. The requirements and procedures hereinafter specified are applicable within the Flood Plain Zone. The purposes of this Section are as follows:

4.4.1.1 to minimize public and private losses due to flood conditions in specific areas of the Town of Old Lyme by the establishment of standards designed to:

- a. protect human life and public health;
- b. minimize expenditure of money for costly flood control projects;
- c. minimize the need for rescue and relief efforts associated with flooding;
- d. minimize prolonged business and employment interruptions;
- e. minimize damage to public facilities and utilities;
- f. help maintain a stable tax base;

- g. insure that purchasers of property are notified of special flood hazards;
- h. ensure that persons who occupy areas of special flood hazard assume responsibility for their actions; and,

[From former Section 33.1, Amended Effective 3-7-08]

4.4.1.2 to ensure continued eligibility of owners of property of the Town of Old Lyme for participation in the National Flood Insurance Program pursuant to rules and regulations published in the Federal Register.¹

[From former Section 33.1.2]

4.4.2 Identification of District. The Flood Plain Zone is the area identified as the “Special Flood Hazard Areas”(SFHA) by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for the Town of Old Lyme, New London County, Connecticut, dated January 1980, Flood Insurance Study Supplement-Wave Height Analysis, dated September 1, 1983, and accompanying Flood Insurance Rate Map (FIRM), dated June 16, 1992, and Flood Boundary and Floodway Map (FBFM), dated July 16, 1980, and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation, it must take precedence when more restrictive until such time as a map amendment is obtained from FEMA. The SFHA includes any area shown on the FIRM as Zones A, A1-30, AE, AO, AH, A99, V, V1-V30, and VE, including areas designed as a floodway on a FIRM. Also included are copies of potential, demonstrable or historical flooding, including any area contiguous with but outside the SFHA where the land surface elevation is lower than the base flood elevation (BFE). The FIRM and FIS are on file in the Old Lyme Town Clerk’s office.

[From former Section 33.2 , Amended Effective 3-7-08]

- 4.4.3 Definitions. Special definitions applicable under this Section only are as follows:
- a. Base Flood means the flood having a one (1.00%) percent chance of being equaled or exceeded in any given year;
 - b. Base Flood Elevation is the particular elevation of the base flood as specified on the Flood Insurance Rate Map for Zone A1-A30 and Zone V1-V30;

¹ Federal Register, Vol. 41, No. 207, October 26, 1976; Vol. 44, Ch. 1, Parts 59, 60 and 64 through 77 (10-1-88 Edition); Vol. 54, No. 156, August 15, 1989; Vol. 54, No. 188, September 29, 1989.

- c. Basement means any area of the Building having its floor sub grade (below ground level) on all sides;
- d. Breakaway Wall means a wall that is not part of the structural support of the Building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the Building or the supporting foundation system;
- e. Coastal High Hazard Area means Zone V1-V30 on the Flood Insurance Rate Map, which area is subject to high velocity waters, including but not limited to, hurricane wave wash and tidal surges;
- f. Development means any man-made change to improved or unimproved real estate, including, but not limited to, Buildings or other Structures, site development, excavation, grading, removal or deposit of earth materials, mining, dredging, drilling operations, outside storage of equipment or materials or paving, other than normal maintenance and repair of roads or driveways;
- g. Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from: a) the overflow of inland or tidal waters; and/or, b) the unusual and rapid accumulation or runoff of surface waters from any source;
- h. Flood Insurance Rate Map means an official map of a community on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the applicable risk premium zones. FIRMS published after January, 1990, may also show the boundaries of the floodway;
- i. Flood Insurance Study is the official report by the Federal Emergency Management Agency. The report contains flood profiles, the water surface elevation of the base flood, and other flood data;
- j. Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to Structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, Structures and their contents;
- k. Floodway means the channel of a river or other Watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1.0 feet anywhere in the Town;

- l. Lowest Floor means the lowest floor of the lowest enclosed area (including Basement or Cellar);
- m. Manufactured Home means a Structure able to be transported in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes recreational vehicles and similar transportable structures placed on a site for 180 consecutive days or longer and shall be considered manufactured homes for the purpose of this Regulation;
- n. Manufactured Home Park or Subdivision means a Lot, Parcel or contiguous Parcels of land divided into two or more manufactured home sites for rent or sale;
- o. Mean Sea Level means, for purposes of the National Flood Insurance Programs, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced;
- p. National Geodetic Vertical Datum (NGVD), as corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the flood plain;
- q. New Construction means Buildings and other Structures for which the "start of construction" occurred on or after June 2, 1980 (the effective date of original Flood Plain District Regulations), and includes any subsequent improvements to such Structures;
- r. Recreational Vehicle means a vehicle which is:
 - (i) built on a single chassis;
 - (ii) 400 sq. feet or less when measured at the longest horizontal projections;
 - (iii) designed to be self-propelled or permanently towable;
 - (iv) designed primarily not for use as a permanent Dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use;
- s. Special Flood Hazard Area means the land in the flood plain subject to a one (1.00%) percent or greater chance of flooding in any given year.

- t. Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act, P.L. 97-348) includes “substantial improvement” and means the date the building permit or ZONING PERMIT, if no building permit was required, was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a Structure (including manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of Streets, and/or walkways, nor does it include excavation for a Basement or Cellar, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of Accessory Buildings, such as garages or sheds not occupied as Dwelling Units or not part of the Principal Structure. For a “substantial improvement,” the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a Building, whether or not that Alteration affects the external dimensions of the Building;
- u. Substantial Damage means damage of any origin sustained by a Structure whereby the cost of restoring the Structure to its before-damaged condition would equal or exceed 50 percent of the market value of the Structure before the damage occurred;
- v. Substantial Improvement means any reconstruction, rehabilitation, additions or other improvements of a Building or other Structure, the cost of which cumulatively for the last five (5) years, equals or exceeds 50 percent of the market value of the Building or Structure (as determined by the cost approach to value) before the “start of construction” of the improvement. This term includes Buildings and other Structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either of the following:
 - (i) any project for improvement of a Building or Structure to correct existing violations of State or Town health, sanitary or safety code specifications which have been identified by the Building Official of the Town of Old Lyme and which is the minimum necessary to assure safe living conditions; and,
 - (ii) an alteration of an historic Structure as defined in Section 3, provided that the alteration will not preclude the Structure’s continued designation as an historic structure.
- w. Water Surface Elevation means the height in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where

specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

[Preceding from former Section 33.3, Amended Effective 3-7-08]

4.4.4 Requirements. Any man-made change to improved or unimproved real estate, including, but not limited to, Buildings or other Structures, site development, excavation, grading, removal or deposit of earth materials, mining, dredging, drilling operations, outside storage of equipment or materials, or paving, may be made within the special flood hazard area only in accordance with the requirements of this Section. The following are also applicable to requirements:

4.4.4.1 Other Restrictions. This Section is not intended to repeal, abrogate or impair any covenants, easements or other laws, regulations or ordinances, and, whichever imposes the more stringent restrictions shall prevail.

4.4.4.2 Interpretation. In the interpretation and application of this Section, all provisions shall be considered as minimum requirements and shall be construed so as to preserve and maintain the purpose and intent hereof.

4.4.4.3 Warning and Disclaimer of Liability. The degree of flood protection established by this Section is considered reasonable for town-wide regulatory purposes and is based on available scientific and engineering studies. Larger floods may occur on rare occasions, and flood heights may increase as a result of manmade or natural causes. This Section does not imply that land outside of special flood hazard areas will be free from flooding or flood damages. This Section shall not create liability on the part of the Town of Old Lyme, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder.

4.4.4.4 Severability. If any section, subsection, paragraph, sentence, clause or phrase of this regulation should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this regulation, which shall remain in full force and effect; and, to this end, the provisions of this regulation are hereby declared to be severable.

[Preceding from former Section 33.4]

4.4.5. Base Flood Elevation and Floodway Data. Elevation and floodway data applicable under this Section are identified as follows:

4.4.5.1 Map. The following zone designations are used on the Flood Insurance Rate Map:

<u>Zone</u>	<u>Explanation of Zone Designations</u>
A	Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
AO	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined.
AH	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; base flood elevations are shown, but no flood hazard factors are determined.
A1-A30	Areas of 100-year flood; base flood elevations and flood hazard factors determined.
A99	Areas of 100-year flood to be protected by flood protections system under construction; base flood elevations and flood hazard factors not determined.
B	Areas between limits of the 100-year and 500-year flood or certain areas subject to 100-year flooding with average depths less than one (1) foot where the contributing drainage area is less than one (1) square mile or areas protected by levees from the base flood. (Medium shading.)
C	Areas of minimal flooding. (No shading.)
D	Areas of undetermined but possible flood hazards.
V	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors not determined.
V1-V30	Areas of 100-year coastal flood with velocity (wave Action); base flood elevations and flood hazards factors determined.

[Preceding from former Section 33.5.1]

4.4.5.2 Base Flood Elevation and Floodway Data. When base flood elevation data or floodway data have not been provided, then the Zoning Enforcement Officer shall obtain, review and reasonably utilize, any base flood elevation and floodway data available from a Federal, State or other source in order to administer the provisions of Paragraph 4.4.6.; should the base flood or floodway data be obtained for any special flood hazard area, select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designated to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one (1) foot at any point.

[From former Section 33.5.2, Amended Effective 3-7-08]

4.4.5.3 A Zone Restriction. In A Zones where base flood elevations have been determined but before a floodway is designated, no new construction, substantial improvement or other development (including fill) may be undertaken which would increase base flood elevations more than one (1) foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development. [From former Section 33.5.3]

4.4.6 Standards. The following standards and requirements are applicable in special flood hazard areas, which shall be certified, under seal, by a Connecticut Licensed Professional Engineer and a Connecticut Licensed Land Surveyor, as applicable:

4.4.6.1 Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the Structure.

4.4.6.2 Construction Materials and Methods; Service Facilities. All new construction and substantial improvements shall be constructed with materials resistant to flood damage and by using methods and practices that minimize flood damage. Electrical, plumbing, HVAC and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4.4.6.3 Utilities. Water supply and sanitary systems shall conform to the following:

a. new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

b. new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

c. on-site sewage disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4.4.6.4 Special Flood Hazard Areas. The following standards are applicable to development, including new construction and substantial improvement, in Zones A1-A30, AE, A, AO, AH, and A99:

- a. Any residential Structure shall have the lowest floor, including Basement or Cellar, elevated to a minimum of one (1) foot above the base elevation;
- b. Any commercial, industrial or other non-residential Structure shall either have the lowest floor, including Basement or Cellar, elevated to a minimum of one (1) foot above base flood elevation, or, shall, together with attendant utility and sanitary facilities, conform to the following:
 - (i) be floodproofed so that from one (1) foot above the base flood elevation and below, the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - (iii) be certified by an architect or professional engineer licensed to practice in the State of Connecticut that the above standards are satisfied, which certifications shall be provided to the Zoning Enforcement Officer as set forth in Paragraphs 4.4.7.1c. and 4.4.8.3c.
- c. Enclosed Areas Below the Minimum Elevation Standard. New construction or substantial improvements of buildings with the lowest floor elevated one (1) foot above the base flood elevation that include fully enclosed areas formed by foundation and other exterior walls below the minimum elevation standard are subject to the following additional standards:
 - (i) the enclosed space can only be used for the parking of vehicles, building access or limited storage;

- (ii) areas below the lowest floor that are fully enclosed areas and subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by either a Connecticut registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (b) the bottom of all openings shall be no higher than one foot above grade;
 - (c) the openings may be equipped with screens, louvers, valves or other coverings or devices provided the devices permit the automatic and unobstructed flow of floodwaters in both directions.
- (iii) the area below the minimum elevation standard shall not be a basement;
- (iv) machinery or equipment that service the structure, such as furnaces, air conditioners, heat pumps, hot water heaters, ventilation, washers, dryers, electrical junction boxes, circuit breaker boxes and food freezers, shall not be permitted below the minimum elevation standard;
- (v) all interior walls, floors and ceiling materials located below the minimum elevation standard shall be unfinished and resistant to flood damage;
- (vi) a garage attached to as residential structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry and exit of floodwaters. Openings are required in the exterior walls of the garage or in the garage doors. The areas of the garage below the base flood elevation must be constructed with flood resistant materials. Garages attached to non-residential structures must meet the aforementioned requirements outlined in 4.4.6.4.c(i)-(v) or be dry floodproofed in accordance with 4.4.6.4b(i)-(iii).

- d. Accessory buildings or structures may have the lowest floor located below the base flood elevation and must be wet floodproofed. Accessory buildings or structures must meet the following criteria:
- (i) are less than 400 square feet in floor area;
 - (ii) are detached from a main residential structure;
 - (iii) are low-cost structures;
 - (iv) are used solely for parking (two-car detached garages or smaller) or limited storage (small, low-cost sheds), or are one-story row carports located on a lot in a Residence or Rural District containing multiple Dwelling Units;
 - (v) shall not have a basement or cellar excavated below the accessory building or structure;
 - (vi) shall not be used for human habitation;
 - (vii) shall be constructed and placed on a building site so as to offer the minimum resistance to the flow of floodwaters;
 - (viii) shall be firmly anchored to prevent flotation, collapse, and lateral movement, which may result in damage to other structures;
 - (ix) portions of the structure located below the base flood elevation must be constructed of flood-resistant materials; and,
 - (x) must comply with the floodway encroachment provisions.

4.4.6.5 Coastal High Hazard Areas. The following additional standards are applicable to development, including new construction and substantial improvement, in the Zone V1-V30 portion of special flood hazard areas:

- a. Location. All Buildings and Structures shall be located landward of the reach of high water (Mean High Water);
- b. Elevation. All Buildings or Structures shall have the lowest horizontal supporting member elevated to a minimum of one (1) foot above the base flood elevation and all spaces below the lowest

horizontal supporting member shall be open so as not to impede the flow of water, except for breakaway walls as defined in Paragraph 4.4.3. and provided for in Paragraph 4.4.6.5e.

- c. Structural Support. All Buildings and Structures shall be securely anchored on pilings or columns. Pilings or columns used as structural support shall be designed and anchored so as to withstand all applied loads of the velocity of water and hurricane wave action. There shall be no fill used for structural support.
- d. Certification. Compliance with the provisions of Paragraphs 4.4.6.5b. and 4.4.6.5c. shall be certified by an architect or professional engineer licensed to practice in the State of Connecticut, which certifications shall be provided to the Zoning Enforcement Officer as set forth in Paragraphs 4.4.7.1c. and 4.4.8.3c.
- e. Space Below Lowest Floor. The following are applicable to any construction or substantial improvement and to new construction:
 - (i) There shall be no enclosure of the space below the lowest floor unless breakaway walls are used;
 - (ii) Breakaway walls shall be constructed with non-supporting open wood lattice work or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the Building or supporting foundation system. For the purposes of this Section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot may be permitted only if a licensed professional engineer or architect certifies that the designs proposed meet the following condition: 1) breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and, 2) the elevated portion of the Building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effect of wind and water loads acting simultaneously on all Building components;
 - (iii) Such enclosed space shall be used solely for parking of vehicles, Building access, or limited storage;

- (iv) Prior to construction, plans for any Structure that will have breakaway walls must be submitted to the Zoning Enforcement Officer for approval; and,
 - (v) Alteration to sand dunes which would increase potential flood damage in Zones V1 to V30 is prohibited.
- f. Prohibited Uses. Due to the unusual hazard to public health and safety created by their potential exposure to flooding, the following facilities and uses shall not be newly constructed or substantially improved within coastal high hazard areas:
- (i) any portion or part of a public or community water system, including public or community water supply wells, pumping stations, treatment facilities, and storage tanks and towers, the exposure to high velocity flood waters or the inundation of which could result in contamination of the water supply or extended interruption of water service;
 - (ii) any portion or part of a public or community sewage disposal system, including sewage treatment facilities, septage lagoons, and sewage pumping stations, the exposure to high velocity flood waters or the inundation of which could result in contamination of public or private potable water sources or the release of untreated sewage into the water bodies or onto the land areas of the Town or extended interruption of sewage disposal service;
 - (iii) any portion or part of an electrical utility system, including generating facilities, transformer substations, and high-voltage transmission lines, the exposure to high velocity flood waters or the inundation of which could result in an extended interruption of electric service; and,
 - (iv) any structural storage facility or non-structural storage area for chemicals, explosives, flammable liquids (including gasoline and other fuels except for storage of fuels for retail sale to boats), road salt, manure or fertilizer, or other toxic material which could be hazardous to public health and safety.

Nothing in this Paragraph shall prevent the periodic maintenance, repair or replacement-in-kind of any portion or part of an existing public or community water system, sewage disposal system or electrical utility system.

[Preceding from former Section 33.6.5, Amended Effective 3-7-08]

- g. Propane tanks shall be secured to the ground so as to prevent their lateral movement during flood events. [Added effective 3-7-08.]

4.4.6.6 Floodways. Floodways as designated on the Flood Boundary and Floodway Maps are extremely hazardous areas due to the velocity of flood waters which cause erosion and carry debris and potential projectiles. The following additional standards are applicable to development in relation to floodways:

- a. Encroachment. There shall be no encroachments, including fill, new construction, substantial improvements, and other development, unless certification by an architect or professional engineer licensed to practice in the State of Connecticut is provided demonstrating that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge;
- b. Other Standards Applicable. If the requirement of Paragraph 4.4.6.6a. is satisfied, all new construction and substantial improvements shall comply with all other applicable standards of this Section; and,
- c. Prohibited Uses. New construction or substantial improvement of the uses and facilities enumerated in Paragraph 4.4.6.5f. is prohibited in floodways.

[Preceding from former Section 33.6.6 , Amended Effective 3-7-08]

4.4.6.7 Manufactured Homes. The following standards and requirements are applicable to manufactured homes in special flood hazard areas:

- a. All manufactured homes to be placed, or substantially improved, shall be elevated so that the lowest floor is elevated to a minimum of one (1) foot above the base flood elevation;
- b. Any such home shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement, and hydrostatic and hydrodynamic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors; and,

- c. Any such home shall be installed using methods and practices which minimize flood damage and shall comply with the following:
 - (i) Adequate access and drainage should be provided; and,
 - (ii) Elevation construction standards include the following:
Piling foundations to be placed no more than 10 feet apart; and, reinforcement to be provided for piers more than six (6) feet above ground level.
- d. All manufactured homes in the Zone V1-V30 portion of the special flood hazard areas must comply with standards set forth in Section 4.4.6.5;
- e. Recreational vehicles placed on site within Zones A1-A30 and V1-V30 in special flood hazard areas must either be:
 - (i) on the site for fewer than 180 days;
 - (ii) be fully licensed and ready for highway use; or,
 - (iii) meet the elevation and anchoring requirements for manufactured homes in Section 4.4.6.7 of these regulations.

[Preceding from former Section 33.6, Revised effective 3-7-08]

4.4.7 Flood Hazard Area Permit. Development, including new construction, substantial improvement and the placement of prefabricated Buildings, may be made within special flood hazard areas only after a Flood Hazard Area Permit therefor has been obtained as follows:

4.4.7.1 Application. Application for a Flood Hazard Area permit shall be made to the Zoning Enforcement Officer on forms furnished for that purpose by such Officer and shall include at least: 1) plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; 2) existing or proposed Structures, fill, storage of materials and drainage facilities; and, 3) location of the foregoing. The following information is required in connection with all applications:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all Structures;
- b. Elevation in relation to mean sea level to which any Structure has been or will be floodproofed;

- c. Certification by an architect or professional engineer licensed to practice in the State of Connecticut that the floodproofing methods of any non-residential Structure meet the floodproofing criteria in Paragraph 4.4.6.4b(iii) and 4.4.6.5d;
- d. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, certification by an architect or professional engineer licensed to practice in the State of Connecticut that the flood carrying capacity within the altered or relocated portion will be maintained, and evidence that adjacent Towns affected and the Connecticut Department of Environmental Protection, Water Resources Unit, have been notified;
- e. Plans for any walls to be used to enclose space below the base flood elevation; and,
- f. Copies of all necessary permits from those Federal, State or Town governmental agencies from which prior approval is required.

[From former Section 33.7, Amended Effective 3-7-08]

4.4.8 Duties and Responsibilities of Zoning Enforcement Officer. Duties and responsibilities of the Zoning Enforcement Officer in the administration of this Section include, but are not limited to, the following:

4.4.8.1 Permit Application Review.

- a. Review all Flood hazard permit applications to determine that the requirements of this Section have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;
- b. Review all development permit applications to assure that the permit requirements of these Regulations have been satisfied and that all other necessary permits have been received from those Federal, State or Town governmental agencies from which prior approval is required;
- c. Advise permittee that additional Federal or State permits may be required, and, if specific Federal or State permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit, possibly including, but not limited to, a Coastal Area Management Permit, Water Diversion, Dam Safety, Corps of Engineers 404; and,

- d. Review plans for walls to be used to enclose space below the base flood level in accordance with Paragraphs 4.4.6.4b. and 4.4.6.5e.

[Preceding from former Section 33.8.1, Amended Effective 3-7-08]

4.4.8.2 Other Base Flood and Floodway Data. When base flood and floodway elevation or floodway data is not provided on the Flood Insurance Rate Map or Floodway, Flood Boundary and Floodway Map, the Zoning Enforcement Officer shall obtain, review, and reasonably utilize any base flood elevation or floodway data available from a Federal, State or other source, in order to administer the standards of this Section.

[From former Section 33.8.2, Amended Effective 3-7-08]

4.4.8.3 Information. The following information shall be obtained from the applicant and maintained on file:

- a. The actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved Structures;
- b. For all new and substantially improved floodproofed structures, the actual elevation (in relation to mean sea level) to which the Structure was floodproofed;
- c. In coastal high hazard areas, certification from an architect or professional engineer licensed to practice in the State of Connecticut, that the Structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash;
- d. Evidence that adjacent Towns and the Connecticut Department Environmental Protection, Water Resources Unit, have been notified prior to any alteration or relocation of a Watercourse;
- e. Certification that the flood carrying capacity within the altered or relocated portion of a Watercourse will be maintained; and,
- f. Maintain for public inspection all records pertaining to the provisions of this Section.

[Preceding from former Section 33.8.3]

4.4.8.4 Reports. The following reports shall be made to the Federal Emergency Management Agency (FEMA):

- a. Biennial report; and,
- b. Copies of notification to adjacent Towns and the Connecticut Department of Environmental Protection, Water Resources Unit, concerning alterations or relocation of Watercourses.

[Preceding from former Section 33.8.4]

4.4.8.5 Interpretations of Boundaries. The Zoning Enforcement Officer is authorized to make interpretations, where needed, as to the exact location of boundaries of special flood hazard areas, such as where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Paragraph 21.6 of these Regulations.

[From former Section 33.8.5, Amended Effective 3-7-08]

4.4.8.6 Alteration or Relocation of a Watercourse.

- a. Notify adjacent Towns and the Department of Environmental Protection Water Resources Unit, prior to any alteration or relocation of a Watercourse and submit evidence of such notification to the Federal Emergency Management Agency; and,
- b. Assure that maintenance is provided within the altered or relocated portion of said Watercourse so that the flood-carrying capacity is not diminished.

[From former Section 33.8.6]

4.4.8.7 Records on File. All records pertaining to the provisions of this Section shall be maintained in the office of the Zoning Enforcement Officer.

[From former Section 33.8.7, Amended Effective 3-7-08]

4.4.9. Variance Procedures. The Planning and Zoning Commission shall hear and decide appeals and requests for variances from the requirements of this Section 4.4. Variances shall only be issued upon:

- a. a showing of good and sufficient cause;
- b. a determination that failure to grant the variance would result in exceptional hardship; and,

- c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing town regulations.

Only hardships which are based on unusual physical characteristics of the property in question, characteristics which are not shared by adjacent properties, shall qualify to meet subsection (ii) above. Claims of hardship based on the structure, personal, or economic circumstances are not sufficient cause for granting of a variance under this regulation. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation. The Town of Old Lyme shall maintain records of all variances granted and report and variances to the Federal Emergency Management Agency (FEMA) upon request.

4.5 Performance Standards.

4.5.1. General. The use of land, Buildings and other Structures, wherever located, shall be established and conducted so as to conform to the performance standards hereinafter specified. The performance standards establish certain nuisance factors, which, if committed or exceeded in the use of land, Buildings and other Structures, will be detrimental to the use, enjoyment and value of other land, will be detrimental to the public health, safety and welfare and will be contrary to the comprehensive plan of zoning. The following administrative measures are applicable:

4.5.1.1 The Zoning Enforcement Officer is authorized to make surveys and take measurements to determine compliance.

4.5.1.2 Other requirements of these Regulations specifying disclosure of toxic or hazardous materials to be used, stored or processed under Paragraph 13A.2.2(f) and the provisions of the Water Resource District under Section 17 are in support of and in addition to the requirements of this Section 4.5.

4.5.1.3 No application for a Zoning Permit shall be approved and no Certificate of Zoning Compliance shall be issued until the Zoning Enforcement Officer has made a determination that the proposed use of land, Buildings and other Structures will be established and conducted in accordance with these performance standards and with the standards specified in other relevant Town, State and Federal codes, ordinances or regulations, whichever is the more restrictive.

4.5.1.4 The performance standards of this Section are of continuing application.

[Preceding from former Section 46.1, Amended Effective 3-7-08]

4.5.2. Smoke, Gases and Fumes. No dust, dirt, fly ash, smoke, gas or fumes shall be emitted into the air from any Lot so as to endanger the public health and safety, to impair safety on or the value and reasonable Use of any other Lot, to constitute a critical source of air pollution or to degrade air quality below established standards in the Town.

[From former Section 46.2]

4.5.3. Noise. With the exception of time signals and noise necessarily involved in the construction or demolition of Buildings and other Structures, no noise shall be transmitted outside the Lot where it originates when noise has a decibel level, octave band, intermittence and/or beat frequency which endanger the public health and safety or impairs safety on or the value and reasonable use of any other Lot or is prohibited by Town ordinance.

[From former Section 46.3]

4.5.4. Vibration. With the exception of vibration necessarily involved in the construction or demolition of Buildings, no noticeable vibration shall be transmitted outside the Lot where it originates.

[From former Section 46.4]

4.5.5. Odors. No offensive odors or smells shall be emitted into the air from any Lot so as to impair the value and reasonable use of any other Lot.

[From former Section 46.5]

4.5.6. Glare and Heat. On any Lot, no outdoor illumination facilities shall be established which cause discomfort glare, disability veiling glare or trespass lighting on any other Lot or any Street. No such illumination, nor any heat, shall be transmitted outside the Lot where it originates so as to impair the value and reasonable use of any other Lot.

[From former Section 46.6]

4.5.7. Refuse, Wastes and Pollution. No refuse or other waste materials shall be deposited on any Lot except with the approval of the Director of Health of the Town of Old Lyme. No refuse or other waste materials and no liquids shall be deposited on any Lot or discharged to any river, stream, estuary, Watercourse, storm drain, pond, lake, or Wetland or to groundwater, so as to constitute a source

of water pollution contrary to water quality standards established by the State of Connecticut. [From former Section 46.7]

- 4.5.8. Danger. No material which is dangerous due to explosion, extreme fire hazard or radioactivity, shall be used, stored, manufactured, processed or assembled, except in accordance with applicable codes, ordinances and regulations of the Town of Old Lyme, State of Connecticut, and Federal Government.

[From former Section 46.8]

- 4.5.9. Radio Interference. No Use on any lot shall cause interference with radio and television reception on any other Lot, and any use shall conform to the regulations of the Federal Communications Commission with regard to electromagnetic radiation and interference.

[From former Section 46.9]

- 4.6 Buffer Requirements for Non-Residential Uses. In Waterfront Business, Commercial and Light Industry Districts, the area required for Building setback from a Residence District boundary line shall be suitably landscaped with evergreen shrubs or trees no less than six (6) feet in height at the time of planting or such evergreens in combination with embankments, fences and/or walls, so as to provide a transition from such Districts to the Residence Districts. Suitable natural terrain and existing evergreen trees and shrubs may be preserved or augmented with new planting to satisfy the landscaping requirement in the Building setback area from Residence Districts. As used in this Section, "Residence Districts" shall include the following District titles and map codes: Rural Residence RU-80 District (RU-80); Rural Residence RU-40 District (RU-40); Residence R-20 District (R-20); Residence R-15 District (R-15); Residence R-10 District (R-10); Multi-Family Residence MFR-80 District (MFR-80); Multi-Family Residence MFR-40 District (MFR-40); nx Multi-Family Residence MFR-20 District (MFR-20).

[From former Section 31.3.16(c) , Amended Effective 3-7-08]

- 4.7 Corner Visibility. No fence, landscaping, building, structure, vehicle or other object shall be placed or maintained so as to obstruct the clear line of sight anywhere across a triangular area between an observer's eye at an elevation 3.5 feet above the edge of the Street Traveled Way to an object one (1) foot above the edge of the Street Traveled Way, which triangular area has two (2) sides, each of which is 25 feet in length measured along the edge of the Street Traveled Way from the point of intersection and a third side which is a straight line connecting the points 25 feet from such intersection.

[From former Section 7.4.8, amended effective 3-7-08]

- 4.8 Street Numbers.

- 4.8.1 Assignment. In accordance with Connecticut General Statutes Section 7-120 and established practice in the Town of Old Lyme, street numbers shall be assigned by the Town Assessor.

4.8.2 Administration. The applicant in any Subdivision, Resubdivision, Special Permit/Exception, Variance, or any other application before the Commission or the Board, shall assign street numbers in accordance with the preceding and shall include such street numbers on the final plans for such application. The Town Assessor shall be responsible for reviewing such street numbers and keeping records of numbers assigned.

[Preceding Added effective 3-7-08]

4.9 Keeping of Animals. Agricultural uses in the Rural and Residence Districts may include the keeping of livestock or poultry when such livestock or poultry is confined to the property boundaries, but such uses shall not include the commercial raising of fur-bearing animals or the keeping of swine. See the provisions in Section 5, Use Regulations, for each District. See also Section 7.2, Accessory Buildings; Section 7.8.7, Keeping of Pets; Sections 11.16, Commercial Cattery, Dog Kennels, Veterinarian Hospitals, & Veterinary Outpatient Clinics; and Section 11.17, Commercial Livery and Board Stables, Riding Academies.

[From former Schedule A-1 , Amended Effective 3-7-08, Amended Effective 4-1-09]

4.10 Conservation Zone Requirements - Gateway. The following provisions apply within the Conservation Zone only.

4.10.1 Definitions: For purposes of this Section 4.10 only, the following definitions shall apply (note: Some definitions may be the same as in Section 3 of these Regulations, but are repeated here for the convenience of the reader):

Act Connecticut Public Act 73-349.

Attic The space between the ceiling beams of the top story and the roof rafters.

Building Any structure having a roof and intended for shelter, housing or enclosure of persons, animals or materials.

Commercial Cutting Any cutting or removal of forest tree species which is not covered under the definition of non-commercial cutting contained herein.

Commercial Cutting Plan A plan showing the applicant's property and abutting property owners, a description of the activity to be undertaken, and a certification by a public or consulting forester that the plan is consistent with the "Minimum Standards for Cutting Timber" set forth in Appendix A of this Section.

Commission The Connecticut River Gateway Commission.

Coverage The percentage which the aggregate building area of all buildings on a lot bears to the total area of that lot.

Developed Area An area adjacent to the Connecticut River or its tributaries and associated wetlands which has, within the 50 foot riparian area immediately landward of the high tide line as defined in §22a-359(c) CGS, been developed in the sense of being armored through the use of bulkheads, rip-rap or other structural stabilization methods or materials. The 50 foot riparian area shall also be considered as “developed” if clearing and or construction activities have occurred in such a manner so as to make the retention or replacement of vegetation within said 50 foot riparian area impractical, infeasible or undesirable.

Earth Materials Removal The removal, excavation or mining of minerals, sand, gravel, clay, bedrock, peat, loam or topsoil.

Erosion and Sedimentation Control Plan A plan which sets forth measures to be undertaken for the control of erosion and sedimentation.

Grade The finished ground level adjoining the base of all exterior walls of a building or structure and any related earth retaining structure.

Height, Building Height The vertical distance between a horizontal plane **drawn** through the highest point of a building or structure, excluding chimneys, and the lowest point of a building or structure which is visible above existing natural grade prior to site grading, **or which is visible from a new, excavated grade, whichever creates the greater height dimension.** The height of any retaining wall constructed to create a site platform, and of any backfill along the foundation in excess of the existing natural grade, shall be included as part of the measured height. [bold type amended effective 10-1-09]

The Zoning Commission may consider and may approve a special permit application which allows maximum height to be measured from a new finished manufactured grade if such new grade is determined by the Zoning Commission to be consistent with the standards of special permit requirements for residential structures in excess of four thousand (4000) square feet of total floor area. The special permit is mandatory for all structure in excess of four thousand (4000) square feet, and the Commission may require a Special Permit based on the criteria of Section 4.10.12.4 for structure with a total floor area of four thousand (4000) square feet or less. See Section 4.10.12.

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

Lot A plot or parcel of land occupied or capable of being occupied, in conformity with applicable regulations, by one or more principle buildings and any accessory buildings or uses customarily incidental thereto.

Marine Facility A dock, wharf, slip, basin or similar landing facility for waterborne vessels and/or an open yard for the building, storing, repairing, servicing or refueling of such vessels, together with any accessory buildings or other structures necessary for the operation of the foregoing.

Multi-Family Project Any group of three or more dwelling units in one or more buildings on a single lot.

Non-Commercial Cutting The cutting or removal of forest tree species on a lot for the purpose of preparing a site for the construction of a building or other structure and/or cutting for the customary maintenance and lot improvement. Sale of cordwood or other incidental forest products resulting from such maintenance and lot improvement shall not constitute commercial cutting.

Non-Commercial Cutting Plan A plan showing the existing mix of forest tree species, their approximate height, age and density; a description of the cutting or removal activities to be undertaken and any other information that may be necessary and reasonably required.

Refuse Waste, junk, garbage, debris, rubbish or trash, but not including sewage collected or disposed of in lawful facilities.

Sign Any letter, word, model, pennant, insignia, trade flag, device or representation used as, or which is in the nature of, an advertisement, announcement, attraction or directive.

Site Plan A plan which includes the description and location of all existing and/or proposed buildings, structures and uses on a lot; utility lines, vehicular drives and parking areas, access, lighting, drainage and waste disposal facilities; adjacent ownership, outstanding physical features, watercourses and wetlands; any proposed modification or alteration of the lot's natural features, including the disturbance of vegetation and soil cover; and such further information as may reasonably be required.

Story That part of a building, other than a cellar, included between the surface of any floor and the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Story Above Grade Any story having its finished floor surface entirely above grade, and any other story having its finished floor surface partially or entirely below grade where the finished surface of the floor next above is more than six (6) feet above grade for more than fifty (50) percent of the total perimeter of the building or more than twelve (12) feet at any point.

Structure Anything constructed or which is located on, above or beneath the ground, except driveways, sidewalks, parking areas, curbing and fences which are less than six

(6) feet high, including anything located on, above or beneath the water which is not primarily utilized or intended for navigation.

Town A town which has voted to be governed by the provisions of Section 6 to 9 of the Act in accordance with Section 4(b) of the Act, being the Town of Old Lyme for purposes of this Section 4.10.

Total Floor Area The sum of the gross area of all floors in a structure, measured from the exterior faces of exterior walls. Gross floor area includes any area which is capable of being used for human occupancy, including garage or attic space, whether finished or not, provided the area has a structural headroom of at least six (6) feet. A basement or first floor which is located entirely below ground surface shall not be included in total floor area calculations.

Wetlands Those areas identified and defined in Section 22a-32, Connecticut General Statutes, as amended and Section 22a-38, Connecticut General Statutes, as amended.

4.10.2 Land Coverage: No building shall be constructed, reconstructed, enlarged, extended, moved or structurally altered in such a manner as to exceed the maximum percentage of total land coverage allowed for such buildings in the aggregate on any single lot as indicated in the following table:

<i>Type of District</i>	<i>Range of Minimum Lot Sizes</i>	<i>Maximum Percent of Land Coverage Permitted</i>
Residential	Up to 20,000 square feet	25%
	20,000 – 40,000 square feet	15%
	Above 40,000 square feet	10%
Commercial (including waterfront)	All sizes	40%
Industrial	All sizes	25%

4.10.3 Connecticut River Setbacks: No building or other structure shall be constructed, reconstructed, enlarged, extended, moved or structurally altered within one hundred (100') feet of the high tide line, as defined in the Connecticut General Statutes, of the Connecticut River or any of its tributaries or associated wetlands. At its discretion, upon determination of functional need, the local commission having jurisdiction may issue a special permit to reduce the setback for structures that require direct access to the water as an operational necessity such as piers, docks and boathouses. See Section 4.3, Tidal River Protection, for setbacks from other tidal rivers.

4.10.3 Erosion and Sedimentation Control. An erosion and sedimentation control plan shall be submitted as part of the supporting documentation to be filed with a required site plan. Such a plan may be referred to the appropriate soil and water conservation district for its technical review and advisory opinion before approval of the project is granted by the town authority having jurisdiction and shall meet the following criteria:

- a. The development plan should be fitted to the topography and soils so as to create the least erosion potential.
- b. Wherever feasible, natural vegetation should be retained and protected.
- c. Only the smallest practical area of land should be exposed at any one time during development.
- d. When land is exposed during development, the exposure should be kept to the shortest practical period of time.
- e. Where necessary, temporary vegetation and/or mulching should be used to protect areas exposed during development.
- f. Sediment basins (debris basins, desilting basins or silt traps) should be installed and maintained to remove sediment from runoff waters and from land undergoing development.
- g. Provisions should be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.
- h. The permanent final vegetation and structures should be installed as soon as practical in the development.

4.10.4 Signs. No sign shall be constructed, reconstructed, enlarged, extended, moved or structurally altered in such a manner so as to move or rotate mechanically or be illuminated by a light source which visibly flashes, oscillates or otherwise automatically changes in intensity or color, nor shall any sign be permitted which calls the attention of the general public to any commercial activities, services or products not available on the premises where the sign is located.

4.10.5 Building Height. No building or other structure shall be constructed, reconstructed, enlarged, extended, moved or structurally altered in such a manner as to exceed a height or thirty-five (35) feet. However, spires, cupolas, towers, flagpoles, and other similar architectural features occupying not more than ten (10) percent of the building footprint and not designed or used for human occupancy may be constructed, reconstructed, enlarged, extended, moved or structurally altered to a reasonable and necessary height upon the granting of a special permit by the town authority having jurisdiction, provided that the

architectural features will not have a significant visual impact on the River scene. See Section 8, Bulk.

4.10.6 Cutting of Timber, Required Vegetative Buffer. There shall be no cutting or any human-instigated destruction of vegetation within a strip of land extending fifty (50') feet from the mean high tide line, as defined in Section 22a-359c of the Connecticut General Statutes, of the Connecticut River, its tributaries or its associated wetlands, except as provided in this section.

- a. There shall be no clear cut openings, and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained. Existing vegetation less than three (3') feet in height and other ground cover shall not be removed except to provide for a footpath or other permitted uses. Pruning of tree branches on the bottom third of the trees is permitted. Fields which have reverted primarily to shrubs, trees or other woody vegetation shall be regulated under the provisions of this section. Cleared openings legally in existence on the effective date of these regulations may be maintained but shall not be enlarged.
- b. There shall be no timber harvesting within the buffer area except to remove safety hazards. When the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native trees unless existing new tree growth is present. Prior to cutting of diseased or damaged trees, a determination about the condition of such trees shall be made by the Zoning Enforcement Officer, or by a public or consulting forester.
- c. In no event shall an opening be cleared for development, which shall include, but not be limited to: stormwater drainage structures, construction of retaining/retention walls, construction of principal or accessory structures, driveway construction, sewage disposal areas, lawns and gardens.
- d. A footpath not to exceed five feet (5') in width is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
- e. Stairs or similar structures may be allowed with a permit from the enforcement officer to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of five feet (5') in width and does not extend below or over the high tide line of the Connecticut River or its tributaries or the upland edge of a wetlands, and the applicant demonstrates that no reasonable access alternative exists on the property.
- f. A vegetated buffer shall not be required for areas within the Conservation District which have been mapped and designated by the Zoning

Commission as “developed areas”. In such developed areas, property owners are encouraged, where feasible, to maintain a vegetated area of trees and shrubs immediately adjacent to the water to avoid erosion and enhance the scenic quality of the River scene. For purposes of this section, a developed area is an area adjacent to the Connecticut River or its tributaries and associated with wetlands which has, within the 50-foot riparian area immediately landward of the high tide line, as defined in Conn. Gen. Stats. § 22a-359(c), been developed in the sense of being armored through the use of bulkheads, rip-rap or other structural stabilization methods or materials. The 50-foot riparian area shall also be considered as “developed” if clearing or construction activities have occurred in such a manner as to make the retention or replacement of vegetation within said 50 foot riparian area impractical, infeasible or undesirable.

4.10.7 Cutting of Timber.

- a. Noncommercial cutting. A noncommercial cutting plan shall be submitted as part of the supporting documentation filed with a required site plan or as one of the required exhibits to be submitted for land subdivision approval.
- b. Commercial cutting. Applicants shall make application to the Commission for permits for the commercial cutting of timber and no commercial cutting of timber shall occur in the absence of the issuance of such a permit. After submission of a commercial cutting plan to the Commission, a permit shall be granted if it is found to be consistent with the minimum standards set forth in Appendix A at the end of this Section 4.

4.10.8 Burning of Undergrowth. The burning of undergrowth shall be in accordance with those regulations of the Connecticut Department of Environmental Protection which are in effect from time to time to control and abate air pollution and in accordance with all other applicable provisions of law.

4.10.9 Removal of Soils and Earth Materials. The removal of soil and earth materials shall be prohibited except for (1) valid non-conforming uses in existence as of May 14, 1974; (2) foundation, trench and related site excavations performed after the issuance of a building permit; and (3) which a building permit is not required, provided such removal shall not exceed three hundred (300 c.y.) cubic yards of material.

4.10.11 Dumping and Storing of Refuse. No dumping or storage of refuse shall be permitted other than the temporary dumping or storage of small amounts of such material for brief periods pending final lawful disposition nor shall

any new public solid waste disposal facility be established or an existing facility be expanded in area.

- 4.10.12 Additional Requirements for Residential Structures Over Four Thousand (4,000) Square Feet in Total Floor Area. A Special Permit is required for all construction, reconstruction, enlargement or structural alteration of principal and accessory residential structures which result in one or more buildings or structures having a combined total floor area in excess of four thousand (4,000 SF) square feet. The purpose of this requirement is to assure that large-scale residential structures and significant site modifications located within the Gateway Conservation Zone will not cause deterioration of the natural and traditional river scene.
- 4.10.12.1 Exception. A Special Permit shall not be required for residential structures more than four thousand (4,000 S.F.) square feet in total floor area under this Section if it can be demonstrated by the applicant that the proposed structure or structures will not be visible from the Connecticut River. Demonstration that a structure will not be visible from the Connecticut River shall consist of an area topographic map showing that there is intervening ground at an elevation at least thirty-five (35') feet above ground elevation of the proposed structure.
- 4.10.12.2 Submission. In addition to other requirements for Special Permit applications, the applicant will provide site plans and building elevations prepared by an architect or landscape architect which show information on existing and proposed topography, building designs and height measurements, proposed grading, including cuts, fills and retaining walls, any required buffer area, proposed landscaping and plans for access to the waterfront, if applicable.
- 4.10.12.3 Special Permit Criteria. The following standards and criteria shall apply to such Special Permit reviews in addition to those requirements contained in Section 13 of these Regulations:
- a. Proposed site development shall maintain the essential natural characteristics of the site, such as major land forms, natural vegetative and wildlife communities, hydrological features, scenic qualities and open space that contributes to a sense of place.
 - b. Structures shall be adapted to the existing terrain, rather than altering the earth form to create a platformed development site.
 - c. Structures located above the crest of hillsides facing the river shall be held back from the crest of the hill to maintain a clear sense of the hillside brow in its natural condition.

- d. Architectural elements shall not be overemphasized in a manner which disrupts the natural silhouette of the hillside. Structures shall be designated so that the slope of the angle of the roof pitch is generally at or below the angle of the natural hillside or manufactured slope.
- e. Building forms shall be scaled to the particular environmental setting to avoid excessively massive forms that fail to enhance the hillside character. Massing of structural elements such as large roof areas shall be broken up to approximate natural slopes.
- f. Roof lines shall relate to the slope and topography. Rooftop treatment shall be designed to avoid monotony of materials, forms and colors. Dark-colored roof treatments, which reduce visual impact on the structure of the landscape are preferred.
- g. Site design shall preserve the existing natural landscape where possible and include new landscaping which is compatible with existing natural vegetation, the scenic character of the area, and increases visual buffering between the building and the River or its tributaries within the Conservation Zone.
- h. Development shall be located so as to minimize the disturbance of sensitive areas. The smallest practical area of land should be exposed at any one time during development and the length of exposure should be kept to the shortest practical time. Disturbed areas shall be replanted with non-invasive trees, shrubs and ground cover species which are compatible with existing vegetation.
- i. Site grading shall avoid straight and unnatural slope faces. Cut and fill slopes shall have curved configurations to reflect as closely as possible the forms and shapes of surrounding topography. At intersections of manufactured and natural slopes, abrupt angular intersections should be avoided, and contours should be curved to blend in with the natural shape.

4.10.12.4 Finding. The Commission shall make the following findings in approving any Special Permit within the Conservation Zone:

- a. Proposed structures and site work have been designed to fit the hillside rather than altering the hillside to fit the structure and site design.
- b. Disturbance to existing topographic forms is minimized and proposed grading and excavation will not result in soil erosion and silting of lower slopes.

- c. The proposed development retains or enhances the visual character of the site and the area by utilizing proper structural scale and character, varied architectural treatments and appropriate plant materials to buffer the mass of the building from the Connecticut River or its tributaries within the Conservation Zone.
- d. The proposed design preserves or enhances significant natural features and maintains or restores the natural and traditional character of the river scene.
- e. The Commission may consider and may approval a special permit application which allows a maximum height to be measured from a new finished manufactured grade if such new grade is determined by the Zoning Commission to be consistent with the standards of special permit requirements for residential structures in excess of four thousand (4,000 S.F.) square feet of total floor area. See Section 8.2.2.2 for standard height measurement.

4.11 Residence in Underground, Incomplete, or Temporary Building or Structure. With the exception of portions of a Dwelling which are partially underground ("walkout Basements"), no Cellar, garage or any Structure of a temporary nature or any uncompleted portion of a Structure shall be Used for Human Occupancy.

Likewise, no Principal or Accessory Use shall be established or maintained in a tent, trailer, truck, or similar temporary or mobile structure or device, except as provided in Section 11.18, Trailers, of these Regulations.

[Added effective 3-7-08, Amended effective 4-1-09]

4.12 Temporary Uses. A temporary Use granted under any provisions of these Regulations or any application for a Use which application specifies or contains a particular proposed time frame or time period shall not constitute the establishment of a permanent or legal non-conforming Use. See, for example, Sections 15 (Excavation and Filling of Earth Products) and 7.6.1 (Handicapped Access to Residential Structures).

[Added effective 3-7-08]

4.13 Stormwater Runoff Control. For any use of land for which review is required by the Commission or the Board, the provisions of this Section 4.13 shall apply.

4.13.1 Purpose. It is the intent of this Section to encourage the use of Best Management Practices (BMP's) in the design, construction and maintenance of stormwater management systems (SMS's) to minimize, treat, prevent and/or reduce degradation of water quality and flooding potential due to stormwater runoff from development. In all zoning

districts, SMS's for developments/projects shall be designed, constructed and maintained with BMP's to minimize run-off volumes, prevent flooding, reduce soil erosion, protect water quality, maintain or improve wildlife habitat, and contribute to the aesthetic values of the development/project.

All SMS's shall be designed utilizing sound engineering principles and judgment and shall be guided by the following documents:

- a. *"Connecticut Department of Transportation Drainage Manual"* October 2000 or as amended by the Office of Engineering Bureau of Engineering & Highway Operations Division of Design Services Hydraulics and Drainage Section Connecticut Department of Transportation.
- b. *"2004 Connecticut Stormwater Quality Manual"* 2004 or as amended by the Connecticut Department of Environmental Protection.
- c. *"2002 Connecticut Guidelines For Soil Erosion and Sediment Control, DEP Bulletin 34"* Effective May 2002 or as amended by The Connecticut Council on Soil and Water Conservation in Cooperation with the Connecticut Department of Environmental Protection.
- d. *"Design and Construction Standards of the Town of Old Lyme, Connecticut, Incorporating Polices, Rules and Procedures for the Administration of 'An Ordinance Concerning the Construction and Acceptance of Roads in the Town of Old Lyme'"* Adopted December 14, 1998, Effective January 12, 1999 or as amended by the Old Lyme Board of Selectmen.

4.13.2 Design by Engineer. The SMS shall be prepared by a professional engineer licensed in the State of Connecticut. As appropriate and/or deemed necessary, the SMS submission shall be in form of plans/maps, written description, calculations, supporting reports and legal documents.

4.13.3. Exemption. The construction/development of a single-family dwelling including accessory structures on a residentially zoned property is exempt from this Section unless deemed necessary by the Zoning Enforcement Officer.

[Section 4.13 Added effective 3-7-08]

4.14 Driveway Standards. All driveways shall be constructed in accordance with the specifications and permit procedures set forth in an ordinance of the Town of Old Lyme entitled, "Driveways", as the same may be amended from time to time.

[Added effective 3-7-08]

4.15 No More Than One Principal Use on a Lot. Except in a Planned Residential Conservation Development (PRCD) per Section 12 of these Regulations and in the Commercial C-30, Commercial C-10 and Light Industrial Districts, there shall be no more than one (1) principal use on a single lot. In the Light Industrial Districts, upon approval of the Commission as a Special Permit pursuant to Section 13B of these Regulations, there may be more than one (1) principal use on a lot, provided one such use shall not be a dwelling, and, provided, further, that any Alteration, Enlargement, or Extension of any such uses shall require an amendment to such Special Permit. In the Commercial C-30 and Commercial C-10 Districts, upon approval of the Commission as a Special Permit pursuant to Section 13B of these Regulations, there may be more than one (1) principal use on a lot, including a Dwelling Unit containing no more than 25% of the Floor Area of the commercial uses on the Lot and not to exceed one (1) Dwelling Unit per Lot, and, provided, that any Alteration, Enlargement, or Extension of any such uses shall require an amendment to such Special Permit. In Planned Residential Conservation Developments, there may be more than one principal use on one (1) lot, including one or more dwellings, upon approval of the Planning Commission pursuant to Sections 12 and 13 of these Regulations. In granting any Special Permit under this Section, the Commission may require that each additional Principal Use shall provide the parking required by Section 18 of these Regulations, increased by up to 20%, depending on the mix of uses and expected combined occupancy. See Section 6.8 (Prohibited Uses).

[First and third Sentences Added effective 3-7-08; [Second Sentence From former Section 6.3.8, Amended Effective 3-7-08]