

**ZONING REGULATIONS**

**CHAPTER 195**

**CITY OF DERBY**



ADOPTED 1/18/2000

AMENDED TO 6/27/2025

**RECEIVED**

By Office of Derby Town Clerk Marc J. Garofalo, MPA, MMC, MCTC at 2:19 pm, Jun 16, 2026



# Chapter 195

## ZONING

### ARTICLE I General Provisions

- § 195-1 Short title.
- § 195-2 Purposes
- § 195-3 Interpretation.
- § 195-4 Jurisdiction.
- § 195-5 Division of existing lots.
- § 196-6 (Reserved)

### ARTICLE II Definitions and Word Usage

- § 195-7 Definitions and work usage.

### ARTICLE III Zoning Districts and District Requirements

- § 195-8 Zoning districts enumerated.
- § 195-8(A) Zoning Map
- § 195-9 Residential – 1 (R-1) Zone.
- § 195-10 Residential – 2 (R-2) Zone.
- § 195-11 Residential – 3 (R-3) Zone.
- § 195-12 Residential – 4 (R-4) Zone..
- § 195-13 Residential – 5 (R-5) Zone.
- § 195-13(A) Residential – 6 (R-6) Zone.
- § 195-14 Residential-Multiple (RM) Zone.
- § 195-15 Business-1 (B-1) Zone.
- § 195-16 Business-2 (B-2) Zone.
- § 195-17 Industrial-I (I-1) Zone.
- § 195-17(A) Mill Design District (MDD) Zone
- § 195-18 Public and Semipublic (P) Zone.
- § 195-19 Hospital/Campus (H/C) Zone.
- § 195-20 Center Design Development District (CDD) Zone.
- § 195-20(A) Center Residence (CR) Zone.
- § 195-21 Floodplain (FP) Zone.
- § 195-22 Industrial Campus (I-C) Zone.

### ARTICLE III (cont.) Zoning Districts and District Requirements

- § 195-23 Open Space (OS) Zone.
- § 195-24 Planned Development District (PPD).
- § 195-24(A) Core Planned Development District (C-PDD).
- § 195-24(B) Special Development District (SDD).

### ARTICLE IV General Use Requirements and Miscellaneous Provisions

- § 195-25 General requirements.
- § 195-26 Miscellaneous design and use Regulations.
- § 195-27 Wireless Telecommunication Antennas.
- § 195-28 Cannabis Establishments
- § 195-28(A) Smoke Shops, Vape Shops, and Tobacco Stores Prohibited
- § 195-29. Aquifer Protection Areas

### ARTICLE V Site Plan Review

- § 195-30 Applicability; review required.
- § 195-31 Site plan objectives.
- § 195-32 Application procedure.
- § 195-33 Standard plan requirements.
- § 195-34 Contents of site plan.
- § 195-35 Additional plans and reports Required.
- § 195-36 Supporting referrals.
- § 195-37 Additional information may be required.
- § 195-38 Fees.
- § 195-39 Design standards.
- § 195-40 Bonds.
- § 195-41 Waiver of certain site plan requirements.
- § 195-42 Commission action.

§ 195-43 Enforcement; conditions to be noted

**ARTICLE VI  
Special Exceptions**

- § 195-44 Authority to grant; requirements in addition to other regulations.
- § 195-45 Intent.
- § 195-46 Procedure.
- § 195-47 Commission action and public hearing notice.
- § 195-48 Considerations for approval.
- § 195-49 Revocation of special exceptions.
- § 195-50 Amendments or modifications.
- § 195-51 Performance bond/maintenance bond.
- § 195-52 Filing and effective date.

**ARTICLE VII  
Off-Street Parking and Loading**

- § 195-53 General requirements.
- § 195-54 Parking spaces; number and location.
- § 195-55 Location of parking.
- § 195-56 Joint parking.
- § 195-57 Off-street loading requirements.
- § 195-58 Access to parking areas.
- § 195-59 Design requirements.
- § 195-60 Phased parking development.
- § 195-61 Supplemental regulations and standards.

**ARTICLE VIII  
Flag Lots**

- § 195-62 Flag lot regulations.

**ARTICLE IX  
Home Occupations**

- § 195-63 Home occupation regulations.

**ARTICLE X  
Swimming Pools**

- § 195-64 Swimming Pool regulations.

**ARTICLE XI  
Signs**

- § 195-65 Intent
- § 195-66 Definitions.
- § 195-67 Miscellaneous sign regulations.
- § 195-68 Sign lighting requirements.
- § 195-69 Sign design and area regulations.
- § 195-70 Approval and violations.
- § 195-71 Permitted signs by district.

**ARTICLE XII  
Zoning Board of Appeals**

- § 195-72 Membership; terms.
- § 195-73 Officers.
- § 195-74 Rules of procedure
- § 195-75 Meetings; records.
- § 195-76 Minutes and findings.
- § 195-77 Assistance from other officials.
- § 195-78 Referrals.
- § 195-79 Guiding principles.
- § 195-80 Powers and duties.
- § 195-81 Applications.
- § 195-82 Hearings.
- § 195-83 Decision of Board.

**ARTICLE XIII  
Nonconforming uses**

- § 195-84 Intent
- § 195-85 Definitions.
- § 195-86 Continuance.
- § 195-87 Conditions governing nonconforming uses.
- § 195-88 Repair.

# ZONING

## ARTICLE XIII (cont.) Nonconforming uses

- § 195-89 Moving.
- § 195-90 Abandonment.
- § 195-91 Change of use.
- § 195-92 Nonconforming lots.
- § 195-93 Construction in progress.
- § 195-94 Change of title.
- § 195-95 Off-street parking and loading.
- § 195-96 Signs.
- § 195-97 Special exception provisions not nonconforming.
- § 195-98 Required termination of nonconforming uses.
- § 195-99 Adjoining nonconforming lots.

## ARTICLE XIV Soil Erosion and Sediment Control

- § 195-100 General.
- § 195-101 Definitions.
- § 195-102 Control Plan.
- § 195-103 Minimum standards.
- § 195-104 Certification.
- § 195-105 Conditions.
- § 195-106 Inspection and orders.

## ARTICLE XV Floodplain Management Controls

- § 195-107 General.
- § 195-108 Floodplain zone boundaries.
- § 195-109 Permit required; regulations in addition to underlying provisions.
- § 195-110 Exemptions.
- § 195-111 Standards and uses.
- § 195-112 Procedure.

## ARTICLE XVI Earth Material Removal, Filling and Excavation

- § 195-113 Temporary special exception required.
- § 195-114 Exemptions.
- § 195-115 Application procedure and requirements.
- § 195-116 Authorization; conditions and safeguards.
- § 195-117 Application information required.
- § 195-118 Approval; requirements to be satisfied.
- § 195-119 Review considerations.
- § 195-120 Permit expiration and renewal.

## ARTICLE XVII Alcoholic Beverages

- § 195-121 Applicability.
- § 195-122 Location of liquor outlets.
- § 195-123 Measurement.
- § 195-124 Discontinuance.
- § 195-125 Applications.
- § 195-126 Shopping centers.
- § 195-127 Grocery store beer permits in shopping centers.

## ARTICLE XVIII Building Official and Building Permits

- § 195-128 Building official.
- § 195-129 Building permits.
- § 195-130 Final inspection.
- § 195-131 Certificate of occupancy.
- § 195-132 Change of use.
- § 195-133 Foundation verification.
- § 195-134 Utility verification.
- § 195-135 Construction entrance

# ZONING

## ARTICLE XIX

### Administrative Requirements and Provisions

- § 195-136 Completion of existing buildings
- § 195-137 Certificate of occupancy.
- § 195-138 Administration and enforcement.
- § 195-139 Penalties for offences.
- § 195-140 Amendments.
- § 195-141 Notification.
- § 195-142 Severability; repealer; effective date; Copy on file.

### Appendix A Site Plan

#### Checklist of Zoning Requirements

### Appendix B Zoning Illustrations, Figures 1 through 36

[HISTORY: Adopted by the Planning and Zoning Commission of the City of Derby 1-18-2000. (these regulations superseded former Ch. 195, Zoning, adopted 9-23-1976 as Ch. 25 of the Charter and Revised Ordinance, as amended.) Amendments noted where applicable.]

## ZONING AMENDMENTS

### Amended 10/18/2000:

- 195-26.JJ: Miscellaneous Design and Use Regulations-Exterior Lighting
- 195-67.O.: Miscellaneous Sign Regulations – Subsection deleted
- 195-71.C.(4): Permitted Signs by District-Signs Permitted in Business Zones

### Amended 11/22/2000:

- 195-26.M: Miscellaneous Design and Use Regulations
- 195-39.D.(8-12): Design Standards-Parking Lots-Parking Spaces
- 195-39.E.(3)(d,e): Design Standards-Landscaping-Parking Lot Trees
- 195-54.A: Parking Spaces-Minimum Required Spaces by Use
- 195-54.B.(3,5,6): Parking Spaces-Interpretation of Required Parking Spaces

### Amended 6/19/2001:

- 195-27: Wireless Telecommunication Antennas

### Amended 7/16/2002:

- 195-23.A.: OS Zone-Intent
- 195-23.D: OS Zone-Special Exceptions
- 195-23.E: OS Zone-Bulk Requirements

### Amended 10/22/2003:

- 195-20.H: CDD Zone-Residential Density

### Amended 6/15/2005:

- 195-13(A): Residential R-6 Zone

# ZONING

## **Amended 1/1/2006:**

195-7: Definitions and Word Usage

Accessory Structures

Bedroom

Building, Accessory

Frontage

Long-Term-Care Facility

Sign, Window

Street, Local

Street, Loop

Street, Major Arterial

Street, Service

195-20.H: CDD Zone-Residential Density

195-22.A: I-C Zone-Intent

195-22.E.(2): I-C Zone-Application Procedure and Approval Process

195-25.E: General Requirements-Buffer Area Requirements

195-25.E.(1,3): General Requirements-Buffer Area Requirements

195-34.L: Contents of Site Plan-Location of Buffer Strips and Screening

195-39.E.(3)(e): Design Standards-Landscaping-Parking Lot Trees-50 or More Parking Spaces

195-59.F.(1): Design Requirements-Landscape Buffer-Nonresidential Parking Abutting Residential Use

195-62.D.(1,3): Flag Lot Requirements-Area and Yard Requirements

195-64.C: Safety Precautions – Section deleted

195-67.Q.(1): Miscellaneous Sign Regulations – Section deleted

195-71.A.(2): Permitted Signs by District-Signs Permitted in Business Zones

195-92.A: Nonconforming Lots

195-137.E: Certificate of Occupancy

195-141.B: Notification-Applicant Responsible for Notification

## **Amended 9/11/2006:**

195-16.D.(5): B-2 Zone-Special Exceptions

## **Amended 12/11/2006:**

195-7.D.(17): I-1 Zone-Special Exception Uses

## **Amended 10/16/2007:**

195-53.B: General Requirements-Definitions

195-59.G: Design Requirements-Design

195-59.G.(5): Design Requirements-Design-Zero Degree Parking Spaces

## **Amended 2/9/2009:**

195-22.B: I-C Zone-Permitted Principal Uses

195-22.B.(5,6): I-C Zone-Permitted Principal Uses

195-22.C.(2): I-C Zone-Accessory Uses-Restaurants and Food Service Establishments

195-22.D.(2,4,5,7,11): I-C Zone-Lot and Bulk Requirements

195-26.Q: Miscellaneous Design and Use Regulations-Required Frontage and Access

## ZONING

195-26.LL: Miscellaneous Design and Use Regulations-Private Roadways in Industrial Districts

**Amended 11/9/2009:**

195-15.D.(3): B-1 Zone-Special Exceptions

**Amended 8/09/2010:**

195-17.D.(2): I-1 Zone-Special Exception Uses

**Amended 11/04/2013:**

195-62: Flag Lots

195-66, 67.(S.,T.,U.), 71.F., 71.G.(5): Electronic Message Displays

**Amended 03/06/2015:**

195-7: Definitions and Word Usage

Lot Width

195-9.E.1: R-1 Zone-Lot Width Requirement

Figure 31

**Amended 02/28/2017:**

195-7: Definitions and Word Usage

Brewpub

Build-To Line

Transparent.

195-46.F Procedure,

195-82. Hearings

195-140.B.(4) Amendments

195-141.C.(3). Notifications

195-122. Location of Liquor Outlets

195-123. Minimum Distances and Measurement

195-124. Discontinuance

**Amended 05/30/2017:**

195-7: Definitions and Word Usage

Food Truck

195-17(A). Mill Design District

195-20: Center Design Development District

195-20(A): Center Residence Zone

**Amended 10/13/2017:**

195-7: Definitions and Word Usage

Educational Dormitory Residence

Residential Administration Staff

195-11.D.: Add: Residential Dormitory Residence as a special exception use.

195-54.A: Add: Education Dormitory Residence

**Amended 11/16/2018:**

195-24: Planned Development District (PDD)

# ZONING

## **Amended 4/5/2019:**

195-67.S(1)(g): Allow for Advertising Signage in Commercial Shopping Centers  
195-67.S.(2)(a): Miscellaneous Electronic Message Display Requirements  
195-67.S.(2)(c): Miscellaneous Electronic Message Display Requirements  
195-67.S.(2)(d): Miscellaneous Electronic Message Display Requirements  
195-71.C.(4): Modification to Alternate Signage Program Requirements

## **Amended 08/09/2019:**

195-24(A) to 195-8(A): Zoning Map  
195-24(A): Core Planned Development District (C-PDD)

## **Amended 01/28/2020:**

195-24.B.(2)(b&e): PDD Zone Eligibility  
195-24.C.(3): Modification to PDD Master Plan Bulk / Area Standards

## **Amended 10/09/2021:**

195-24(B): Special Development District (SDD)

## **Amended 02/05/2022:**

195-7: Definitions and Word Usage  
    Cannabis  
    Cannabis Cultivator  
    Cannabis Delivery Service  
    Cannabis Establishment  
    Cannabis Food and Beverage Manufacturer  
    Cannabis Grow space  
    Cannabis Micro Cultivator  
    Cannabis Product Manufacturer  
    Cannabis Product Packager  
    Cannabis Retailer  
    Cannabis Retailer, Hybrid  
    Cannabis Transporter  
195-15.B.(15): B-1 Zone-Permitted Uses  
195-16.B(17): B-2 Zone – Permitted Uses  
195-17.B.(8): I-1 Zone-Permitted Uses  
195-17(A).B.(2)(k): MDD Zone-Permitted Uses  
195-22.(B): I-C Zone-Permitted Principal Uses  
195-28: Cannabis Establishments

## **Amended 03/28/2023:**

195-138.A.: Enforcement

## **Amended 06/30/2024:**

195-7: Definitions and Word Usage

## ZONING

Modify: Child Care Center, Day-Care Center

Add: Family Child Care Home, Group Child Care Home

195-9.B, 195-10.B, 195-11.B, 195-12.B, 195-13.B, 195-13(A).B , 195-14.B., 195.20(A).B: Add Family Child Care Home and Group Child Care Home as permitted uses

195-9.D, 195-10.D, 195-11.D, 195-12.D: Remove Child Day Care Center from Special Exception Uses

195-15.B, 195-16.B: Add Child Care Center as permitted uses

195-54.A.: Parking Spaces-Minimum Required Spaces for Family Child Care Home/Group Child Care Home and Child Care Center/Day Care Center

### **Amended 07/19/2024:**

195-15.B: Add adult day care as a permitted use

195-54.A: Add a parking standard for adult day care

### **Amended 10/22/2024:**

195-28.C.&D.: Modify: Cannabis Establishments Regarding the Location and Number of Cannabis Establishments.

### **Amended 11/26/2024:**

195-29: Modify: Temporary and Limited Moratorium on Smoke Shops and Tobacco Stores

### **Amended 4/25/2025:**

195-7: Definition and Word Usage

Smoke Shop

Tobacco

Tobacco Stores

Vape Shop

Vaporizer

195-28(A): Add: Smoke Shops, Vape Shops, and Tobacco Stores Prohibited

195-28. Aquifer Protection Areas (effective on 3/16/2010) to 195-29.

### **Amended 6/27/2025:**

195-7: Definition and Word Usage

Junk

Junkyard

Redemption Center

195-17.D:

Add: Collection, sorting, temporary storage and shipping of used reclaimable metal as a special exception use

Add:-Redemption Center as a special exception use.

# ZONING

---

## ARTICLE I, General Provisions

---

### § 195-1. Short title.

This regulation shall be known and may be cited as the "1999 City of Derby Zoning Regulation."

### § 195-2. Purposes.

In accordance with the provisions of Chapter 124 of the Connecticut General Statutes, there is hereby established a Comprehensive Zoning Plan for the City of Derby, which plan is set forth in the text and map that constitute this regulation. Said plan is adopted in the interest of the protection and promotion of the public health, morals and general welfare and shall be deemed to specifically include the following, among others:

- A. The facilitation of the efficient and adequate provision of public facilities and services;
- B. The assurance of adequate and necessary sites for residence, industry, commerce, recreation, open space and public and quasi-public uses reflecting local and appropriate regional needs;
- C. The provision of privacy for families;
- D. The prevention and reduction of traffic congestion, so as to promote efficient and safe circulation of vehicles and pedestrians;
- E. The maximum protection of residential areas from the intrusion of incompatible land uses, from traffic congestion and from environmental pollution, including the provision of adequate light and air;
- F. The protection of historic buildings, sites and their environs;
- G. The enhancement of the appearance of the City of Derby as a whole;
- H. The maximum practical preservation of natural and other significant environmental features, including water bodies, wetlands, steep slopes, hilltops, major strands of trees and other areas of geological, ecological or scenic value; and
- I. The encouragement of flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economic provision of streets and utilities, to preserve the natural and scenic qualities of open lands and to enhance and protect the environmental quality of the city.

### § 195-3. Interpretation.

- A. The word "shall" is to be interpreted as a mandatory directive and does not confer any discretion in carrying out the action so directed.
- B. In the interpretation and application, the provisions of the regulation shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare. This regulation shall not interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that when this regulation imposes a greater restriction on the use of buildings or land or on the height of buildings or requires larger open spaces or imposes any higher standards than are imposed or required by any other statute, covenant or agreement, the provisions of the regulation shall control. Where the requirements of this regulation differ from the requirements of another statute, law, ordinance, rule or regulation, the more restrictive shall govern.
- C. Further, with regard to all requirements, this regulation shall be interpreted positively; that is, anything that is not specifically permitted is prohibited.

## ZONING

### § 195-4. Jurisdiction.

Within the City of Derby, no land, building or other structure shall be used and no building or other structure shall be constructed, reconstructed, enlarged, extended, moved or structurally altered except in conformity with these regulations. No lot or land shall be subdivided, sold, encumbered or conveyed so as to:

- A. Make said lot or land nonconforming or more nonconforming to these regulations;
- B. Make any use, building or other structure nonconforming or more nonconforming;
- C. Reduce any setback, yard, open space or off-street parking and loading spaces to less than is required by these regulations; or
- D. Make any nonconforming setback, yard, open space or off-street parking and loading spaces more nonconforming.

### § 195-5. Division of existing lots.

Where a lot is formed from part of a lot already occupied by a building, such separation shall effect in such a manner as not to impair any of the provisions of this regulation with respect to the existing building, and no building permit shall be issued for the construction or erection of a building or structure upon the new lot thus created unless it complies with the provisions of the regulations.

### § 195-6. (Reserved)

---

## ARTICLE II, Definitions and Word Usage

---

### § 195-7. Definitions and word usage.

A. As used in this chapter, the following terms shall have the meanings indicated:

ABANDONMENT -- The relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

ABUT -- To physically touch or border upon or to share a common property line. See "adjoining lot or land" and "contiguous."

ACCESS -- A way or means of approach to provide physical entrance to a property.

ACCESSORY STRUCTURE -- A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure. (See **Figure 22.**) (Amended 1/1/2006)

ACCESSORY USE -- A use customarily incidental to the principal use of a building, lot or land, or part thereof.

ALTERATION OF BUILDING OR STRUCTURE -- Any change in supporting members of a building, except such change as may be required for its safety; any enlargement to a building; or removal of a building from one location to another. Ordinary repairs shall not be deemed to constitute alterations.

AREA OF PRINCIPAL BUILDING -- The horizontal area measured around the outside of the

## ZONING

foundation walls and of the floors of roofed porches and roofed terraces inclusive.

ACRE -- A measure of land area containing 43,560 square feet.

ADDITION -- A structure added to the original structure at some time after the completion of the original.

ADJOINING LOT OR LAND -- A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land. See "abut" and "contiguous."

ADULT BOOK STORE -- A retail establishment selling publications and other material of a sexual nature.

ADVERTISING DISPLAY -- See "sign."

AGRICULTURE -- The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and dairy products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables.

AISLE -- The traveled way by which cars enter and depart parking spaces. (See Figure 2.)

ALLEY -- A service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

AMUSEMENT AND RECREATION SERVICES -- Establishments engaged in providing amusement or entertainment for a fee or admission charge and include such activities as dance halls; studios; theatrical producers; bands, orchestras and other musical entertainment; bowling alleys and billiard and pool establishments; commercial sports such as arenas, rings, racetracks, public golf courses and coin-operated devices; amusement parks; membership sports and recreation clubs; amusement and bathing beaches; swimming pools; riding academies; carnival operations; expositions; game parlors and horse shows.

ANIMAL HOSPITAL -- A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

APARTMENT UNIT -- One or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit in a building containing more than two dwelling units.

APARTMENT UNIT, EFFICIENCY -- See "dwelling unit, efficiency."

APPROVED PLAN -- A plan which has been granted final approval by the appropriate approving authority.

ATTENTION-GETTING DEVICE -- A device designed or intended to attract by noise, sudden intermittent or rhythmic movement, physical change or lighting change, such as banners, flags, streamers, balloons, propellers, whirligigs, searchlights and flashing lights.

ATTIC -- That part of a building which is immediately below and wholly or partly within the roof framing. See "story, half."

AUTOMATIC CAR WASH -- A structure containing facilities for washing automobiles using a chain conveyor or other method of moving the cars along and automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.

AUTOMOBILE -- A self-propelled free-moving vehicle, with four or more wheels, primarily for conveyance on a street or roadway.

AUTOMOBILE REPAIR -- See "garage, repair."

AUTOMOBILE SALES -- The use of any building, land area or other premise for the display

## ZONING

and sale of new or used automobiles, panel trucks or vans, trailers or recreation vehicles and including any warranty repair work and other repair service conducted as an accessory use.

**AUTOMOBILE SERVICE STATION** -- Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

**AUTOMOBILE WASH** -- Any building or premises or portions thereof used for washing automobiles.

**AUTOMOBILE WRECKING YARD** -- See "junkyard."

**AUTOMOTIVE REPAIR SERVICES AND GARAGES** -- Establishments primarily engaged in furnishing automotive repair, rental, leasing and parking services to the general public.

**AWNING** -- A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements. (See Figure 24.)

**BACK-TO-BACK LOTS** -- Separate land parcels which have at least half of each rear lot line coterminous.

**BASE FLOOD ELEVATION** -- The highest elevation, expressed in feet above sea level, of the level of flood waters occurring in the regulatory base flood.

**BASEMENT** -- A space having 1/2 or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than 6 1/2 feet. (See Figure 3.)

**BED-AND-BREAKFAST** -- An owner-occupied dwelling unit that contains no more than three guest rooms where lodging, with or without meals, is provided for compensation.

**BEDROOM** -- Any room in a dwelling unit other than a kitchen, living room, dining room, bathroom, hallway, pantry, foyer or closet. (Amended 1/1/2006)

**BERM** -- A mound of earth, or the act of pushing earth into a mound. (See Figure 23.)

**BILLBOARD** -- See "sign, billboard."

**BLOCK** -- An area bounded by intersecting streets, public park, railroad right-of-way, boundary line of a trace of unsubdivided land, encroachment line of a river, boundary line of the city or by any combination of the above. (See Figure 18.)

**BLOCK FRONTAGE** -- That portion of a block which abuts a single street.

**BOARD OF APPEALS** -- An officially constituted body whose principal duties are to grant variances from the strict application of the Zoning Ordinance.

**BOARDINGHOUSE** -- A dwelling or part thereof in which lodging is provided by the owner or operator to more than three boarders.

**BREW PUB** -- An establishment that produces up to 15,000 barrels of beers, ciders, and/or similar alcoholic beverages annually, and offers such beverages for sale on-site as permitted by the Connecticut Department of Consumer Protection Liquor Control Division as a Manufacturer Brew Pub or Manufacturer Beer and Brew Pub. Food and beverage sales may be offered for both on-site and off-site consumption. Beverages produced at a brewpub may be sold at wholesale to retailers, distributors, and other commercial businesses. (Amended 5/30/2017)

**BUFFER STRIP** -- Land area used to visibly separate one use from another or to shield or block noise, lights or other nuisances. (See Figure 2.) (COMMENT: Buffer strips may be required to include fences or berms, as well as shrubs and trees.)

**BUILD-TO LINE** -- The line establishing the greatest distance from the front property line a building façade may be built. A build-to line runs parallel to and is measured from the front property line. In a zone subject to a build-to line standard, any building façade must be located

## ZONING

within the area defined by the front line setback (if any) and build-to line.

(Amended 2/28/2017)

**BUILDABLE AREA** -- The area of a lot remaining after the minimum yard and open space requirements of the Zoning Ordinance have been met. (See Figure 20.)

**BUILDING** -- Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

**BUILDING, ACCESSORY** -- A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use. (See **Figure 22.**)

(Amended 1/1/2006)

**BUILDING COVERAGE** -- The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot. (See Figure 20.)

**BUILDING HEIGHT** -- The vertical distance of a building measured from the average elevation of the finished grade within 20 feet of the structure to the highest point of the roof. (See Figure 3.) (COMMENT: Building heights usually exclude penthouses containing mechanical equipment such as air-conditioning or elevator equipment and church spires, water towers, radio antennas, etc. The provision for measuring the finished lot grade within 20 feet of the structure is to prevent the deliberately building up of a portion of the site on which the building will sit in order to permit an additional story to be constructed. See "height.")

**BUILDING OFFICIAL** -- That individual designated by the appointing authority to enforce the provisions of the Building Code.<sup>iEN</sup>

**BUILDING LINE** -- A line parallel to the street line at a distance therefrom equal to the depth of the front yard required for the zoning district in which the lot is located. See "setback line." (See Figure 20.)

**BUILDING PERMIT** -- Written permission issued by the proper municipal authority for the construction, repair, alteration or addition of a structure.

**BUILDING, PRINCIPAL** -- A building in which is conducted the principal use of the lot on which it is located. (See Figure 22.)

**BUSINESS SIGN** -- See "sign, business."

**CAMPUS** -- The grounds and building of a public or private college, university, school or institution.

**CANNABIS** -- marijuana, as defined in section 21a-240 of the 24 Connecticut general statutes. (Amended 2/5/2022)

**CANNABIS CULTIVATOR** -- an establishment with not less than 15,000 sf of grow space operated by a person licensed by the State of Connecticut to engage in the cultivation, growing and propagation of the cannabis plant. (Amended 2/5/2022)

**CANNABIS DELIVERY SERVICE** -- an establishment that is operated by a person that is licensed by the State of Connecticut to deliver cannabis from (A) micro-cultivators, retailers and hybrid retailers to consumers and research program subjects, and (B) hybrid retailers and dispensary facilities to qualifying patients, caregivers and research program subjects, as defined in section 21a-408 of the CT General Statutes, or to hospices or other inpatient care facilities licensed by the CT Department of Public Health pursuant to chapter 368v of the CT General Statutes that have a protocol for the handling and distribution of cannabis that has been approved by the Department, or a combination thereof. (Amended 2/5/2022)

**CANNABIS ESTABLISHMENT** -- means a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer, food and beverage manufacturer, product manufacturer,

## ZONING

product packager, delivery service or transporter (Amended 2/5/2022)

CANNABIS FOOD AND BEVERAGE MANUFACTURER -- an establishment operated by a person licensed by the State of Connecticut to own and operate a place of business that acquires cannabis and creates food and beverages (Amended 2/5/2022)

CANNABIS GROW SPACE -- the portion of a cannabis establishment owned and controlled by a producer, cultivator or micro-cultivator that is utilized for the cultivation, growing or propagation of the cannabis plant, and contains cannabis plants in an active stage of growth, measured starting from the outermost wall of the room containing cannabis plants and continuing around the outside of the room. "Grow space" does not include space used to cure, process, store harvested cannabis or manufacture cannabis once the cannabis has been harvested. (Amended 2/5/2022)

CANNABIS MICRO CULTIVATOR -- an establishment containing not less than 2,000 sf and not more than 10,000 sf of grow space, prior to any expansion authorized by the commissioner, operated by a person licensed by the State of Connecticut to engage in the cultivation, growing and propagation of the cannabis plant (Amended 2/5/2022)

CANNABIS PRODUCT MANUFACTURER -- an establishment operated by person that licensed by the State of Connecticut to obtain cannabis, extract, and manufacture products exclusive to such license type (Amended 2/5/2022)

CANNABIS PRODUCT PACKAGER -- an establishment operated by person that is licensed by the State of Connecticut to package and label cannabis (Amended 2/5/2022)

CANNABIS RETAILER -- an establishment operated by a person, excluding a dispensary facility and hybrid retailer, who is licensed by the State of Connecticut to purchase cannabis from producers, cultivators, micro-cultivators, product manufacturers and food and beverage manufacturers and to sell cannabis to consumers and research programs (Amended 2/5/2022)

CANNABIS RETAILER, HYBRID -- an establishment operated by person licensed by the State of Connecticut to purchase cannabis and sell cannabis and medical marijuana products (Amended 2/5/2022)

CANNABIS TRANSPORTER -- an establishment operated by a person licensed by the State of Connecticut to transport cannabis between cannabis establishments, laboratories, and research programs (Amended 2/5/2022)

CAR WASH -- See "automatic car wash" and "automobile wash."

CARRY-OUT RESTAURANT -- An establishment which by design of physical facilities or by service or packaging procedures permits or encourages the purchase of prepared ready-to-eat foods intended primarily to be consumed off the premises and where the consumption of food in motor vehicles on the premises is not permitted or not encouraged.

CELLAR -- A space with less than 1/2 of its floor-to-ceiling height above the average finished grade of the adjoining ground or with floor-to-ceiling height of less than 6 1/2 feet. (See Figure 3.)

CERTIFICATE OF COMPLIANCE -- A document issued by the proper authority that the plans for a proposed use meets all applicable codes and regulations.

CERTIFICATE OF OCCUPANCY (CO) -- A document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal codes and ordinances.

CHAIN STORE -- Retail outlets with the same name, selling similar types of merchandise, operating under a common merchandising policy and usually owned or franchised by a single corporate entity.

## ZONING

CHANGE OF USE -- Any use which substantially differs from the previous use of a building or land.

CHILD-CARE CENTER -- A private establishment that offers or provides a program of supplemental care to more than 12 unrelated individuals outside their own home which is licensed or approved to operate as a child-care center by the State of Connecticut pursuant to Section 19a-77 of the Connecticut General Statutes. (Amended 6/30/2024)

CHIMNEY -- A structure containing one or more flues for drawing off emissions from stationary sources of combustion.

CHURCH -- A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

CLUB -- A group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws. (COMMENT: Typically, clubs were usually permitted in residential neighborhoods under the phrase "clubs, lodges and social buildings." These clubs were related to the neighborhood in terms of the ethnic, religious or cultural characteristics of the residents.)

COMMERCIAL GARAGE -- See "garage, public."

COMMERCIAL GREENHOUSE -- A structure in which plants, vegetables, flowers and similar materials are grown for sale.

COMMERCIAL USE -- Activity carried out for pecuniary gain.

COMMERCIAL VEHICLE -- Any motor vehicle licensed by the state as a commercial vehicle.

COMMISSION -- The Derby Planning and Zoning Commission.

COMMON ELEMENTS -- Land amenities, parts of buildings, central services and utilities and any other elements and facilities owned and used by all condominium unit owners and designated in the master deed as common elements.

COMMON OPEN SPACE -- See "open space, common."

COMMON OWNERSHIP -- Ownership by one or more individuals in any form of ownership of two or more contiguous lots.

COMMON PASSAGEWAY -- A commonly shared or used pedestrian or vehicular way that connects or serves two or more properties. See "party driveway."

COMPLETE APPLICATION -- An application form completed as specified by ordinance and the rules and regulations of the municipal agency and all accompanying documents required by ordinance for approval of the application.

CONDITIONAL USE -- A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in a zoning ordinance and authorized by the Commission.

CONDITIONAL USE PERMIT -- A permit issued by the authorized board stating that the conditional use meets all conditions set forth in local ordinances.

CONDOMINIUM -- A building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. (COMMENT: By definition, a "condominium" has common areas and facilities and there is an association of owners organized for the purpose of maintaining, administering and operating the common areas and facilities. It is a legal form of ownership of real estate and not a specific building style. The purchaser has title to his or her interior space in the building and an undivided interest in parts of the interior, the exterior and other common elements. The

## ZONING

property is identified in a master deed and recorded on a plat with the local jurisdiction. The common elements usually include the land underneath and surrounding the building, certain improvements on the land and such items as plumbing, wiring, and major utility systems, the interior areas between walls, the public interior spaces, exterior walls, streets and recreational facilities.)

CONDOMINIUM ASSOCIATION -- The community association which administers and maintains the common property and common elements of a condominium. (COMMENT: Condominium associations differ from other forms of community associations in that the condominium association does not have title to the common property and facilities. These are owned by the condominium owner on a proportional, undivided basis.)

CONDOMINIUM, BUSINESS -- A building (or group of buildings) used for office, businesses, professional services and other commercial enterprise organized, owned and maintained as a condominium.

CONDOMINIUM, HOTEL -- A condominium set up like a hotel in which each room is individually owned and in which some or all rooms are available to transients for rent.

CONDOMINIUM, INDUSTRIAL -- An industrial building (or group of buildings) organized, owned and maintained as a condominium.

CONDOMINIUM, OFFICE -- An office building (or group of buildings) organized, owned and maintained as a condominium.

CONFERENCE CENTER -- A facility used for business or professional conferences and seminars, often with accommodations for sleeping, eating and recreation. (COMMENT: Communities face the decision whether or not to allow conference centers to rent rooms and facilities to transients. Very often a specific percentage of rooms must be devoted to conference use and only a small percentage of rooms must be devoted to conference use and only a small percentage can be made available for transient trade.)

CONGREGATE HOUSING -- A dwelling providing shelter and services for the elderly which may include meals, housekeeping and personal-care assistance.

CONTIGUOUS -- Next to, abutting or touching and having a boundary or portion thereof which is coterminous. See "abut" and "adjoining lot or land."

CONVERSION -- A change in the use of land or a structure.

CONVENIENCE STORE -- Any retail establishment offering for sale prepackaged food products, household items and other goods commonly associated with the same and having a gross floor area of less than 2,000 square feet.

COURT -- Any open space, unobstructed from ground to sky, other than a yard, that is on the same lot with and bounded on two or more sides by the walls of a building. See "plaza" and "square." (See Figure 13.)

COURT, INNER -- An open area, unobstructed from the ground to sky, which is bounded on more than three sides by the exterior walls of one or more buildings. (See Figure 4.)

COURT, OUTER -- An open area, unobstructed from the ground to the sky, which is bounded on not more than three sides by the exterior walls of one or more buildings. (See Figure 4.)

CURB CUT -- The opening along the curb line at which point vehicles may enter or leave the roadway. (See Figure 2.)

DAY-CARE CENTER -- See "child-care center." (Amended 6/30/2024)

DECK LINE -- The intersection of two roof surfaces of a mansard roof forming the highest horizontal line of the steeper roof slope. (See Figure 26.)

DENSITY -- The number of families, individuals, dwelling units or housing structures per unit

## ZONING

of land.

**DISCOUNT CENTER** -- A single store or group of stores advertising a wide variety of merchandise for sale at less-than-retail cost.

**DISTANCE OF SIGN PROJECTION** -- The distance from the exterior wall surface of a building to the sign element farthest distance from such surface. (See Figure 27.)

**DOWN ZONE** -- To increase the intensity of use by increasing density or floor area ratio or otherwise decreasing bulk requirements.

### DRAINAGE

(1) Surface water runoff.

(2) The removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.

**DRAINAGE AREA** -- That area in which all of the surface runoff resulting from precipitation is concentrated into a particular stream.

**DRIVE-IN RESTAURANT** -- A building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site.

**DRIVE-IN USE** -- An establishment which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

**DRIVEWAY** -- A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

**DUPLEX** -- See "dwelling, two-family."

**DWELLING** -- A structure or portion thereof which is used exclusively for human habitation.

**DWELLING, ATTACHED** -- A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

**DWELLING, DETACHED** -- A dwelling which is not attached to any other dwelling by any means. (See Figure 5.) (COMMENT: The detached dwelling does not have any roof, wall or floor in common with any other dwelling unit.)

**DWELLING, GARDEN APARTMENT** -- See "dwelling, multifamily." (See Figure 10.)

**DWELLING, HIGH-RISE** -- An apartment building of eight or more stories. (See Figure 12.)

**DWELLING, MIDRISE** -- An apartment building containing from three to seven stories. (See Figure 11.)

**DWELLING, MULTI-FAMILY** -- A dwelling containing more than two dwelling units.

**DWELLING, PATIO HOUSE** -- A one-family dwelling on a separate lot with open space setbacks on three sides and with a court. (See Figure 6.) (COMMENT: Patio homes may be attached to similar houses on adjacent lots and still meet this definition. Also known as "zero lot line homes.")

**DWELLING, QUADRUPLEX** -- Four attached dwellings in one structure in which each unit has two open space exposures and shares one or two walls with an adjoining unit or units. (See Figure 8.)

**DWELLING, SEMIDETACHED** -- A one-family dwelling attached to one other one-family dwelling by a common vertical wall, and each dwelling located on a separate lot. (See Figure 7.) (COMMENT: The semidetached dwelling is part of a two-family structure with the dwelling

## ZONING

units side-by-side as opposed to one on top of the other. The semidetached dwelling also could be the end unit of a townhouse row, a patio house and a duplex.)

DWELLING, SINGLE-FAMILY -- A building containing one dwelling unit.

DWELLING, SINGLE-FAMILY DETACHED -- A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means. See "dwelling, detached."

DWELLING, TOWNHOUSE -- A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire-resistant walls. (See Figure 9.)

DWELLING, TRIPLEX -- A dwelling containing three dwelling units, each of which has direct access to the outside or to a common hall.

DWELLING, TWO-FAMILY -- A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

DWELLING UNIT -- One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. See "housing unit."

DWELLING UNIT, EFFICIENCY -- A dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.

EASEMENT -- A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

EASEMENT, CONSERVATION -- An easement precluding future or additional development of the land.

EASEMENT, DRAINAGE -- An easement required for the installation of stormwater sewers or drainage ditches and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

EAVE -- The projecting lower edges of a roof overhanging the wall of a building.

EDUCATIONAL DORMITORY RESIDENCE -- A residential facility providing housing and supportive services to international secondary school students, between 12 and 18 years of age, who are enrolled in a Connecticut public or private secondary school and who lack a permanent address in the United States. Such international students shall have entered the United States through the F-1 visa program administered by the U.S. Department of State. Specifically excluded from such facilities are any correctional programs or residential alternatives to incarceration. Such facilities may include administrative and accessory uses, including but not limited to cafeterias, fitness and exercise facilities, common areas, guidance counseling and tutoring spaces, classrooms, libraries, housing for residential administration staff, administrative offices, or technology or media centers, so long as such accessory uses are subordinate to the primary residential use.

EDUCATIONAL INSTITUTION -- A college or university authorized by the state to award degrees.

EFFICIENCY UNIT -- See "dwelling unit, efficiency."

ELEEMOSYNARY OR PHILANTHROPIC INSTITUTION -- A private or nonprivate organization which is not organized or operated for the purpose of carrying on a trade or business

## ZONING

and no part of the net earnings of which are for the benefit of any individual.

**ENCROACHMENT** -- Any obstruction in a delineated floodway, right-of-way or adjacent land. (See Figure 15.)

**ENLARGEMENT** -- An increase in the size of an existing structure.

**EXISTING GRADE OR ELEVATION** -- The vertical location of the ground surface prior to excavating or filling.

**EXISTING USE** -- The use of a lot or structure at the time of the enactment of a zoning ordinance.

**EXTENDED-CARE FACILITY** -- A long-term facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged or a governmental medical institution. See "long-term care facility" and "nursing home."

**EXTERIOR WALL** -- Any wall which defines the exterior boundaries of a building or structure.

**FACADE** -- The exterior wall of a building exposed to public view or that wall viewed by persons not within the building. (See Figure 13.)

**FACTORY** -- A building in which semifinished or finished materials are converted to a different form or state or where goods are manufactured, assembled, treated or processed.

**FACTORY-BUILT HOUSE** -- A dwelling unit that is constructed and assembled at a factory and transported to the building's site and placed on a prebuilt foundation.

**FAIR MARKET VALUE** -- The price of a building or land which would be agreed upon voluntarily in fair negotiations between a knowledgeable owner willing, but not forced, to sell and a knowledgeable buyer willing, but not forced, to buy.

**FAMILY** -- One or more individuals occupying a dwelling unit and living as a single household unit.

**FAMILY CHILD CARE HOME** -- A private family home providing care (A) for (i) not more than six children, including the provider's own children not in school full time, without the presence or assistance of additional staff or (ii) not more than nine children with the assistance of additional staff, and (B) for not less than three hours nor more than 12 hours per day on a regular basis consistent with the requirements of Section 19a-77 of the Connecticut General Statutes.(Amended 6/30/2024)

**FAST-FOOD RESTAURANT** -- An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises.

**FENCE** -- An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

**FINAL APPROVAL** -- The last official action of the Planning and Zoning Commission taken on a development plan which has been given preliminary approval, after all conditions and requirements have been met, and the required improvements have been installed or guarantees properly posted for their installation, or approval conditioned upon the posting of such guarantees.

**FINISH ELEVATION** -- The proposed elevation of the land surface of a site after completion of all site preparation work. See "grade, finished."

**FLAG LOT** -- A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way. (See Article VIII; see Figure 18.)

**FLEA MARKET** -- An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

**FLOATING ZONE** -- An unmapped zoning district where all the zone requirements are

## ZONING

contained in the ordinance and the zone is fixed on the map only when an application for development, meeting the zone requirements, is approved.

FLOOD, BASE FLOOD ELEVATION -- See "base flood elevation."

FLOOD DAMAGE POTENTIAL -- The susceptibility of a specific land use at a particular location to damage by flooding and the potential of the specific land use to increase off-site flooding or flood-related damages.

FLOOD-FRINGE AREA -- That portion of the flood hazard area outside of the floodway based on the total area inundated during the regulatory base flood plus 25% of the regulatory base flood discharge. See "floodway," "flood, regulatory," "base and flood regulatory" and "base flood discharge." (See Figure 15.)

FLOOD HAZARD AREA -- The floodplain consisting of the floodway and the flood-fringe area. See "floodplain." (See Figure 15.)

FLOOD HAZARD DESIGN ELEVATION -- The highest elevation, expressed in feet above sea level, of the level of floodwaters which delineates the flood-fringe area.

FLOOD INSURANCE RATE MAP -- The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOODPLAIN -- The channel and the relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by floodwater. (See Figure 15.)

FLOODPROOFING -- A combination of structural provisions, changes or adjustments to properties and structures subject to flooding for the reduction or elimination of flood damage to properties, water and sanitary facilities and other utilities, structures and the contents of buildings.

FLOODWAY -- The channel of a natural stream or river and portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river. See "floodway, regulatory." (See Figure 15.)

FLOODWAY, REGULATORY -- The channel and the adjacent land areas that must be reserved in order to discharge the regulatory base flood without cumulatively increasing the water surface elevation more than 2/10 of one foot.

FLOOR AREA, GROSS -- The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the center line of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than six feet. (COMMENT: Interior parking spaces and loading spaces are excluded in order not to penalize applicants that include these facilities.)

FLOOR AREA, NET -- The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public. (COMMENT: Very often, for ease of administration, net floor area is expressed as gross floor area minus a certain percentage. Empirically, stairwells, elevator shafts, equipment rooms and utility rooms generally average out to about 15% of the gross floor area. Thus, "net floor area" may be defined as gross floor area minus 15%.)

FLOOR AREA RATIO -- The gross floor area of all buildings on a lot divided by the lot area. (See Figure 14.)

FOOD TRUCK -- a motorized vehicle or mobile kitchen unit in which food items are prepared and/or sold to the general public, and is:

## ZONING

- (1) Licensed by the Naugatuck Valley Health District as compliant with the Naugatuck Valley Health District Food Service Code and Public Health Code of the State of Connecticut
- (2) Temporarily stored and operated in a lot with the permission of its owner or tenant, whether public or private, but specifically excluding streets and rights of way

FRATERNAL ORGANIZATION -- A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

FRONTAGE -- That side of a lot abutting on a street; the front lot line. (See **Figure 18.**)

(COMMENT: On corner or through lots the frontage may be designated by the owner but it should be consistent with the orientation of the other lots and improvements on the same side of the street. On improved lots the frontage is usually the side where the main building entrance is located and in the general direction in which the principal building faces.) (Amended 1/1/2006)

FRONT FOOT -- A measure of land width, being one foot along the front lot line of a property.

FRONT LOT LINE -- See "lot line, front."

FRONT YARD -- See "yard, front."

FUNERAL HOME -- A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GARAGE -- A deck, building or structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

GARAGE, COMMUNITY -- A garage used exclusively for the parking and storage of vehicles owned or operated by residents of nearby dwelling units and their guests, which is not operated as a commercial enterprise and is not available to the general public, and which is owned, leased or cooperatively operated by such residents.

GARAGE, MUNICIPAL -- A structure owned or operated by a municipality and used primarily for the parking and storing of vehicles owned by the general public.

GARAGE, PRIVATE CUSTOMER AND EMPLOYEE -- A structure which is accessory to a nonretail commercial or manufacturing establishment, building or use and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such building and which is not available to the general public.

GARAGE, PRIVATE RESIDENTIAL -- A structure which is accessory to a residential building and which is used for the parking and storage of vehicles owned and operated by the residents thereof and which is not a separate commercial enterprise available to the general public.

GARAGE, PUBLIC -- A building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GARAGE, REPAIR -- Any building, premises and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered. See "automotive repair, services and garages."

GARBAGE -- Animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking and serving of foods. See "solid waste."

GARDEN APARTMENT -- See "dwelling, multifamily."

GASOLINE STATION -- See "automobile service station."

GLARE -- The effect produced by brightness sufficient to cause annoyance, discomfort or loss in visual performance and visibility.

GOVERNMENT AGENCY -- Any department, commission, independent agency or

## ZONING

instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district or other governmental unit.

GRADE -- The degree of rise or descent of a sloping surface. (See Figure 16.)

GRADE, FINISHED -- The final elevation of the ground surface after development. See "finish elevation." (See Figure 21.)

GRADE, NATURAL -- The elevation of the ground surface in its natural state, before man-made alterations.

GRAPHIC SCALE -- See "scale."

GRAVEL PIT -- An open land area where sand, gravel and rock fragments are mined or excavated for sale or off-tract use.

GREEN AREA -- Land shown on a development plan, master plan or official map for preservation, recreation, landscaping or park.

GREENBELT -- An open area which may be cultivated or maintained in a natural state surrounding development or used as a buffer between land uses or to mark the edge of an urban or developed area.

GREENHOUSE -- A building whose roof and side are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. See "nursery."

GROSS FLOOR AREA -- See "floor area, gross" and "floor area, net."

GROSS HABITABLE FLOOR AREA -- See "floor area, net."

GROSS LEASEABLE AREA -- The total floor area for which the tenant pays rent and which is designed for the tenant's occupancy and exclusive use. (COMMENT: Gross leaseable area does not include public or common areas such as utility rooms, stairwells, malls, etc.)

GROUND COVER -- Grasses or other plants grown to keep soil from being blown or washed away.

GROUND COVERAGE -- See "lot coverage."

GROUND FLOOR -- The first floor or a building other than a cellar or basement.

GROUP-CARE FACILITY -- A facility or dwelling unit housing persons unrelated by blood or marriage and operating as a group family household. (COMMENT: A group-care facility may include halfway houses; recovery homes; and homes for orphans, foster children, the elderly, battered children and women. It also could include a specialized treatment facility providing less than primary health care. See "group family household.")

GROUP CHILD CARE HOME -- An establishment that offers or provides a program of supplementary care to (A) not less than seven nor more than 12 related or unrelated children on a regular basis or (B) that meets the definition of a family child care home except that it operates in a residence other than a private family home consistent with the requirements of Section 19a-77 of the Connecticut General Statutes. (Added 6/30/2024)

GROUP FAMILY HOUSEHOLD -- A group of individuals not related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. See "family."

HALF STORY -- See "story, half."

HEALTH-CARE FACILITY -- A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital,

## ZONING

special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended-care facility, skilled nursing home, nursing home, intermediate-care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, boarding home or other home for sheltered care and bioanalytical laboratory or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer. See "health services."

**HEALTH SERVICES** -- Establishments primarily engaged in furnishing medical, surgical or other services to individuals, including the offices of physicians, dentists and other health practitioners, medical and dental laboratories, out-patient care facilities, blood banks and oxygen and miscellaneous types of medical supplies and services.

**HEIGHT** -- The vertical distance of a structure measured from the average elevation of the finished grade within 20 feet of the structure to the highest point of the structure. See "building height." (See Figure 3.)

**HEIGHT OF STRUCTURE** -- The height of any structure other than a building is the vertical dimension measured from the average graded level of the ground immediately contiguous to its base up to its highest point.

**HIGH-RISE** -- See "dwelling, high-rise."

**HIGHEST AND BEST USE** -- An appraisal concept that determines the use of a particular property likely to produce the greatest net return in the foreseeable future. (COMMENT: The term "highest and best use" has little validity in planning or zoning studies. Its major application is probably as a comparison between several uses to determine which is more profitable.)

**HISTORIC AREA** -- A district or zone designated by a local authority, state or federal government within which the buildings, structures, appurtenances and places are of basic and vital importance because of their association with history or because of their unique architectural style and scale, including color, proportion, form and architectural detail, or because of their being a part of or related to a square, park or area the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical or architectural motives or purposes. (COMMENT; Designation by the appropriate state agency is a prerequisite for listing by the National Register of Historic Places.)

**HISTORIC BUILDING** -- Any building or structure which is historically or architecturally significant.

**HISTORIC BUILDING STYLES** -- Recognized architectural styles such as Colonial; Federal; Greek Revival; Victorian; Gothic Revival; Victorian Gothic; Romanesque Revival. (See Figure 19.) (COMMENT: The definition is actually a partial listing of major American historic building styles. For purposes of historic district zoning for a particular area, this listing might be revised as appropriate and detailed architectural definitions of each style are added.)

**HISTORIC DISTRICT** -- See "historic area."

**HISTORIC PRESERVATION** -- The protection, rehabilitation and restoration of district sites, buildings, structures and artifacts significant in American history, architecture, archaeology or culture.

**HOME OCCUPATION** -- An accessory use of a dwelling unit for gainful employment which is:

- (1) Clearly incidental and subordinate to the use of the dwelling unit as a residence;
- (2) Carried on solely within the main dwelling and does not alter or change the exterior character or appearances of the dwelling;
- (3) Located in a residential district; and
- (4) Created and operated as a sole proprietorship.

## ZONING

**HOME PROFESSIONAL OFFICE** -- A home occupation consisting of the office of a practitioner of a recognized profession, provided that not more than two persons are employed who are not members of the family, and that such office shall be in the main building only and shall not occupy more than the equivalent of 50% of the area of the first floor of the principal building. For the purposes of this definition, a "teacher" shall be restricted to a person giving individual instruction in a musical instrument, in singing or in academic or scientific subjects to a single pupil at a time. A home professional office shall not include the office of any person professionally engaged in the purchase or sale of economic goods. Dancing instruction, band instrument or voice instruction in groups, tea rooms, tourist homes, beauty parlors, barber shops, hairdressing and manicuring establishments, real estate offices, convalescent homes, mortuary establishments, travel agencies and stores, trades or businesses of any kind not herein excepted shall not be deemed to be home professional offices.

**HOSPITAL** -- An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

**HOTEL** -- A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms and recreation facilities. See "boarding house," "motel," "resort" and "tourist home."

**HOUSEHOLD** -- A family living together in a single dwelling unit, with common access to and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

**HOUSING FOR THE ELDERLY** - Multifamily housing designed for people 60 years of age or older. (COMMENT: Such housing usually has wider doors, elevators that can accommodate wheelchairs, special support and hand bars and bathroom and kitchen facilities designed specifically for the elderly. It also may include care facilities, central recreation areas and accessory medical facilities. Elderly person housing may be private or subsidized under one or more governmental programs.)

**HOUSING UNIT** -- A room or group of rooms used by one or more individuals living separately from others in the structure, with direct access to the outside or to a public hall and containing separate toilet and kitchen facilities. See "dwelling unit."

**IMPERVIOUS SURFACE** -- Any material which reduces and prevents absorption of stormwater into previously undeveloped land. (See Figure 36.)

**INDUSTRIAL PARK** -- A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics and compatibility.

**INGRESS** -- Access or entry.

**INTERIOR LOT** -- See "lot, interior."

**INSTITUTIONAL USE** -- A nonprofit or quasi-public use or institution such as a church, library, public or private school, hospital or municipally owned or operated building, structure or land used for public purpose.

**INTERMEDIATE-CARE FACILITY** -- A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designated to provide but who, because of their mental or physical condition, require care and services (above the level of room and board) which can be made available to them only through institutional facilities such as these.

## ZONING

### ISLAND

- (1) A land area totally surrounded by water.
- (2) In parking lot design, built-up structures, usually curbed, placed at the end of parking rows as a guide to traffic and also used for landscaping, signing or lighting.

ISOLATED LOT -- An undeveloped substandard lot in separate ownership from surrounding property.

JUNK -- Any scrap, waste, reclaimable material, or debris; unregistered or inoperable vehicles, machinery or equipment, or parts thereof; tires; construction and building demolition materials; household appliances; paper, rags, glass, brush, wood and waste lumber. (Amended 6/27/25)

JUNK YARD -- Any "junk yard," "motor vehicle junk business" and "motor vehicle junk yard" as defined in the General Statutes of the State of Connecticut. The term shall also include any place of storage or deposit, whether in connection with a business or not, for one or more used motor vehicles which are either no longer intended or in condition for legal use on the public highways and shall also include any place of storage or deposit of used parts of motor vehicles, machinery, equipment, and old metals, iron, glass, paper, cordage and other waste materials which on any lot have an aggregate bulk equal to two automobiles. In Residence Districts, the term shall also include both the outside storage of unregistered motor vehicles for periods longer than 30 days and the outside storage or deposit of parts or bodies of motor vehicles, each in such a manner as to be visible from any street or any other lot. Special Exception uses that are permitted through these Regulations under specific sections are not included in this definition. (Amended 6/27/25)

KENNEL -- An establishment in which more than six dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold.

KIOSK -- A freestanding structure upon which temporary information and/or posters, notices and announcements are posted.

LAND SURVEYOR -- One who is licensed by the state as a land surveyor and is qualified to make accurate field measurements and mark, describe and define land boundaries.

LANDSCAPE -- An expanse of natural scenery; or the addition of lawns, trees, plants and other natural and decorative features to land. (COMMENT: Landscape treatment can include walks, patios and some elements of street furniture. Natural materials often are referred to as "soft" landscape, and other materials are known as "hard" landscape.)

LEASE -- A contractual agreement for the use of lands, structures, buildings or parts thereof for a fixed time and consideration.

LIGHT INDUSTRY - Industrial uses which meet the performance standards, bulk controls and other requirements established in this chapter.

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

LONG-TERM-CARE FACILITY -- An institution or a distinct part of an institution which is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood or adoption. [COMMENT: A long-term-care facility may be either a skilled nursing facility, where patients receive above a certain number of hours of nursing care daily, or intermediate-care facility, where patients receive less than the established number of hours of nursing care daily. In addition to a nursing home, other long-term-care facilities are governmental medical institutions.] (Amended 1/1/2006)

LOT -- A designated parcel, tract or area of land established by plat, subdivision or as otherwise

## ZONING

permitted by law, to be used, developed or built upon as a unit. (See Figure 22.)

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

LOT AVERAGING -- A design technique permitting one or more lots in a subdivision to be undersized, provided that the same number of lots in the same subdivision are oversized by an equal or greater area.

LOT, CORNER -- A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135°. (See Figure 18.)

LOT COVERAGE -- That portion of the lot that is covered by buildings and structures.

(COMMENT: Some definitions expand this to include all other manmade improvements on the ground surface which are more impervious than the natural surface, such as paving, driveways, etc.)

LOT DEPTH -- The distance measured from the front lot line to the rear lot line. (See Figure 18.) (COMMENT: For lots where the front and rear lot lines are not parallel, the lot depth should be measured by drawing lines from the front to rear lot lines, at right angles to the front lot line, every 10 feet and averaging the length of these lines.)

LOT, DOUBLE FRONTAGE -- See "lot, through."

LOT, FLAG -- See "flag, lot."

LOT FRONTAGE -- The length of the front lot line measured at the street right-of-way line. (See Figure 20.)

LOT, INTERIOR -- A lot other than a corner lot. (See Figure 18.)

LOT, ISOLATED -- See "isolated lot."

LOT LINE -- A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space. (See Figure 20.)

LOT LINE, FRONT -- The lot line separating a lot from a street right-of-way. (See Figure 20.)

LOT LINE, REAR -- The lot line opposite and most distant from the front lot line or, in the case of triangular or otherwise irregularly shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. (See Figure 20.)

LOT LINE, SIDE -- Any lot line other than a front or rear lot line. (See Figure 18.)

LOT, MINIMUM AREA OF -- The smallest lot area established by the Zoning Ordinance on which a use or structure may be located in a particular district.

LOT REAR -- See "flag lot."

LOT OF RECORD -- A lot which exists as shown or described on a plat or deed in the records of the local Registry of Deeds.

LOT, REVERSE FRONTAGE -- A through lot which is not accessible from one of the parallel or nonintersecting streets upon which it fronts. (See Figure 29.)

LOT, THROUGH -- A lot which fronts upon two parallel streets or which fronts upon two streets which do not intersect at the boundaries of the lot. (See Figure 18.)

LOT, TRANSITION -- A lot in a transition zone or a lot between two zoning districts permitting the same uses as allowed in each zone but with different areas and/or dimensions. (COMMENT: The Zoning Ordinance normally would establish an intermediate size for the transition lot. For example, if located between a 40,000 square-foot residential zone and a twenty-thousand-square-foot residential zone, the transition lot might be required to have a minimum of 30,000 square feet. The transition lot also might be part of a lot averaging design.)

LOT WIDTH -- The horizontal distance between the side lines of a lot measured along a line parallel to the front line at the building setback line. The width of a corner lot is measured by taking the longer front lot line as though a side line. Areas for which the width of the lot from

## ZONING

side boundary to side boundary is 33 1/3% or less of the required lot width shall not be included in the lot area calculation. (See Figure 31.) (Amended 3/06/2015)

### MALL

- (1) A shaded walk or public promenade;
- (2) A shopping center where stores front on both sides of a pedestrian way which may be enclosed or open.

**MANUFACTURING** -- Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products and the blending of materials such as lubricating oils, plastics, resins or liquors.

**MARQUEE** -- Any hood, canopy, awning or permanent construction which projects from a wall of a building, usually above an entrance.

**MEDIAN ISLAND** -- A barrier placed between lanes of traffic flowing in opposite directions.

**MEDICAL BUILDING** -- A building that contains establishments dispensing health services. See "health services."

**MEZZANINE** -- A partial story between two full stories. (See Figure 3.)

**MINI-MALL** -- A shopping center between 80,000 to 150,00 square feet on site of 8 to 15 acres where tenants are located on both sides of a covered walkway with direct pedestrian access to all establishments from the walkway. (COMMENT: Mini-malls usually function as neighborhood shopping centers or specialty shopping centers. Mini-malls usually do not require an anchor store. See "shopping center" and "specialty shopping center.")

**MINI-WAREHOUSE** -- A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

**MIXED-USED ZONING** -- Regulations which permit a combination of different uses within a single development.

**MOBILE HOME** -- A structure, transportable in one or more sections, which is at least eight feet in width and 32 feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities.

**MOBILE HOME PARK** -- A site with required improvements and utilities for the long-term parking of mobile homes which may include services and facilities for the residents.

**MOTEL** -- An establishment providing transient accommodations containing six or more rooms with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

**MOTION-PICTURE THEATER** -- A place where motion pictures are shown to the public for a fee.

**MOTOR FREIGHT TERMINAL** -- A building or area in which trucks, including tractor or trailer units, are parked, stored or serviced, including the transfer, loading or unloading of goods. A terminal may include facilities for the temporary storage of loads prior to transshipment.

**MOTOR VEHICLE REPAIR SHOP** -- Any building, place or location that is used or designed to be used for making repairs to motor vehicles by a "repairer," as defined in Chapter 245, Section 14-51, of the General Statutes, as Amended.

**MULTIFAMILY DWELLING** -- See "dwelling, multifamily."

**MULTIPHASE DEVELOPMENT** -- A development project that is constructed in stages, each stage being capable of existing independently of the others.

**MULTIUSE BUILDING** -- A building containing two or more distinct uses. (COMMENT: A

## ZONING

multiuse building might include retail stores on the first floor and apartments on the upper floors.)

NATIONAL FLOOD INSURANCE PROGRAM -- A federal program which authorizes the sale of federally subsidized flood insurance in communities where such flood insurance is not available privately.

NATURAL GRADE -- See "grade, natural."

NET AREA OF LOT (NET ACREAGE) -- The area of the lot excluding those features or areas which the development ordinance excludes from the calculations.

NONCONFORMING LOT -- A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

NONCONFORMING SIGN -- Any sign lawfully existing on the effective date of an ordinance, or an amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or Amended ordinance.

NONCONFORMING STRUCTURE OR BUILDING -- A structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning ordinance but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

NONCONFORMING USE -- A use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

NURSERY -- Land or greenhouses used to raise flowers, shrubs and plants for sale. See "greenhouse."

NURSERY SCHOOL -- See "child-care center."

NURSING HOME -- An extended- or intermediate-care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. (COMMENT: Nursing homes are now usually referred to as long-term facilities. See "extended-care facility," "intermediate-care facility" and "long-term care facility.")

OCCUPANCY or OCCUPIED -- The residing of an individual or individuals overnight in a dwelling unit, or the installation, storage or use of equipment, merchandise or machinery in any public, commercial or industrial building.

OCCUPANCY PERMIT -- A required permit allowing occupancy of a building or structure after it has been determined that the building meets all the requirements of applicable ordinances. (COMMENT: The occupancy permit may be a temporary one for a given period of time to permit completion of certain improvements. For example, installation of landscaping may be delayed because of weather. Obviously, a temporary permit would not be granted if the unfinished or incomplete improvement is essential to the use or affects health or safety.)

OFFICE -- A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

OFFICE BUILDING -- A building used primarily for conducting the affairs of a business, profession, service, industry or government, of like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand. (COMMENT: Standards for office buildings vary enormously. Typical controls include floor area ratio, height, ground coverage and parking.)

## ZONING

**OFFICE PARK** -- A development on a tract of land that contains a number of separate office buildings, supporting uses and open space designed, planned, constructed and managed on an integrated and coordinated basis.

**OFFICE AT HOME** -- A home occupation in which a part of a dwelling unit is used primarily as the resident's office. See "home occupation" and "home professional office."

**OFF SITE** -- Located outside the lot lines of the lot in question but within the property (of which the lot is a part) that is the subject of a development application, or within a contiguous portion of a street or other right-of-way. (See Figure 25.)

**OFF-STREET PARKING SPACE** -- A temporary storage area for a motor vehicle that is directly accessible to an access aisle and which is not located on a dedicated street right-of-way. (See Figure 2.)

**OFF TRACT** -- Not located on the property that is the subject of a development application nor on a contiguous portion of a street or other right-of-way. (See Figure 25.)

**ON SITE** -- Located on the lot that is the subject of an application for development. (See Figure 25.)

**ON-STREET PARKING SPACE** -- A temporary storage area for a motor vehicle which is located on a dedicated street right-of-way. (See Figure 2.)

**ON TRACT** -- Located on the property that is the subject of a development application or on a contiguous portion of a street or other right-of-way.

**OPEN SPACE, COMMON** -- Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.

**PARAPET** -- The extension of the main walls of a building above the roof level. (See Figure 13.)

**PARCEL** -- A lot or tract of land. (See Figure 22.)

**PARK** -- A tract of land designated and used by the public for active and passive recreation.

**PARKING ACCESS** -- The area of a parking lot that allows motor vehicles ingress and egress from the street. (See Figure 2.)

**PARKING AREA** -- Any public or private land area designed and used for parking motor vehicles, including parking lots, garages, private driveways and legally designated areas of public streets. See "garage."

**PARKING AREA, PRIVATE** -- A parking area for the private use of the owners or occupants of the lot on which the parking area is located.

**PARKING AREA, PUBLIC** -- A parking area available to the public, with or without compensation, or used to accommodate clients, customers or employees.

**PARKING BAY** -- The parking module consisting of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces.

**PARKING LOT** -- An off-street, ground-level area, usually surfaced and improved, for the temporary storage of motor vehicles. See "garage" and "parking area."

**PARKING SPACE** -- A space for the parking of a motor vehicle within a public or private parking area. See "off-street parking space" and "on-street parking space."

**PAROCHIAL SCHOOL** -- See "school, parochial."

**PARTY DRIVEWAY** -- A single way providing vehicular access to two adjoining properties. (See Figure 22.)

**PARTY IMMEDIATELY CONCERNED** -- For purposes of notice, any applicant for

## ZONING

development, the owners of the subject property and all owners of property and government agencies entitled to notice under a zoning ordinance, subdivision regulations or other development controls.

**PARTY WALL** -- A common shared wall between two separate structures, buildings or dwelling units. (See Figure 22.)

**PATH** -- A cleared way for pedestrians and/or bicycles which may or may not be paved.

**PATIO** -- See "terrace."

**PAVEMENT**

(1) Brick, stone, concrete or asphalt placed on the surface of the land; or

(2) That part of a street having an improved surface.

**PERFORMANCE GUARANTEE** -- Any security that may be accepted by a municipality as a guarantee that improvements required as part of an application for development are satisfactorily completed.

**PERIMETER** -- The boundaries or borders of a lot, tract or parcel of land.

**PERIMETER LANDSCAPED OPEN SPACE** -- A landscaped area intended to enhance the appearance of parking lots and other outdoor auto-related uses or to screen incompatible uses from each other along their boundaries.

**PERMIT** -- Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without such authorization.

**PERMITTED USE** -- Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

**PERSONAL SERVICES** -- Establishments primarily engaged in providing services involving the care of a person or his or her apparel. (COMMENT: Personal services usually includes the following: laundry, cleaning and garment services, garment pressing, linen supply, diaper service, coin-operated laundries, dry-cleaning plants, carpet and upholstery cleaning, photographic studios, beauty shops, barber shops, shoe repair, hat cleaning, funeral services, steam baths, reducing salons and health clubs, clothing rental, locker rental, porter service, etc.)

**PERVIOUS SURFACE** -- Any material that permits full or partial absorption of stormwater into previously unimproved land. See "impervious surface." (See Figure 36.)

**PLAZA** -- An open space which may be improved and landscaped, usually surrounded by streets and buildings. See "court." (See Figure 13.)

**PLOT**

(1) A single unit parcel of land;

(2) A parcel of land that can be identified and referenced to a recorded plat or map.

**PORCH** -- A roofed open area which may be glazed or screened, usually attached to or part of and with direct access to or from a building. (See Figure 24.) (COMMENT: A porch becomes a room when the space enclosed is heated or air conditioned and, if glazed, when the percentage of window area to wall area is less than 50%.)

**PREMISES** -- A lot, parcel, tract or plot of land together with the buildings and structures thereon.

**PRINCIPAL BUILDING** -- See "building, principal."

**PRINCIPAL USE** -- The primary or predominant use of any lot.

**PRIVATE CLUB OR LODGE** -- A building and related facilities owned or operated by a corporation, association or group of individuals established for the fraternal, social, educational, recreational or cultural enrichment of its members and not primarily for profit and whose members meet certain prescribed qualifications for membership and pay dues.

## ZONING

PRIVATE SCHOOL -- See "school, private."

PROFESSIONAL OFFICE -- The office of a member of a recognized profession maintained for the conduct of that profession. See "home professional office."

PROHIBITED USE -- A use that is not permitted in a zone district. (COMMENT: Most ordinances are permissive ordinances, and a use not specifically permitted is prohibited.)

PROJECT -- A development with the necessary site improvements on a particular parcel of land.

PROJECTION -- A prediction of a future state based on an analysis of what has happened in the past; or part of a building or structure which is exempt from the bulk requirements of the Zoning Ordinance. (COMMENT: Usually bay windows and steps may project into required yards, and mechanical equipment on roofs may exceed the height limitation.)

PROPERTY LINE -- See "lot line."

PUBLIC AREAS -- Public parks, playgrounds, trails, paths and other recreational areas and other public open spaces; scenic and historic sites; schools and other public buildings and structures.

PUBLIC GARAGE -- See "garage, public."

PUBLIC HEARING -- A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

PUBLIC IMPROVEMENT -- Any improvement, facility or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy or similar essential services.

PUBLIC NOTICE -- The advertisement of a public hearing in a paper of general circulation in the area, and through other media sources, indicating the time, place and nature of the public hearing.

PUBLIC UTILITY -- A closely regulated private enterprise with an exclusive franchise for providing a public service.

PUBLIC UTILITY FACILITIES -- Telephone, electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves or structures; sewer pipes, valves or structures; pumping stations; telephone exchanges and repeater stations; and all other facilities, equipment and structures necessary for conducting a service by a government or a public utility.

QUADRUPLEX -- See "dwelling, quadruplex."

QUARRY -- A place where rock, ore, stone and similar materials are excavated for sale or for off-tract use. See "gravel pit" and "sand pit."

QUASI-PUBLIC -- A use owned or operated by a nonprofit, religious or eleemosynary institution and providing educational, cultural, recreational, religious or similar types of public programs.

REAR YARD -- See "yard, rear"

REASONABLE USE DOCTRINE -- A common law principle that no one has the right to use his property in a way which deprives others of the lawful enjoyment of their property.

RECREATION, ACTIVE -- Leisure time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites or fields. (COMMENT: The term "active recreation" is more a word of art than a precise definition. It obviously includes swimming, tennis and other court games, baseball and other field sports and playground activities. There may be a legitimate difference of opinion as to whether park use per se may be considered active recreation, although obviously certain activities in parks clearly would qualify. Bike riding, hiking, walking and picnicking are usually not considered active

## ZONING

recreation.)

RECREATION FACILITY -- A place designed and equipped for the conduct of sports, leisure-time activities and other customary and usual recreational activities.

RECREATION FACILITY, COMMERCIAL -- A recreation facility operated as a business and open to the public for a fee.

RECREATION FACILITY, PERSONAL -- A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests.

RECREATION FACILITY, PRIVATE -- A recreation facility operated by a nonprofit organization and open only to bona fide members and guests of such nonprofit organization.

RECREATION FACILITY, PUBLIC -- A recreation facility operated by a governmental agency and open to the general public.

RECREATION, PASSIVE -- Any leisure-time activity not considered active.

REDEMPTION CENTER -- A private businesses, registered by the Connecticut Department of Energy and Environmental Protection in accordance with Section 22a-245 of the Connecticut General Statutes, that works with distributors of carbonated beverages to redeem bottles and cans with a deposit value. (Amended 6/27/25)

REHABILITATION -- The upgrading of a building previously in a dilapidated or substandard condition, for human habitation or use.

RELIGIOUS USE -- A structure or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held.

REPAIR GARAGE -- See "garage, repair."

RESEARCH LABORATORY -- An establishment or other facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

RESIDENTIAL ADMINISTRATION STAFF -- An adult, age 21 or over, trained and employed by an educational dormitory residence facility with responsibilities to supervise and provide administrative, security, educational, and/or counseling support and programming to student residents; such person may reside on the premises on a part-time or full-time basis.

RESIDENTIAL DENSITY -- The number of dwelling units per acre of residential land. (COMMENT: The density must be further defined in terms of net or gross. See "density.")

RESIDENTIAL UNIT -- See "household."

RESORT -- A facility for transient guests where the primary attraction is generally recreational features or activities.

RESOURCE RECOVERY -- The process of obtaining materials or energy, particularly from solid waste.

REST HOME -- See "nursing home."

RESTAURANT -- An establishment where food and drink are prepared, served and consumed primarily within the principal building. See "carry-out restaurant," "drive-in restaurant," "fast-food restaurant" and "retail food establishment."

RESTORATION -- The replication or reconstruction of a building's original architectural features. (COMMENT: Restoration is usually used to describe the technique of preserving historic buildings. Rehabilitation, which also accomplishes building upgrading, does not necessarily retain the building's original architectural features. See "rehabilitation.")

RETAIL FOOD ESTABLISHMENT -- Any fixed or mobile place or facility at or in which food or drink is offered or prepared for retail sale or for service with or without charge on or at the

## ZONING

premises or elsewhere. (COMMENT: Agricultural markets, covered dish suppers or similar-type of church or nonprofit-type institution meal services usually are exempt and fall under the definition of a "temporary retail food establishment.")

**RETAIL SERVICES** -- Establishments providing services or entertainment, as opposed to products, to the general public, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion pictures, amusement and recreation services, health, educational and social services, museums and galleries.

**RETAINING WALL** -- A structure constructed to hold back or support an earthen bank.

**REUSE** -- A use for an existing building or parcel of land other than for which it was originally intended.

**REZONE** -- To change the zoning classification of particular lots or parcels of land.

**RIDGE LINE** -- The intersection of two roof surfaces forming the highest horizontal line of the roof. (See Figure 26.)

**RIDING ACADEMY** -- An establishment where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and the general public may, for a fee, hire horses for riding.

**RIGHT OF ACCESS** -- The legal authority to enter or leave a property.

**RIGHT-OF-WAY**

- (1) A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary storm sewer and other similar uses;

- (2) Generally, the right of one to pass over the property of another. (See Figure 1.)

**RIGHT-OF-WAY LINES** -- The lines that form the boundaries of a right-of-way. (See Figure 1.)

**ROAD** -- See "street."

**ROOF** -- The outside top covering of a building. (See Figure 26.)

**ROOF, FLAT** -- A roof which is not pitched and the surface of which is parallel to the ground. (See Figure 26.)

**ROOF, GABLE** -- A ridged roof forming a gable at both ends of the building. (See Figure 26.)

**ROOF, GAMBREL** -- A gabled roof with two slopes on each side, the lower steeper than the upper. (See Figure 26.)

**ROOF, HIP** -- A roof with sloping ends and sides. (See Figure 26.)

**ROOF, MANSARD** -- A roof with two slopes on each of four sides, the lower steeper than the upper. (See Figure 26.) (COMMENT: In current use, the upper slope may be flat.)

**ROOF, SHED** -- A roof with one slope. (See Figure 26.)

**ROOMING HOUSE** -- See "boardinghouse."

**ROOMING UNIT** -- Any habitable room or group of rooms forming a single habitable unit, used or intended to be used for living and sleeping, but not for cooking or eating.

**ROW HOUSE** -- See "dwelling, townhouse."

**SAND PIT** -- A surface mine or excavation used for the removal of sand, gravel or fill dirt for sale or for use off-tract. See "gravel pit" and "quarry."

**SANITARY LAND FILL** -- A site for solid waste disposal.

**SANITARY SEWERS** -- Pipes that carry only domestic or commercial sewage and into which stormwater, surface water and groundwaters are not intentionally admitted. See "sewer."

**SCHOOL, PAROCHIAL** -- A school supported and controlled by a church or religious

## ZONING

organization. See "school, private."

**SCHOOL, PRIVATE** -- Any building or group of buildings, the use of which meets state requirements for primary, secondary or higher education and which use does not secure the major part of its funding from any governmental agency.

### SCREENING

- (1) A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation; or
- (2) The removal of relatively coarse floating and/or suspended solids by straining through racks or screens.

**SEASONAL DWELLING UNIT** -- A dwelling unit that lacks one or more of the basic amenities or utilities required for all year or all-weather occupancy.

**SEMIDETACHED** -- See "dwelling, semidetached."

**SEMI-PUBLIC** -- See "quasi-public."

**SENIOR CITIZEN HOUSING** -- See "housing for the elderly."

**SERVICE STATION** -- See "automobile service station."

**SERVICES** -- Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations including hotels and other lodging places; establishments providing personal, business, repair and amusement services; health, legal, engineering and other professional services; educational institutions; membership organizations, and other miscellaneous services.

**SETBACK** -- The distance between the street right-of-way line and the front line of a building or any projection thereof, excluding uncovered steps. (See Figure 20.)

**SETBACK LINE** -- That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed. See "building line." (See Figure 20.)

**SEWER** -- Any pipe or conduit used to collect and carry away sewage or stormwater runoff from the generating source to treatment plants or receiving streams. (COMMENT: A sewer that conveys household, commercial and industrial sewage is called a "sanitary sewer"; if it transports runoff from rain or snow, it is a "storm sewer." If stormwater runoff and sewage are transported in the same system, then it is a "combined sewer.")

**SHOPPING CENTER** -- A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

**SIDE YARD** -- See "yard, side."

**SIDEWALK** -- A paved, surfaced or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

**SIGHT TRIANGLE** -- A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. (See Figure 1.)

**SIGN** -- Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

**SIGN, ANIMATED OR MOVING** -- Any sign or part of a sign which changes physical position by any movement or rotation or which gives the visual impression of such movement or

## ZONING

rotation.

**SIGN AREA** -- The entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure.

**SIGN, AWNING, CANOPY OR MARQUEE** -- A sign that is mounted or painted on, or attached to, an awning, canopy or marquee that is otherwise permitted by ordinance. (See Figure 27.)

**SIGN, BILLBOARD** -- A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

**SIGN, BULLETIN BOARD** -- A sign which identifies an institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of individuals connected with it and general announcements of events or activities occurring at the institution or similar messages.

**SIGN, BUSINESS** -- A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

**SIGN, CONSTRUCTION** -- A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the structure or project.

**SIGN, DIRECTIONAL** -- Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance" and "exit."

**SIGN, FACADE** -- See "sign, wall."

**SIGN, FACE** -- The area or display surface used for the message.

**SIGN, FLASHING** -- Any directly or indirectly illuminated sign which exhibits changing natural or artificial light or color effects by any means whatsoever.

**SIGN, FREESTANDING** -- Any nonmovable sign not affixed to a building.

**SIGN, GOVERNMENTAL** -- A sign erected and maintained pursuant to and in discharge of any governmental functions or required by law, ordinance or other governmental regulation.

**SIGN, GROUND** -- Any sign, other than a pole sign, placed upon or supported by the ground independent of any other structure. (See Figure 27.)

**SIGN, HOLIDAY DECORATION** -- Temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.

**SIGN, HOME OCCUPATION** -- A sign containing only the name and occupation of a permitted home occupation.

**SIGN, IDENTIFICATION** -- A sign giving the nature, logo, trademark or other identifying symbol; address; or any combination of the name, symbol and address of a building, business, development or establishment on the premises where it is located.

**SIGN, ILLUMINATED** -- A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed towards the sign.

**SIGN, MEMORIAL** -- A sign, table or plaque memorializing a person, event, structure or site.

**SIGN, NAME PLATE** -- A sign, located on the premises, giving the name or address, or both, of the owner or occupant of a building or premises.

**SIGN, OFF-PREMISE** -- See "sign, billboard."

## ZONING

**SIGN, ON-SITE INFORMATIONAL** -- A sign commonly associated with, and not limited to, information and directions necessary or convenient for visitors coming on the property, including signs marking entrances and exits, parking areas, circulation direction, rest rooms and pick-up and delivery areas.

**SIGN, POLE** -- A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign is six feet or more above grade. (See Figure 27.)

**SIGN, POLITICAL** -- A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

**SIGN, PORTABLE** -- A sign that is not permanent, affixed to a building, structure or the ground. (See Figure 27.)

**SIGN, PRIVATE SALE OR EVENT** -- A temporary sign advertising private sales of personal property such as "house sales," "garage sales," "rummage sales" and the like or private not-for-profit events such as picnics, carnivals, bazaars, game nights, art fairs, craft shows and Christmas tree sales.

**SIGN, PROJECTING** -- A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building. (See Figure 27.)

**SIGN, REAL ESTATE** -- A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

**SIGN, ROOF** -- A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof. (See Figure 27.)

**SIGN, TEMPORARY** -- A sign or advertising display constructed of cloth, canvas, fabric, plywood or other light material and designed or intended to be displayed for a short period of time.

**SIGN, WALL** -- A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 12 inches from such building or structure. (See Figure 27.)

**SIGN, WARNING** -- Signs limited to messages of warning, danger or caution.

**SIGN, WINDOW** -- A sign that is applied or attached to the exterior or interior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window. (See **Figure 27.**) (Amended 1/1/2006)

**SINGLE OWNERSHIP** -- Ownership by one or more persons in any form of ownership of a lot or lots partially or entirely in the same ownership.

**SINGLE-FAMILY DWELLING** -- See "dwelling, single-family."

**SINKING** -- A method of controlling oil spills that employs an agent to entrap oil droplets and sink them to the bottom of the body of water.

**SITE** -- Any plot or parcel of land or combination of contiguous lots or parcels of land. (See Figure 25.)

**SITE PLAN** -- The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, marshes and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, structures and signs, lighting and screening devices; any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

## ZONING

SKILLED NURSING HOME -- See "extended care facility."

SLOPE -- The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees. See "grade." (See Figure 16.)

SMOKE SHOP -- A retail establishment where twenty percent (20%) or more of the retail area is dedicated to the sale of tobacco and related products containing tobacco, nicotine, cannabis (THC/CBD), flavorings, including E-Cigarettes, and paraphernalia and/or contains areas for the consumption of smokeable products. For the purpose of this definition, retail area shall be either 85 percent of the gross floor area of the premises or, where an actual floor plan is available, the area developed for customer use. (Amended 4/25/25)

SOIL EROSION AND SEDIMENT CONTROL PLAN -- A plan that indicates necessary land treatment measures, including a schedule for installation, which will effectively minimize soil erosion and sedimentation. See § 195-101 for special definitions.

SOLID WASTE -- Unwanted or discarded material, including garbage with insufficient liquid content to be free flowing.

SPECIAL EXCEPTION USE -- A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in a zoning ordinance and authorized by the Planning and Zoning Commission.

SPECIAL USE PERMIT -- A permit issued by the proper governmental authority which must be acquired before a special exception use can be constructed. See "conditional use permit."

SPECIALTY SHOPPING CENTER -- A shopping center whose shops cater to a specific market and are linked together by an architectural, historical or geographic theme or by a commonality of goods and services. Also known as a "theme or fashion center." See "mini-mall" and "shopping center."

SPOT ZONING -- Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the Comprehensive Zoning Plan.

STEEP SLOPE -- Land areas where the slope exceeds 20%. (COMMENT: Construction on slopes in excess of 20% requires additional safeguards against erosion and other potential problems.)

STORM SEWER -- A conduit that collects and transports runoff.

STORY -- That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use. (See Figure 3.)

STORY, HALF -- A space under a sloping roof which has the line of intersection of the roof and wall face not more than three feet above the floor level and in which space the possible floor area with head room of five feet or less occupies at least 40% of the total floor area of the story directly beneath. (See Figure 17.)

STREET -- Any vehicular way which is an existing state, county or municipal roadway; or is shown upon a plat approved pursuant to law; or is approved by other official action; or is shown on a plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of a Planning Board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved.

STREET, COLLECTOR -- A street which collects traffic from local streets and connects with minor and major arterials. (See Figure 28)

STREET, CUL-DE-SAC -- A street with a single common ingress and egress and with a

## ZONING

turnaround at the end. (See Figure 28.)

**STREET, DEAD-END** -- A street with a single common ingress and egress. (See Figure 28.)

**STREET, DUAL** -- A street with opposing lanes separated by a median strip, center island or other form of barrier, which cannot be crossed except at designated locations.

**STREET, EXPRESSWAY** -- A divided multi-lane major arterial street for through traffic with partial control of access and with grade separations at major intersections. (See Figure 28.)

**STREET, FREEWAY** -- A limited access highway with no grade crossings. (See Figure 28.)

**STREET FURNITURE** -- Man-made, above-ground items that are usually found in street rights-of-way, including benches, kiosks, plants, canopies, shelters and phone booths.

**STREET HARDWARE** -- Mechanical and utility systems within a street right-of-way such as hydrants, manhole covers, traffic lights and signs, utility poles and lines and parking meters and the like.

**STREET LINE** -- See "right-of way lines."

**STREET, LOCAL** -- A street designed to provide vehicular access to abutting property and to discourage through traffic. (See **Figure 28.**) (COMMENT: Culs-de-sac and loop streets are both examples of local streets.) (Amended 1/1/2006)

**STREET, LOOP** -- A local street which has its only ingress and egress at two points of the same collector street. (See **Figure 28.**) (Amended 1/1/2006)

**STREET, MAJOR ARTERIAL** -- A street with signals at important intersections and stop signs on the side streets and which collects and distributes traffic to and from collector streets. (See **Figure 28.**) (Amended 1/1/2006)

**STREET, SERVICE** -- A street running parallel to a freeway or expressway and serving abutting properties. (See **Figure 28.**) (Amended 1/1/2006)

**STRIP DEVELOPMENT** -- Commercial or retail development, usually one-store deep, that fronts on a major street.

**STRIP ZONING** -- See "strip development."

**STRUCTURAL ALTERATION** -- Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

**STRUCTURE** -- A combination of materials to form a construction for use, occupancy or ornamentation, whether installed on, above or below the surface of land or water. (COMMENT: By this definition, all buildings are structures; however, not all structures are buildings. See "building.")

**SUBDIVISION** -- The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale, development or lease. (See Figure 35.)

**SUPERMARKET** -- A retail establishment primarily selling food as well as other convenience and household goods.

**SURVEY** -- The process of precisely ascertaining the area, dimensions and location of a piece of land.

**SWIMMING POOL** -- A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land or an above-surface pool, having a depth of more than thirty inches, designed, used and maintained for swimming and bathing.

**TEMPORARY STRUCTURE** -- A structure without any foundation or footings and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

## ZONING

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

### TERMINAL

- (1) A place where transfer between modes of transportation take place;
- (2) A terminating point where goods are transferred from a truck to a storage area or to other trucks or picked up by other forms of transportation.

TERRACE -- A level, landscaped and/or surfaced area directly adjacent to a principal building at or within three feet of the finished grade and not covered by a permanent roof.

THEATER -- A building or part of a building devoted to showing motion pictures or for dramatic, musical or live performances.

TOBACCO – Any product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including, but not limited to, cigarettes, cigars, chewing or pipe tobacco, snuff, electronic cigarettes, electronic cigars, electronic pipes, electronic nicotine delivery systems or any other product or device that relies on vaporization or aerosolization; tobacco product also includes any component, part or accessory used in the consumption of a tobacco product such as filters, rolling papers, pipes, e-cigarettes, e-cigars, epipes, vape pens, e-hookahs and liquids used in the electronic smoking devices, whether or not they contain nicotine. Tobacco product shall not include drugs, devices or combination products approved by the United States Food and Drug Administration as a tobacco cessation product that is marketed and sold exclusively for the approved purpose. (Amended 4/25/25)

TOBACCO STORES - See Smoke Shop definition. (Amended 4/25/25)

TOPOGRAPHIC MAP -- A map of a portion of the earth's surface showing its topography. See "topography."

TOPOGRAPHY -- The configuration of a surface area showing relative elevations.

TOPSOIL -- The original upper layer of soil material to a depth of six inches which is usually darker and richer than the subsoil.

TOT LOT -- An improved and equipped play area for small children usually up to elementary school age.

TOURIST HOME -- See "bed-and-breakfast."

TRACT -- An area, parcel, site, piece of land or property which is the subject of a development application. (See Figure 25.)

### TRANSITIONAL AREA

- (1) An area in the process of changing from one use to another or changing from one racial or ethnic occupancy to another; or
- (2) An area which acts as a buffer between two land uses of different intensity.

TRANSPARENT -- in relation to windows and doorways, any glass or similar material which allows views into and out of a building. Windows and doorways with glass that is translucent, opaque, tinted, or reflectively coated shall not be considered transparent.

TRANSITIONAL USE -- A land use of an intermediate intensity between a more intensive and less intensive use. (COMMENT: Transitional uses will always include the uses from the less intensive district, usually residences, and carefully selected uses allowed in the more intensive district; the purpose being to preclude the more intensive uses from creeping into the less intensive zone. See "transitional area.")

TRIP -- A single or one-way vehicle movement either to or from a subject property or study area.

## ZONING

TRIP GENERATION -- The total number of trip ends produced by a specific land use or activity.

UNDEVELOPED LAND -- Land in its natural state before development.

UPZONE -- To reduce the intensity of use by decreasing density or lowering the floor area ratio or otherwise increasing bulk requirements.

USE -- The purpose or activity for which land or buildings are designed, arranged or intended or for which land or buildings are occupied or maintained.

USE, ACCESSORY -- See "accessory use."

USE, CONDITIONAL -- See "conditional use."

USE, EXISTING -- See "existing use."

USE, INSTITUTIONAL -- See "institutional use."

USE, PERMITTED -- See "permitted use."

USE, PRINCIPAL -- See "principal use."

USE, RELIGIOUS -- See "religious use."

USE, TEMPORARY -- See "temporary use."

USE, TRANSITIONAL -- See "transitional use."

USE VARIANCE -- See "variance use."

UTILITY, PRIVATE OR PUBLIC

- (1) Any agency which, under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service;
- (2) A closely regulated private enterprise with an exclusive franchise for providing a public service.

UTILITY SERVICES -- Establishments engaged in the generation, transmission and/or distribution of electricity, gas or steam, including water and irrigation systems and sanitary systems used for the collection and disposal of garbage, sewage and other wastes by means of destroying or processing materials.

VAPE SHOP -- A retail establishment where twenty percent (20%) or more of the retail area is dedicated to the sale of Vaporizers and their related products, including, but not limited to, nicotine, cannabis (THC/CBD), flavorings, and paraphernalia and/or contains areas for the consumption of Vaporizer products. For the purpose of this definition, retail area shall be either 85 percent of the gross floor area of the premises or, where an actual floor plan is available, the area developed for customer use. (Amended 4/25/25)

VAPORIZER -- A device designed for the purpose of inhaling and exhaling vapor containing nicotine, cannabis (THC/CBD), and/or flavorings. Vaporizers include, but are not limited to, Ecigarettes, vapes, vape pens, dab pens, dab rigs, tanks, mods, pod-mods, hookah pens and electronic nicotine delivery systems (ENDS). (Amended 4/25/25)

VARIANCE -- Permission to depart from the literal requirements of the Zoning Regulations.

VARIANCE, BULK -- A departure from any provision of a zoning regulation except use. See "variance, hardship."

VARIANCE, HARDSHIP -- A departure from the provisions of a zoning regulation relating to setbacks, side yards, frontage requirements and lot size, but not involving the actual use or structure.

VARIANCE, LOT -- A departure from the yard, area, coverage, setback, size or other requirements of the applicable zoning district.

VARIANCE, USE -- A variance granted for a use or structure that is not permitted in the zone.

## ZONING

VEST POCKET PARK -- A small land area, usually in a built-up neighborhood, developed for active or passive recreation.

VOCATIONAL SCHOOL -- A secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the state requirements as a vocational facility.

WALL

(1) The vertical exterior surface of a building;

(2) Vertical interior surfaces which divide a building's space into rooms.

WAREHOUSE -- A building used primarily for the storage of goods and materials. See "mini-warehouse."

WAREHOUSING -- Terminal facilities for handling freight with or without maintenance facilities.

WAREHOUSING, PRIVATE -- Terminal facilities operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

WAREHOUSING, PUBLIC -- Terminal facilities available to the general public, at a fee, for the storage of farm products, furniture and other household goods or commercial or private goods of any nature.

WATERCOURSE -- Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

WATERFRONT PROPERTY -- A property that has frontage on a water body.

WATERSHED -- The area drained by a given stream or river. See "river basin."

WETLANDS -- Swamps or marshes, especially as areas preserved for wildlife.

WHOLESALE TRADE -- Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business users or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

YARD -- An open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in the zoning ordinance. See "buildable area," "lot line," "yard depth" and "yard line." (See Figure 20.)

YARD DEPTH -- The shortest distance between a lot line and a yard line.

YARD, FRONT -- A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line. Such front yard is unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in the ordinance. (See Figure 20)

YARD LINE -- A line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard. (See Figure 20.)

YARD, REAR -- A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line. Such rear yard is unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in the ordinance. (See Figure 20.) (COMMENT: See comment under "yard, front.")

YARD, REQUIRED -- The open space between a lot line and the buildable area within which no structure shall be located except as provided in the Zoning Ordinance. (See Figure 20.)

## ZONING

**YARD, SIDE** -- A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building. Such side yard is unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in the ordinance. (See Figure 20.)

**ZERO LOT LINE** -- The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line. (See Figure 30.)

**ZONE** -- A specifically delineated area or district in a municipality within which regulations and requirements uniformly govern the use, placement, spacing and size of land and buildings. See "floating zone."

**ZONING** -- The dividing of a municipality into districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

**ZONING BOARD OF APPEALS** -- See "board of appeals."

**ZONING DISTRICT** -- See "zone."

**ZONING ENVELOPE** -- The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by maximum height regulations, yard setbacks and sky exposure plane regulations.

**ZONING MAP** -- The map or maps which are part of the Zoning Ordinance and which delineate the boundaries of zone districts.

**ZONING OFFICER** -- The administrative officer designated to administer the Zoning Ordinance and issue zoning permits.

**ZONING PERMIT** -- A document signed by the Zoning Officer, as required in the Zoning Ordinance, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion or installation of a structure or building, which acknowledges that such use, structure or building complies with the provisions of the municipal zoning or authorized variance therefrom.

B. Word usage. Unless the context clearly indicates the contrary, the present tense shall include the future; the singular shall include the plural; the word "lot" shall include the word "plot"; the word "structure" shall include the word "building"; the word "shall" is always mandatory and not directory; the word "may" is permissive. The word "use" and the word "used" refer to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use, or erected, reconstructed, altered, enlarged, moved or rebuilt, with the intention or design of using the same.

---

### **ARTICLE III, Zoning Districts and District Requirements**

---

#### **§ 195-8. Zoning districts enumerated.**

For the purpose of this regulation, the City of Derby is hereby divided into types of zoning districts, differentiated according to use and building regulations, and to be known and designated as follows:

# ZONING

## Zoning Districts

### Residence zones

R-1 Zone

R-2 Zone

R-3 Zone

R-4 Zone

R-5 Zone

R-6 Zone

R-M Zone

### Public and semipublic zones

P Zone

H/C Hospital Campus Zone

### Business zones

B-1 Zone

B-2 Zone

Center Design Development Zone (CDD Zone)

Center Residence (CR) Zone

### Industry zones

I-1 Zone

Mill Design District Zone (MDD)

Industrial Campus Zone (IC Zone)

Floodplain Zone (FP Zone)

Open Space Zone (OS Zone)

## § 195-8(A). Zoning Map. (Amended 08/09/2019)

- A. The boundaries of such districts and special building lines are hereby established as shown on the map entitled "Zoning Map, City of Derby," which map is annexed to, and is hereby adopted and declared to be a part of this regulation and is hereinafter referred to as the "Zoning Map."<sup>iii</sup>EN Said Zoning Map may be Amended in the same manner as any other part of this regulation. An official copy of said map, indicating the latest amendments, shall be kept up to date in the offices of the Zoning Officer, for the use and benefit of the public. The Official Zoning Map shall be the final authority as to the current zoning classification of any land within the boundaries of the City of Derby.
- B. Boundaries: Except where referenced to a street line or by distance in feet therefrom, the district lines shown on said Zoning Map are intended to follow lot lines or the center lines of streets, railroads, streams or aqueducts, or the boundaries of the city, and where any such district abuts upon a river, the boundary lines thereof shall be deemed to extend outward to the boundary of the city in such river. In the case of unsubdivided land or where a district boundary divides a parcel or lot, the location of such boundary, if not indicated by dimensions shown upon such Zoning Map, shall be determined by the use of the scale appearing thereon.
- (1) In all cases where a district boundary divides a lot in one ownership on the date of the enactment of this regulation, and more than 50% of the area of such lot lies in the less restrictive district, the requirements prescribed by this regulation for the less restrictive district may be extended by the Commission to such portion of the more restrictive

## ZONING

portion of said lot which lies within 50 feet of such district boundary. For purpose of this section, the more restrictive district shall be deemed that district subject to regulations which prohibit the use intended to be made of said lot, or which require higher standards with respect to density, coverage, yards, screening, landscaping, lighting, parking, loading, and similar requirements.

- (2) In all cases where a district boundary line is located not farther than 15 feet away from a lot line of records, such boundary line shall be construed to coincide with such lot line.
- (3) In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the Zoning Officer by application of a scale thereto.
- (4) Where natural or manmade features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered in subsections above, the

### § 195-9. Residential - 1 (R-1) Zone.

- A. Intent. These zones are designed to consist of single-family houses on lots of sufficient size to support private sewage disposal systems if necessary. They are designed to encourage a somewhat higher quality of suburban development with ample lots. Institutions and similar uses will be necessary and appropriate in these zones but only as special exceptions upon a finding that development will be compatible with the character of the zone.
- B. Permitted uses. Permitted uses in the R-1 Zone shall be as follows:
  - (1) Single-family dwellings.
  - (2) Parks and playgrounds.
  - (3) Noncommercial agriculture or horticulture.
  - (4) Family Child Care Home and Group Child Care Home (Amended 6/30/2024)
- C. Accessory uses. Accessory uses in the R-1 Zone shall be as follows:
  - (1) Home professional offices.
  - (2) Customary accessory structures.
- D. Special exceptions in the R-1 Zone shall be as follows:
  - (1) Nursery.
  - (2) Home occupations.
  - (3) Public places of worship.
  - (4) School.
  - (5) Library.
  - (6) Public utility building without repair facilities or outdoor storage yard.
  - (7) Public or semipublic building.
  - (8) Convalescent home (nursing home).
  - (9) (Deleted 06/30/2024)
  - (10) Riding academy (minimum land area required: five acres, plus one acre per horse).
- E. Bulk requirements. Bulk requirements in the R-1 Zone shall be as follows:
  - (1) Each lot shall have an area of 40,000 square feet and a width of at least 150 feet, measured at the required front yard setback.
  - (2) Maximum lot coverage: 20%
  - (3) Maximum height: 30 feet.
  - (4) Minimum required front yard: 50 feet
  - (5) Minimum required rear yard: 75 feet.

## ZONING

- (6) Minimum required side yard: 25 feet.
- (7) Accessory uses.
  - (a) Building from rear line of lot: five feet.
  - (b) Building from side line of lot: 25 feet.

### § 195-10. Residential - 2 (R-2) Zone.

- A. Intent. These zones are designed to consist of single-family houses on lots of sufficient size to support private sewage disposal systems if necessary. They are designed to encourage a somewhat higher quality of suburban development with ample lots. Institutions and similar uses will be necessary and appropriate in these zones but only as special exceptions upon a finding that development will be compatible with the character of the zone.
- B. Permitted uses. Permitted uses in the R-2 Zone shall be as follows:
  - (1) Single-family dwellings.
  - (2) Parks and playgrounds.
  - (3) Noncommercial agriculture or horticulture.
  - (4) Family Child Care Home and Group Child Care Home (Amended 6/30/2024)
- C. Accessory uses. Accessory uses in the R-2 Zone shall be as follows:
  - (1) Home professional offices.
  - (2) Customary accessory structures.
- D. Special exceptions. Special exceptions in the R-2 Zone shall be as follows:
  - (1) Nursery.
  - (2) Home occupations.
  - (3) Public places of worship.
  - (4) School.
  - (5) Library.
  - (6) Public utility building without repair facilities or outdoor storage yard.
  - (7) Public or semipublic building.
  - (8) Convalescent home (nursing home).
  - (9) (Deleted 06/30/2024)
- E. Bulk requirements in the R-2 Zone shall be as follows:
  - (1) Each lot shall have an area of 20,000 square feet and a width of at least 120 feet measured at the required front yard setback.
  - (2) Maximum lot coverage: 25%.
  - (3) Maximum height. 30 feet.
  - (4) Minimum required front yard: 40 feet.
  - (5) Minimum required rear yard: 50 feet.
  - (6) Minimum required side yard: 20 feet.
  - (7) Accessory uses:
    - (a) Building from rear line of lot: five feet.
    - (b) Building from side line of lot: 20 feet.

### § 195-11. Residential - 3 (R-3) Zone.

- A. Intent. These zones are designed to consist of single-family houses on lots of sufficient size only where public water supply and sewers are available. They are also designed to encourage a somewhat higher quality of suburban development. Institutions and similar uses

## ZONING

will be necessary and appropriate in these zones but only as special exceptions upon a finding that development will be compatible with the character of the zone.

- B. Permitted uses. Permitted uses in the R-3 Zone shall be as follows:
- (1) Single-family dwellings.
  - (2) Parks and playgrounds.
  - (3) Noncommercial agriculture or horticulture.
  - (4) Family Child Care Home and Group Child Care Home (Amended 6/30/2024)
- C. Accessory uses. Accessory uses in the R-3 Zone shall be as follows:
- (1) Home professional offices.
  - (2) Customary accessory structures.
- D. Special exceptions. Special exceptions in the R-3 Zone shall be as follows:
- (1) Nursery.
  - (2) Home occupations.
  - (3) Public places of worship.
  - (4) School.
  - (5) Library.
  - (6) Public utility building without repair facilities or outdoor storage yard.
  - (7) Public or semipublic building.
  - (8) Convalescent home (nursing home).
  - (9) (Deleted 06/30/2024) .
  - (10) Educational Dormitory Residence, provided said structure meets the following minimum standards:
    - (a) Minimum lot size: 3 acres
    - (b) The number of total beds shall not exceed 45 per acre of total lot area. In no case shall the number of total beds exceed 150 per lot.
    - (c) Housing on the premises shall be provided solely to persons who meet the following criteria:
      - (i) International students, who are enrolled in a public or private secondary school in the State of Connecticut through an F-1 visa
      - (ii) Residential administration staff
    - (d) Setback and Buffer: In addition to meeting the bulk requirements of the R-3 Zone in Section 195-11(E), an educational dormitory residence building or structure shall be set back at least 65 feet from any adjacent residential property line, and a landscaped buffer area at least 25 feet in depth and located on the Educational Dormitory Residence property shall be provided and maintained by the owner and/or operator of such facility. Landscaping of such buffer shall be in accordance with Section 195-25(E) except as noted above.

In the case of adaptive reuse of existing buildings, facilities and parking areas that preclude compliance with the provisions of this Section or the landscaping provisions required in Section 195-25(E), a suitable alternative approved by the Commission, such as fencing with the maximum amount of natural and planted vegetation feasible, shall be provided and maintained to provide visual screening from adjacent properties.

(e) No accessory recreational use, such as playing courts or fields, benches and outdoor seating areas, or other sports and leisure facilities, shall be located within the required setbacks established in Subsection (d) above.

## ZONING

(f) Off-street parking shall be provided only for staff (including administrative, maintenance, and office personnel), visitors, and for vehicles with the primary purpose of transporting students to and from educational facilities. Student residents shall not be permitted to possess or park private vehicles in either off-street parking spaces on the site, or on-street parking spaces in the City of Derby.

(g) Sufficient information regarding the operations of the Educational Dormitory Residence, including but not limited to, staffing, transportation, operational schedules, and facilities access, shall be provided in the Statement of Use required by Section 195-46 in order for the Commission to determine that the use is in harmony with the appropriate and orderly development of the zone, the neighborhood and the city and will not be detrimental to established properties in the area.

E. Bulk requirements. Bulk requirements in the R-3 Zone shall be as follows:

- (1) Each lot shall have an area of 15,000 square feet and a width of at least 100 feet measured at the required front yard setback.
- (2) Maximum lot coverage: 20%.
- (3) Maximum height: 30 feet.
- (4) Minimum required front yard: 30 feet.
- (5) Minimum required rear yard: 50 feet.
- (6) Minimum required side yard: 16 feet.
- (7) Accessory uses.
  - (a) Building from rear line of lot: five feet.
  - (b) Building from side line of lot: 16 feet.

### § 195-12. Residential - 4 (R-4) Zone.

A. Intent. These zones are primarily residential in nature and consist of areas built up in years past with single-family, and scattered two-family and multifamily structures. They constitute part of the urban concentration in Derby. An important purpose of the standards applicable in these zones is to recognize the relatively high concentration of dwellings and population already present, while preserving existing development from overcrowding and not permitting conversion to and construction of dwellings containing two or more families. Institutions and similar uses are appropriate in these zones but only as special exceptions upon a finding that development will be compatible with the character of the zone.

B. Permitted uses. Permitted uses in the R-4 Zone shall be as follows:

- (1) Single-family dwellings.
- (2) Parks and playgrounds.
- (3) Noncommercial agriculture or horticulture.
- (4) Family Child Care Home and Group Child Care Home (Amended 6/30/2024)

C. Accessory uses. Accessory uses in the R-4 Zone shall be as follows:

- (1) Home professional office.
- (2) Customary accessory structures.

D. Special exceptions. Special exceptions in the R-4 Zone shall be as follows:

- (1) Congregate housing.
- (2) Home occupations.
- (3) Public places of worship.
- (4) School.
- (5) Library.

## ZONING

- (6) Public utility building without repair facility or outdoor storage yard.
  - (7) Public or semipublic building.
  - (8) Bed-and-breakfast inns.
  - (9) (Deleted 06/30/2024) .
- E. Bulk requirements. Bulk requirements in the R-4 Zone shall be as follows:
- (1) Each lot shall have an area of 9,000 square feet and a width of at least 80 feet measured at the required front yard setback.
  - (2) Maximum lot coverage: 25%.
  - (3) Maximum height: 30 feet.
  - (4) Minimum required front yard: 25 feet.
  - (5) Minimum required rear yard: 40 feet.
  - (6) Minimum required side yard: eight feet.
  - (7) Accessory uses.
    - (a) Building from rear line of lot: five feet.
    - (b) Building from side line of lot: eight feet.

### § 195-13. Residential - 5 (R-5) Zone.

- A. Intent. These zones are primarily residential in nature and consist of areas built up in years past with single-family, two-family and multi-family structures. They constitute part of the urban concentration. An important purpose of the standards applicable in these zones is to recognize the relatively high concentration of dwellings and population already present, while preserving existing development from overcrowding and permitting conversion to, and construction of, dwellings containing one and two families at standards consistent with preservation of the character of the zone. Institutions and similar uses will be necessary and appropriate in these zones but only as special exceptions upon a finding that development will be compatible with the character of the zone.
- B. Permitted uses. Permitted uses in the R-5 Zone shall be as follows:
- (1) Single- and two-family dwellings.
  - (2) Parks and playgrounds.
  - (3) Family Child Care Home and Group Child Care Home (Amended 6/30/2024)
- C. Accessory uses. Accessory uses in the R-5 Zone shall be as follows:
- (1) Home professional offices.
  - (2) Customary accessory structures.
- D. Special exceptions. Special exceptions in the R-5 Zone shall be as follows:
- (1) Congregate housing.
  - (2) Home occupations.
  - (3) Public places of worship.
  - (4) School.
  - (5) Library.
  - (6) Public utility building without repair facilities or outdoor storage yard.
  - (7) Public or semipublic building.
  - (8) Bed-and-breakfast inns.
  - (9) Child day-care center.
  - (10) Professional office located on a lot having frontage and direct access to the following streets: New Haven Avenue, Derby Avenue, Atwater Avenue and located on the first floor of any building having a residence on it. All parking must be on the side or rear of

## ZONING

the structure.

- E. Bulk requirements. Bulk requirements in the R-5 Zone shall be as follows:
- (1) Each lot shall have an area of 7,500 square feet and a width of at least 75 feet measured at the required front yard setback.
  - (2) Minimum required lot area per family: 5,000 square feet.
  - (3) Maximum lot coverage: 30%.
  - (4) Maximum height: 40 feet.
  - (5) Minimum required front yard: 25 feet.
  - (6) Minimum required rear yard: 35 feet.
  - (7) Minimum required side yard: eight feet.
  - (8) Accessory uses.
    - (a) Building from rear line of lot: eight feet.
    - (b) Building from side line of lot: eight feet.

### **§ 195-13(A). Residential – Single Family Dwellings, Housatonic River Flood Plain Design District (R-6)**

- A. Intent. This zone is intended to preserve the single family residential character of an area where there currently exist detached single family residential dwelling structures located in a floodway or floodplain. However, unlike more traditional residential areas which have been subdivided into individual lots, these existing detached single family residential dwellings are not situated on individual, legally separate and recognized lots, but are located on a single lot which is commonly owned. An important purpose of the standards applicable in this zone is to preserve the single family residential character of the area and its existing density, while recognizing the unique development history of the parcel and the nature of the existing dwelling structures so as to (i) permit reasonable improvements and renovations to the existing single family residential structures and area; (ii) facilitate the financing and conveyance of the property interests unique to the area; and (iii) reduce and/or eliminate structures or development in the floodway.
- B. Permitted uses. Permitted uses in the R-6 Zone shall be as follows:
- (1) Detached single family residential dwellings with a density not to exceed one dwelling per 20,000 square feet of total lot area. The calculation of the total lot area available for such dwellings shall exclude any area allocated to a community structure as defined in Section 195-13(a)D hereof.
  - (2) Parks and playgrounds.
  - (3) Noncommercial agriculture or horticulture.
  - (4) Family Child Care Home and Group Child Care Home (Amended 6/30/2024)
- C. Accessory uses. Accessory uses in the R-6 Zone shall be as follows:
- (1) A single one-story accessory structure (utility shed or garage) per dwelling meeting the requirements (other than setback) of Section 195-26X. Any accessory structure must meet the setback standards of Section 195-13(a)E(10) hereof.
- D. Special exceptions. Special exceptions in the R-6 Zone shall be as follows:
- (1) Home occupations.
  - (2) A single community center, such as a meeting room or pavilion, provided said structure meets the following minimum standards:
    - (a) the building or structure has ground floor area or building footprint not in excess of 2,500 square feet;

## ZONING

- (b) the building or structure does not exceed a height of 25 feet above the base flood elevation;
  - (c) the building or structure is allocated at least 20,000 square feet of total lot area;
  - (d) the building or structure is intended for the exclusive use of the occupants of the single family residential dwellings.
- E. Bulk requirements. Bulk requirements in the R-6 Zone shall be as follows:
- (1) Minimum Lot Size: The total lot area of the parcel shall not be less than 10 acres.
  - (2) Floodway or Floodplain. The lot must have not less than 500 feet of frontage along the Housatonic River and must be primarily located in the Housatonic River floodplain and/or floodway.
  - (3) Building Density per Lot Area. There shall be no more than one building, dwelling or structure, other than an allowed accessory structure, per 20,000 square feet of total lot area.
  - (4) Maximum lot coverage: 20%
  - (5) Maximum height: No building, dwelling or structure shall exceed a height of 30 feet above the base flood elevation. Any building, dwelling or structure not located in the flood plain or flood hazard area shall have a maximum height of 30 feet. The height of accessory structures shall be governed by Section 195-13(a)E(10).
  - (6) Minimum front yard setback: 25 feet.
  - (7) Minimum rear yard setback: 20 feet.  
Note: For purposes of this Section 195-13(a), *et seq.*, the lot frontage abutting the Housatonic River shall be considered the rear yard.
  - (8) Minimum required side yard setback: 5 feet per story of building.
  - (9) Minimum distance between buildings, dwellings and structures. Regardless of the setback standards and requirements set forth Section 195-13(a)E(6)-(8), no building, dwelling or structure shall be located less than 12 feet from another building, dwelling or structure. This prohibition shall not apply to any accessory structures otherwise allowed hereunder.
  - (10) Reduction of development in the Floodway Area. Regardless of the setback standards and requirements set forth in Section 195-13(a)E(6)-(8), the following prohibitions apply to development in the floodway: a) no existing building, dwelling or structure currently located in the floodway shall be enlarged nor otherwise extended further into the floodway; and b) no new buildings, dwelling or structures shall be permitted to be constructed in the floodway. Note: A dock, slip, pier or other in-water structure shall not be considered a structure for purposes of this section.
  - (11) Accessory structures.
    - (a) Building from front line of lot: 15 feet;
    - (b) Building from side line of lot: 5 feet;
    - (c) Building from rear line of lot: 20 feet.Note: A dock, slip, pier or other in-water structure shall not be considered an accessory structure for purposes of this section.
- F. General standards.
- (1) There shall be no additional single family residential dwelling units are permitted to be built in the floodway or floodplain in excess of the number of single family residential dwelling units existing in the floodway or floodplain as of the effective date of this Section 195-13(a). This section is not intended and shall not be interpreted as prohibiting

## ZONING

the renovation, enlargement or reconstruction of single family residential dwellings existing as of the effective date of this Section 195-13(a).

- (2) The ground floor area of any building, dwelling or structure shall not exceed 2,500 square feet, provided that if an existing building, dwelling or structure is eliminated, the 2,500 square feet of ground floor for the eliminated building, dwelling or structure may thereafter be allocated to the allowable ground floor area of another existing dwelling structure.

G. Floodplain Management Controls. No provision of this Section 195-13(A) is intended nor shall be construed as amending, waiving or otherwise superceding the standards and requirements contained in Section 195-107, *et seq.*, Floodplain Management Controls, of these Regulations as the same may be Amended from time to time.

(Amended 6/15/2005)

### § 195-14. Residential-Multiple (RM) Zone.

A. Intent. These zones are designed to accommodate multifamily dwellings at moderate densities on limited sites. Such zones may be situated on main highways and thoroughfares or in or adjacent to predominantly single family residential neighborhoods.

B. Permitted uses. Permitted uses in the R-M Zone shall be as follows:

- (1) Multifamily dwellings.
- (2) Parks and playgrounds.
- (3) Family Child Care Home and Group Child Care Home (Amended 6/30/2024)

C. Accessory uses. Accessory uses in the R-M Zone shall be as follows:

- (1) Home professional office.
- (2) Customary accessory structures.

D. Special exceptions. Special exceptions in the R-M Zone shall be as follows:

- (1) Public places of worship.
- (2) School.
- (3) Convalescent home.

E. Bulk requirements. Bulk requirements in the R-M Zone shall be as follows:

- (1) Each lot shall have an area of 40,000 square feet and a width of at least 100 feet measured at the required front yard setback line.
- (2) Minimum required lot area per family: 8,000 square feet.
- (3) Maximum lot coverage: 30%.
- (4) Maximum height: 50 feet.
- (5) Minimum required front yard: 15 feet.
- (6) Minimum required rear yard: 35 feet.
- (7) Minimum required side yard: eight feet per story of building.
- (8) Accessory uses.
  - (a) Building from rear line of lot: five feet.
  - (b) Building from side line of lot: 10 feet.

### § 195-15. Business - 1 (B-1) Zone.

A. Intent. These zones are designed to accommodate heavy commercial and retail functions necessary for service to the community, including general automotive sales and service uses. The zones are situated on main highways and thoroughfares, and applicable standards are designed to recognize, preserve and improve the character of existing development as well as

## ZONING

to be consistent with the intensity of use in adjacent residential areas; parking needs for each development will be satisfied on its own lot. Any new residential construction in these zones would be inconsistent with the purpose of the zones and would occur under conditions unfavorable for residential occupancy.

- B. Permitted uses. Permitted uses in the B-1 Zone shall be as follows:
- (1) Animal hospital.
  - (2) Medical and dental clinics.
  - (3) Wholesale business.
  - (4) Warehouses.
  - (5) Public utility buildings.
  - (6) Retail business.
  - (7) Service facilities only when accessory to allowable retail business.
  - (8) Laundromat.
  - (9) Bank.
  - (10) Restaurant (including carry out or drive-in).
  - (11) Theatre (movie or live entertainment).
  - (12) Office buildings.
  - (13) Automatic car wash.
  - (14) Personal service store or studio.
  - (15) Cannabis Establishments (Amended 2/05/2022)
  - (16) Child Care Center (Amended 6/30/2024)
  - (17) Adult Day Care Center (Amended 7/19/2024)
- C. Accessory uses. Accessory uses in the B-1 Zone shall be as follows: customary accessory structures.
- D. Special exceptions. Special exceptions in the B-1 Zone shall be as follows:
- (1) Public and semipublic buildings.
  - (2) Gasoline service stations and/or car wash.
  - (3) Motor vehicle repair facilities. (Amended 11/9/2009)
  - (4) Research laboratories.
  - (5) Shopping center containing not less than eight separate business establishments, at least one of which shall be not less than 10,000 square feet in size.
- E. Bulk requirements. Bulk requirements in the B-1 Zone shall be as follows:
- (1) Each lot shall have an area of at least 30,000 square feet and a width of at least 200 feet measured at the front yard setback line.
  - (2) Maximum lot coverage: 35%.
  - (3) Maximum height: 35 feet.
  - (4) Minimum required front yard: 20 feet.
  - (5) Minimum required rear yard: 20 feet (50 feet next to an R Zone).
  - (6) Minimum required side yard: 20 feet (40 feet next to an R Zone).
  - (7) Accessory uses.
    - (a) Building from rear line of lot: five feet (50 feet next to an R Zone).
    - (b) Building from side line of lot: 20 feet (50 feet next to an R Zone).

### § 195-16. Business - 2 (B-2) Zone.

- A. Intent. These zones are designed to provide sites for essential retail services in or adjacent to residential neighborhoods. Such zones have been established primarily on land suitable for

## ZONING

new neighborhood shopping construction. While new residential construction within these zones will be inconsistent with their purpose, review of site plans for each development will be essential to assure adequate parking and traffic facilities, agreeable relationship to adjacent residential areas, a high quality of commercial development and coordination with the Comprehensive Plan of Zoning.

- B. Permitted uses. Permitted uses in the B-2 Zone shall be as follows:
- (1) Animal hospital.
  - (2) Medical and dental clinics and laboratory.
  - (3) Retail business.
  - (4) Personal service store or studio.
  - (5) Restaurant (including carry out or drive-in).
  - (6) Dwelling combined in the same building with another permitted or special exception use.
  - (7) Hotel.
  - (8) Funeral home.
  - (9) Nursing home.
  - (10) Commercial recreation center (indoor).
  - (11) Theatre (movie or live entertainment).
  - (12) Laundromat.
  - (13) Newspaper branch office (no printing).
  - (14) Bank.
  - (15) Offices.
  - (16) Shopping center with a maximum floor area of 8,000 square feet.
  - (17) Cannabis Establishments (Amended 2/05/2022)
  - (18) Child Care Center (Amended 6/30/2024)
  - (19) Adult Day Care (Amended 7/19/2024)
- C. Accessory uses. Accessory uses in the B-2 Zone shall be as follows: Customary accessory structures.
- D. Special exceptions. Special exceptions in the B-2 Zone shall be as follows:
- (1) Public and semipublic buildings.
  - (2) Public utility building.
  - (3) Gasoline service stations.
  - (4) Automatic car wash (no gas).
  - (5) Construction Contractor's Business with a screened, paved, storage and equipment parking area. (Amended 9/11/06)
- E. Bulk requirements. Bulk requirements in the B-2 Zone shall be as follows:
- (1) Each lot shall have an area of 6,000 square feet and a width of at least 60 feet measured at the required front yard setback line.
  - (2) Maximum lot coverage: 50%.
  - (3) Maximum height: 25 feet.
  - (4) Minimum required front yard: 10 feet.
  - (5) Minimum required rear yard: 30 feet (see § 195-25E).
  - (6) Minimum required side yard: eight feet (see § 195-25E).
  - (7) Accessory uses.
    - (a) Building from rear line of lot: five feet (20 feet if next to an R Zone).
    - (b) Building from side line of lot: eight feet (20 feet if next to an R Zone).

## ZONING

### § 195-17. Industrial-I (I-1) Zone.

- A. Intent. These zones consist of areas that have been experiencing commercial and industrial development over a period of years. Applicable standards account for a range or size for establishments and relatively intensive use of the land. Development of retail and general automotive uses in these zones will not be inconsistent with their purpose; further residential construction in these zones will be inconsistent with their purpose and would occur under conditions unfavorable for residential occupancy.
- B. Permitted uses. Permitted uses in the I-1 Zone shall be as follows:
- (1) Moderate intensity, non-nuisance manufacturing uses.
  - (2) Research and development facilities.
  - (3) Warehouse.
  - (4) Machine shops.
  - (5) Office buildings of not less than 5000 square feet.
  - (6) Construction contractor's business with a screened, paved, storage and equipment parking area.
  - (7) Lumber yard with a screened, paved, storage and equipment parking area.
  - (8) Cannabis Establishments (Amended 2/05/2022)
- C. Accessory uses. Accessory uses in the I-1 Zone shall be as follows: outdoor storage areas, subject to site plan approval.
- D. Special exception uses. Special exception uses in the I-1 Zone shall be as follows:
- (1) Animal hospital.
  - (2) Gasoline service stations with convenience store and/or car wash (Amended 8/9/2010)
  - (3) Motor vehicle dealer.
  - (4) Motor vehicle repair facility.
  - (5) Indoor movie theatre.
  - (6) Indoor commercial recreation facility.
  - (7) Trucking terminal.
  - (8) Hotel or motel.
  - (9) Research lab.
  - (10) Child day-care center.
  - (11) Health care facilities which shall be limited to medical clinical laboratory, outpatient medical clinic, and office for the practice of professional health care services. (Amended 12/11/2006)
  - (12) Collection, sorting, temporary storage, and shipping of used reclaimable metal, including both ferrous and nonferrous, for recycling, provided a) the lot on which such use is located adjacent to or within twenty-five (25) feet of a railroad right of way, and is not less than 40,000 square feet in area nor greater than 80,000 square feet in area; b) the operations and storage are principally conducted in an enclosed warehouse structure; c) any area for outside storage is not greater than 150 percent of the area of the warehouse structure and is appropriately screened from the public view from the street or any other lot; and d) is not a motor vehicle recycler's business or yard as defined in the Connecticut General Statutes. (Amended 6/27/25)
  - (13) Redemption Center provided that a) the activity is conducted within a warehouse structure; and b) any area for outside storage is not greater than the warehouse structure and is appropriately screened from the street or any other lot. (Amended 6/27/25)

## ZONING

- E. Bulk requirements. Bulk requirements in the I-1 Zone shall be as follows:
- (1) Each lot shall have an area of 40,000 square feet and a width of at least 100 feet measured at the required front yard setback line.
  - (2) Minimum required lot width: 100 feet.
  - (3) Maximum lot coverage: 60%, including all outdoor storage
  - (4) Maximum height: 35 feet.
  - (5) Minimum required front yard: 20 feet.
  - (6) Minimum required rear yard: 20 feet (50 feet next to an R Zone).
  - (7) Minimum required side yard: 20 feet (40 feet next to an R Zone).
  - (8) Accessory uses.
    - (a) Building from rear line of lot: five feet (50 feet next to an R Zone).
    - (b) Building from side line of lot: 20 feet (50 feet next to an R Zone).

### § 195-17(A). Mill Design District (MDD) Zone. (Added 5/30/2017)

- A. Intent and Purpose: The purpose and intent of the Mill Design District (MDD) regulations are to:
- (1) Encourage rehabilitation and redevelopment of industrial lands, and adaptive reuse of mill structures built prior to 1960;
  - (2) Provide, wherever possible, for the preservation and use of historic industrial buildings for residential, commercial, industrial, and institutional purposes to meet Derby's housing and community development needs;
  - (3) Promote appropriate architectural and site design to retain and enhance the distinctive character of the area, including the provision of public waterfront access where possible;
  - (4) Encourage the development of businesses providing neighborhood-scale goods and services, and residential and office uses to support and be served by such businesses;
  - (5) Promote a variety of housing choices in Derby, including apartments, condominiums, and live/work spaces;
  - (6) Promote a variety of appropriate uses of historic mill structures to ensure their long-term viability; and,
  - (7) Encourage environmental remediation of mill sites, where necessary, to protect public health and safety and to enhance the environmental quality of the Housatonic River.
- B. Permitted Uses. The following uses are permitted:
- (1) Residential uses: multi-family dwellings and live-work dwellings, subject to the following restrictions:
    - (a) No residential use shall exceed 100 units of multifamily housing or live-work dwellings.
    - (b) No residential use shall occupy greater than 50% of the net floor area of the ground floor of any building.
    - (c) No residential use shall exceed 40 dwelling units per acre.
    - (d) No live-work dwelling unit shall provide working space exceeding 50% of the floor area of the dwelling unit.
  - (2) Non-Residential uses:
    - (a) Retail businesses
    - (b) Personal, business, and financial services
    - (c) Professional, medical, and general offices

## ZONING

- (d) Restaurants
- (e) Brewpubs
- (f) Public and semi-public institutions
- (g) Indoor or outdoor recreation facilities
- (h) Clubs, lodges, and social buildings
- (i) Funeral home or mortuary
- (j) Public, parochial, or private non-profit schools
- (k) Cannabis Establishments (Amended 2/05/2022)
- (3) Industrial uses:
  - (a) Moderate intensity, non-nuisance manufacturing uses
  - (b) Research and development facilities
  - (c) Warehouses
  - (d) Machine shops
- (4) Mixed use buildings containing two or more permitted uses
- (5) Accessory uses:
  - (a) Home-based businesses and occupations accessory to a residential use, subject to the restrictions of §195-63.
  - (b) Customary accessory structures
- C. Special Exception Uses. The following uses shall be considered as special exception uses:
  - (1) Animal hospital
  - (2) Gasoline service stations and/or car wash
  - (3) Wholesale business
  - (4) Indoor movie theater
  - (5) Hotel or motel
  - (6) Research lab
  - (7) Child day-care center
  - (8) Accessory uses:
    - (a) Food and beverage sales from food trucks accessory to a brewpub use, subject to the following restrictions:
      - (i) Food trucks shall operate only in designated parking spaces within a paved parking lot. No portion of any parking space designated for food truck use shall be located within 25 feet of any adjacent lot or right of way.
      - (ii) No more than two food trucks shall be permitted to operate on any lot simultaneously.
      - (iii) Any food truck permitted as an accessory use shall not remain on any lot beyond the business hours of the primary brewpub use.
    - (b) Outdoor patio seating accessory to a restaurant or brewpub use
- D. Prohibited Uses. The following uses are specifically prohibited, except for uses previously approved as permitted or special exception uses:
  - (1) Auto sales, auto service and repair, auto storage and auto rental uses
  - (2) Heavy equipment sales and service
  - (3) Manufactured home sales
  - (4) Salvage yards
  - (5) Towing services and vehicle storage yards
  - (6) Outdoor storage of finished or unfinished goods, raw materials, industrial equipment, or commercial vehicles accessory to any other use

## ZONING

- (7) RV mobile home sales yards and storage
- (8) Print shops
- (9) Single retail use greater than 20,000 square feet
- (10) Drive-through uses, including but not limited to restaurants, banks/automated teller machines, and coffee or beverage stands

### E. Dimensional Standards

- (1) Each lot shall have an area of at least 10,000 square feet and a width of at least 75 feet, measured at the required front yard setback.
- (2) Maximum lot coverage: 65%.
- (3) Maximum height: 50 feet.
- (4) Minimum required front yard: any portion of a building shall be set back a distance of at least 20 feet, or a distance equal to the average of the setback of the two existing adjacent buildings along the same street frontage, whichever is less.
  - (a) Front yard encroachments: no structure or building shall be constructed or maintained in the required front yard, except as follows:
    - (i) Any patio or deck less than 30 inches in height
    - (ii) A stairway less than 30 inches in height
    - (iii) Insubstantial encroachments, including, without limitation, electric meters, cable television or phone utility boxes, wires, conduits, wall mounted light fixtures, air conditioner compressors, windows or doors that may swing into a setback when open, radio or television antennae, small architectural details, bicycle racks or bicycle rental stations.
    - (iv) The outer four feet of completely open, uncovered, cantilevered balconies that have a minimum of eight feet vertical clearance below, which may project into any required yard except an interior side yard of less than ten feet in width. A balcony may be placed above another balcony if the railings along the exterior boundaries of all such balconies are not more than fifty percent opaque, the railings do not exceed forty-two inches in height, and there are no horizontal connections of any kind between balconies except the wall from which the balconies are cantilevered.
- (5) Minimum required side yard: 10 feet (25 feet if adjacent to an R zone)
- (6) Minimum required rear yard: 20 feet (50 feet if adjacent to an R zone)
- (7) Accessory structures:
  - (a) Building from rear line of lot: 20 feet (50 feet if adjacent to an R Zone)
  - (b) Building from side line of lot: 5 feet (50 feet if adjacent to an R Zone)

### F. Site and Architectural Design Standards. The following general requirements and provisions shall apply to all MDD developments:

- 1) Pedestrian Access. Buildings in the MDD Zone shall be clearly connected to buildings on the same lot and between buildings on adjacent lots by a network of sidewalks to ensure a continuous pedestrian network throughout the district.
- 2) Parking. The parking requirements specified in §195-54 shall be modified in the MDD Zone as follows:
  - a) Multifamily dwellings shall be provided with a minimum of 1 parking spaces for each studio dwelling unit, 1.25 parking spaces for each one-bedroom dwelling unit, and 1.75 parking spaces for each dwelling unit with two or more bedrooms.
  - b) In the case of proposed developments with a mix of uses, applicants may propose a

## ZONING

- reduction of parking requirements based on an analysis of peak demand for each use. The Commission may accept a proposed supply of parking of no less than 50% of the standard specified in §195-54 if it determines that peak demand for each use does not overlap, or may accept a proposed supply of parking of no less than 80% of the standard specified in §195-54 if it determines that the peak demands for two or more uses do overlap.
- c) Facilities for the secure parking and storage of bicycles shall be provided for all residential and commercial uses in the MDD Zone.
- 3) Design Standards. To the maximum extent possible, the reuse and conversion of existing mill structures to new uses shall be favored over the demolition of existing structures.
- a) Where existing mill structures of architectural value are to remain in use, these structures shall not be significantly altered through the use of different signage, building materials, or other architectural features.
  - b) New exterior additions to any mill structure shall be designed and constructed with massing, size, scale, materials, and architectural features compatible with and differentiated from the existing building.
  - c) The building finish materials of new structures shall be appropriate to traditional New England architecture and may include, but shall not be limited to brick or high-quality brick face, wood, stone or high-quality stone face. The use of vinyl, unfinished metal, or fiberglass as a primary finished surface shall be prohibited.
  - d) Blank walls adjacent to streets, alleys, or open spaces shall not be permitted. Where windows are not possible or appropriate to the intended use, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls.
  - e) Signs shall be made of attractive materials consistent with the character of the district.

### **§ 195-18. Public and Semipublic (P) Zone.**

- A. Intent. The intent of this zone is to provide areas for public and semi-public land uses and associated activities which are in harmony with surrounding development and conform with the Derby Plan of Zoning.
- B. Permitted uses. Permitted uses in the P Zone shall be as follows:
  - (1) Public park.
  - (2) Place of worship.
  - (3) Federal, state and municipal buildings and use.
  - (4) Public utility buildings without repair facilities or outdoor storage.
  - (5) Noncommercial recreational facility.
  - (6) Fraternal order.
  - (7) Nursing home.
  - (8) Philanthropic and eleemosynary organizations.
  - (9) Single-family residences, subject to the requirements of the R-2 Zone.
- C. Accessory uses. Accessory uses in the P Zone shall be as follows:
  - (1) Home professional office.
  - (2) Customary accessory structures.
- D. Special exception uses in the P Zone shall be as follows:
  - (1) Funeral home.
  - (2) Professional office.
  - (3) Cemetery.

## ZONING

- (4) Club house (not operated as a business).
- E. Bulk requirements. Bulk requirements in the P Zone shall be as follows:
  - (1) Each lot shall have an area of 10,000 square feet and a width of at least 75 feet measured at the required front yard setback line.
  - (2) Maximum lot coverage: 25%.
  - (3) Maximum height: 50 feet.
  - (4) Minimum required front yard: 25 feet.
  - (5) Minimum required rear yard: 50 feet.
  - (6) Minimum required side yard: 15 feet.
  - (7) Accessory uses.
    - (a) Building from rear line of lot: five feet.
    - (b) Building from side line of lot: 10 feet.

### § 195-19. Hospital/Campus (H/C) Zone.

- A. Intent. The H/C Zone encompasses an area or campus consisting of lots or parcels of land, which may be in common or interrelated ownership, and intervening streets where facilities are located and used for the delivery of a wide range of health care services and are operated and organized for the purpose of or in support of the interests of such health care.
- B. Permitted uses. Permitted uses in the H/C Zone shall be health care facilities consisting of one or more of the following:
  - (1) General hospital.
  - (2) Nursing home.
  - (3) Medical clinical laboratory.
  - (4) Mental health facility.
  - (5) Outpatient medical and/or dental clinic.
  - (6) Pharmacy.
  - (7) Office for the practice of professional health care services.
- C. Accessory uses. Accessory uses in the H/C Zone shall consist of customary accessory structures and uses, including:
  - (1) Public and private parking areas and garages.
  - (2) Retail business, incidental to a hospital.
  - (3) Service business, incidental to a hospital.
- D. Special exception uses. Special exception uses in the H/C Zone shall be as follows:
  - (1) Single-family dwellings (subject to the requirements of the R-4 Zone).
  - (2) Two-family dwellings (subject to the requirements of the R-5 Zone).
- E. Bulk requirements. Bulk requirements in the H/C Zone shall be as follows:
  - (1) Each line shall have an area of 5,000 square feet and a width of at least 50 feet measured at the required front yard setback line.
  - (2) Minimum required lot area per family: 2,000 square feet.
  - (3) Maximum lot coverage: not applicable.
  - (4) Maximum height: 60 feet.
  - (5) Minimum required front yard: 20 feet.
  - (6) Minimum required rear yard: 20 feet.
  - (7) Minimum required side yard: 10 feet.
  - (8) Accessory uses.
    - (a) Building from rear line of lot: five feet.

## ZONING

(b) Building from side line of lot: 10 feet.

### § 195-20. Center Design Development District (CDD) Zone. (Amended 5/30/2017)

- A. Intent and Purpose. The purpose and intent of the Center Design Development District (CDD) regulations are to:
- (1) Support future growth of Downtown Derby to enhance the tax base, ensure compatible and cohesive land uses, increase the City's economic vitality, and further the goals of Derby's Plan of Conservation and Development
  - (2) Enable and encourage moderate-density and mixed-use development to increase the residential density and intensity of activity within the downtown area in support of viable and diverse locally-oriented businesses and cultural institutions
  - (3) Capitalize on opportunities to attract and grow a variety of retail, service, and cultural establishments to serve local needs and create regional attractions and a robust economic base
  - (4) Coordinate the placement, orientation, and design of buildings to ensure a coherent and pedestrian-friendly streetscape and traditional urban character by creating well-defined street edges with continuous building walls, articulated and transparent facades, and architectural features that create visual interest and an attractive pedestrian environment
  - (5) Maintain the architectural character and appearance of the downtown and its existing historic buildings while promoting the rehabilitation and/or replacement of blighted and underutilized properties with new developments of an appropriate and high quality of design
  - (6) Support and strengthen the viability of redevelopment activities and priorities for the area south of Main Street
  - (7) Create activated corridors within the downtown area, and between the downtown core and key transportation linkages, including Bridge Street, the Derby Greenway, and the Derby Train Station
  - (8) Enhance the viability of the downtown as a transit-oriented development hub
- B. Permitted uses. The following uses are permitted:
- (1) Multifamily housing containing four or more dwelling units and not exceeding 20 dwelling units per acre
  - (2) Housing for the elderly
  - (3) Mixed use buildings containing commercial and/or office uses on the ground floor, and commercial, office, and/or residential uses on upper floors
  - (4) Artisan industrial uses in which works of art or handicrafts are made and/or sold using predominately non-mechanical methods, including painting, sculpture, ceramics, handicrafts, or photography
  - (5) Restaurants (but specifically excluding drive-through restaurants and fast-food restaurants)
  - (6) Banks, credit unions, and other bona-fide financial institutions
  - (7) Commercial laundries without dry-cleaning operations on site
  - (8) Cultural, educational, and charitable uses conducted by a not-for-profit entity
  - (9) Personal services
  - (10) Professional, medical, and non-profit offices
  - (11) Recreational facilities

## ZONING

- (12) Retail establishments
- (13) Taverns and cocktail lounges
- (14) Family Child Care Home and Group Child Care Home (Amended 6/30/2024)

C. Special Exception Uses. The following uses shall be considered as special exception uses:

- (1) Townhomes
- (2) Adaptive re-use of single family residences for multiple family residences containing two to three dwelling units
- (3) Adaptive re-use of ground floor commercial units to dwelling units in a mixed use structure
- (4) Adaptive re-use of religious or institutional buildings to residential, artisan industrial, or medical or professional office uses
- (5) Single family residences
- (6) Multifamily housing containing four or more dwelling units at a density in excess of 20 dwelling units per acre
- (7) Child day-care centers
- (8) Continuum of care residential communities
- (9) Adult day-care centers
- (10) Fast Food Restaurants
- (11) Funeral homes
- (12) Gas stations and service stations
- (13) Hotels
- (14) Light industrial uses that do not emit noticeable or objectionable noise, light, glare, vibration, or odors; do not utilize or produce toxic, hazardous, or explosive materials; and are conducted primarily indoors
- (15) Places of worship
- (16) Theaters
- (17) Local, state, and federal governmental facilities and uses (but specifically excluding correctional institutions)
- (18) Mixed use developments containing residential uses on the ground floor, and commercial, office, and/or residential uses on upper floors
- (19) Parking garages
- (20) Wholesale trade businesses

D. Accessory Uses. The following accessory uses are permitted:

- (1) Home occupations
- (2) Parking garages
- (3) Gift shops, cafeterias, and daycare facilities clearly accessory to a primary commercial or institutional use
- (4) Accessory uses customary to residential, office, and commercial uses
- (5) Outdoor eating, drinking, and/or gathering areas accessory to a restaurant or tavern use, subject to the following requirements:
  - (a) Any outdoor eating, drinking, and/or gathering spaces shall be furnished with seating and furnishings appropriate to its intended use
  - (b) Any outdoor eating or drinking area in which alcoholic beverages are served shall be cordoned off at its perimeter from public and non-service areas by fencing, velvet

## ZONING

- rope, or a similar barrier of at least 30” in height
- (6) Brewing of beers, ciders, and/or similar alcoholic beverages as an accessory use to a restaurant or tavern use, subject to the following requirements:
    - (a) Beverages brewed on-site shall be sold primarily for on-site consumption; no more than 35% of the volume of beer or other beverages brewed on-site shall be sold for off-site consumption
    - (b) Annual production shall not exceed 10,000 barrels of beers, ciders, and/or similar alcoholic beverages annually
- E. Prohibited Uses. The following uses are specifically prohibited:
- (1) Check-cashing businesses, except as part of a bona-fide bank, credit union, or financial institution
  - (2) Commercial laundries with dry-cleaning operations on site
  - (3) Correctional institutions
  - (4) Drive-through facilities
  - (5) Heavy equipment sales and service
  - (6) Industrial uses that create nuisance or emit noticeable or objectionable noise, light, or odors
  - (7) RV, mobile home, or manufactured home sales and service
  - (8) Salvage or vehicle storage yards
- F. Dimensional Standards
- (1) Minimum Lot Size: each lot shall have an area of 2,500 square feet or more and a width of at least 20 feet, measured at the required front yard setback
  - (2) Maximum Building Height: shall not exceed 60 feet (exclusive of flagpoles, domes, spires, skylights, chimneys, antennas, mechanical screens and enclosures, and other similar appurtenances) or 5 above-ground stories, except as noted below:
    - (a) Lots meeting the following criteria may be built to a height of 70 feet or 6 above-ground stories
      - (i) Have front and/or side yard frontage on Main Street, Caroline Street, Minerva Street, Elizabeth Street, or Olivia Street; and,
      - (ii) Are located to the south of 3rd Street or Thompson Place
  - (3) Maximum Building Coverage: 80%
  - (4) Maximum Impervious Surface Coverage: 90%
  - (5) Front Yard Setback and Build-To Line: the minimum required front setback shall be 0 feet, or the average front yard setback of the two existing adjacent buildings along the same street frontage, whichever is greater. The Build-To Line shall be 12 feet from the front property line.
    - (a) In no case shall a front yard of more than 10 feet be required
    - (b) Deviations from the Build-To Line of up to two feet may be made to allow for intermittent architectural features and articulation, such as bay windows, store displays, entryways, and balconies, provided that any deviation below 12 feet in height shall not restrict the passable width of adjacent sidewalks to less than 10 feet
  - (6) Minimum Required Side Yard Setback: 0 feet, except where the property abutting the side yard is zoned as Residential, in which the required side yard is 10 feet
  - (7) Minimum Required Rear Yard Setback: 8 feet

## ZONING

### G. Residence Standards

- (1) Dwelling units in multi-family residences shall not be less than 475 square feet in floor area
- (2) Residential uses shall not exceed a residential density of 70 dwelling units per acre, provided that all requirements and standards for the proposed residential use and for other proposed uses are met

### H. Site and Architectural Design Standards. The intent of the following site and architectural design standards is to promote the development of Derby's downtown in a visually attractive and cohesive manner that compliments existing historic and architectural assets, creates welcoming and pedestrian-friendly public spaces, and supports the commercial viability and redevelopment of the downtown area. Site and architectural design standards are as follows:

- 1) Building Line and Minimum Street Facade: at least 75% of each lot's width along the street frontage, as measured at the Build-To Line, shall be built to a height of 2 stories.
- 2) Transparency: at least 70% of the surface area of any non-residential building's ground floor frontage between 3' and 8' in height shall be fenestrated with transparent windows and/or doorways.
  - a) Commercial uses shall maintain visibility to the interior of the building, to a depth of at least four feet from the interior surface of the window glass, across at least two-thirds of the fenestrated surface area of the building frontage. Obstructions, including but not limited to signage, merchandise displays, furnishings, and security gates or grilles, shall not obstruct or render opaque more than one-third of the transparent area.
- 3) Step-Backs: to allow for the preservation of light, air, and views, any stories above the fourth of any building in the CDD shall be set back an additional 10 feet from front, side, and rear lot lines.
- 4) Form and Material: Buildings in the CDD zone should be designed to provide articulation and architectural details to create visual interest, break up dominant building masses, create human-scaled architectural elements, and complement existing architectural features and materials.

### I. Parking. Parking shall be provided as per the provisions of Article VII of these regulations, except as follows:

- 1) Modification of Requirements by Use: Parking requirements provided in §195-54: Parking spaces; number and location shall be modified for CDD developments for the following uses:
  - a) Multifamily dwellings: parking spaces shall be required based on the size of dwelling units in a multifamily dwelling:
    - i) Studio: 1 per dwelling unit
    - ii) 1-Bedroom: 1.25 per dwelling unit
    - iii) 2-Bedroom: 1.5 per dwelling unit
    - iv) 3 or more Bedrooms: 2 per dwelling unit
  - b) Business offices and financial institutions: 4 spaces per 1,000 GSF
  - c) Restaurants, taverns and cocktail lounges: 10 spaces per 1,000 GSF
  - d) Retail establishments, personal services: 5 spaces per 1,000 GSF

## ZONING

- 2) Reduction in Parking Required: The Commission may approve developments with fewer spaces than the quantity of parking required based on the provisions of Article VII if it finds, based on a parking study provided by the Applicant:
  - a) That the proposed uses, location of the site, and the related facilities existing or proposed by the applicant will result in the generation of pedestrian, bicycle, and mass transit trips in sufficient volumes to warrant a parking reduction, which shall not exceed 20% of the parking otherwise required
  - b) That the cumulative required parking for a development with two or more uses will generate non-overlapping schedules of peak parking demand, and will allow the shared use of parking supplied to a sufficient extent to warrant a parking reduction, which shall not exceed 30% of the parking otherwise required
  - c) In no case shall the total reduction in parking required exceed 30% of the parking otherwise required
- 3) Shared Parking: The Commission may approve the substitution of required parking spaces for spaces in an off-site parking facility on a one-for-one basis if the applicant demonstrates to the Commission's satisfaction that:
  - a) Applicant has secured access to off-site, off-street parking facilities located within 600 feet of the property by means of an easement or shared parking agreement
  - b) That use of off-site parking will not generate additional on-street parking demand, congestion, or other negative traffic or parking impacts due to the shared parking arrangement, whether generated by users of either or both properties. The Commission may require a parking study to be provided by the Applicant to determine the impacts of any proposed shared parking arrangement.
- 4) All off-street parking, structured or unstructured, shall be provided to the rear of the front yard building line. Any parking spaces located in a side yard area shall be screened from the street.

J. Signs. Signage shall be governed by the provisions of Article XI of these regulations.

### **§ 195-20(A). Center Residence (CR) Zone.** (Added 5/30/2017)

A. Intent and Purpose. The Center Residence Zone is primarily residential in nature and consists of areas with a mixture of residential and neighborhood commercial uses, with moderate-density multifamily, two-four family, and single-family residences predominating. These regulations are intended to promote residential options along a range of residential densities proximate to the amenities of Derby's City Center, while providing for limited non-residential uses to meet the needs of neighborhood residents. Institutions and similar uses will be necessary and appropriate in this zone as special exceptions, based on a finding that the development will be compatible with the character of the zone.

B. Permitted Uses. The following uses are permitted:

- (1) Single family dwellings
- (2) Two-three family dwellings with a residential density less than 12 dwelling units per acre
- (3) Multifamily residences with four or more dwellings and a residential density less than 12 dwelling units per acre
- (4) Parks and playgrounds
- (5) Adaptive re-use of existing residential buildings for professional, medical and dental

## ZONING

offices

C. Special Exception Uses. The following uses shall be considered as special exceptions:

- (1) Two-three family dwellings with a residential density greater than 12 dwelling units per acre
- (2) Multifamily residences with four or more dwellings and a residential density greater than 12 dwelling units per acre
- (3) Townhomes
- (4) Places of worship
- (5) Schools
- (6) Libraries
- (7) Retail uses of a primarily neighborhood-oriented nature and not exceeding 2,000 square feet gross floor area
- (8) Cafes and restaurants (without drive-through facilities) not exceeding 2,000 square feet in gross floor area
- (9) Child day-care centers
- (10) Adult day-care centers
- (11) Professional, medical, and dental offices not exceeding 10,000 square feet in gross floor area
- (12) Funeral homes
- (13) Bed and breakfast

D. Accessory Uses. The following accessory uses are permitted:

- (1) Home professional offices
- (2) Accessory uses customary to residential uses

E. Prohibited uses. The following uses are prohibited:

- (1) Retail uses not oriented towards neighborhood needs, specifically including the following:
  - (a) Adult bookstores
  - (b) Check cashing or payday loan businesses
- (2) Drive-through facilities

F. Dimensional Standards

- 1) Minimum Lot Size: each lot shall have an area of 2,500 square feet or more and a width of at least 20 feet, measured at the required front yard setback
- 2) Maximum Building Height: shall not exceed 40 feet (exclusive of flagpoles, domes, spires, skylights, chimneys, antennas, mechanical screens and enclosures, and other similar appurtenances)
- 3) Maximum Building Coverage: 75%
- 4) Maximum Impervious Surface Coverage: 80%
- 5) Minimum Required Front Yard Setback: 0 feet, or the average front yard setback of the two existing adjacent buildings along the same street frontage, whichever is greater
  - a) In no case shall a front yard setback of more than 10 feet be required
- 6) Minimum Required Side Yard Setback: 5 feet, except where the property abutting the side yard is zoned as Residential (other than Center Residence Zone), in which case the

## ZONING

required side yard is 10 feet

7) Minimum Required Rear Yard Setback: 8 feet

### G. Residence Standards:

- 1) Dwelling units in multi-family residences shall not be less than 475 square feet in floor area
- 2) Residential uses shall not exceed a density of 40 units per acre, provided that all requirements and standards for the proposed residential use and for other proposed uses are met
- 3) Any residential conversion of any structure originally built as a single-family dwelling shall not be divided into more than one dwelling unit per 800 square feet of gross floor area, provided that all requirements and standards for the proposed residential use and for other proposed uses are met

### H. Parking Standards:

- 1) All off-street parking, structured or unstructured, shall be provided to the rear of the front yard building line. Any parking spaces located in a side yard area shall be screened from the street.

### **§ 195-21. Floodplain (FP) Zone.**

- A. Intent. These zones are designed to delineate floodable areas and areas of special flood hazard where special precautions should be exercised and conservation functions and protection measures should be considered. Applicable standards on the construction and use of land, buildings and other structures and the filling or excavation of land are established to protect life and property, avoid health problems, and avoid increase in flood danger. These zones recognize that some floodable areas serve a valuable conservation function which should not be disrupted until after a determination that such areas can be used for human occupancy without danger to the public health, safety and property values. Plan review for all development in these districts will be essential with regard to safe access in emergencies, flood potentials, protective works and potential increase in flood danger to other property. For details see Article XV, Floodplain Management Controls.

### **§195-22. Industrial Campus (I-C) Zone.**

- A. Intent. These zones consist of areas that have not been experiencing development over a period of years. Applicable standards account for a range or size for establishments and relatively intensive use of the land. Development of retail and general automotive uses in these zones are not consistent with their purpose. These zones also recognize the need within the community and area to provide residential retirement community services to a portion of the population and provide for age-restricted residential facilities, on a single site, providing a continuum of care for retirement living, associated medical services and the accessory uses customary and incidental thereto. (Amended 1/1/2006)
- B. Permitted principal uses. Permitted principal uses in the I-C Zone shall be as follows: manufacturing and assembly facilities, office buildings, conference centers, research or technical development facilities, including laboratories, libraries, data processing,

## ZONING

publication, self storage and warehouse facilities, storage associated with manufacturing and assembly facilities, recreation facilities, continuing care retirement communities and related facilities in connection with such uses, and cannabis establishments, provided that: (Amended 2/05/2022)

- (1) All mechanical and other apparatus and manual services employed in such use shall be devoted to research and technical development of manufactured, processed or compounded products.
- (2) No such process or operation shall involve the handling, storage or discharge of explosives or permit upon the premises any virus or other type of infectious organisms identified with diseases of animals or humans.
- (3) No sale of goods or articles manufactured or assembled shall be permitted on the premises.
- (4) No offensive gases, fumes, smoke, odors, dust or vibrations shall emanate from such uses and no waste products shall be discharged there from of a character to create a nuisance or to be injurious to health.
- (5) The storage of industrial related chemicals or materials shall comply with local, state and federal law in order to prevent negative impacts to the habitat or ecosystems of the Long Island Sound. (Amended 2/9/2009)
- (6) The continuing care retirement community (CCRC) shall include independent living and assisted living dwelling units age-restricted in accordance with federal law and regulations governing such developments for those 62 years of age and older, with a skilled nursing facility licensed by the State of Connecticut provided onsite along with dining, recreational, retail, transportation, social and health care services for the residents, visitors and staff All services are to be provided on a single site. It is not the intent herein to permit in this zone any one of the services operating independently. A CCRC may also include the administrative, maintenance and security offices and facilities supporting the CCRC entity, along with other uses permitted in this zone. (Amended 2/9/2009)

C. Accessory uses. Accessory uses in the I-C Zones shall be as follows:

- (1) Banks and other financial institutions.
- (2) Restaurants and other food service establishments, subject to the following conditions: that customers are served only when seated at tables or counters and that all customer seats are located within an enclosed building. Such uses may include a food take-out service incidental to the primary permitted use but shall not include establishments where customers are served in motor vehicles or served primarily at food take-out counters. This section shall not limit the dining and food service for residents, visitors and employees of a CCRC. (Amended 2/9/2009)
- (3) Day-care centers.
- (4) Health and fitness centers, both subject to the following conditions:
  - (a) That the Commission determines that the elements of such uses will be harmonious with surrounding uses and will contribute to the long-range improvement of the I-C Zone.
  - (b) That the Commission determines that such uses provide an essential service to the immediate area.

## ZONING

- D. Lot and bulk requirements. Lot and bulk requirements in I-C Zone shall be as follows:
- (1) Minimum lot area: The minimum lot area for I-C development shall be two acres.
  - (2) Minimum frontage: A minimum of 200 feet of frontage shall be provided along a state or city road. Provided that, the Commission, at its discretion may permit a I-C zone use on a private road with legal access to a public highway in accordance with section 195-26 of these regulations. (Amended 2/9/2009)
  - (3) Maximum coverage of all buildings: 40%.
  - (4) Minimum buffer areas: No principal building shall be located at a distance less than 100 feet from the street or approved private road on which such building fronts, except that one-story gate houses, bus stop shelters and security offices may be located at a distance not less than 25 feet from the street. Other one-story accessory buildings may have such lesser setbacks when approved by the Commission. No building shall be located at a distance less than 50 feet from all the boundaries of the lot, except, where a contiguous lot is in a residential zoning district, such distance shall be increased to 100 feet on each side where such lots adjoin, and except that one-story accessory buildings may have lesser setbacks when approved by the Commission in connection with its action on a site plan. For accessory buildings, the minimum buffer area shall be at the discretion of the Planning and Zoning Commission. (Amended 2/9/2009)
  - (5) In regard to principal buildings, minimum distance for off-street parking areas shall be: (Amended 2/9/2009)
    - (a) Principal buildings: 10 feet
    - (b) Front lot line: 25 feet.
    - (c) Side lot line: 25 feet or 50 feet where a contiguous lot is in a residential zoning district.
    - (d) Rear lot line: 25 feet or 50 feet where a contiguous lot is in a residential zoning district.
  - (6) Accessory uses and buildings: shall be left to the discretion of the Commission with respect to buffer area, off-street parking area and any other criteria not covered in this regulation.
  - (7) Maximum building height: three stories or 40 feet. However, where buildings are designed to accommodate both required off-street parking and permitted office, CCRC or research use, the three-story maximum height shall apply to only those floors in which the office, CCRC or research use is provided. In no event, however, where office and parking uses are combined in the same structure, shall the height exceed 50 feet, exclusive of flagpoles, domes, spires, skylights, chimneys, antennas, mechanical screens and enclosures, and other similar appurtenances. (Amended 2/9/2009)
  - (8) Parking area design: Parking areas shall be located and designed so as to minimize the visual effects of large parking lots. Large parking lots of greater than 100 parking spaces shall be avoided with a series of smaller lots that are integrated into the topography of the site, utilized wherever practicable. In addition, and unless specifically waived by the Commission, not more than 20 parking spaces shall be permitted in any parking aisle without a raised landscape island, suitably designed with trees, grass, decorative material, or other ground cover as deemed appropriate by the Commission. Said landscaped island shall be a minimum of 10 feet in width, except an accessory area which shall have a minimum five feet in width.
  - (9) Signs: The size, location, design and illumination of all signs shall be subject to the

## ZONING

- approval of the Commission as part of the I-C application.
- (10) All utilities shall be placed underground.
- (11) A CCRC may have a residential density of up to 6 units per gross acre. For the purpose of density computation, a unit shall be an independent or assisted living unit but shall not include skilled nursing facility beds. (Amended 2/9/2009)
- E. Application procedure and approval process; application for industrial campus plan approval.
- (1) In order to allow the Commission and the developer to reach an understanding on basic design requirements, the developer shall submit a plan of his proposal to the Commission as well as proof of ownership or ownership agreement. The plan shall be drawn to a suitable scale of approximately one inch equals 200 feet. The plan shall clearly show the following:
- (a) Illustrative site plan indicating the type of site planning contemplated for the use proposed. The site plan shall meet the requirements of Article V of these regulations.
  - (b) Sketches and elevations showing general architectural treatment contemplated.
  - (c) At the request of the Commission, a traffic study shall be prepared, with said study indicating the effects of the development on surrounding roads and intersections, and further indicating any measures required to provide for the safe and efficient flow of traffic in the vicinity of the development.
  - (d) A statement as to how the proposal would meet the official planning objectives of the City of Derby.
  - (e) Surrounding land uses and distance of nearby buildings to the I-C site and proposed method of protecting adjoining land uses from any adverse influences of development.
  - (f) The proposed water, storm and sanitary sewer systems and how said systems are proposed to be connected to the systems of adjoining areas.
  - (g) Environmental characteristics of the I-C parcel and the adjoining areas within 50 feet of all I-C boundaries, including topography, areas of slope in excess of 20%, soils, rock outcrops, streams, wetlands, flood and other wetlands and all proposed alterations of said environmental characteristics.
- (2) Every application shall be accompanied by a fee (**See P&Z fee schedule**) to help defray the costs of processing the application. The applicant shall also be required to bear the expense of any technical assistance which the city deems necessary to assist in the review of the application. (Amended 1/1/2006)
- (3) The Commission may request assistance from the Derby Department of Economic Development to review the plan and all related documents and shall render either a favorable report or an unfavorable report to the applicant. The Commission may, at its discretion, recommend conditions or improvements in the plan in the decision as to the appropriateness of the request. The Commission may call upon any technical assistance it feels is necessary to provide a sound review of the proposal.
- (a) The Commission staff shall certify when all of the necessary application material has been presented. The Commission shall submit its report within 65 days of such certification. If no report has been rendered after 65 days, the applicant may proceed as if a favorable report were given by the Commission.
  - (b) A favorable report shall include a recommendation that a public hearing be held for the purpose of considering the desirability of the subject property to an I-C Zone. The report shall be based on the following findings, which shall be included, as part

## ZONING

thereof:

- [1] The proposal is conceptually sound in that it meets a community need and it conforms to accepted design principles in its layout, in its land use configuration, utility and drainage system, in its landscape and buffer provisions and in the scale of the elements, both absolute and as they relate to one another.
  - [2] There are adequate public facilities, services, utilities and road access available, or proposed to be made available, in the construction of the development.
  - [3] That adverse environmental impacts are minimized.
- (c) An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what might be necessary in order to receive a favorable report.

### F. Commission action on the application.

- (1) Upon issuing a favorable report, the Commission shall set a date for and conduct a public hearing for the purpose of considering the plan. Said public hearing shall be conducted within 65 days of issuing the favorable report.
- (2) The Planning Commission shall refer the application to other appropriate authorities for their review. All reports shall be submitted within 30 days.
- (3) In approving any I-C Zone proposal, the Commission shall find that the proposal shall:
  - (a) Be reasonably necessary for the public health or general interest or welfare;
  - (b) Be of such character, intensity, size and location that in general it will be in harmony with the orderly development of the area in which the property concerned is situated and will not be detrimental to the orderly development of adjacent areas;
  - (c) Be located so that it may be adequately serviced by transportation facilities, water supply, waste disposal, fire and police protection, drainage facilities and similar services;
  - (d) Not create pedestrian or vehicular traffic hazards because of its location in relation to surrounding uses, necessity of turning movements in relation to its access to public roads and intersections or its location in relation to other buildings or potential buildings on or near the site and traffic patterns from such buildings; and
  - (e) Not include any display of signs, noise, fumes or lights that will hinder normal development of the area or impair the use, enjoyment and value of adjacent land and buildings.
- (4) Conditions on plan.
  - (a) The Commission may, at its discretion, attach any reasonable conditions on an approved plan.
  - (b) Approval of the plan with any conditions shall be duly noted in the Commission Minutes. Once the plan is approved, the plan as submitted to the Commission and as subsequently revised or conditioned by the Commission shall be in effect on the site, and future plans for individual buildings shall be designed and building permits issued within the framework of said approved plan.
  - (c) Performance guarantee. The Commission shall require that public improvements and landscaping be secured by a performance bond, which will be determined by the Commission.

### § 195-23. Open Space (OS) Zone.

- A. Intent of this zone is designed to protect open tracts of land that are either owned by a non-

## ZONING

profit institution or municipal, state or federal governments or are otherwise zoned, designated or restricted for open space. They are intended to be used for recreational and open land uses. They are designated as open space to discourage any development of buildings on the sites. (Amended 7/16/2002)

- B. Permitted uses. Permitted uses in the OS Zone shall be as follows:
  - (1) Passive recreational uses.
  - (2) Noncommercial agriculture or horticulture.
- C. Accessory uses. Accessory uses in the OS Zone shall be as follows: customary accessory structures in support of a primary use.
- D. Special exceptions. Special exception uses in the OS Zone shall be as follows: active recreation, public or semi-public recreation facility, semi-public buildings and public buildings of state or federal governments, without any repair facilities or outdoor storage yard. (Amended 7/16/2002)
- E. Bulk requirements. All such active recreational uses, public and semi-public recreation facilities and public or semi-public buildings must be located at least 100 feet from any property line and/or any residential zone. (Amended 7/16/2002)

### **§ 195-24. Planned Development District (PPD).** (Added 11/16/2018)

- A. Intent and Purpose: The purpose and intent of the Planned Development District Zone (“PDD Zone”) is to encourage the adaptive reuse and redevelopment of real properties located within the Center Design Development District Zone (“CDD Zone”), consistent with the intent and purpose of the CDD Zone and Derby’s Plan of Conservation and Development (“POCD”). The PDD Zone will provide for modifications to the strict standards and provisions of the CDD Zone by allowing for the creation of a PDD Zone with specified standards and provisions associated with a “Master Plan of Development,” as provided herein. The PDD Zone is intended for uses to be located on parcels of real property of sufficient size to accommodate compatible and cohesive land uses that: (a) increase the City’s economic vitality in Downtown Derby, in particular by promoting redevelopment within the area located south of Main Street; (b) encourage mixed-use development with diverse housing opportunities that support locally-oriented businesses and cultural institutions; (c) promote a variety of retail, service and related commercial uses to serve both local needs and attract on a regional basis; (d) coordinate the placement, location and interconnectedness of buildings that maintain the architectural character and appearance of the downtown; and (e) promote an attractive pedestrian environment with access to potential greenway and transportation corridors.
- B. Establishment of a Planned Development District Zone:
  - (1) The Commission may establish a PDD Zone by:
    - (a) Approving a PDD Zone, which shall include a Master Plan of Development, as provided herein. In addition to those requirements provided in this Section 195-24, an application for PDD Zone approval shall comply with the filing and procedural requirements of Article XIX, Section 195-140, entitled, “Amendments,” including all notice requirements.
    - (b) Once a PDD Zone is approved, the properties within the PDD Zone shall be changed on the Zoning Map from their current zone district designation of CDD Zone, to PDD Zone.

## ZONING

- (c) Within two years of the PDD Zone approval, a site plan constituting a final development plan shall be submitted, as provided by Article V of these Regulations. Site plans may be submitted on a phase by phase basis within the approved PDD Zone. The Commission may approve one year extensions for filing a site plan for final development approval not to exceed an additional three years to accommodate the orderly build-out of the approved PDD Zone.
  - (d) Any area of land within the PDD Zone, which is not subject to a site plan application for final development plan approval filed within five years of the PDD Zone approval, shall revert back to the CDD Zone. After providing written notice to the owner of any land that is not subject to a timely application for site plan approval, the Commission may cause the Zoning Map to be modified whereby the land, not subject to a timely site plan application, will revert to the CDD Zone. When causing this Zoning Map to be modified whereby the land reverts back to the CDD Zone, the Commission shall comply with the procedural requirements of Article XIX, Section 195-140, including all notice requirements.
- (2) PDD Zone eligibility: The following are minimum requirements for a PDD Zone application:
- (a) The property shall be located within the CDD Zone.
  - (b) The properties making up the PDD Zone shall consist of a minimum of one (1.0) acre in total (Amended 01/28/2020)
  - (c) The PDD Zone shall be located within the Downtown Derby area and south of Main Street.
  - (d) The PDD Zone shall have access to public sewer and water.
  - (e) (Deleted 01/28/2020)
- (3) Considerations for a PDD Zone - the PDD Zone shall:
- (a) Permit uses, subject to specified standards, requirements and provisions, consistent with these Regulations.
  - (b) Not permit the following uses, which shall be prohibited in a PDD Zone:
    - (i) Check-cashing businesses, except as part of a bona-fide bank, credit union, or financial institution.
    - (ii) Commercial laundries with dry-cleaning operations on site.
    - (iii) Correctional institutions.
    - (iv) Gas stations and service stations.
    - (v) Heavy equipment sales and service.
    - (vi) Industrial uses that create nuisance or emit noticeable or objectionable noise, light or odors.
    - (vii) RV, mobile home, or manufactured home sales and service.
    - (viii) Salvage or vehicle storage yards.
  - (c) Be designed to allow for the development, redevelopment or adaptive reuse of properties consistent with the CDD Zone, Derby's POCD, and the intent and purposes of this Section 195-24.
  - (d) Provide appropriate architectural enhancements compatible with Downtown Derby.
  - (e) Provide for access to major roadways, transit-oriented development hubs, public greenways when possible, and other transportation linkages.
- C. Master Plan of Development:
- (1) A PDD Zone application shall include a Master Plan of Development. The purpose of

## ZONING

the Master Plan of Development (“Plan”) is to determine whether the PDD Zone, including proposed uses, site design and bulk/area requirements:

- (a) Conforms to the intent and purpose of this Section 195-24.
  - (b) Satisfies the site plan objectives provided in Article V, Section 195-31.
  - (c) Satisfies the special exception considerations for approval provided in Article VI, Section 195-48.
- (2) The Plan shall establish specific permitted uses for the PDD Zone, subject to Section 195-24(B)(3)(b), herein.
- (3) The Plan shall establish applicable bulk / area and parking requirements for the proposed uses and provide a zone data table depicting such. (Amended 01/28/2020)
- (4) The Plan shall include site plan drawings and documentation depicting or addressing the following:
- (a) The boundaries for the PDD Zone and the existing zone district boundaries for the property subject to the PDD Zone application.
  - (b) Existing buildings and structures located on the property within the PDD Zone, and proposed buildings and structures, including information pertaining to existing and proposed topography.
  - (c) Proposed streets and roadways, including associated off-street parking facilities, if any, location, size and number of parking spaces, access drives and pedestrian walkways.
  - (d) Utility information, including sewerage disposal, water supply, and electrical or gas supply, which confirms both the availability of, and capacity for, adequate utility service for the PDD Zone, as proposed.
  - (e) An exterior lighting plan that demonstrates that the lighting will not adversely impact adjacent properties.
  - (f) Proposed landscaping treatment, and related public or open space areas and screening.
  - (g) A location map depicting the PDD Zone’s location within the City’s vehicular and pedestrian circulations patterns, including intersections, within 500 feet of the PDD Zone.
  - (h) A traffic study, which includes an impact analysis that extends to the critical intersections in the vicinity of the PDD Zone, and proposed vehicular and pedestrian circulation patterns within the PDD Zone.
  - (i) A detailed statement of the proposed uses and table depicting applicable bulk/area requirements for the PDD Zone consistent with the bulk/area requirement provisions for all other zone districts, as provided in these Regulations.
  - (j) The Commission may require additional information as the Commission deems necessary to properly evaluate the proposed PDD Zone for compliance with these Regulations.
- D. Site Plan: a site plan seeking final detail plan approval as provided herein, shall comply with the filing requirements for a site plan application, as provided in Article V, Sections 195-32, 195-33 and 195-34. The Commission may require the additional plans and reports provided in Section 195-35. The site plan shall be substantially and materially consistent with the approved Master Plan of Development for the PDD Zone. A site plan application may be filed with, and processed by, the Commission contemporaneously with a PDD Zone

## ZONING

application, as provided herein.

E. Modifications to the PDD Zone and Master Plan of Development:

- (1) Any modification that involves a material or substantial change to an approved PDD, or a related approved site plan, shall be subject to amending the PDD, including the Master Plan of Development, as provided by Sections 195-24(B) and 195-24(C), herein, and, if applicable, any related approved site plan, as provided by Section 195-24(D), herein.
- (2) Any modification that does not involve a material or substantial change to an approved PDD, or a related approved site plan, shall be subject to amending the Master Plan of Development and, if applicable, any related approved site plan, by submitting a site plan application, as provided by Section 195-24(D), herein. An amendment to the PDD and Master Plan of Development, as provided by Sections 195-24(B) and 195-24(C), herein, is not required.

### **§195-24(A) Core Planned Development District (C-PDD) (Added 08/09/2019)**

A. Intent and Purpose: The purpose and intent of the Core Planned Development District Zone (“C-PDD Zone”) is to encourage the adaptive reuse and redevelopment of real properties located within the Center Design Development District Zone (“CDD Zone”) north of Main Street and the Mill Design District (MDD), consistent with the goals and objectives of the Derby Plan of Conservation and Development (“POCD”). The C-PDD Zone will provide for modifications to the strict standards and provisions of the CDD and MDD Zones by allowing for the creation of a C-PDD Zone with specified standards and provisions associated with a “Master Plan of Development,” as provided herein. The C-PDD Zone is intended for uses to be located on parcels of real property of sufficient size to accommodate compatible and cohesive land uses that: (a) increase economic vitality in Downtown Derby and the Mill Design District, in particular by promoting redevelopment; (b) encourage mixed-use development with diverse housing opportunities that support locally-oriented businesses and cultural institutions; (c) promote a variety of retail, service and related commercial uses to serve both local needs and attract on a regional basis; (d) coordinate the placement, location and interconnectedness of buildings that maintain the architectural character and appearance of the Downtown and historic mill area; and (e) promote an attractive pedestrian environment.

B. Establishment of a Downtown Planned Development District Zone:

- (1) The Commission may establish a C-PDD Zone by:
  - (a) Approving a C-PDD Zone, which shall include a Master Plan of Development, as provided herein. In addition to those requirements provided in this Section 195-24(A), an application for C-PDD Zone approval shall comply with the filing and procedural requirements of Article XIX, Section 195-140, entitled, “Amendments,” including all notice requirements.
  - (b) Once a C-PDD Zone is approved, the properties within the C-PDD Zone shall be changed on the Zoning Map from their current zone district designation of CDD or MDD Zone, to C-PDD Zone.
  - (c) Within two years of the C-PDD Zone approval, a site plan constituting a final development plan shall be submitted, as provided by Article V of these Regulations. The Commission may approve one year extensions for filing a site plan for final

## ZONING

development approval not to exceed an additional three years to accommodate the orderly build-out of the approved C-PDD Zone.

- (d) Any area of land within the C-PDD Zone, which is not subject to a site plan application for final development plan approval filed within five years of the C-PDD Zone approval, shall revert back to the CDD or MDD Zone, whichever zone the area of land was designated prior to C-PDD Zone approval. After providing written notice to the owner of any land that is not subject to a timely application for site plan approval, the Commission may cause the Zoning Map to be modified whereby the land, not subject to a timely site plan application, will revert to the CDD or MDD Zone, whichever it was most recently zoned prior to approval of the C-PDD. When causing this Zoning Map to be modified whereby the land reverts back to the CDD or MDD Zone, the Commission shall comply with the procedural requirements of Article XIX, Section 195-140, including all notice requirements.
- (2) C-PDD Zone eligibility: The following are minimum requirements for a C-PDD Zone application:
- (a) The property shall be located within the CDD north of Main Street or the MDD Zone.
  - (b) The minimum C-PDD Zone size shall be three-quarters of an acre (0.75 acre).
  - (c) The C-PDD Zone shall have access to public sewer and water.
- (3) Considerations for a C-PDD Zone - the C-PDD Zone shall:
- (a) Permit uses, subject to specified standards, requirements and provisions, consistent with these Regulations.
  - (b) Not permit the following uses, which shall be prohibited in a C-PDD Zone:
    - (i) Check-cashing businesses, except as part of a bona-fide bank, credit union, or financial institution.
    - (ii) Commercial laundries with dry-cleaning operations on site.
    - (iii) Correctional institutions.
    - (iv) Gas stations and service stations.
    - (v) Heavy equipment sales and service.
    - (vi) Industrial uses that create nuisance or emit noticeable or objectionable noise, light or odors.
    - (vii) RV, mobile home, or manufactured home sales and service.
    - (viii) Salvage or vehicle storage yards.
  - (c) Be designed to allow for the development, redevelopment or adaptive reuse of properties consistent with the CDD and MDD Zones, Derby's POCD, and the intent and purposes of this Section 195-24(A).
  - (d) Provide appropriate architectural enhancements compatible with Downtown Derby and the Mill Design District.
  - (e) Provide appropriate pedestrian and public realm improvements compatible with Downtown Derby and the Mill Design District.
- C. Master Plan of Development:
- (1) A C-PDD Zone application shall include a Master Plan of Development. The purpose of the Master Plan of Development ("Plan") is to determine whether the C-PDD Zone, including proposed uses, site design and bulk/area requirements:
    - (a) Conforms to the intent and purpose of this Section 195-24(A).
    - (b) Satisfies the site plan objectives provided in Article V, Section 195-31.

## ZONING

- (c) Satisfies the special exception considerations for approval provided in Article VI, Section 195-48.
  - (2) The Plan shall establish specific permitted uses for the C-PDD Zone, subject to Section 195-24(A)(B)(3)(b), herein.
  - (3) The Plan shall establish applicable bulk / area requirements for the proposed uses and provide a zone data table depicting such.
  - (4) The Plan shall include site plan drawings and documentation depicting or addressing the following:
    - (a) The boundaries for the C-PDD Zone and the existing zone district boundaries for the property subject to the C-PDD Zone application.
    - (b) Existing buildings and structures located on the property within the C-PDD Zone, and proposed buildings and structures, including information pertaining to existing and proposed topography.
    - (c) Proposed on and off-street parking facilities, if any, location, size and number of parking spaces, access drives and pedestrian walkways.
    - (d) Utility information, including sewerage disposal, water supply, and electrical or gas supply, which confirms both the availability of, and capacity for, adequate utility service for the C-PDD Zone, as proposed.
    - (e) An exterior lighting plan that demonstrates that the lighting will not adversely impact adjacent properties.
    - (f) Proposed landscaping treatment, and related public or open space areas and screening.
    - (g) A location map depicting the C-PDD Zone's location within the City's vehicular and pedestrian circulations patterns, including intersections, within 500 feet of the C-PDD Zone.
    - (h) A traffic study, which includes an impact analysis that extends to the critical intersections in the vicinity of the C-PDD Zone, and proposed vehicular and pedestrian circulation patterns within the C-PDD Zone.
    - (i) A detailed statement of the proposed uses and table depicting applicable bulk/area requirements for the C-PDD Zone consistent with the bulk/area requirement provisions for all other zone districts, as provided in these Regulations.
    - (j) The Commission may require additional information as the Commission deems necessary to properly evaluate the proposed C-PDD Zone for compliance with these Regulations.
- D. Site Plan: a site plan seeking final detail plan approval as provided herein, shall comply with the filing requirements for a site plan application, as provided in Article V, Sections 195-32, 195-33 and 195-34. The Commission may require the additional plans and reports provided in Section 195-35. The site plan shall be substantially and materially consistent with the approved Master Plan of Development for the C-PDD Zone. A site plan application may be filed with, and processed by, the Commission contemporaneously with a C-PDD Zone application, as provided herein.
- E. Modifications to the C-PDD Zone and Master Plan of Development:
- (1) Any modification that involves a material or substantial change to an approved C-PDD, or a related approved site plan, shall be subject to amending the C-PDD, including the

## ZONING

Master Plan of Development, as provided by Sections 195-24(B) and 195-24(A)(C), herein, and, if applicable, any related approved site plan, as provided by Section 195-24(A)(D), herein.

- (2) Any modification that does not involve a material or substantial change to an approved C-PDD, or a related approved site plan, shall be subject to amending the Master Plan of Development and, if applicable, any related approved site plan, by submitting a site plan application, as provided by Section 195-24(A)(D), herein. An amendment to the C-PDD and Master Plan of Development, as provided by Sections 195-24(A)(B) and 195-24(A)(C), herein, is not required.

### **§195-24(B) Special Development District (SDD) (Added 10/09/2021)**

#### **A. Intent and Purpose:**

- (1) The intent of a Special Development District (SDD) is to encourage and enable the adaptive reuse of existing structures, and the development or redevelopment of individual properties or groups of properties in non-residential districts as enumerated in Section 195-8 of these Regulations excluding, however, those districts where a Planned Development District (PDD) may be applied. An SDD may also be applied to those properties where there is an existing non-conforming non-residential use located in a residential zone, and where said property is adjacent to a non-residential zone, and only if there are no other reasonable means of bringing the property into conformance with these Zoning Regulations. For the purposes of this district adjacency is defined as land that is contiguous to the subject parcel and includes land that would be contiguous if not for a highway, road, river, or stream. The purpose of the SDD is to provide flexibility in zoning standards intended to spur innovative, attractive, and desirable development that would not otherwise be permitted in the established underlying zone by virtue of the use, size of the property, location, and dimensional requirements. Each SDD is an independent zoning district created to accomplish a specific purpose, complete with clearly defined permitted uses and dimensional standards and other applicable regulatory provisions specific to the property, whether set forth specifically therein or incorporated by reference to the applicable provisions of the Zoning Regulations.
- (2) While not required, the SDD zone allows and strongly encourages appropriately proportioned mixed-use development. Mixed-use projects in the SDD should offer a variety of advantages from improvements in home affordability to walkability between housing and other amenities. It should incorporate various land uses designed to complement each other and the surrounding neighborhood.
- (3) The development requirements and designation for the SDD shall be based on a land use analysis and approved development plan, which shall include existing and surrounding land use patterns, fiscal impact to the City, infrastructure needs, adaptive reuse of existing nonconforming structures or uses, and redevelopment efforts that support area revitalization, environmentally sustainable design, and other issues deemed to be relevant by the Commission.
- (4) In consideration of achieving development goals and objectives for a property, the Commission shall also consider applicable topography, natural vegetative buffers, impact on wetlands and water courses, and unique natural features when determining dimensional standards for a development proposed for an SDD.

## ZONING

### B. Establishment of a Special Development District Zone:

- (1) The Commission may establish a SDD Zone by:
  - (a) Approving an SDD Zone, which shall include a Development Plan, as provided herein. An application for SDD Zone approval shall comply with the filing and procedural requirements of Article XIX, Section 195-140, entitled, "Amendments," including all notice requirements.
  - (b) Once a SDD Zone has been approved, the properties within the SDD Zone shall be changed on the Zoning Map from their current zone district designation to SDD Zone.
  - (c) Within two years of the SDD Zone approval, a site plan constituting a final development plan shall be submitted, as provided by Article V of these Regulations. Site plans may be submitted on a phase-by-phase basis within the approved SDD Zone provided, however, that the phases have been approved by the Commission when the SDD is established.
  - (d) Any area of land within the SDD Zone for which a site plan application or final development plan approval has not been filed within five years of the SDD Zone approval shall revert back to the underlying zone. After providing written notice to the owner, the Commission may cause the Zoning Map to be modified whereby the land, not subject to a timely site plan application, will revert to the underlying zone. When causing this Zoning Map to be so modified, the Commission shall comply with the procedural requirements of Article XIX, Section 195-140, including all notice requirements.

### C. Standards: The following standards shall apply to all proposed SDDs:

- (1) Size: There is no minimum lot size.
- (2) Permitted Uses: Permitted uses in any SDD shall be limited to those that are not industrial in nature nor prohibited uses found in Section 195-25C. However, all projects must contain at least 10% non-residential primary (non-accessory) uses. If a use is not defined in the Regulations, the Commission will have ultimate authority to approve the use upon the approval of the Development Plan. Any proposed use in a SDD not specifically identified as a permitted use at the time of adoption of the SDD District may only be established by approval by the Commission of an amendment of the permitted use provisions in accordance with the procedures established for the amendment of these Zoning Regulations.
- (3) Building Height: Buildings and other structures in an SDD shall be generally consistent with the height permitted in underlying zone. The Commission may permit a greater height if such greater height shall result in additional public benefits, such as greater preservation of open space or a diversity in housing types on the tract than would otherwise be allowed by regulation, and the topography of the tract on which such building or structure is located, the location thereof on such tract, and visual and physical impacts to surrounding neighborhoods are minimized and appropriate in order to accommodate such greater height. Such added height shall not be for the primary purpose of creating additional development density, but rather to accommodate discretion in determining allowable density in an alternative manner in order to achieve greater public benefits.
- (4) Utilities: The proposed parcel must be adequately served by existing public utilities, roads, and other infrastructure needed to support the proposed use.

## ZONING

- (5) Architecture: Exterior architectural design and treatment, including buildings, related signs, and site features, shall be of high quality in design and construction, and produce an aesthetic enhancement of the streetscape and complementary transition with neighboring buildings. The Commission shall consider the proposed design treatments and building materials in determining the appropriateness of a proposal.
- (6) Signs: Any proposal shall include a signage plan for the proposed SDD. All signs shall conform to the requirements of Article XI of these Regulations.
- (7) Natural Features: When reasonably prudent and feasible, development proposals shall make reasonable attempts to adapt to existing topography and preserve significant natural site features.
- (8) Parking: Minimum parking standards will be determined as in 195-54. A&B
- (9) Other Standards: All other standards and provisions of the Derby Zoning Regulations shall also apply to all proposed SDDs except as may be specifically modified within the adoption of the SDD zone and the particulars of the land use analysis and approved development plan for the parcel.

### D. Initial Concept Review:

- (1) The Applicant shall conduct an initial concept review with the Commission for any proposal for an SDD, in order to determine additional information required for submission for preliminary reviews and approvals. Such review may lead to a rendering of non-binding comments or opinions by the Commissioners. The Applicant shall submit in writing a request for an initial concept review.

### E. Petition:

- (1) A petition for the establishment of a SDD is a petition for a zone map and text change and shall be submitted to the Commission in writing, shall be signed by the owner or owners of all parcels within the proposed SDD and shall be accompanied by the following:
  - (a) Statement: A written Statement of Uses and Standards shall be submitted, identifying the proposed permitted uses and setting forth the specific area, location and dimensional standards to be applicable to the district. Such Statement shall also specify in detail the remaining particular provisions of these Regulations that are proposed to be modified as well as any special or additional provisions which are proposed to be applicable to the use of land, buildings and other structures, the siting and dimensions of buildings and other structures and the area, shape, and frontage of lots within the SDD. Ten (10) copies of such Statement with the precise wording of the existing and proposed text shall be submitted, see § 195-140.
  - (b) Development Plans: A Development Plan shall be submitted for the proposed development and should include property maps, preliminary site plans, preliminary architectural plans, engineering studies and plans, including stormwater management plans, preliminary landscape plans, preliminary signage plans and typical site development details and other drawings determined by the Commission during the initial review as being relevant for the redevelopment. The Development Plan shall be in sufficient detail to show the existing conditions and improvements proposed to be erected on the site, the open spaces to be provided and natural features to be preserved and maintained, the nature and location of the proposed use or uses, the relationship of the proposed development to surrounding properties and other pertinent information. Six (6) sets of prints and ten (10) 11X17 sets shall be submitted. Plans where applicable shall be prepared and certified by an architect, professional civil engineer,

## ZONING

and landscape architect licensed to practice in the State of Connecticut and shall include the following information:

- (i) Location and size of property, including a boundary map with an accuracy meeting or exceeding standards for a Class A-2 Boundary Survey as defined by the Connecticut Department of Consumer Protection which map is to show the precise boundaries of the proposed SDD, as well as existing zoning boundaries and the boundaries of any officially designated wetland areas;
- (ii) Neighborhood context map, including existing and known future land uses within 500' of the SDD.
- (iii) Existing and proposed land uses and the acreage of each use, and a phasing plan for development, if applicable, which shall show all public improvements and site amenities to be constructed as part of the first phase of site development;
- (iv) Existing and proposed buildings and structures including use, dimensions and locations of each;
- (v) Present and proposed vehicular and pedestrian circulation patterns, both on-site and connections to off-site facilities, including locations and dimensions of private and public streets and common drives, pedestrian walkways, and other public and private paths within 500' of the SDD zone;
- (vi) Location of proposed off-street parking facilities with dimensions, including location, size and number of parking spaces, alternative parking accommodations (e.g., valet or stacked), and relationships to access drives and site walkways;
- (vii) Proposed provisions for lighting on the site, to be designed and located in such a manner and of such amount as to ensure sufficient visibility at all times to maximize pedestrian and vehicular safety without undue adverse effect on the use and enjoyment of neighboring properties;
- (viii) Proposed open area such as parks, and recreational facilities, if any, as well as natural features to be preserved and maintained on the site;
- (ix) Existing and proposed landscaping treatments, including major tree areas, water bodies and related treatment of open space areas, screening and buffer areas between abutting properties, and existing and proposed topography;
- (x) Utility information including water supply, sewage disposal, storm drainage, including capacity of water courses and the additional flow being produced, gas or electrical service and exterior site lighting, including fixture locations and heights;
- (xi) A location map showing the site's situation within the Town's circulation system and all streets and intersections within 1,000 feet of the site;
- (xii) Preliminary architectural plans including generalized floor plans, exterior elevations, perspective drawings and descriptive information on types of building materials and exterior finishes or, where adaptive reuse, the existing buildings and any architectural modifications thereof; architectural renderings.
- (xiii) A written engineering report by a qualified engineer addressing storm drainage and flooding, including a storm water management plan, utility services, soils and geology of the site and sediment and erosion control measures to be employed, hydrological-geology conditions, and seismic monitoring provisions as may be applicable to the proposal;
- (xiv) A fiscal impact analysis of the proposed development consistent with average costing methodology using the proportional valuation technique, based on a

## ZONING

nationally recognized standard. The fiscal impact analysis is subject to third party review at the cost of the applicant. The third-party reviewer will be selected by the City of Derby.

- (2) The required documents and noticing detailed in § 195-140 B of the Regulations.
- (3) Any additional information which the Commission may reasonably require, including such items as a traffic report, market analysis and marketing plans, proposed covenants, easements and/or restrictions related to open space and/or public access rights, periodic maintenance of storm water management facilities, landscaping and other site improvements and scheduling and timing of development phasing.

### F. Procedures:

- (1) Upon submission of a petition for the establishment of a SDD, the Commission and its staff shall review the petition and indicate the need for additional information/reports in order for the application to be considered complete. The Commission may authorize the preparation of such independent reports and analyses at the expense of the applicant. The Commission may also solicit the following information for presentation prior to or at the public hearing:
  - (a) A statement from the Town Engineer in reference to the adequacy of the basic drainage, street design and the design of elements to be served by the Public Works Department;
  - (b) Evidence from the Water Pollution Control Authority that sewers are available to the project for tie-in and that the sewer lines, sewage treatment plant and related appurtenances have the capacity for the projected volumes;
  - (c) A statement from the Local Traffic Authority that the proposal will not cause any undue traffic hazards;
  - (d) A statement from the Fire Marshal that the proposal meets fire safety standards and considerations for fire protection requirements of the proposed plan;
  - (e) A statement from any other town department or advisory committee whose opinion is deemed appropriate by the Commission.

### G. Public Hearing and Decision:

- (1) The Commission shall hold a duly noticed public hearing as required for any amendment of the Zoning Regulations § 195-140. After the public hearing, the Commission may approve, disapprove, or give approval with modifications to the Development Plans and the SDD zone, only after the Commission makes the findings required for review and approvals set forth in Subsection H herein. Approval of the Development Plans shall authorize adoption of the SDD based upon the findings set forth in Section 195-24(B).I., as well as other findings necessary for the adoption of these Regulations set forth in Section 195-24(B).E.(b). The adopted SDD shall be shown on the Zoning Map with a reference to the records of the Commission to the approved Statement of Uses and Standards and Development Plans. The Commission shall give notice of such adoption in the manner required for any amendment of these Regulations. Filing in the office of the Derby Town Clerk of the adopted SDD Statement of Uses and Standards shall be accompanied by an endorsed copy of the approved Development Plans.

### H. Findings Required for Development Plan Approval:

- (1) Prior to approval of a Development Plan, with or without conditions or modifications, the Commission shall make the following findings:

## ZONING

- (a) The proposal possesses a site use and design that is consistent with the intent of the SDD.
- (b) The qualifying standards of the SDD have been satisfied.
- (c) The site design and organization of uses, buildings, parking and drives and pedestrian circulation provides for the safety of intended users.
- (d) Provisions for traffic flow, water, sanitary sewer service, storm water management, natural resources and usable open space are adequate and acceptable. Utility services and storm water facilities both on and off-site do not result in unacceptable or hazardous conditions. If any upgrading or improvements to off-site roads, utilities or other infrastructure are necessary and approved by the Commission and other applicable agencies, such improvements shall be provided by the Applicant at no cost to the City. The Applicant shall provide at its own expense such additional information, data, designs and plans as are necessary to arrive at a proper decision.
- (e) Given the proposed use on the property, there is minimal adverse impact to surrounding properties or on property values in the area.
- (f) Provisions will be made for the on-going maintenance of parking areas, storm water management facilities, open space areas and other infrastructure components not proposed for acceptance by the City.

### I. Findings Required for the Adoption of the SDD:

- (1) The Commission shall make the following findings prior to the adoption of the SDD. Said findings are in addition to other findings necessary for the amendment of these Regulations and to the findings required for the approval of the Development Plan:
  - (a) The SDD, its Statement of Uses and Standards, and the Development Plan applicable therein are not in conflict with the intent and purpose set forth herein;
  - (b) No existing zoning district could accomplish such purposes and uses as proposed or the Commission does not believe it is in the best interest of the community to place the use with an entire existing zone;
  - (c) The SDD, its Statement of Uses and Standards and the Development Plan applicable therein is consistent with the Plan of Conservation and Development adopted by the Commission for the area in which it is located;
  - (d) The public and private streets and intersections are or will be suitable and adequate to accommodate anticipated traffic;
  - (e) The utility services are or will be adequate for the proposed development and the utilities and drainage have been so arranged as to not overburden the capacity of the facilities connected therewith;
  - (f) The fiscal impact statement demonstrates a positive or neutral impact on the City's services and tax generation;
  - (g) The Development Plan would be in harmony with established uses within the surrounding area of the site and would enhance the neighborhood's sense of place. Criteria to determine harmony and sense of place may include but is not limited to the impacts of traffic, noise levels, hours operation, or other activities generated by the development; connections to commercial, recreation, and other community facilities; and measures to promote environmental sustainability.

### J. Final Site Plans:

Final Site Development Plans shall be submitted for approval by the Planning and Zoning Commission within six (6) months of the effective date of an adopted SDD or such longer

## ZONING

time period as may be approved by the Commission, in conformance with and incorporating all the information required by the approved Development Plans. Such Final Site Plans may be submitted in phases provided that such phases were identified in the Preliminary Plans and include all those public amenities and features, existing or improved, used as a public protection for the surrounding area. Such phases shall be capable of complete and self-sufficient existence without the completion of the remaining phases. Submissions shall follow the requirements of 195-32 and shall include at least the following:

- (1) Site Plan containing detailed layout information related to all Site Plan proposals contained in the Development Plans, plus an additional, schematic layout of building, drives and parking areas at a scale of 1 inch = 40 feet;
- (2) Architectural Plans for each proposed building or other structure, including changes to existing buildings, which shall include generalized floor plans, exterior elevations incorporating thereon all wall signs, including locations and dimensions, perspective drawings and descriptive information concerning exterior building materials, finishes and colors, including material samples if requested by the Commission;
- (3) Landscaping Plans presenting in detail the landscaping treatments and materials and open space proposals contained in the Development Plans, including proposed grading, plant materials specifics, planting details and maintenance provisions;
- (4) Site Lighting and illuminated Sign Plans, which shall show design and position so as to minimize objectionable light at the property lines and visibility glare at any location on or off site. Externally lit signs, displays and aesthetic lighting must be lit from above. Light standards shall not exceed a height reasonable for the intended purpose. Lighting shall be designed to not infringe on adjacent properties, and must be shielded to prevent glare and light trespass. All nonessential lighting must be turned off after business hours, except for necessary security lighting.
- (5) Engineering Plans presenting the detail designs and information supporting all the engineering elements of the Development Plans;
- (6) Legal documents required by these Regulations, including such things as covenants, restrictions, easements, bonds, and certificates, if applicable.

### K. Approval:

- (1) The Commission may hold a public hearing on the Final Site Plan if in its estimation said Plan differs in nature, scope, intensity, footprint, use, or other significant manner from the Development Plan. Otherwise, the Final Site Development Plan shall be processed in the same manner as a Site Plan approval under these regulations (section reference). Approval of the Final Site Plans shall be noted on said Plans, which shall then be signed by the Chairman of the Planning and Zoning Commission with the date of approval indicated on the Plans.

### L. Simultaneous Application:

- (1) Nothing herein shall prevent any applicant from submitting an application for approval of Final Site Plans simultaneously with the application for the approval of the Development Plans and SDD. The Final Site Plans can be for all or a specific phase of the Preliminary plan. If there is a simultaneous application, the Development Plans that are proposed for simultaneous approval as Final Site Plans shall be in such detail as required for Final Site Plans herein.

### M. Bonds:

## ZONING

- (1) The petitioner shall file with the Commission a Performance Bond, in form, amount and surety approved by the Commission, to guarantee the faithful performance of the municipal improvements to be undertaken within the public rights-of-way. In addition, a separate Bond shall be posted to guarantee the site restoration and proper installation, maintenance and repair of all sediment and erosion control measures in a timely fashion to the satisfaction of the Commission.

### N. Modification of Adopted SDDs:

- (1) Following a duly noticed public hearing specifically conducted for that purpose, as originally required for the adoption of said SDD, the Commission may approve a change to the nature, scope, intensity, footprint, use, or other significant alteration to the Final Site Plans and/or any provision, permitted use or standard contained in the Statement of Uses and Standards. Any modification or adjustment to the Final Site Development Plans that does not materially change the nature, scope, or intensity of said plans may be approved administratively by the Commission as a minor Site Plan modification. This procedure for modification effectively precludes any need for variance relief through the Zoning Board of Appeals since any provision or standard of said SDD may be modified if required by following the procedure set forth above.

---

## **ARTICLE IV, General Use Requirements and Miscellaneous Provisions**

---

### **§ 195-25. General requirements.**

- A. Zoning permit. No building or other structure, or part thereof, shall be constructed, reconstructed, enlarged, extended, moved or structurally altered until an application for a zoning permit has been approved by the Zoning Officer. No land, building or other structure, or part thereof, shall be used or occupied, or changed in use, until an application for a zoning permit therefor has been approved by the Zoning Officer and until a zoning permit therefor has been issued by the Zoning Officer certifying conformity with these regulations. No zoning permit, however, is required for a farm, forestry, truck garden or nursery use when no building or other structure is proposed. All applications for a zoning permit shall be submitted and approved in accordance with the provisions of § 195-138B, and all zoning permits shall be issued in accordance with said section.
- B. Conflict with amendments. No application for a zoning permit shall be approved by the Zoning Officer authorizing plans, construction or uses which do not conform to any proposed amendment of these regulations if the first notice of a hearing on such amendment has been published in a newspaper as required by the General Statutes of the State of Connecticut. If, however, the proposed amendment has not been adopted and made effective within 60 days from the date of such first published notice, the application for a zoning permit shall be promptly approved by the Zoning Officer.
- C. Prohibited uses in all districts. Any other provisions of this regulation notwithstanding, and except as provided hereinafter, the following uses shall be prohibited in all districts:
  - (1) Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor or other form of air pollution; or by reason of the deposit, discharge or dispersal of liquid or solid wastes, in any form, in a manner or amount so as to cause permanent damage to the soil or any stream or to adversely affect the

## ZONING

surrounding area; or by reason of the creation of noise or vibration or electromagnetic disturbance perceptible beyond the boundaries of the lot on which it is situated; or by reason of illumination by artificial light or light reflection beyond the limits of the lot on, or from which, such light or light reflection emanates; or which involves any dangerous fire, explosive, radioactive or other hazard or which can cause injury, annoyance or disturbance to any of the surrounding properties or to their owners and occupants; or any other process or use which is prejudicial to health, safety or the general welfare.

- (2) Junkyards.
  - (3) Trailer camps or mobile home parks.
  - (4) Manufacture or storage of ammunition, explosives or fireworks.
  - (5) No land in any district may be used for the disposal of materials which have radioactive levels which could present a danger to health. No such materials shall be stored or handled except in accordance with regulations of all relevant federal, state and city agencies.
- D. Professional offices in residences. Professional offices in residences, where permitted, shall comply with the following:
- (1) Said office shall be conducted by a professional residing on the premises. Not more than two nonresident assistants shall be employed by any such professional resident.
  - (2) Said office shall be incidental and subordinate to the residential use of the building and shall not occupy more than 50% of the area of the ground floor of the principal building. No office shall be conducted in an accessory building.
  - (3) In no manner shall the appearance of the building be altered or shall the office within the residence be conducted in a manner that would cause the premises to differ from its residential character, either by the use of colors, materials, construction, lighting, size or the emission of sounds, noises or vibrations.
- E. Buffer area requirements. Buffer areas shall be required for non-residential uses abutting residential uses. (Amended 1/1/2006)
- (1) Buffer requirements. In cases where a non-residential use abuts a residential use, a green belt buffer area at least 25 feet in depth and located on the non-residential parcel shall be provided and maintained by the owner of such parcel unless otherwise specified in these regulations. This area shall not be used for the storage of materials or parking of vehicles. Trees and shrubs shall be planted along the property lines to give a screen at least 15 feet deep using approved, hardy, disease resistant, indigenous plant species as listed in the most current CT DEP Native Tree and Shrub Availability list. Species listed on the Connecticut Invasive Plant List shall be prohibited. Such buffer shall be planted with evergreens in no fewer than two rows, no further than 15 feet apart along each row, staggered to provide maximum screening and using trees not less than ~~five~~ six feet in height at time of planting. The balance of the buffer area shall be planted and maintained as lawn. Existing suitable, natural growth shall be preserved where practicable and supplemented with new planting in accordance with the above standards. Permanent structures such as fences, walls and earth berms may be approved in lieu of plantings. Such measures shall be in conformance and in the opinion of the Commission, comply with the intent of these regulations. (Amended 1/1/2006)
  - (2) Street frontage. Buffer areas may be required along the street frontage of a lot in order to screen such uses as parking facilities, loading areas and outside storage areas.
  - (3) Plans. Plans showing the work to be done, with assurance of completion and future

## ZONING

maintenance, shall be filed and approved by the Commission before such parcel may be used for non-residential purposes. The approved buffer area planting and/or supplemental structures shall be in place prior to the issuance of a zoning certificate of compliance by the Zoning Officer. Failure to maintain the buffer area in good condition shall constitute a violation of these regulations by the owner of the parcel. (Amended 1/1/2006)

### § 195-26. Miscellaneous design and use regulations.

- A. Reduction of lots. No lot existing at the time of these regulations shall be reduced in dimension or area below the minimum requirements set forth herein. Lots created after the effective date of the regulations shall meet at least the minimum requirements established herein.
- B. Easement not to be included in lot area. The minimum area required for a lot in any district shall not include the area lying within any easement or right-of-way over such lot for a pedestrian way or for the purposes of drainage, water supply, sewerage, the transmission of gas or liquid, telephone, telegraph, electric or other utility purposes. The Commission may require that any utility or drainage easement or right-of-way be used for pedestrian walkways in connection with any subdivision or site development approval.
- C. Visibility at intersections.
  - (1) On no lot shall any wall, fence, structure, planting or obstruction to vision be erected, maintained, placed or planted which unreasonably or dangerously obstructs or interferes with the visibility of drivers of vehicles on a curb or at any street intersection. The minimum vision clearance shall require that no wall, fence, structure, or planting exceed a height of two feet above the street grade (except for street trees or other high branching trees) (see Appendix Figure 30).
  - (2) In order to protect public health and safety, any owner of a lot not in conformance with the requirements of this section may be ordered by the Zoning Officer to remove dangerous obstructions to visibility. Such order shall be complied with within one month of its issue.
- D. Junkyards. Junk yards are not permitted within the City of Derby except that the city may, by special permit approval of the Commission, operate a junkyard or similar facility if the Commission finds that it is in the public interest.
- E. Radioactive material. No land in any district may be used for the disposal of materials which have radioactive levels which could present a danger to health. No such materials shall be stored or handled except in accordance with regulations of all relevant federal, state and city agencies.
- F. Dedication of land. Areas dedicated for any public purpose in connection with any zoning or subdivision application shall be in a location and of size and shape as specified by the Commission. This land shall be deeded to the city by full warranty deed free and clear of all encumbrances and shall be in an acceptable condition with any improvements as may be required by the Commission before any building permit is issued; or, in lieu of this, a contract for said transfer of title acceptable to the Commission shall be furnished by the developer. On approval of the application, the Commission accepts the dedication with the provision that if the land is not legally conveyed to or accepted by the appropriate city agency in the manner prescribed by the Commission, for whatever reason, then that land shall be considered to have been designated as open space and, prior to the issuance of any

## ZONING

building permits, appropriate agreements, restrictions and documents shall be provided ensuring that it will be maintained as such for 50 years.

- G. Scenic or conservation easements. The Commission may make provisions for the securing of appropriate easements and restrictions on any area of land that it has determined would be in the public interest to retain, maintain and conserve in its natural state.
- H. Determination of certain uses. A proposed use in any zone which, in the opinion of the Zoning Officer, is not clearly allowed or prohibited as a permitted use or a special exception in that zone shall be referred to the Commission for a determination as to whether the use should be allowed as a permitted use or special exception, or not be allowed in that zone.
- I. Corner lots. On corner lots, front yard requirements shall be applicable to both street frontages. The width of a corner lot shall be measured by taking the longer front lot line as though it were a side lot line (see Appendix Figure 31).
- J. Through lots. A through lot shall have yards adjacent to each street of at least the same depth as the required front yard. Through lots shall be avoided, except where it is deemed desirable to preclude vehicular access from a heavily trafficked street.
- K. Substandard lots. In all single-family zones, any lot which was separately described in the latest deed of record prior to the effective date of these regulations or which was an approved lot shown on a subdivision plan approved, and on file in the Town Clerk's office prior to said date, which does not meet the requirements of these regulations as to lot area and/or lot width may be utilized for any use permitted in the zone in which such lot is located, provided that all of the other provisions and requirements of these regulations are complied with.
- L. Narrow parts of lot not counted towards area requirements. Lots created by subdivision subsequent to the effective date of these regulations cannot include as a portion of their required area excessively narrow sections. To qualify for inclusion, the minimum straight line dimension connecting the lot side lines shall exceed 33 1/3% of the required lot width (see Appendix Figure 31).
- M. Projections into yards. Except as covered by requirements for intersection visibility, open porches or vestibules may extend into any required front yard, provided that any such extension shall not exceed five feet nor cover more than 50 square feet of area computed on exterior dimensions. Sidewalks leading to the front entrance of a nonresidential building may be covered between the street line and the building for the purpose of protection from the weather elements with a canopy made from cloth, flexible plastic or similar material provided that the width of such canopy does not exceed eight feet and that the sides remain open or are transparent. Other unusual projections such as chimneys, windowsills, cornices and bay windows may extend not more than two feet into any required yard. (Amended 11/15/2000)
- N. Roadside stands. Farmers' stands of temporary construction or readily removable intended for the roadside sale of products raised exclusively on the farm served by the stand may be allowed in any residential zone. Such stands hereafter erected must be set back from the road at least 40 feet to permit access drives and to avoid parking of customers' vehicles on the highway and must be approved by the Zoning Officer.
- O. Fences, walls and hedges. In residential zones no fence, hedge or wall in excess of four feet in height may be erected within five feet of any property line in the required front yard. Higher fences, hedges or walls up to a maximum height of six feet may be erected in the front yard if they are set back 10 feet from the property lines. No fence, hedge or wall exceeding six feet in height may be erected within any required side or rear yard. No fence,

## ZONING

wall or hedge, the gross area of which is 80% or less open, shall be located within a ten-foot radius of the intersection of any driveway edge and a street property line. This does not apply to wire, stretcher, hurdle, post-and-rail and split-rail fences which do not present impairment to visibility (See Appendix Figure 32).

- P. Guard houses. In industrial districts, a building not exceeding 150 square feet in floor area and a height of 15 feet and used solely as a guardhouse, gate house or security building may extend to within 10 feet of any street line.
- Q. Required frontage and access. No building shall be built on any lot unless the lot has a frontage of at least 30 feet on a public street, an approved subdivision, or unless it has unobstructed easement of access or private right-of-way at least 25 feet wide to a public street. Such accessway shall not exceed a length of 250 feet and shall not be included in the minimum required lot area. Each accessway shall provide access for one lot, and the maximum number of adjoining accessways shall not exceed one. For existing lots located within the I-1 and I-C zones which cannot meet the requirements of this Section, a private roadway designed in accordance with Section 195-26LL may be used to provide access to the property. (Amended 2/9/2009)
- R. Open spaces required for each building. Except as specifically provided herein, no part of any yard or other open space required around any building may be included as part of a yard or other open space required for any other building.
- S. Height limitation. The building height limit shall be applied separately for each wing or other distinct portion of the building. Spires, cupolas, towers, chimneys, flagpoles, penthouses, ventilators, tanks and similar features occupying in the aggregate not more than 10 percent of the building area and not used for human occupancy may be erected to a reasonable and necessary height as determined by the Zoning Officer.
- T. Projection into open spaces. Nothing in these regulations shall prohibit the projection of not more than one foot into a required open space of pilasters, columns, belt courses, sills, cornices or other similar architectural features, nor the planting or landscaping of such open spaces.
- U. Lots on narrow streets. In the case of lots fronting on streets with less than 50 R.O.W., the required front yard shall be increased by 1/2 the difference between 50 feet and the actual width of the R.O.W.
- V. Lots adjacent to a railroad. In the case of a side or rear lot line in a commercial or industrial district which is contiguous to the right-of-way of a railroad siding, the applicable yard shall not be required for any commercial or industrial use.
- W. Existing lots. The provisions of these regulations relative to required lot area and required lot width shall not prevent the construction of an otherwise permitted building or the establishment of an otherwise permitted use on a lot which, at the time of the adoption of these regulations, or of any pertinent amendment thereto, and continuously thereafter, was owned separately from any adjoining lot, as evidenced by deed recorded in the land records of the City of Derby provided that any reduction in the required front, side or rear yards shall have been approved by the Zoning Board of Appeals.
- X. Accessory buildings. Detached accessory buildings not more than 14 feet in height and not used for human habitation or for the housing of animals may be located in the required side or rear yard, provided that they are located not less than 60 feet from any street line and not less than six feet from any side or rear yard line and provided further that they occupy in the aggregate not more than 20% of the area of the required rear yard.

## ZONING

- Y. More than one principal building on a lot. No lot in any residential district, except multifamily dwellings, shall contain more than one principal building.
- Z. Storage of waste material. No waste or scrap material, debris, motor vehicles which are partially or wholly dismantled, motor vehicle parts, abandoned machinery, junk or similar unsightly material shall be stored or allowed to accumulate in any open space or outside a completely enclosed building on any lot in any district other than as may be permitted in an industrial district. This provision shall not apply to the temporary storage of waste material from a construction operation being legally executed on the same premises.
- AA. Trailers, recreation vehicles and boats. The outdoor storage or parking and use of a trailer or recreation vehicle by any person or persons is hereby prohibited in all districts, except that:
  - (1) Not more than one unoccupied trailer or recreation vehicle per dwelling unit may be stored, but not used for any purpose, on an occupied lot in any residence district, provided that such trailer or recreation vehicle is not stored between the street line and the principal building. If stored in a side or rear yard, said trailer or recreation vehicle shall be buffered from view by a fence or landscape screen of at least six feet in height.
  - (2) Not more than one boat per dwelling unit may be stored on an occupied lot in any residence district, provided that such boat is not stored between the street line and the principal building. If stored in the rear or side yard, said boat shall be buffered from view by a fence or landscape screen of at least six feet in height.
  - (3) Where a building permit has been issued for the construction or alteration of a building or immediately following an emergency or disaster, the Building Official may issue a temporary permit for one or more trailers, for a period not to exceed one year.
  - (4) The number of trailers shall be limited to that which the Building Official shall deem to be necessary in each case. Said temporary permit may be extended for two additional successive periods of six months each, if the Building Official finds that construction has been diligently pursued and that justifiable circumstances require such an extension.
- BB. Trash compactors. Trash compactors, where permitted, shall be located in the rear yard only, subject to the following:
  - (1) The compactor shall be located no closer than 10 feet from the property lines.
  - (2) The compactor shall not be located in a required loading berth or in required off-street parking spaces.
  - (3) The compactor shall be the rodent-proof design.
  - (4) The design and operation of the trash compactor shall be approved by the Building Official of the city of Derby, prior to its installation.
- CC. Outside storage. Outside storage, which is hereby defined to be the outside storage or display of merchandise, supplies, machinery and other materials and/or the outside manufacture, processing or assembling of goods, but excluding areas for parking of registered motor vehicles in daily use, shall be limited as follows:
  - (1) Business districts: There shall be no outside storage areas in business districts.
  - (2) Industrial districts: In industrial districts, outside storage areas shall not extend into the area required for setback from a property line, street line or residence district boundary line, shall not exceed 15% of the lot area and shall be enclosed (except for necessary access drives) by buildings and/or by fences, walls, embankments or evergreen shrubs or trees so as to screen the storage area from view from any other lot or from any street, and the aggregate lot coverage of all buildings, other structures and outside storage areas shall not exceed 60% of the area of the lot.

## ZONING

- DD. Courts and windows. In addition to the setback requirements specified in this regulation, the windows of rooms used for human occupancy in a dwelling containing two or more dwelling units shall open onto yards, setback areas, courts or other open spaces. The least horizontal dimension of any court between opposing walls shall be not less than twice the average height of such opposing walls. In the case of a court formed by walls on three sides and open on the fourth side, the distance between the open end and the opposite wall shall not exceed the distance between the other two walls, unless such latter distance is greater than 50 feet. On any lot, no window in one dwelling unit shall face the window of another dwelling unit at a distance of less than 25 feet. On any lot, no dwelling shall be closer to another dwelling than the average height of such dwelling.
- EE. Floodplain development. In any area of special flood hazard within the City of Derby, no land, building or other structure shall hereafter be constructed, located, extended, converted or altered without full compliance with all provisions of the Floodplain Management Ordinance<sup>iii</sup>EN of the City of Derby and all requirements and provisions of these regulations.
- FF. Minimum floor elevation. No building shall be erected hereafter unless the minimum elevation of the lowest floor, including basement, shall be at or above one foot above the one-hundred-year-flood level. The land area adjacent to and within 10 feet of any building, together with the streets and driveways giving access to the building, shall be graded to an elevation of one foot above the one-hundred-year-flood level. The provisions of this subsection shall not apply to detached garages, boat houses and other accessory buildings or portions thereof not used for human occupancy or to buildings for which a legal variance permitting a lower elevation has been approved under the provisions of the Floodplain Management Ordinance.<sup>iv</sup>EN
- GG. Lots under water or subject to flooding.
- (1) All lots under water or subject to flooding shall be subject to the requirements for flood hazard areas.
  - (2) In addition, no more than 10% of the minimum area requirement of a lot may be fulfilled by land which is under water or subject to periodic flooding. All minimum front, side and rear yard requirements must be satisfied by measurement on dry land.
- HH. Subdivision of a lot.
- (1) Where a lot is formed hereafter from part of a lot already occupied by a building or structure, such separation shall be effected in such a manner as not to impair conformity with any of the requirements of this regulation with respect to the existing building and all yards and other required spaces in connection therewith.
  - (2) Any new lot so formed must conform to the zoning requirements of the zone in which it is located in order to receive a zoning permit.
- II. Location of accessory uses. Unless otherwise specified, all accessory uses permitted in this regulation shall be located in the principal building or in any side or rear yard, with the exception of off-street parking for one-family dwellings which may also be located in any required front yard, provided that said parking is located in the driveway portion of the yard and does not result in the parking of vehicles on or within one foot of a public right-of-way.
- JJ. Exterior Lighting. All exterior lighting in connection with all buildings, signs or other uses shall be directed away from adjoining streets and properties, shall not cause any objectionable glare observable from streets or adjacent properties, and shall be of such height proportional in scale to the property and buildings the lights serve and the surrounding neighborhood. In any residential zone no exterior light fixture shall exceed a height of 14 feet. In any non-

## ZONING

residential zone, no exterior light fixture shall exceed a height of 20 feet Signs may have interior illumination to the Lull height of the sign permitted wider Article XI of these Regulations. (Amended 10/18/2000)

- KK. Prohibited uses in all districts. Any other provisions of this regulation notwithstanding, and except as provided hereinafter, the following uses shall be prohibited in all districts:
- (1) Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor, or other form of air pollution; or by reason of the deposit, discharge or dispersal of liquid or solid wastes, in any form, in a manner or amount so as to cause permanent damage to the soil or any stream or to adversely affect the surrounding area; or by reason of the creation of noise or vibration, or electromagnetic disturbance perceptible beyond the boundaries of the lot on which it is situated; or by reason of illumination by artificial light or light reflection beyond the limits of the lot on, or from which, such light or light reflection emanates; or which involves any dangerous fire, explosive, radioactive or other hazard, or which can cause injury, annoyance or disturbances to any of the surrounding properties or to their owners and occupants; any other process or use which is prejudicial to health, safety or the general welfare.
  - (2) Junkyards are not permitted within the City of Derby, except that the city may, by special permit approval of the Zoning Commission, operate a junkyard or similar facility if the Commission finds that it is in the public interest.
  - (3) Trailer camps or mobile home parks.
  - (4) Manufacture or storage of ammunition, explosives or fireworks.

LL. Private roadways in industrial districts. In cases where existing lots located within an I-1 or I-C industrial zone only, which are unable to meet the frontage and access requirements of Section 195-26Q, a private roadway designed in accordance with Section 3 of the City of Derby Subdivision Regulations may be provided with the following provisions:

- 1) Private dead-ends or cul-de-sacs may be constructed within an easement having a minimum width of 50 feet.
- 2) The design of the private roadway shall provide for safe and convenient vehicular access, including emergency vehicles, as determined by the Commission.
- 3) The minimum paved width of the private roadway shall be 24 feet.
- 4) For the purposes of this section, the proposed private roadway easement line shall serve as the proposed streetline and all bulk requirements and setbacks shall apply as required in each zone.
- 5) Private roadways shall not be accepted as city streets until all improvements in accordance with the Derby Subdivision Regulations and the Ordinance Providing for Acceptance of Roadways and Appurtenances have been performed. (Amended 2/9/2009)

### **§ 195-27. Wireless Telecommunication Antennas** (Added 6/19/2001)

A. Intent. The intent of this regulation is to allow the attachment of wireless telecommunication antennas to existing structures as permitted uses in all zones by Special Exception permit. In addition to specific requirements listed in Subsections F. and G. of this Article, the Commission must find that the application complies with the standards found in Article VI — Special Exceptions — Sections 195-44 thru 195-52. The following wireless

## ZONING

telecommunications facilities are exempt from local Zoning Regulations: police fire, ambulance and other emergency dispatch.

B. Definitions. For the purpose of applying the provisions of this section the terms below shall be defined as follows:

**Antenna** - a device used to receive or transmit electromagnetic waves. Examples include, but are not limited to whip antennas, panel antennas and dish antennas.

**Camouflaged** - a wireless telecommunication antenna that may be disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure.

**Carrier** - a company that provides wireless telecommunication services.

**Co-Location** - locating wireless communication antennas from more than one provider on a single structure. Co-location can also refer to the provision of more than one service on a single structure by one or more carriers.

**Wireless Telecommunication Services** - licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

**Radio Frequency (RF) Engineer** - an engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

C. Location Preferences.

The locations for siting wireless telecommunication antennas are listed below, in order of preference.

- (1) Camouflaged within an existing building, flagpole, or similar structure.
- (2) Mounted and camouflaged on an existing building or structure.
- (3) Mounted on existing buildings and structures in commercial and industrial zones.
- (4) Mounted on an existing or previously approved antenna location without increasing the allowable height.
- (5) Mounted on existing buildings and structures in residential zones.

D. Site Plan and Application Requirements.

All proposals to install a wireless telecommunication antenna, as a special exception use shall be subject to the site plan requirements listed in Article V. - Site Plan Review - Sections 195-30 thru

## ZONING

195-33 of these regulations. In addition the following information shall be submitted in accordance with each particular application where applicable.

- (1) The applicant shall demonstrate that it is a federally licensed provider of wireless telecommunication services.
- (2) The applicant shall demonstrate the need for the proposed coverage within its existing coverage network.
- (3) A report *from* a licensed RF engineer indicating that the proposed wireless telecommunication antenna will comply with the emission standards found in Subsection F. of this regulation. The report shall include ambient RFR measurements and the maximum estimate of RFR from the proposed wireless telecommunication antennas plus the existing RFR environment. Such report shall also certify that the installation of such site will not interfere with public safety.
- (4) A map depicting the extent of the carriers current and planned coverage within the City of Derby and the service area of the proposed antenna. A map indicating the search radius for the proposed wireless telecommunication antenna.
- (5) A plan showing where and how the proposed antenna will be affixed to a particular building or structure.
- (6) Details of all proposed antenna and mounting equipment including size and color.
- (7) Elevations of all proposed shielding and details of materials including color.
- (8) An elevation of all proposed equipment buildings or boxes. Details of all proposed fencing including color.
- (9) A design drawing showing the proposed location of all mounting positions for co-located antennas and the minimum separation distances between antennas.
- (10) Upon request of the Commission, the applicant shall provide a sight line study indicating how the facility would appear from various directions and distances prescribed by the Commission. This could include photographs depicting sight lines before and after installation.

### E. Height and Area Requirements.

- (1) Wireless telecommunication antennas shall not be attached to a one-family or two-family dwelling or to an accessory building located on a lot containing a one-family or two-family dwelling.
- (2) The maximum height of any attached wireless telecommunication antenna shall be 15 feet, measured from the highest part of the existing structure or building.

## ZONING

- (3) When attached to the wall or façade of a existing structure or building, wireless telecommunication antennas shall not project more than two (2) feet beyond the wall or facade or more than five (5) feet above the cornice line.
- (4) All equipment buildings/boxes and or equipment areas shall comply with the minimum property line setbacks for a principal building in the underlying zone.

### F. General Requirements.

- (1) No lights shall be mounted on proposed wireless telecommunication antennas unless otherwise required by the FAA. All strobe lighting shall be avoided if possible.
- (2) Antennas or unshielded equipment buildings/boxes mounted to or on buildings or structures shall to the greatest degree possible blend with the color and design of such building. The Commission may require that building mounted facilities be camouflaged or shielded.
- (3) All dish antennas shall be of mesh construction unless otherwise approved by the Commission.
- (4) Dish antennas shall not exceed 6 feet in diameter. Panel antennas shall not exceed 5 feet in height.
- (5) No proposed wireless telecommunication antenna shall be designed, located or operated as to interfere with existing or proposed public safety communications.
- (6) MI applications for wireless telecommunication antennas attached to existing structures within the Flood Plain Zone shall comply with the standards found in Article XV of these regulations and with the City of Derby Ordinance Concerning Floodplain Management.
- (7) The design of all wireless telecommunication antennas shall comply with the standards established by the Federal Communications Commission for non-ionizing electromagnetic emissions. When there is more than one existing or proposed source of electromagnetic emissions at a site or adjacent thereto the design shall consider the cumulative emissions from all sources.
- (8) All utilities proposed to serve wireless telecommunication antennas shall be installed underground unless otherwise approved by the Commission.

### G. Commission Action.

In passing upon applications for commercial wireless telecommunication sites, the Commission, in addition to the standards found in Article VI. Section 195-47, shall also find:

## ZONING

- (1) In the case where a wireless telecommunication antenna is proposed to be located on an existing structure or building property designated on the State or National Historic Register or within an approved historic district, that such proposal will preserve the historic and/or architectural character of the landscape of any structure.
  - (2) In the case where an application for the proposed location of a commercial wireless telecommunication site is not a preference I through 5 location, the applicant has adequately described the efforts and measures taken to pursue those preferences and why a higher preference location was not feasible. In the case where the higher preference location is not technologically feasible, the applicant shall supply documentation of the following factors:
    - (a) The planned equipment would cause unacceptable interference with the operation of other existing or planned equipment on an existing or approved structure as documented by a qualified licensed engineer and that the interference cannot be prevented or eliminated with reasonable means.
    - (b) The planned equipment cannot be accommodated on existing or approved structures or buildings to structural deficiencies as documented by a qualified licensed engineer and that such deficiencies cannot be eliminated with reasonable means.
    - (c) The planned equipment cannot be accommodated on an existing building or structure due to the inability to adequately receive or transmit the desired signal and that such deficiencies cannot be eliminated with reasonable means.
    - (d) The existing or planned equipment on an existing or approved structure would cause unacceptable interference with the equipment proposed by the applicant as documented by a qualified licensed engineer and that the interference cannot be prevented or eliminated with reasonable means.
    - (e) Any restriction or limitation imposed by the FCC.
- H. Monitoring. Subsequent to the initial operation of a wireless telecommunication antenna, the owner of such facility shall conduct an actual measurement of the electromagnetic emissions and submit a report prepared by a licensed RF engineer to the Zoning Enforcement Officer. This report shall be submitted on a frequent basis not to exceed one per calendar year. When there is more than one source of electromagnetic emissions at a location the above mentioned report should measure the cumulative emissions from all sources.
- I. Abandonment. A wireless telecommunication antenna not in use for 12 consecutive months shall be removed by the service facility owner. This removal shall occur within 90 days of the end of such 12 month period.
- J. Expiration of Permit. The approval of an application for special permit shall be void and of no effect unless installation of the antenna commences within one year from the date of the approval granted by the Commission. The Commission may grant up to two six-month

## ZONING

extensions of this period upon written request by the applicant. The Commission shall withhold approval of any or all extensions unless the development plan is brought into conformance with any relevant zoning regulations, which have been amended subsequent to the original approval and if the applicant fails to provide adequate evidence that construction is able to begin within the extended time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing. Any appeals of such special permit, site plan, inland wetlands or subdivision approval shall extend the aforementioned one year period the length of such appeal. In reviewing a request for an extension of the special permit the Commission may give due consideration to the use of alternative technologies.

### **§ 195-28. Cannabis Establishments.**

#### A. Applicability.

The following regulations shall apply to the location of any cannabis establishment as defined herein where cannabis and cannabis products are grown, manufactured, distributed, or sold for consumption off the premises under a license issued by the Connecticut Department of Consumer Protection.

#### B. Application

No land, building or structure may be used as a cannabis establishment unless a site plan for such use, submitted in accordance with Section 195-30 of these Regulation, has been approved by the Commission and a license has been granted to the applicant by the Connecticut Department of Consumer Protection.

Nothing in this article shall be construed to deny any applicant who has duly applied for a cannabis license to the State of Connecticut before the effective date of this article from thereafter receiving such permit pursuant to said application for any land, building or premises in the City of Derby. Land, building, or premises used pursuant to a permit applied for and received as stated in this section shall be subject to all the provisions of this article in the same manner as if they had been in use under such permit on the effective date of this article.

#### C. Location of cannabis establishments

No cannabis establishment shall be located within 1,500 feet from a another church, school, or playground. For the purpose of this regulation, the required 1,500 feet separation distance shall be the shortest total horizontal distance that can be measured beginning at the midpoint of the principal outside public entrance door of the building in which the proposed cannabis establishment is to be located, thence in one or more straight lines, measured along the right-of-way, via the shortest distance to a property line of the lot on which another church, school or playground is located. (Amended 10/22/2024)

## ZONING

### D. Maximum number of cannabis establishments

There shall not be more than one (1) cannabis establishment permitted pursuant to this section in the City of Derby at any one time. (Amended 10/22/2024)

### § 195-28(A). Smoke Shops, Vape Shops, and Tobacco Stores Prohibited

Smoke Shops, Tobacco Stores, and Vape Shops as defined in Section 195-7 of these Regulations are prohibited in all zoning districts in the City of Derby.

### § 195-29. Aquifer Protection Areas (Amended 4/25/25)

#### A. Intent.

Aquifers are an essential natural resource and a major source of public drinking water for the State of Connecticut. Use of groundwater will increase as the population grows and opportunities for new surface water supplies diminish due to the rising cost of land and increasingly intense development. At the same time, numerous drinking water wells have been contaminated by certain land use activities, and others are now threatened. To address this problem, Connecticut has established the Aquifer Protection Area Program (Connecticut General Statutes §22a-354a to §22a-354bb) to identify critical water supply aquifers and to protect them from pollution by managing land use. Protection requires coordinated responsibilities shared by the state, municipality and water companies to ensure a plentiful supply of public drinking water for present and future generations. It is therefore the purpose of these regulations to protect aquifer protection areas within the City of Derby by making provisions for:

- (a) implementing regulations consistent with state regulations and An Act Concerning Aquifer Protection Areas, Connecticut General Statutes §22a-354a to §22a-354bb ("the Act");
  - (b) delineating aquifer protection area on the City of Derby zoning map;
  - (c) regulating land use activity within the aquifer protection area including: prohibiting certain new activities; registering existing regulated activities; and issuing permits for new regulated activities at registered facilities; and
  - (d) administering and enforcing these regulations.
- (1) These regulations shall be known as the Aquifer Protection Area Regulations (the "APA Regulations") of the City of Derby.
  - (2) These regulations were adopted and may be amended, from time to time, in accordance with the provisions of §22a-354p of An Act Concerning Aquifer Protection Areas, the Connecticut General Statutes §22a-354a to §22a-354bb and the Regulations of Connecticut State Agencies §22a-354i-1 through §22a-354i-10.

## ZONING

- (3) The Planning & Zoning Commission of the City of Derby is established as the Aquifer Protection Agency (the "Agency") in accordance with the "Ordinance Number 58-1 Concerning the Designation of the Planning and Zoning Commission of the City of Derby as the Town's Aquifer Protection Agency," (the "APA Ordinance") effective May 28, 2009, and shall implement the purposes and provisions of the APA Ordinance and the Act.
- (4) The Agency shall administer all provisions of the Act and shall approve or deny registrations, issue permits, issue permits with terms, conditions, limitations or modifications, or deny permits for all regulated activities in aquifer protection areas in the City of Derby pursuant to the Act.

### B. Definitions.

As used in these regulations, the following definitions apply:

- (a) "Affected water company" means "affected water company" as defined in §22a-354h of the Connecticut General Statutes;
- (b) "Agency" means the board or commission authorized by the municipality under §22a-354o of the Connecticut General Statutes;
- (c) "Agriculture" means "agriculture" as defined in the §1-1(q) of the Connecticut General Statutes;
- (d) "Applicant" means, as appropriate in context, a person who applies for an exemption under §22a-354i-6 of the Regulations of Connecticut State Agencies, a permit under §22a-354i-8 of the Regulations of Connecticut State Agencies or a permit under Section 9 of the APA Regulations;
- (e) "Application" means, as appropriate in context, an application for an exemption under §22a-354i-6 of the Regulations of Connecticut State Agencies, an application for a permit under §22a-354i-8 of the Regulations of Connecticut State Agencies or an application for a permit under Section 9 of the APA Regulations;
- (f) "Aquifer protection area" means "aquifer protection area" as defined in §22a-354h of the Connecticut General Statutes and any extension of such area approved by the Commissioner pursuant to §22a-354i-4 of the Regulations of Connecticut State Agencies;
- (g) "Area of contribution" means "area of contribution" as defined in §22a-354h of the Connecticut General Statutes and as mapped in accordance with §22a-354b-1 of the Regulations of Connecticut State Agencies;
- (h) "Bulk storage facility" means property where oil or petroleum liquids are received by tank vessel, pipeline, railroad car or tank vehicle for the purpose of storage for wholesale distribution;
- (i) "Certified Hazardous Materials Manager" means a hazardous materials manager certified

## ZONING

by the Institute of Hazardous Materials Management and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable laws and identify appropriate pollution prevention practices for such activities;

- (j) "Commissioner" means the commissioner of environmental protection, or his or her agent;
- (k) "Domestic sewage" means "domestic sewage" as defined in §22a-430-3(a) the Regulations of Connecticut State Agencies;
- (l) "Facility" means property where a regulated activity is conducted by any person, including without limitation any buildings located on the property that are owned or leased by that person; and includes contiguous land owned, leased, or for which there is an option to purchase by that person;
- (m) "Floor drain" means any opening in a floor or surface which opening or surface receives materials spilled or deposited thereon;
- (n) "Hazardous material" means (A) any hazardous substance as defined in 40 CFR 302.4 and listed therein at Table 302.4, excluding mixtures with a total concentration of less than 1% hazardous substances based on volume, (B) any hazardous waste as defined in §22a-449(c)-101 of the Regulations of Connecticut State Agencies, (C) any pesticide as defined in §22a-47 of the Connecticut General Statutes, or (D) any oil or petroleum as defined in §22a-448 of the Connecticut General Statutes;
- (o) "Hazardous waste" means "hazardous waste" as defined in §22a-449(c)-101 of the Regulations of Connecticut State Agencies;
- (p) "Industrial laundry" means a facility for washing clothes, cloth or other fabric used in industrial operations;
- (q) "Infiltration device" means any discharge device installed below or above the ground surface that is designed to discharge liquid to the ground;
- (r) "Inland wetland and watercourse areas map" means a map pursuant to §22a-42a of the Connecticut General Statutes;
- (s) "ISO 14001 environmental management system certification" means a current ISO 14001 environmental management system certification issued by an ISO 14001 environmental management system registrar that is accredited by the American National Standards Institute (ANSI) - American Society for Quality (ASQ) National Accreditation Board (ANAB);
- (t) "Level A mapping" means the lines as shown on Level A maps approved or prepared by the Commissioner pursuant to §22a-354c, §22a-354d or §22a-354z of the Connecticut General Statutes encompassing the area of contribution and recharge areas;

## ZONING

- (u) "Lubricating oil" means oil that contains less than 1% chlorinated solvents and is used for the sole purpose of lubricating, cutting, grinding, machining, stamping or quenching metals;
- (v) "Municipality" means "municipality" as defined in §22a-354h of the Connecticut General Statutes;
- (w) "Owner" means the owner or lessee of the facility in question;
- (x) "De-icing chemical" means sodium chloride, calcium chloride, calcium magnesium acetate, or other chemicals used for deicing;
- (y) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency, political or administrative subdivision of the state, or other legal entity of any kind;
- (z) "Pollution" means "pollution" as defined in §22a-423 of the Connecticut General Statutes;
- (aa) "Pollution prevention" means the use of processes and materials so as to reduce or minimize the amount of hazardous materials used or the quantity and concentration of pollutants in waste generated;
- (bb) "Professional engineer" means a professional engineer licensed in accordance with Chapter 391 of the Connecticut General Statutes, and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable law and identify appropriate pollution prevention practices for such activities;
- (cc) "Publicly Owned Treatment Works" means "publicly owned treatment works" as defined in §22a-430-3 of the Regulations of Connecticut State Agencies;
- (dd) "Public service company" means "public service company" as defined in §16-1 of the Connecticut General Statutes;
- (ee) "Public supply well" means "public supply well" as defined in §19-13-B51b of the Regulations of Connecticut State Agencies;
- (ff) "Recharge area" means "recharge area" as defined in §22a-354h of the Connecticut General Statutes and as mapped in accordance with §22a-354b-1 of the Regulations of Connecticut State Agencies;
- (gg) "Registered regulated activity" means a regulated activity which has been registered under §22a-354i-7 of the Regulations of Connecticut State Agencies or Section 8 of the APA Regulations, and is conducted at the facility identified in such registration;
- (hh) "Registrant" means a person, who or which, has submitted a registration for an existing regulated activity under §22a-354i-7 of the Regulations of Connecticut State Agencies or

## ZONING

Section 4 of the APA Regulations;

(ii) "Regulated activity" means any of the following activities, which are located or conducted, wholly or partially, in an aquifer protection area, except as provided for in §22a-354i-5(c) and §22a-354i-6 of the Regulations of Connecticut State Agencies, or Section 4 of the APA Regulations:

- [1] underground storage or transmission of oil or petroleum, to the extent such activity is not pre-empted by federal law, or hazardous material, except for (i) an underground storage tank that contains number two (2) fuel oil and is located more than five hundred (500) feet from a public supply well subject to regulation under §22a-354c or §22a-354z of the Connecticut General Statutes, or (ii) underground electrical facilities such as transformers, breakers, or cables containing oil for cooling or insulation purposes which are owned and operated by a public service company,
- [2] oil or petroleum dispensing for the purpose of retail, wholesale or fleet use,
- [3] on-site storage of hazardous materials for the purpose of wholesale sale,
- [4] repair, painting, or maintenance of vehicles or internal combustion engines of vehicles, involving the use, storage or disposal of hazardous materials, including solvents, lubricants, paints, brake fluids, transmission fluids or the generation of hazardous wastes,
- [4] salvage operations of metal or vehicle parts,
- [5] wastewater discharges to ground water other than domestic sewage and stormwater, except for discharges from the following that have received a permit from the Commissioner pursuant to §22a-430 of the Connecticut General Statutes: (i) a pump and treat system for ground water remediation, (ii) a potable water treatment system, (iii) heat pump system, (iv) non-contact cooling water system, (v) swimming pools,
- [6] car or truck washing, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- [7] production or refining of chemicals, including without limitation hazardous materials or asphalt,
- [8] clothes or cloth cleaning service which involves the use, storage or disposal of hazardous materials including without limitation dry-cleaning solvents,
- [9] industrial laundry activity that involves the cleaning of clothes or cloth contaminated by hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,

## ZONING

- [10] generation of electrical power by means of fossil fuels, except for (i) generation of electrical power by an emergency engine as defined by §22a-174-22(a)(2) of the Regulations of Connecticut State Agencies, or (ii) generation of electrical power by means of natural gas or propane,
- [11] production of electronic boards, electrical components, or other electrical equipment involving the use, storage or disposal of any hazardous material or involving metal plating, degreasing of parts or equipment, or etching operations,
- [12] embalming or crematory services which involve the use, storage or disposal of hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- [13] furniture stripping operations which involve the use, storage or disposal of hazardous materials,
- [14] furniture finishing operations which involve the use, storage or disposal of hazardous materials, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- [15] storage, treatment or disposal of hazardous waste subject to a permit under §22a-449(c)-100 to §22a-449(c)-110, inclusive, of the Regulations of Connecticut State Agencies,
- [16] biological or chemical testing, analysis or research which involves the use, storage or disposal of hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works, and provided that on-site testing of a public supply well by a public water utility is not a regulated activity,
- [17] pest control services which involve storage, mixing or loading of pesticides or other hazardous materials,
- [18] photographic finishing which involves the use, storage or disposal of hazardous materials, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- [19] production or fabrication of metal products which involves the use, storage or disposal of hazardous materials including (i) metal cleaning or degreasing with industrial solvents, (ii) metal plating, or (iii) metal etching,
- [20] printing, plate making, lithography, photoengraving, or gravure, which involves the use, storage or disposal of hazardous materials,
- [21] accumulation or storage of waste oil, anti-freeze or spent lead-acid batteries which are subject to a general permit issued by the Commissioner under §22a-208(i) and §22a-454(e)(1) of the Connecticut General Statutes,

## ZONING

- [22]production of rubber, resin cements, elastomers or plastic, which involves the use, storage or disposal of hazardous materials,
- [23]storage of de-icing chemicals, unless such storage takes place within a weather-tight water-proof structure for the purpose of retail sale or for the purpose of de-icing parking areas or access roads to parking areas,
- [24]accumulation, storage, handling, recycling, disposal, reduction, processing, burning, transfer or composting of solid waste which is subject to a permit issued by the Commissioner pursuant to §22a-207b, §22a-208a, and §22a-208c of the Connecticut General Statute, except for a potable water treatment sludge disposal area,
- [25]dyeing, coating or printing of textiles, or tanning or finishing of leather, which activity involves the use, storage or disposal of hazardous materials,
- [26]production of wood veneer, plywood, reconstituted wood or pressure-treated wood, which involves the use, storage or disposal of hazardous material, and
- [27]pulp production processes that involve bleaching;
- (jj) "Release" means "release" as defined in §22a-133k-1 of the Regulations of Connecticut State Agencies;
- (kk)"State aquifer protection regulations" means §22a-354i-1 to §22a-354i-10, inclusive, of the Regulations of Connecticut State Agencies;
- (ll) "Storage" means the holding or possession of any hazardous material;
- (mm)"Storage tank" means a stationary device which is designed to store hazardous materials, and is constructed of non-earthen materials including without limitation concrete, steel, fiberglass or plastic;
- (nn)"Topographic feature" means an object, whether natural or man-made, located on the earth surface and of sufficient size that it appears on a 1:24,000 scale topographic quadrangle map drawn by the United States Geological Survey;
- (oo)"Underground" when referring to a storage tank or storage tank component means that ten percent or more of the volumetric capacity of such tank or component is below the surface of the ground and that portion which is below the surface of the ground is not fully visible for inspection;
- (pp)"Vehicle" or "vehicles" means a "vessel" as defined by §15-170 of the Connecticut General Statutes, and any vehicle propelled or drawn by any non-muscular power, including without limitation an automobile, aircraft, all-terrain vehicle, tractor, lawn mower or snowmobile;
- (qq)"Waters" means "waters" as defined in §22a-423 of the Connecticut General Statutes;

## ZONING

(rr) "Well field" means "well field" as defined in §22a-354h of the Connecticut General Statutes; and

(ss) "Zoning district map" means any map showing zoning districts prepared in accordance with maps adopted pursuant to §8-3 of the Connecticut General Statutes.

---

### C. Delineation of Aquifer Protection Area Boundaries.

The Planning & Zoning Commission of the City of Derby shall delineate the aquifer protection areas on the City of Derby zoning map pursuant to §22a-42a the Connecticut General Statutes. Such delineation shall consist of the combined areas of contribution and recharge areas as shown on Level A maps approved or prepared by the Commissioner.

- (1) Such boundaries shall be delineated within one hundred twenty (120) days after being notified by the Commissioner that an aquifer protection area is located partially or entirely within the City of Derby.
- (2) Notice of such delineation shall be published in a newspaper having substantial circulation in the affected area. Such notice shall include at least the following:
  - (a) a map or detailed description of the subject aquifer protection area; and
  - (b) the name, telephone number, and address of a representative of the Agency who may be reached for further information.
- (3) In order to clarify the location of an aquifer protection area boundary, the Agency may apply to the Commissioner to extend such boundary to coincide with the nearest property line, municipal boundary or topographic feature pursuant to §22a-354i-4 of the Regulations of Connecticut State Agencies. Such extension shall, at a minimum, fully encompass the aquifer protection areas bounded by the approved level A mapping but shall not exceed the distance necessary to clarify the location of the aquifer protection area or to facilitate the administration of regulations pertaining thereto. An aquifer protection area boundary may not be extended without prior written approval of the Commissioner.
- (4) Any request by the Agency to the Commissioner for extension of an aquifer protection area boundary shall include at least the following:
  - (a) A map to scale delineating (i) the aquifer protection area boundary mapped under Section 3(a) of the APA regulations and (ii) the proposed extension of the aquifer protection area boundary;

## ZONING

- (b) A certification by the chairperson or duly authorized agent of the Agency that notice of such request has been provided to all owners of property within the proposed extended aquifer protection area and all affected water companies in accordance with the following:
- [1] Such notice shall include at least the following:
    - (i) A map showing the aquifer protection area boundaries and the proposed extension of such boundaries,
    - (ii) the name, address, and telephone number of a representative of the Agency who may be contacted for further information, and
    - (iii) a statement that any person may, not later than thirty (30) days after said notification, submit to the Agency written comments on such proposed boundary extension;
  - [2] Such notice shall be effectuated by the following:
    - (i) Delivery of notice by certified mail to those individuals and entities identified in Subsection (b)(1)(B) of this Section, or
    - (ii) the publication of a notice in a newspaper having substantial circulation in the affected area; and posting of notice near the proposed boundaries of the subject aquifer protection area of at least four signs each of which shall be at least four square feet in size (2' x 2'); and
  - [3] a summary of comments received by such Agency regarding the proposed boundary extension and the Agency's response.
  - [4] Not later than sixty (60) days after receiving the Commissioner's written approval of a request to extend an aquifer protection area boundary, the Agency shall cause such boundary to be delineated in accordance with Subsection (a) of this Section.
- (5) No person may challenge the boundaries of the aquifer protection area under the APA Regulations unless such challenge is based solely on a failure by the Agency to properly delineate the boundaries in accordance with §22a-354n of the Connecticut General Statutes.
- (6) A map of the location and boundaries of the aquifer protection areas, or regulated areas, shall be available for inspection in the Office of the City Clerk or the Agency.
- (7) If the Level A mapping is amended in accordance with §22a-354b-1(i) or §22a-354b-1(j) of the Regulations of Connecticut State Agencies, the Agency shall cause the amended aquifer protection area boundary to be delineated in accordance with Subsections (a) or (b) of this Section.

## ZONING

### D. Prohibited and Regulated Activities.

- (1) All regulated activities are prohibited in aquifer protection areas, except as specified in Subsection (b) of this Section.
- (2) The following regulated activities are not prohibited in aquifer protection areas:
  - (a) A registered regulated activity which is conducted in compliance with §22a-354i-9 of the Regulations of Connecticut State Agencies or Section 12 of the APA Regulations; and
  - (b) a regulated activity which has received a permit issued pursuant to §22a-354i-8 of the Regulations of Connecticut State Agencies or Section 9 of the APA Regulations.
- (3) The following are not regulated activities:
  - (a) Any activity conducted at a residence without compensation;
  - (b) any activity involving the use or storage of no more than two and one-half (2.5) gallons of each type of hazardous material on-site at any one time, provided the total of all hazardous materials on-site does not exceed fifty-five (55) gallons at any one time;
  - (c) any agricultural activity regulated pursuant to §22a-354m(d) of the Connecticut General Statutes;
  - (d) any activity provided all the following conditions are satisfied:
    - [1] such activity takes place solely within an enclosed building in an area with an impermeable floor,
    - [2] such activity involves no more than 10% of the floor area in the building where the activity takes place,
    - [3] any hazardous material used in connection with such activity is stored in such building at all times,
    - [4] all waste waters generated by such activity are lawfully disposed through a connection to a publicly owned treatment works, and
    - [5] such activity does not involve (i) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with such vehicles, (ii) underground storage of any hazardous material, or (iii) above ground storage of more than one hundred and ten (110) gallons of hazardous materials;

## ZONING

- (e) any activity solely involving the use of lubricating oil provided all the following conditions are satisfied:
  - [1] such activity does not involve cleaning of metals with chlorinated solvents at the facility,
  - [2] such activity takes place solely within an enclosed building in an area with an impermeable floor,
  - [3] any hazardous material used in connection with such activity is stored in such building at all times, and
  - [4] such activity does not involve: (i) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with such vehicles, (ii) underground storage of any hazardous material, or (iii) above ground storage of more than one hundred ten (110) gallons of such lubricating oil and associated hazardous waste; and
- (f) any activity involving the dispensing of oil or petroleum from an above-ground storage tank or tanks with an aggregate volume of two thousand (2000) gallons or less provided all the following conditions are satisfied:
  - [1] such dispensing activity takes place solely on a paved surface which is covered by a roof,
  - [2] the above-ground storage tank(s) is a double-walled tank with overfill alarms, and
  - [3] all associated piping is either above ground, or has secondary containment.

### (4) Determination of a non-regulated activity

- (a) Any person proposing to carry out a non-regulated activity, as set forth in Section 4(c) of these regulations, in an aquifer protection area shall, prior to commencement of such activity, notify the Agency or its duly authorized agent on a form provided by the Agency. Such form shall provide sufficient information to enable the Agency or its duly authorized agent to properly determine that the proposed activity is a regulated activity or a non-regulated activity within the aquifer protection area. A copy of the form shall be provided to the affected water utility.
- (b) If such activity is determined to be a non-regulated activity, then no further action under the APA Regulations is necessary.

### E. Activities Regulated by the State.

- (1) The Commissioner shall exclusively regulate activities within aquifer protection areas that are specified in §22a-354p(g) of the Connecticut General Statutes. The Agency shall

## ZONING

regulate all other regulated activities.

- (2) Any person conducting regulated activities that are within the authority of the Commissioner shall submit a registration or obtain a permit or exemption from the Commissioner prior to engaging in such activity. The Commissioner shall process applications for those regulated activities.
- (3) The Agency may submit an advisory decision to the Commissioner for consideration on any permit regulated under this Section in accordance with the Connecticut General Statutes §22a-354p(g).

### F. Application for an Exemption from Prohibition or Regulation.

- (1) The owner or operator of a regulated activity may seek an exemption from the Commissioner pursuant to §22a-354i-6 of the Regulations of Connecticut State Agencies. Any person seeking an exemption from the Commissioner shall concurrently submit a copy of the application for an exemption to the Agency and any affected water company.
- (2) The Agency may submit written comments to the Commissioner on any exemption regulated under this Section in accordance with §22a-354i-6(c) of the Regulations of Connecticut State Agencies within sixty (60) days of the agency receipt of copy of the application.

### G. General Registration, Permit Application and Transfer Procedures.

- (1) All applications for permits and registrations shall contain sufficient information for a fair and informed determination of the issues. The Agency may request additional information from the applicant for this purpose.
- (2) The day of receipt of a registration, permit application or transfer form shall be the day of the next regularly scheduled meeting of the Agency, immediately following the day of submission of the application to the Agency or its duly authorized agent, or thirty-five (35) days after such submission, whichever is sooner.
- (3) At any time during the review period, the Agency may require the applicant or registrant to provide additional information about the regulated activity. Requests for additional information shall not stay the time limitations for registrations and permits as set forth in Sections 8 and 9 of the APA Regulations.
- (4) All permit applications and registrations shall be open for public inspection.
- (5) Incomplete permit applications and registrations may be denied without prejudice.
- (6) No permit or registration issued under Sections 8 or 9 of the APA Regulations shall be assigned or transferred except with written approval by the Agency.

## ZONING

- (7) The Agency shall notify the town clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which: (1) any portion of the property affected by a decision of such agency is within five-hundred feet of the boundary of the adjoining municipality; (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site; (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

### H. Registration Requirements.

- (1) Any person engaged in a regulated activity which substantially commenced, or was in active operation within the past five (5) years, or with respect to which a municipal building permit was issued, either (A) before the effective date of the state aquifer protection regulations, or (B) before the date an applicable aquifer protection area is designated on the City of Derby zoning district map, shall register the activity in accordance with this Section unless such person has pending an application for an exemption pursuant to §22a-354i-6 of the Regulations of Connecticut State Agencies.
  - (a) The Commissioner shall process registrations for those regulated activities specified in §22a-354p(g) of the Connecticut General Statutes. The Agency shall process registrations for all other regulated activities.
  - (b) If the regulated activity is not specified in §22a-354p(g) of the Connecticut General Statutes, the person engaged in such activity shall submit a registration to the Agency not later than one hundred eighty (180) days after adoption of regulations pursuant to §22a-354p of the Connecticut General Statutes, or the designation the aquifer protection area pursuant to §22a-354i-2 of the Regulations of Connecticut State Agencies, whichever occurs later. Said person shall simultaneously file a copy of the registration with the Commissioner, Commissioner of Public Health and the affected water company.
- (2) All registrations shall be provided on a form prescribed by the Agency and shall be accompanied by the correct registration fee in accordance with Section 18 of the APA Regulations. Such registration forms may be obtained from the Office of the City Clerk or the Agency. Such registration forms shall include at least the following information in writing or on maps or drawings:
  - (a) The name, business telephone number, street address and mailing address of the:
    - [1] Registrant; if the registrant is a corporation or limited partnership, the full

## ZONING

name of the facility and such corporation or limited partnership as registered with the Connecticut Secretary of State, and any officer or governing or managing body of any partnership, association, firm or corporation,

[2] owner of such facility if different than the registrant, and

[3] manager or operator overseeing the operations of such facility;

(b) the location of such facility, using street address or other appropriate method of location, and a map showing the property boundaries of the facility on a 1:24,000 scale United States Geological Survey topographic quadrangle base;

(c) an identification of the regulated activity or activities conducted at the facility, as described in Section 2(a)(35) of the APA Regulations, which regulated activity or activities shall consist of any regulated activity which substantially commenced, was in active operation, or with respect to which a municipal building permit was issued within the past five years; and

(d) a certification by the registrant that the subject regulated activity is in compliance with the best management practices set forth in Section 12(a) of the APA Regulations, as follows, signed after satisfying the statements set forth in the following certification:

"I have personally examined and am familiar with the information submitted in this registration and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in this document or certification may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

(3) When deemed necessary to protect a public supply well subject to regulation under §22a-354c or §22a-354z of the Connecticut General Statutes, the Agency may:

(a) require, by written notice, any registrant to submit for review and written approval a storm water management plan prepared in accordance with Section 12(b) of the APA Regulations. If so required, the storm water management plan shall be implemented by the registrant immediately upon its approval; or

(b) require, by written notice, any registrant to submit for review and written approval the materials management plan prepared in accordance with Section 12(a) of the APA Regulations. If so required, the materials management plan shall be implemented by the registrant immediately upon its approval.

(4) If the Agency determines that a registration is incomplete, it shall reject the registration and notify the registrant of what additional information is required and the date by which it shall be submitted.

## ZONING

- (5) If the registration is determined to be complete, and the regulated activity is eligible for registration, the Agency shall send written notification of such registration to the registrant. Such registration shall be determined to be complete and eligible if the registrant has not otherwise received a notice of rejection from the Agency, not later than one hundred and eighty (180) days after the date the registration is received by the Agency.
- (6) The following general provisions shall be included in the issuance of all registrations:
  - (a) The Agency has relied in whole or in part on information provided by the registrant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the registration may be modified, suspended or revoked;
  - (b) all registrations issued by the Agency are subject to and do not derogate any present or future rights or powers of the Commissioner, Agency, or municipality, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity;
  - (c) a complete registration shall expire five (5) years from the date of receipt of such registration by the Agency;
  - (d) the registrant shall apply to the Agency to renew the registration on a form prescribed by the Agency for a facility prior to expiration of such registration; and
  - (e) If a registered regulated activity is out of business or inactive when registration renewal is required, a five (5) year allowance shall be in effect from the date the registration expires. If the registrant has not applied to renew the registration within five (5) years of the date the registration expires, the facility is no longer eligible for registration.
- (7) If a regulated activity which is eligible for registration in accordance with Subsection (a) of this Section fails to be registered or if the registrant of an active registered activity fails to apply for renewal prior to expiration, the Commissioner or municipal aquifer protection agency, as appropriate, may accept a late registration at their discretion, subject to the limitations in Subsection (f)(5) of this Section.
- (8) Any person wishing to assume the benefits under a registration for regulated activities shall apply to transfer such registration on a form prescribed by the Agency and submitted to the Agency.

### I. Permit Requirements.

- (1) Any person may apply for a permit to add a regulated activity to a facility where a registered regulated activity occurs.
- (2) The Agency shall process permit applications for those registrants that have registered pursuant to Section 8 of the APA Regulations. The Commissioner shall process permit

## ZONING

applications for regulated activities specified in §22a-354p(g) of the Connecticut General Statutes and for those registrants that have registered pursuant to §22a-354i-7(b)(1) of the Regulations of Connecticut State Agencies.

- (3) Action shall be taken on permit applications within sixty-five (65) days after the completion of a public hearing or in the absence of a public hearing within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of either of these timeframes, provided the total extension of all such periods is sixty-five (65) days or less.
- (4) An application for a permit shall be made on a form prescribed by the Agency and shall be accompanied by the correct application fee in accordance with Section 18 of the APA Regulations. Such permit application forms may be obtained from the Office of the City Clerk or the Agency. Simultaneously with filing an application, the applicant shall send a copy of the application to the Commissioner, the Commissioner of Public Health and the affected water company. An application shall include the following information:
  - (a) The information as required for a registration under Section 8(b) of the APA Regulations shall be provided for the proposed regulated activity;
  - (b) a confirmation and certification that the existing and proposed activity:
    - [1] remains and shall remain in compliance with Section 12(a) of the APA Regulations,
    - [2] shall not increase the number of underground storage tanks used for storage of hazardous materials, and
    - [3] remains and shall remain in compliance with all local, state, and federal environmental laws;
  - (c) a materials management plan in accordance with Section 12(a) of the APA Regulations;
  - (d) a storm water management plan in accordance with Section 12(b) of the APA Regulations;
  - (e) the following environmental compliance information with respect to environmental violations which occurred at the facility where the regulated activities are conducted, within the five years immediately preceding the date of the application:
    - [1] any criminal conviction involving a violation of any environmental protection law,
    - [2] any civil penalty imposed in any state or federal judicial proceeding, or any penalty exceeding five thousand dollars imposed in any administrative proceeding, and

## ZONING

[3] any judicial or administrative orders issued regarding any such violation together with the dates, case or docket numbers, or other information which identifies the proceeding. For any such proceeding initiated by the state or federal government, the Agency may require submission of a copy of any official document associated with the proceeding, the final judgment or order;

- (f) any additional information deemed necessary by the Agency regarding potential threats to the ground water and proposed safeguards; and
- (g) the following certification signed by the applicant and the individual responsible for preparing the application, after satisfying the statements set forth in the certification:

"I have personally examined and am familiar with the information submitted in this document and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

- (5) The Commissioner, any affected water company or the Commissioner of Public Health may, not later than thirty (30) days after receiving a copy of an application for a permit under this Section, submit to the Agency written comments on such application. The Agency shall give due consideration to any such comments, and shall provide a copy of the decision to the Commissioner, the affected water company and the Commissioner of Public Health.
- (6) To carry out the purposes of the Act, the Agency may grant an application as filed, grant it upon such terms, conditions, limitations or modifications necessary, or deny it. The Agency shall state upon the record the reason for its decision.
- (7) The Agency may hold a public hearing on an application for a permit in accordance with Section 10 of the APA regulations.
- (8) The Agency shall not issue a permit unless a complete application has been received and the applicant demonstrates to the Agency's satisfaction that all requirements of this Section of the APA regulations have been satisfied and all of the following standards and criteria have been met:
  - (a) the proposed regulated activity shall take place at a facility where a registered regulated activity occurs;
  - (b) the proposed regulated activity shall not increase the number, or storage capacity of underground storage tanks used for hazardous materials except for the replacement of an existing underground storage tank in accordance with Section 12(a)(3) of the APA Regulations;

## ZONING

- (c) the materials management plan and storm water management plan have been satisfactorily prepared in accordance with Sections 12(a) and 12(b) of the APA Regulations;
  - (d) the applicant has submitted a confirmation and certification that all regulated activities remain and shall remain in compliance with all local, state and federal environmental laws in accordance with Subsection (d)(2) of this Section;
  - (e) the applicant's compliance record does not indicate (A) that any noncompliance resulted from indifference to or disregard for the legal requirements, (B) an unwillingness or inability to devote the resources necessary to comply and remain in compliance, or (C) that instances of noncompliance have led to serious environmental harm, harm to human health or safety, or a substantial risk of such harm;
  - (f) the proposed regulated activity shall be conducted in accordance with Section 12 of the APA Regulations;
  - (g) the existing regulated activity is being conducted in accordance with Section 12 of the APA Regulations; and
  - (h) the certification required under Subsection (d)(7) of this Section has been signed by the applicant and the individual responsible for preparing the application.
- (9) The Agency may impose reasonable conditions or limitations on any permit issued under this Section to assure protection of the ground water, including, but not limited to the following:
- (a) best management practices in addition to those set forth in Section 12 of the APA Regulations; and
  - (b) ground water monitoring.
- (10) The following general provisions shall be included in the issuance of all permits:
- (a) the Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked;
  - (b) all permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Commissioner, Agency, or municipality, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity;
  - (c) the permit shall expire ten (10) years from the date of issuance of such permit by the Agency; and

## ZONING

(d) a person shall apply to the Agency to renew the permit on a form prescribed by the Agency prior to expiration of such permit. Such renewal shall be granted upon request by the Agency unless a substantial change in the permitted activity is proposed, or enforcement action with regard to the regulated activity has been taken, in which case, a new permit application shall be submitted and reviewed in accordance with the provisions of this Section.

- (11) The Agency shall notify the applicant or permittee within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in issuance or denial of a permit to be published in a newspaper having a general circulation in the municipality in which the aquifer protection area is located.
- (12) A permittee may request a modification of a permit from the Agency. Such request shall be on a form prescribed by the Agency, and shall include the facts and reasons supporting the request. The Agency may require the permittee to submit a new application for a permit or renewal in lieu of a modification request.
- (13) A person wishing to assume the benefits under a permit for regulated activities shall apply to transfer such permit on a form prescribed by the Agency and submitted to the Agency.

### J. Public Hearings Regarding Permit Applications.

- (1) If the Agency decides to hold a public hearing regarding an application for a permit to conduct a regulated activity within an aquifer protection area, such hearing shall commence no later than sixty-five (65) days after the receipt of such application.
- (2) Notice of the hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each city/town where the affected aquifer, or any part thereof, is located.
- (3) The Agency shall send to any affected water company, at least ten (10) days before the hearing, a copy of the notice by certified mail, return receipt requested. Any affected water company may, through a representative, appear and be heard at any such hearing.
- (4) All applications, maps and documents relating thereto shall be open for public inspection.
- (5) At such hearing any person or persons may appear and be heard.
- (6) The hearing shall be completed within thirty-five (35) days of its commencement.
- (7) The applicant may consent to an extension of the time frames in Subsections (a) or (f) of this Section, provided the total extension of all such periods, including any extensions provided in Section 9(c), totals sixty-five (65) days or less.
- (8) In reaching its decision on any application after a public hearing, the Agency shall base its

## ZONING

decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision.

- (9) The applicant or permittee shall be notified of the Agency's decision in accordance with Section 9(k) of the APA Regulations.

### K. Bond and Insurance Relevant to Permit Applicants.

- (1) An applicant may be required to file a bond as a condition of the permit.
- (2) Any bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.

### L. Best Management Practices.

- (1) Every regulated activity shall be conducted in accordance with the following:
  - (a) hazardous materials may be stored above ground within an aquifer protection area only in accordance with the following conditions:
    - [1] hazardous material shall be stored in a building or under a roof that minimizes storm water entry to the hazardous material storage area, except that a roof is not required for a bulk storage facility as defined in Section 2 of the APA Regulations,
    - [2] floors within a building or under a roof where hazardous material may be stored shall be constructed or treated to protect the surface of the floor from deterioration due to spillage of any such material,
    - [3] a structure which may be used for storage or transfer of hazardous material shall be protected from storm water run-on, and ground water intrusion,
    - [4] hazardous material shall be stored within an impermeable containment area which is capable of containing at least the volume of the largest container of such hazardous material present in such area, or 10% of the total volume of all such containers in such area, whichever is larger, without overflow of released hazardous material from the containment area,
    - [5] hazardous material shall not be stored with other hazardous materials that are incompatible and may create a hazard of fire, explosion or generation of toxic substances,
    - [6] hazardous material shall be stored only in a container that has been certified to meet state or federal specifications for containers suitable for the transport or

## ZONING

storage of such material,

- [7] hazardous material shall be stored only in an area that is secured against unauthorized entry by the public, and
  - [8] the requirements of this subdivision are intended to supplement, and not to supersede, any other applicable requirements of federal, state, or local law, including applicable requirements of the Resource Conservation and Recovery Act of 1976;
- (b) no person shall increase the number of underground storage tanks used to store hazardous materials;
  - (c) an underground storage tank used to store hazardous materials shall not be replaced with a larger tank unless (A) there is no more than a 25% increase in volume of the larger replacement tank, and (B) the larger replacement tank is a double-walled tank with co-axial piping, both meeting new installation component standards pursuant to §22a-449(d)-1(e) and §22a-449(d)-102 of the Regulations of Connecticut State Agencies, and with interstitial monitoring;
  - (d) no person shall use, maintain or install floor drains, dry wells or other infiltration devices or appurtenances which allow the release of waste waters to the ground, unless such release is permitted by the Commissioner in accordance with §22a-430 or §22a-430b of the Connecticut General Statutes; and
  - (e) a materials management plan shall be developed and implemented in accordance with the following:
    - [1] a materials management plan shall contain, at a minimum, the following information with respect to the subject regulated activity:
      - (i) a pollution prevention assessment consisting of a detailed evaluation of alternatives to the use of hazardous materials or processes and practices that would reduce or eliminate the use of hazardous materials, and implementation of such alternatives where possible and feasible,
      - (ii) a description of any operations or practices which may pose a threat of pollution to the aquifer, which shall include the following:
        - (aa) a process flow diagram identifying where hazardous materials are stored, disposed and used, and where hazardous wastes are generated and subsequently stored and disposed,
        - (bb) an inventory of all hazardous materials which are likely to be or will be manufactured, produced, stored, utilized or otherwise handled, and
        - (cc) a description of waste, including waste waters generated, and a description of how such wastes are handled, stored and disposed,
      - (iii) the name, street address, mailing address, title and telephone number of

## ZONING

the individual(s) responsible for implementing the materials management plan and the individual(s) who should be contacted in an emergency,

- (iv) a record-keeping system to account for the types, quantities, and disposition of hazardous materials which are manufactured, produced, utilized, stored, or otherwise handled or which are discharged or emitted; such record-keeping system shall be maintained at the subject facility and shall be made available thereat for inspection during normal business hours by the Commissioner and the municipal aquifer protection agency, and
  - (v) an emergency response plan for responding to a release of hazardous materials. Such plan shall describe how each such release could result in pollution to the underlying aquifer and shall set forth the methods used or to be used to prevent and abate any such a release;
- [2] when a materials management plan is required under either Section 8(c) or 9(d) of the APA Regulations, such materials management plan shall be completed and certified by a professional engineer or a certified hazardous materials manager, or, if the facility where the regulated activity is conducted has received and maintained an ISO 14001 environmental management system certification, then the registrant may complete and certify the materials management plan; and
- [3] the materials management plan shall be maintained at the subject facility and shall be made available thereat for inspection during normal business hours by the Commissioner and the municipal aquifer protection agency.
- (2) The development and implementation of a storm water management plan required for regulated activities in accordance with Sections 8(c) and 9(d) of the APA Regulations, shall be as follows: A storm water management plan shall assure that storm water run-off generated by the subject regulated activity is (i) managed in a manner so as to prevent pollution of ground water, and (ii) shall comply with all of the requirements for the General Permit of the Discharge of Storm Water associated with a Commercial Activity issued pursuant to §22a-430b of the Connecticut General Statutes.

### M. Other State, Federal and Local Laws.

- (1) Nothing in these regulations shall obviate the requirement for the applicant to obtain any other assents, permits or licenses required by law or regulation by the City of Derby, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers and the United States Environmental Protection Agency. Obtaining such assents, permits or licenses are the sole responsibility of the applicant.
- (2) No person shall conduct any regulated activity within an aquifer protection area which

## ZONING

requires Zoning or Subdivision approval without first having obtained a valid certificate of zoning or subdivision approval, special permit, special exception or variance, or other documentation establishing that the proposal complies with the City of Derby Zoning and Subdivision regulations.

### N. Enforcement.

- (1) The Agency may appoint a duly authorized agent to act in its behalf with the authority to issue notices of violation or cease and desist orders.
- (2) If the Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which violates any provision of these regulations, the Agency or its duly authorized agent may:
  - (a) Issue a notice of violation.
    - [1] The notice of violation shall state the nature of the violation, the jurisdiction of the Agency, and the necessary action required to correct the violation including without limitation halting the activity in the aquifer protection area.
    - [2] The Agency may request that the person appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit or registration. Failure to carry out the action(s) directed in a notice of violation may result in issuance of an order under Subsection (2) of this Section or other enforcement proceedings as provided by law.
  - (b) Issue a written order.
    - [1] Such order shall be issued by certified mail, return receipt requested to such person conducting such activity or maintaining such facility or condition to cease such activity immediately or to correct such facility or condition. The Agency shall send a copy of such order to any affected water company by certified mail, return receipt requested.
    - [2] Within ten (10) days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. Any affected water company may testify at the hearing. The Agency shall consider the facts presented at the hearing and, within ten (10) days of the completion of the hearing, notify the person by certified mail, return receipt requested, that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn.
  - (c) Suspend or revoke registration or permit.
    - [1] The Agency may suspend or revoke a registration or a permit if it finds, after a hearing, that the registrant or permittee has not complied with the terms,

## ZONING

conditions or limitations set forth in the registration or the permit. Prior to revoking or suspending any registration or permit, the Agency shall issue notice to the registrant or the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct that warrants the intended action.

[2] The Agency shall hold a hearing to provide the registrant or permittee an opportunity to show that it is in compliance with its registration or permit. The Agency shall notify the registrant or permittee of its decision by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of a suspension or revocation in a newspaper having general circulation in the City of Derby.

- (3) An order issued pursuant to Subsection (b)(2) of this Section shall be effective upon issuance, shall remain in effect until the Agency affirms, revises, or withdraws the order, and shall not delay or bar an action pursuant to Subsection (b)(3) of this Section.
- (4) A court may assess criminal and or civil penalties to any person who commits, takes part in, or assists in any violation of any provision of the APA regulations in accordance with §22a-354s(b) and §22a-354s(c) of the Connecticut General Statutes.

### O. Amendments.

- (1) These regulations may be amended, changed or repealed in accordance with §22a-354p(b) of the Connecticut General Statutes.
- (2) If a complete application is filed with the Agency which is in conformance with the APA regulations as of the date of its filing, the permit issued shall not be required to comply with any changes in regulations taking effect on or after the filing date. The provisions of this Section shall not apply to the establishment, amendment, or change of the boundaries of the aquifer protection area or to any changes in the APA Regulations necessary to make the regulations consistent with Chapter 446i of the Connecticut General Statutes as of the date of the Agency's decision.

### P. Appeals

- (1) Appeal of the Agency's regulation, order, decision or action shall be made in accordance with §22a-354q of the Connecticut General Statutes.

### Q. Conflict and Severance

- (1) If there is a conflict between the provisions of the APA Regulations, the provision that imposes the most stringent standards shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these regulations shall not

## ZONING

affect the validity of any other part that can be given effect without such valid part or parts.

- (2) If there is a conflict between the provisions of the APA Regulations and the Act, the provisions of the Act shall govern.

### R. Registration and Permit Application Fees

- (1) All fees required by these regulations shall be submitted to the Agency by certified check or money order payable to the City of Derby at the time the registration or permit application is filed with the Agency.
- (2) No registration or permit application shall be granted or approved by the Agency unless the correct registration/application fee is paid in full or unless a waiver has been granted by the Agency pursuant to Subsection (f) of this Section.
- (3) The registration or permit application fee is nonrefundable.
- (4) Registration or permit application fees shall be based on the schedule set by the Agency.
- (5) Boards, commissions, councils and departments of the City of Derby are exempt from all fee requirements.
- (6) The registrant or applicant may petition the Agency to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this Section. The Agency may waive all or part of the application fee if the Agency determines that:
  - (a) the activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the registrant or applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the registration or permit application fee; or
  - (b) the amount of the registration or permit application fee is clearly excessive in relation to the cost to the City of Derby for reviewing and processing the application.
- (7) Extra Assessments

In the event that additional expenses, including but not limited to outside consultants, experts, or legal advisors are incurred in processing the registration or permit application the applicant/registrant may be assessed an additional fee to cover said costs. Said fees are to be estimated by the duly authorized agent and submitted with the application fee and held until the application is completely processed after which time any residual funds pertaining to this assessment are to be returned to the applicant/registrant.

For the purpose of this assessment, an “outside consultant” means a professional who is not an employee of the City of Derby including but not limited to engineering, environmental,

## ZONING

hydrogeology and hazardous materials management professionals.

- (8) The Agency shall state upon its record the basis for all actions under this Section.

### S. Effective Date of Regulations.

The APA Regulations, APA boundaries and amendments thereto, shall become effective upon (1) the Commissioner's determination that such regulations are reasonably related to the purpose of ground water protection and not inconsistent with the Regulations of Connecticut State Agencies §22a-354i-1 through §22a-354i-10 and (2) filing in the Office of the City Clerk. Effective Date: 3/16/2010

---

## ARTICLE V, Site Plan Review

---

### § 195-30. Applicability; review required.

- A. The following regulations shall apply to the submission and approval of site plans for all structures, excluding single- and two-family dwellings, as well as parking lots and special exception uses, as specified in Article VI of this chapter. All requirements of this section are in addition to other requirements applicable in the district where the lot or land is located.
- B. Site plan review and approval by the Commission shall be required before any zoning permit shall be issued for any building or use or enlargement in size or other alteration of any building or change in use of any building, including accessory structures. No certificate of zoning compliance shall be given unless all construction and development conform to the plans as approved by the Commission. (See Appendix for site plan checklist information.<sup>5EN</sup>)

### § 195-31. Site plan objectives.

In reviewing a site plan application, the Commission shall take into consideration the public health, safety and welfare of the public in general and the immediate neighborhood in particular and may prescribe reasonable conditions and safeguards to ensure the accomplishment of the following general objectives:

- A. That the proposed site plan shall be in general conformance with the intent of the City Plan of Development; however, the Plan of Development shall not take precedence over specific provisions of the zoning regulation.
- B. That all buildings, structures, uses, equipment or material are readily accessible for fire and police protection.
- C. That all proposed traffic accessways do not create traffic hazards and are adequate but not excessive in number; adequate in width, grade, alignment and visibility; adequate in distance from street corner, places of public assembly and other accessways; and adequate in design for other similar safety considerations.

## ZONING

- D. That adequate off-street parking and loading spaces are provided to prevent on-street traffic congestion; that all parking spaces, maneuvering areas, entrances and exits are suitably identified; that the interior circulation system is adequately designed to provide safe and convenient access to all structures, uses and/or parking spaces; that parking areas are provided with suitable bumper guards, guardrails, islands, crosswalks, speed bumps and similar safety devices when deemed necessary by the Commission to adequately protect life and property; and that provision is made for safe pedestrian movement within and adjacent to the property by the installation of sidewalks.
- E. That the general landscaping of the site complies with the purpose and intent of these regulations; that existing trees are preserved to the maximum extent possible; and that parking and service areas are suitably screened during all seasons of the year from the view of adjacent residential districts and public rights-of-way.
- F. That glare from the installation of outdoor lights and illuminated signs is properly shielded from the view of adjacent property and public rights-of-way.
- G. That all utility systems are suitably located, adequately designed and properly installed to serve the proposed uses, to protect the property from adverse air, water or land pollution, and to preserve and enhance the environmental quality of the surrounding neighborhood.
- H. That the development of the site will preserve sensitive environmental land features such as steep slopes, wetlands and large rock outcroppings and preserve scenic views of historically significant features and keep the maximum amount of land either landscaped or in its natural state.
- I. That the location, size, design and scale of any proposed use, building or structure, as well as the nature and intensity of operations involved in or conducted in connection therewith, will be in general harmony with the character of the surrounding neighborhood and will not be hazardous or otherwise detrimental to the appropriate and orderly development or use of any adjacent land, building or structure.

### **§ 195-32. Application procedure.**

- A. Each application for site plan approval shall be submitted to the Zoning Officer on a form prescribed by the Commission and shall be accompanied by 10 copies of a site plan, as well as the applicable fee, as determined from time to time by the Commission.
- B. Prior to submission of a formal site plan application, the applicant shall meet with the Zoning Officer to discuss the site plan application. If the Zoning Officer deems it appropriate, he may waive the submission of specific information identified in the site plan checklist. (See Appendix. <sup>6EN</sup>) The application shall be accompanied by the following:
  - (1) Statement of use. A written statement, signed by the applicant, and by the owner if different from the applicant describing the following in sufficient detail to determine compliance with the provisions of this regulation and to establish the plan and site development program basis for review of the site plan submission; 10 copies shall be submitted:
    - (a) A declaration as to the nature and extent of the proposed use or occupancy;

## ZONING

- (b) Provision to be made for water supply, sewage disposal, solid and liquid waste disposal, drainage and other utilities;
- (c) The number of persons to be employed at, occupy and/or visit the premises on a daily basis, including the parking and loading requirements for the use;
- (d) An estimate of the type of vehicular traffic and number of vehicle trips to be generated on a daily basis and at peak hour;
- (e) A time table for development of the proposed use;
- (f) Disclosure of any toxic or hazardous materials to be used, stored or processed in connection with the proposed use or occupancy as identified in the United States Environmental Protection Agency list of priority pollutants, Sec.3001 of the Resource Conservation and Recovery Act (40 CFR 261) or the State of Connecticut Hazardous Waste Regulations, which disclosure shall include a description of how such materials are to be managed and a report on the status of permits and approvals required from federal, state and city agencies having jurisdiction.

### **§ 195-33. Standard plan requirements.**

Applications submitted for site plan review shall include a description of all proposed uses and structures; a site plan showing the subject lot, prepared and certified by a land surveyor and/or professional engineer licensed in the State of Connecticut; and any construction plans for the proposed buildings, structures or alterations of existing and proposed structures as the Commission may require. Final site plans shall be clearly and legibly drawn at a scale of one inch equals 50 feet or other scale acceptable to the Commission and accompanied by 10 paper prints. Final site plans shall be prepared to an accuracy meeting the standards for a Class A-2 Survey.

### **§ 195-34. Contents of site plan.**

The site plan shall include the following information:

- A. Name and address of the applicant, owner of record, name of the development and all current abutting property owners.
- B. Name, address and professional seal of the individual responsible for preparing the site plan.
- C. A general location map showing the location of the site in relation to existing city roads at a scale of one inch equals 800 feet.
- D. The map shall indicate the zoning district; tax map, lot and block numbers; municipal boundaries; and zoning district boundary lines and a schedule specifying the area of the lot, the amount of floor area, building ground coverage and total coverage by building and paving in square feet and as a percent of the lot and the basis for computation of required off-street parking and loading spaces; and
- E. Date, North arrow, scale, and total acreage of site.

## ZONING

F. The following signature block:

Approved by the Derby Planning & Zoning Commission

Final Approval: \_\_\_\_\_  
Chairman

Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Conditional Approval: \_\_\_\_\_  
Chairman

Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

- G. An outline of all existing and proposed deed restrictions or covenants applying to the property.
- H. Existing and proposed contours of the land at intervals of two feet or less, or as deemed appropriate by the Commission.
- I. Location and design of all existing and proposed uses not requiring a structure.
- J. Ten copies of architectural plans drawn to a scale not to exceed 1/4 inch equals one foot or 1/8 inch equals one foot showing principal uses, floor areas, entrances, exits, technical equipment, stairwells, stairways, all proposed windows, elevations, building facade and exterior elevations.
- K. Location and design of all existing and proposed roads, curbs, sidewalks, driveways and parking and loading areas with the correct number of parking stalls provided. Parking computations shall be shown on the plan.
- L. Location of buffer strips and screening, where required or deemed necessary by the Commission, showing type, size, and species of shrubs, trees or other planting and landscaping materials. Buffer areas: In cases where a site in a non-residential zone abuts a residential district, a buffer shall be required. Such buffer, when required, shall conform to the requirements of § 195-25 E(1) of these regulations unless otherwise specified. The Commission may require additional buffer width or area or more mature plantings if unusual conditions demand more extensive screening. Such buffer areas are not required for frontage along the road. The approved planting plan must be effectuated before a certificate of zoning compliance is issued. If construction is completed during a non-planting season, a bond or certified check for an amount covering planting costs shall be given to the Commission or its designated agent to assure planting. (Amended 1/1/2006)
- M. Location and design of all existing and proposed water supply, sanitary waste disposal, stormwater drainage facilities (including a drainage analysis map and supporting calculations) and other underground and aboveground utilities.
- N. Location, type, height and intensity of any existing or proposed exterior lighting, including provisions for shading of such lighting.
- O. Where the applicant wishes to develop in stages, a site plan indicating initial development and each additional development stage shall be submitted for approval.
- P. In the case of uses or facilities requiring approval of any city, state, and/or federal agency, department and/or official, the approval of such agency, department and/or official shall be submitted by the applicant.

## ZONING

- Q. Location of existing watercourses, wetlands, one-hundred-year floodplains, wooded areas, rock outcrops and other significant physical features on and within 200 feet of the property.
- R. In a Floodplain District, the floodplain boundary and the base flood and floor elevation data as specified in Article XV based on the datum specified above.
- S. Location of all permanent existing and proposed monuments.
- T. The location and dimensions of all proposed outdoor signs.
- U. All structures on adjacent properties within 200 feet of the lot lines of the subject lot (including wells and septic systems).
- V. The Commission may waive any of the above requirements when it is deemed to be in the public interest and will not impair the integrity of these regulations.

### **§ 195-35. Additional plans and reports required.**

- A. Architectural plans. Architectural plans of all proposed buildings and structures, and signs and outdoor illumination facilities unless otherwise provided in connection with the site plan, as applicable to the particular application, which plans may be preliminary in form but shall include exterior elevation drawings, floor plans and perspective drawings in sufficient detail to indicate the exterior building materials, color, height, bulk, stories, roof line, ornamentation and general character and the interior uses of the floor area, all prepared (except for drawings for signs) by an architect or engineer licensed to practice in the State of Connecticut; 10 copies shall be submitted.
- B. Traffic impact report. For site plans involving 50 or more new parking spaces or proposed uses projected to generate either more than 200 vehicle trips per day or more than 100 vehicle trips per day per 1,000 square feet of floor area, a traffic impact report, prepared by a recognized traffic engineer, indicating the expected average daily vehicular trips and peak hour volumes to be generated by all of the uses on the lot and the access conditions at the lot, distribution of such traffic to be generated, types of vehicles expected, effect upon the level of service on the street giving access to the lot and at nearby intersections and recommended access and street improvements to avoid congestion and provide safe and convenient access, taking into account the site generated trips and the traffic on the street and at nearby intersections projected to the date of occupancy of the site.
- C. Grading plan and erosion and sediment control plan. The applicant shall submit plans for excavating, grading and filling as required by the Commission as well as an erosion and sedimentation control plan. The sediment and erosion control plan shall be referred to the City Engineer for their technical review and advisory opinion. In submitting the sediment and erosion control plan, the applicant shall address, as a minimum, the requirements as set forth in Article XIV.
- D. Stormwater detention. Plans providing measures for detention and controlled release of stormwater runoff shall be submitted when determined as necessary by the Commission. When required, measures for the detention and controlled release of stormwater runoff shall meet the following standards:
  - (1) Peak discharges from the two- , ten- , twenty-five- , fifty- and one-hundred-year frequency, twenty-four-hour duration, Type III distribution storms shall be analyzed. No increases in peak flow from these storms shall be allowed.

## ZONING

- (2) The minimum required stormwater detention volume shall be the runoff from the drainage area for a one-hundred-year frequency, two-hour duration, Type III distribution storm minus that volume discharge during the same duration at the approved rate as specified in Subsection D(1).
- (3) Maximum infiltration to the groundwater is encouraged. Design of the stormwater management system shall consider reducing runoff by use of such techniques as minimizing impervious areas and maximizing travel times by using grass or rock-lined channels in lieu of storm sewers.
- (4) Runoff management system components shall be designed according to sound engineering principles and installed in a sequence that permits each to function as intended without causing a hazard. Single components shall not be installed until plans for the entire runoff management system are completed and approved. Final discharge points shall be approved by the Commission.
- (5) All on-site facilities shall be properly maintained by the owners so that they do not become nuisances. A plan of operation and maintenance shall be prepared for use by the owners, or others responsible for the system, to ensure that each component functions properly. This plan shall provide requirements for inspection, operation and maintenance of individual components, including outlets. It shall be prepared before the system is installed and shall specify who is responsible for maintenance. Adequate rights-of-way must be provided for maintenance access.
- (6) All runoff control structures located on private property, whether dedicated to the city or not, shall be accessible at all times for city inspection. Where runoff control structures have been accepted by the city for maintenance, access easements shall be provided.
- (7) Appropriate safety features and devices shall be installed to protect humans and animals from such accidents as falling or drowning. Temporary fencing can be used until barrier plantings are established. Such protective measures as guardrails and fences shall be used on spillways and impoundments as needed.
- (8) Runoff management systems must be visually compatible with the surrounding landscape.
- (9) Permits for runoff management systems may also be required from the Inland Wetlands Commission where such systems may have an impact on inland wetlands and from the Connecticut Department of Environmental Protection where a dam is to be constructed or water diverted. See Sections 22a-365 et seq. and 22a-409 of the General Statutes of Connecticut.

### **§ 195-36. Supporting referrals.**

Evidence that the applicant, simultaneously with or prior to submission of the application, has transmitted a copy of the application, together with plans and documents if so specified, to the following public agencies as required:

- A. City Engineer (entire submission).
- B. Inland Wetlands Commission (statement of use, site plan).
- C. Conservation Commission (statement of use, site plan).
- D. Fire Marshal (entire submission).
- E. Chief of Police (statement of use, site plan, traffic report).

## ZONING

- F. Water Pollution Control Authority.
- G. Street Commissioner
- H. Board of Aldermen

### **§ 195-37. Additional information may be required.**

Any additional data or plans deemed necessary by the Commission to determine conformity of the site plan with the intent and provisions of these Regulations shall be submitted by the applicant.

### **§ 195-38. Fees.**

Fees shall be in accordance with a fee schedule adopted by the Commission, as amended.

### **§ 195-39. Design standards.**

In addition to base information, all site plans shall conform to the following design standards:

- A. Access and circulation. Provision shall be made for vehicular access to the lot and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and upon the lot, to avoid traffic congestion on any street and to provide safe and convenient circulation upon the lot. Access and circulation shall also conform to the following:
  - (1) Where reasonable alternate access is available, the vehicular access to the lot shall be arranged to avoid commercial traffic use of local residential streets situated in or bordered by residence districts.
  - (2) Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
  - (3) The street giving access to the lot shall have traffic-carrying capacity and roadway improvements and traffic management facilities that are sufficient to accommodate the amount and types of traffic generated by the proposed use, taking into account access to existing uses along the street and existing traffic projected to the date of occupancy of the site. Roadway, traffic management and other deficiencies in the street giving access, which result in congestion or impairment of safety and convenience, may be remedied by the applicant if authorized by the owner of the street.
  - (4) Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional signals, frontage road driveways and traffic controls within the street.
  - (5) Access driveways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles within any streets.
  - (6) Driveways into the lot shall not exceed a grade of 10% and shall meet the street line and travelway of the street with proper transition grades and in such a manner as to conform to the standard cross section for the street.
  - (7) Where topographic and other conditions are reasonably usable, provision shall be

## ZONING

made for circulation driveway connections to adjoining lots of similar existing or potential use when such driveway connection will facilitate fire protection services, as approved by the Fire Marshal and/or when such driveway will enable the public to travel between two existing or potential uses, open to the public generally, without need to travel upon a street.

- (8) There shall be no more than one driveway connection from any lot to any street, except that separate entrance and exit driveways may be provided where necessary to safeguard against hazards and to avoid congestion and additional driveway connections may be provided, particularly for, but not limited to, large tracts and uses of extensive scope, if traffic flow in the street will be facilitated by the additional connection.
- B. Existing streets. Where the lot has frontage on an existing street, proper provision shall be made for grading and improvement of shoulders and sidewalk areas within the right-of-way of the street and for provision of curbs and sidewalks, as approved by the City Engineer and in accordance with the pattern of development along the street. Where necessary to provide for suitable access or for a system of neighborhood circulation streets, provision shall also be made for appropriate continuation and improvement of streets terminating at the lot where the use is to be located.
- C. Parking and loading. Off-street parking and truck loading spaces shall be provided in accordance with Article VII of this regulation. Whenever possible, an area on the lot shall be provided for any truck maneuvering necessary to use off-street truck loading spaces. Truck loading spaces and maneuvering areas shall have dimensions sufficient to accommodate the type and size of truck expected at the premises.
- D. Parking lots.
- (1) Parking lots shall be designed to avoid creating large, open expanses of paving.
  - (2) No parking lots shall be designed that force vehicles to back onto the street.
  - (3) Interior traffic flow shall be marked with painted arrows.
  - (4) Ingress and egress location shall be reviewed by the Police Department.
  - (5) Curb cut widths and curb cut radii must be reviewed by the City Engineer and Police Departments or the ConnDOT, where appropriate.
  - (6) The City of Derby Planning and Zoning Commission shall be the final authority on determining curb cut width and radii whenever it determines need to be more restrictive for the radius or width allowed by the ConnDOT, provided that said restrictions meet with the approval of the ConnDOT.
  - (7) All driveways, loading and unloading areas and parking areas shall be paved with a dust-free material.
  - (8) All parking spaces shall be designed to prevent vehicles from encroaching upon adjoining buildings, sidewalks, planting islands or strips, or landscaping buffer areas through the use of curb stops, guiderails, curbs, or other suitable protective device as the Commission may approve. (Amended 11/15/2000)
  - (9) Where sidewalks are adjacent to parking lots, the Commission may require the installation of a curbed, landscaped planting strip or island of suitable width so as to prevent vehicles from riding over the sidewalk. (Amended 11/15/2000)
  - (10) Where a parking lot with eight or more spaces has a driveway adjacent to a side property line, a curbed landscape planting strip having a minimum width of five

## ZONING

feet shall be provided between the driveway pavement and the property line.  
(Amended 11/15/2000)

- (11) For parking lots for more than 25 cars, not less than ten percent of the parking lot, measured from the perimeter of the pavement shall be landscaped with planting strips or planting islands. In addition, planting strips and planting islands shall be utilized to control the flow of traffic, provide shade, and promote safety. Planting islands and strips shall be not less than five feet in width measured between the inside of the curb. The Commission may require the installation of sidewalks of sufficient width to promote safe pedestrian circulation between the parking lot and the building(s) served by the parking lot.  
(Amended 11/15/2000)

*(12)* (Deleted 11/15/2000)

- (13) Where a tenant or owner of a business provides the use of carts for the convenience of the customers, such carts shall not be allowed to be stored on sidewalks, walkways or driveways or in any manner inhibiting pedestrian or vehicle circulation.

### E. Landscaping.

- (1) General. All proposed landscaping shall be clarified on the plan as to location, common name and size, at time of planting.
- (2) Front yards. All front yards shall be landscaped with shrubs so as to soften the effect the building creates at ground level.
- (3) Parking lot trees.
- (a) All parking lots of 50 car spaces or more shall include one tree for every 10 parking spaces or fraction thereof.
  - (b) Such trees shall be at least three inches in diameter at time of planting.
  - (c) All trees shall be placed or protected so as to avoid damage by automobiles.
  - (d) Trees and shrubs used in parking lots shall be of species that are hardy, disease resistant, and suitable for parking lot use. (Amended 11/15/2000)
  - (e) For any parking lot providing spaces for 50 or more vehicles, there shall be shade trees planted, spaced 50 feet on center around the perimeter of lot, except that such distance may be increased for lanes of ingress or egress, and provided further that there shall be shade trees planted between parking aisle spaced 50 feet on center. The Commission may permit an alternate landscaping layout or configuration without decreasing the total landscaped area when it finds that the alternate will result in a development of higher quality. (Amended 11/15/2000, 1/1/2006)
- (4) Existing trees.
- (a) An attempt shall be made to save as many existing trees as possible.
  - (b) On heavily wooded parcels, trees over eight inches in diameter must be shown.
- (5) Buffer areas.
- (a) There shall be an effective buffer for screening headlight glare in all instances when a commercial or industrial building is adjacent to a residential zone.
  - (b) Such buffer may be an earthen berm, evergreen screening or wooden fencing depending upon the uniqueness of the property and the characteristics of the

## ZONING

adjacent property.

- (c) Evergreen buffers shall be planted sufficiently close and be enough when planted to effectively screen automobile headlights.

### F. Drainage.

- (1) Provision shall be made on the lot for the management of stormwater, including collection and disposal thereof, in the following manner:
  - (a) To assure the usability of off-street parking and loading spaces;
  - (b) To avoid hazards to pedestrians and vehicular traffic on the lot and in any street;
  - (c) To avoid stormwater flow across sidewalks and other pedestrian ways;
  - (d) To protect watercourses and wetlands from pollution, erosion and sedimentation;
  - (e) To avoid an amount of discharge and time of concentration of flow beyond the capacity of downstream drainage channels; and
  - (f) To avoid downstream flooding.
- (2) Provision shall also be made for the protection or improvement of existing watercourses, channels and other drainage systems, on the lot or downstream from the lot, as needed to accept or regulate the proposed drainage discharge, based on sound design criteria under good engineering practice, taking into account the drainage requirements of the entire watershed in which the lot is located.

### G. Site lighting; general requirements.

- (1) Site lighting (to include but not restricted to parking lots, area ways, pedestrian walkways, and other areas within sites requiring lighting) shall provide adequate and proper illumination at ground level for protection of the public and for safety in regard to pedestrian and vehicular circulation.
- (2) All lighting shall be designed to minimize glare in the area being lighted and shall be shielded so as to prevent glare on adjacent property.
- (3) The location, height and type of fixture and illumination shall be arranged and/or constructed so as to meet the general requirements outlined above.
- (4) No festoon lights will be allowed.

### H. Storage areas. There shall be no outside storage of materials unless said materials are effectively screened by wooden fencing, stone or brick walls or evergreen trees or shrubs at least six feet high at the time of planting.

### I. Signs.

- (1) The location of all signs shall be clearly marked on the site plan.
- (2) The overall dimension of all signs shall be shown.
- (3) The total overall height from ground level shall be shown.
- (4) The type of sign lighting shall be indicated on the site plan.
- (5) All signs shall conform to the requirements of Article XI of these regulations.

### J. Refuse areas.

- (1) All sites shall provide for refuse storage.
- (2) Any outside refuse areas shall be screened with wooden fencing, stone or brick walls or Evergreen trees or shrubs at least six feet high at time of planting.

### K. Sanitation. Proper provision shall be made for the water supply and sewage disposal requirements of the proposed use. When public water supply and/or sewage disposal

## ZONING

systems are not to be used, the private systems shall be designed and constructed in accordance with applicable state laws, and the design shall be approved by the Valley Health District prior to approval of the site plan. In addition, provision shall be made for the collection, storage and disposal of solid wastes accumulated in connection with the proposed use and for control of litter by means of receptacles, fences or other means approved by the Commission.

- L. Emergency services. Suitable provision shall be made on the lot for access to buildings and other structures by fire, police and other emergency services and for fire hydrants, in accordance with good fire protection practices.
- M. Wetlands and watercourses. The site plan shall provide for protection of all wetlands and watercourses, including floodplains, on the lot in their natural state, unless modification thereof is approved by the Inland Wetlands Commission.
- N. Soil erosion and sediment control. Provision shall be made for soil erosion and sediment control in accordance with the standards for Article XIV of the Regulation.
- O. Special standards. The following special standards are applicable to particular permitted uses that are subject to submission and administrative approval of a site plan by the Commission:
  - (1) Multifamily dwellings. Multifamily dwellings, whether in a single building on the lot or a group of buildings on the lot, shall also conform to the following standards:
    - (a) Building type. Individual buildings for multifamily dwellings shall not exceed 2 1/2 stories in height and shall contain accommodations for not more than eight families.
    - (b) Yards. Side and rear yards for multifamily dwellings shall be increased by 50%.
    - (c) Handicapped. One family housekeeping accommodation, specially equipped and usable by handicapped persons in accordance with Section 315 of the State of Connecticut Basic Building Code, shall be provided as part of any multifamily dwelling or group of dwellings on the lot for occupancy by 25 or more families and for each 25 such families.
    - (d) Driveways. Circulation driveways on a lot containing multifamily dwellings for 20 or more families shall have a width of 32 feet and be constructed to city standards for grade and alignment and to city specifications; provided however, that when such circulation driveways contain no parking spaces and are separated from parking spaces and access aisles for such spaces by means of curbs and/or islands, the driveway width may be reduced to 24 feet.

### § 195-40. Bonds.

- A. Performance bonds.
  - (1) To assure that a proposed development, excluding buildings, conforms to an approved site development plan and other required documents, a performance bond may be required by the Commission. When a performance bond is required, it shall be posted prior to the endorsement of the final site plan and the issuance of any zoning permits. No construction work shall be started prior to final approval of said site plan.
  - (2) A performance bond shall be posted in one or more of the following methods and

## ZONING

in a form that is acceptable to the City Attorney:

- (a) A cash bond;
  - (b) A savings bank deposit book;
  - (c) An irrevocable letter of credit; or
  - (d) Any other form of surety that the Commission deems acceptable.
- (3) The amount of the performance bond shall be established by the Commission. Applicants shall furnish the Commission with a listing of the estimated quantities of materials needed to complete the improvements. The bond shall cover the full cost of the improvements as if let-to-bid by the city without advantages of on-site building materials or the sale of removed earth material. In addition, the bond shall include an amount to cover the escalation of all improvement costs over a two-year period.
- (4) The amount of the performance bond shall be sufficient to cover the cost of any proposed or required site improvement, such as street grading; roadway paving and street plantings; the installation of curbs, gutters, storm drainage facilities, landscaping, sidewalks, monuments, bridges and culverts; erosion and sediment control measures; site stabilization measures; and all other such improvements that the Commission deems necessary to promote public health and safety and to safeguard the city from undue expense in regard to the future maintenance of said improvements. All improvements shall be designed in accordance with established standards, rules and regulations applicable in the City of Derby. The Commission may require a separate cash performance bond be posted for all erosion and sediment control and site stabilization measures.
- (5) Upon completion of the required improvements, the applicant may be required to submit to the Commission:
- (a) Record drawings of the improvements (supplied by licensed engineer or land surveyor);
  - (b) Certification of accurate monument location (supplied by land surveyor);
  - (c) Easements in a form satisfactory to the City Attorney including a written geometric description of all such easements; and
  - (d) Proof of fulfillment of any other requirements or conditions.
- (6) The bond shall be released upon Commission certification that all required improvements have been completed to the satisfaction of the Commission and other appropriate city departments. In addition, a maintenance bond covering all site improvements completed for the development may be required by the Commission prior to the release of any performance bond. If the improvements are not installed as required, the Commission is under no obligation to accept the work. The Commission may recommend to the Board of Aldermen that the bond be declared defaulted and take the necessary action to call the bond.
- B. Maintenance bonds. When required by the Commission to assure proper maintenance of all site improvements and structures, a maintenance bond in the amount of 10% of the cost of the site improvements shall be submitted to the city. The maintenance bond shall be in effect for a maximum period of one year from the date the improvements are accepted by the city. The bond shall be posted prior to the issuance of any additional zoning certificates of compliance. During such period, the applicant shall, when notified by the city, promptly and at his own expense, repair all failures

## ZONING

and defects, including but not limited to the construction of roads, drainage, structures, appurtenances, bridges and other improvements as may occur during such maintenance period. He shall similarly repair all defects, settlements and irregularities of the structures and appurtenances of drains, pipes, mains, conduits, curbs, gutters, sidewalks, road surfacing, landscaping or other defective improvements detected during the maintenance period. If the applicant fails to remedy any such defects within 90 days of notification, the city may without prejudice to any other remedy cause the required repairs to be made and paid for with the proceeds of the maintenance bond.

- C. Completion of work. Failure to complete work as specified on the approved site plan and application within five years from the date of the Commission's approval of the site plan shall result in automatic expiration of the approval, provided that the Commission shall file on the land records of the City of Derby notice of such expiration.

### **§ 195-41. Waiver of certain site plan requirements.**

- A. Waiver based on use. The Commission, upon written request from the applicant, may grant a waiver on the submission of specific items required by these regulations for the following uses:
  - (1) Change of use;
  - (2) Home occupations;
  - (3) Walls and fences;
  - (4) Swimming pools; or
  - (5) Sale or exchange of all alcoholic liquors where it is part of an existing permitted use.
- B. Reasons for waivers. The Commission may so grant a waiver if it finds that:
  - (1) The use will not increase traffic substantially or produce safety hazards;
  - (2) The use will not increase parking requirements;
  - (3) The use will not produce a negative impact on properties in the surrounding neighborhood;
  - (4) The use will not substantially alter the nature of the existing building(s) or other structure (s); or
  - (5) The use will not be inconsistent with the public welfare or impair the integrity of these Regulations.

### **§ 195-42. Commission action.**

- A. The Commission shall act on the site plan not later than 65 days after the date of receipt of said application. The Commission may approve, modify and approve, or deny the application. Notice of the Commission's decision shall be communicated to the applicant, in writing, within 15 days after such decision has been rendered. The failure of the Commission to act within 65 days of the day of receipt of such application shall be considered as approved and a permit to that effect shall be issued by the Commission upon the applicant's demand. Extensions of this may be permitted by mutual agreement between the Commission and the applicant. Reasons for the

## ZONING

Commission's action shall be stated in the minutes.

- B. Any action of the Commission which involves an approval with modifications and/or conditions not complied with within 90 days following the approval shall become null and void, unless a date to the contrary has been specified by the Commission or an extension is granted by the Commission.
- C. No site development plan will be approved which is inconsistent with the public welfare or which impairs the integrity of these regulations.
- D. Approved development plans for special exceptions shall be filed in the Office of the Town Clerk. All other approved development plans shall be filed with the Commission or its designated agent, and said map shall contain the signature of the Chairman and the approval date.

### **§ 195-43. Enforcement; conditions to be noted.**

- A. The Zoning Officer is responsible for the enforcement of all site plans.
- B. The Zoning Officer shall request the advice of the Commission as to the necessity of a site plan.
- C. Any conditional site plan approvals voted by the Commission shall be so noted by stamping on the site plan accordingly and noting the specific conditions on the plan. A copy of the stamped and marked plan shall be sent to the Building Official.
- D. All conditions and improvements shown on an approved site plan shall remain with the property, as long as the use indicated on the approved site plan is still in operation. The conditions and improvements shall continue in force, regardless of any change in ownership of the property.
- E. All conditions must be noted on the original plan and must be met or bonded for in an amount specified by the Commission and certified by the Zoning Officer before a certificate of occupancy will be issued.
- F. In the event that the contemplated development does not require a site plan, a written agreement, listing certain site plan requirements, and signed by both the owner of the property and the Zoning Officer shall be considered a binding site plan commitment under this section of the regulation.

---

## **ARTICLE VI, Special Exceptions**

---

### **§ 195-44. Authority to grant; requirements in addition to other regulations.**

In accordance with the procedures, standards and conditions hereinafter specified, the Commission may grant special exceptions for the establishment of one or more uses for which a special exception must be secured from the Commission as specified in Article III, District Requirements, and these regulations. All requirements of this section are in addition to other requirements applicable in the district in which the special exception use is to be located.

## ZONING

### § 195-45. Intent.

- A. Uses permitted after securing a special exception from the Commission are deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards of this section. Special exception uses that may be permitted in a particular district are unusual uses that under favorable circumstances will be appropriate, harmonious and desirable uses in their districts but that possess such special characteristics that each use should be considered as an individual case. In authorizing the issuance of a special exception, the Commission shall take into consideration the public health, safety and welfare and shall prescribe appropriate conditions and safeguards to ensure the accomplishment of the following objectives:
- (1) All proposed structures, equipment or material shall be readily accessible for fire, police and other emergency protection.
  - (2) The proposed use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the zone, the neighborhood and the city and will not be detrimental to established properties in the area.
  - (3) The location and size of such use, the nature and intensity of operations involved in or conducted in connection with such use, its site layout and its relation to access streets shall be such that both pedestrians and vehicular traffic to, from and in the vicinity of the use will not be hazardous, inconvenient or detrimental to the character of the zone or conflict with the traffic characteristics of the neighborhood.
  - (4) The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land or buildings or impair the value thereof.
  - (5) The architectural design and style of all buildings and other structures to be erected on the lot shall not conflict with the architectural design and style of adjacent properties.
- B. The Commission may refuse to grant a special exception if it has reasonable cause to believe that the proximity of the proposed special exception use will have a detrimental effect upon any church, school, library, public playground or similar facility or use and that the number of similar special exception uses in the vicinity is such that the granting of a new special exception is detrimental to the public health, safety and welfare.
- C. The terms "special permit" and "special exception" as used in Section 8-2 of the General Statutes of Connecticut, as amended, have the same meaning and can be used interchangeably.

### § 195-46. Procedure.

An application for a special exception shall be made to the Commission and consist of:

- A. A completed general information form as prescribed by the Commission and the required application filing fee.
- B. Statement of use: a written statement describing the proposed use in sufficient detail

## ZONING

- to determine the compliance with the standards of these regulations. 10 copies shall be submitted.
- C. A site development plan that is prepared in accordance with Article V of these regulations (10 copies).
  - D. An erosion and sedimentation control plan, if the total land area to be disturbed exceeds 1/2 acre, prepared in accordance with Article XIV of these regulations (10 copies).
  - E. Preliminary architectural renderings showing building(s) elevation, mechanical equipment to be mounted on the roof, exterior finish materials of the building, window treatment and schematic building floor plans depicting square footage calculations by use. The Commission may grant a waiver on any or all of these architectural requirements if deemed appropriate and will not impair the integrity of the regulations.
  - F. Each application for a special exception shall include a list, prepared by the applicant, of the names and mailing addresses of the owners of all land included within the application and all land within 150 feet, 200 feet for home occupations, or less distant therefrom. All names, addresses and properties shall be shown on the most recent records and maps on file in the City Assessor's office. The applicant shall send notification of said pending application to at least one owner of each property not more than 15 days nor less than 10 days before the date of the public hearing, by transmitting the public hearing notice as provided by the Commission. Evidence of such mail, in the form of a Certificate of Mailing issued by the United States Post Office shall be submitted to the Commission or its designated agent(s) not less than five calendar days prior to the hearing date. Failure to comply with any of the procedures herein shall be deemed valid basis for denial of the special exception permit application. (Amended 2/28/2017)
  - G. Sewage and refuse disposal and water supply.
    - (1) Where applicable the proposal shall indicate manner of sewage disposal and method of water supply. When a new or existing sewage disposal method is proposed, the applicant shall be responsible for the submission of a report from the Health District commenting on the adequacy of the proposed method. If the proposed development is to be dependent upon the existing municipal sewer system, the applicant shall be responsible for the submission of a report from the Health District commenting on the adequacy of the proposed method. If the proposed development is to be dependent upon the existing municipal sewer system, the applicant shall be responsible for the submission of a report from the Derby W.P.C.A. commenting on the availability and timing of sewage disposal services for the proposed development.
    - (2) If the project is to be served by an existing water supply system, written confirmation of the availability of service shall accompany the application. Site plans and/or architectural plans shall show provisions and manner for refuse disposal.
  - H. Where an application for a special exception involves only a portion of a vacant lot or parcel of land, the proposed plan shall indicate the manner in which the remainder of the land shall properly relate to the development proposed.
  - I. In cases where unusual topographic, drainage or other conditions exist, the

## ZONING

- Commission may require the submission of additional data pertinent to its review.
- J. Traffic study. Any development proposal in excess of 5,000 square feet of retail, commercial, office or industrial floor space shall be accompanied by a traffic study evaluating the impact of proposal on thoroughfares serving and/or affected by the development. The study shall include, at least, data and information on existing ADT (average daily traffic) of principal road(s) peak hour traffic, adequacy of right-of-way and travelway; traffic impact of proposed development, traffic generation data, location of road cuts within 300 feet from the development site, traffic lights and intersections, and recommendations for safe pedestrian and vehicular circulation, including provisions for safe sidewalks and crosswalks for pedestrians. Where applicable, the applicant shall include the written recommendations of the Connecticut Department of Transportation and the City Engineer.
  - K. Fire protection. It shall be the responsibility of the applicant to submit a report from the Fire Marshal commenting and/or recommending on fire protection provisions affecting the development or abutting properties.
  - L. Floodplains: Upon receipt of a complete special exception application by the commission involving special exceptions proposed to be established upon any area of special flood hazard, the Commission shall transmit a copy of said application to the City Engineer for a report. Within 35 days after receipt of a copy of the application, plans and documents, the Engineer shall report recommendations to the Commission, stating the reasons therefor. Special exceptions proposed to be established in any floodplain district shall be located and designed to be consistent with the need to minimize flood damage within the flood-prone area and shall conform to all of the standards and provisions of the Floodplain Management Ordinance of the City of Derby or such legal variance as may be approved thereunder.<sup>7EN</sup>
  - M. Any other such information required by the Commission in order to determine compliance of the application with both intent and purpose of this regulation.

### **§ 195-47. Commission action and public hearing notice.**

- A. Public hearing process and decisions. The Commission shall hold a public hearing within 65 days of the official date of receipt of a complete application for a special exception, including all supporting documentation. Notice of the time and place of such public hearing shall be published at least twice in a newspaper having a substantial circulation in the City of Derby, at intervals of not less than two days. The first publication shall be not more than 15 days nor less than 10 days prior to the hearing, and the last shall be not less than two days before the date of such hearing. The Commission shall act on the application not later than 65 days after the close of the public hearing. The Commission shall state upon its records the reason for its decision. Written notice of the decision of the Commission shall be sent, by certified mail, to the applicant within 15 days after such decision has been rendered. Notice of the action of the Commission shall be published in a newspaper having substantial circulation in the City of Derby within 15 days after such action has been taken.
- B. Conditions and safeguards. The Commission may grant a special exception subject to certain conditions or safeguards, including time constraints for site construction activities or duration of said use. Any condition or safeguard attached to the granting of a special exception shall remain with the property as long as the special exception

## ZONING

remains in effect, the specific time period associated with the granting of a special exception lapses or the special exception is revoked. Should the property change ownership, all conditions and safeguards of the special exception shall remain in effect.

- C. Time requirements. When granting a special exception, the Commission may impose time constraints on the permitted use and/or require a periodic renewal of the special exception. In the event that an appeal is taken on the Commission's action of granting a special exception, the conditional time period shall commence upon the date of final disposition of said litigation.
  - (1) A building permit or a certificate of occupancy (in cases where a building permit is not required) must be issued within six months of the special exception approval date. Failure to comply with this requirement shall result in the expiration of said special exception. An expired special exception shall be considered null and void and no building permit or certificate of occupancy thereafter shall be issued for said expired special exception.
  - (2) Failure to complete all work as approved under the granting of the special exception within five years from the date of approval or a lesser time period if so specified by the Commission shall result in the automatic expiration of the approval, provided that the Commission files notice of such expiration on the city land records.

### **§ 195-48. Considerations for approval.**

The Commission, in considering and reviewing the application and arriving at its decision, shall find that the following conditions have been or will, by the proposal or conditions attached to the Commission's approval thereof, be met:

- A. The location, nature and size of buildings and the architectural design of same shall be compatible with neighboring properties and their uses and shall not hinder or discourage the appropriate development or use of land and buildings nor impair the value thereof.
- B. The location, size and intensity of the proposed use or uses and the size and location of the site shall be in harmony with the appropriate and orderly development of the district in which it is located.
- C. Streets and other rights-of-way shall be of such size, condition and capacity to adequately accommodate the traffic to be generated by the particular proposed use(s).
- D. The proposed use(s) shall not impair the public health, safety or welfare.
- E. Where it is proposed to convert a structure designed and built originally for other uses, the applicant shall show the adaptability of such structure to the proposed use, particularly in relation to the public health and safety.
- F. Where a proposed use abuts or is in a residential zone, the Commission may regulate hours of operation taking into consideration intensity of lighting, noise and traffic generation.

### **§ 195-49. Revocation of special exceptions.**

Special exceptions may be revoked by the Commission, provided that notice of said revocation is filed on the city land records by the Commission and the Commission

## ZONING

determines one or more of the following conditions to exist:

- A. The building permit or certificate of occupancy (when a building permit is not required) is not issued within six months of the date of approval of the special permit;
- B. The Commission or its designated agent(s) determines that information submitted with the special exception application was incorrect, inaccurate or invalid;
- C. Failure to complete the project within five years or a lesser time period if so specified by the Commission from the date of approval of the special exception.
- D. Failure to comply with any imposed condition and/or safeguards of the special exception shall be considered a violation of these regulations. If a condition or safeguard is not complied with within a period of time as specified in a notice of noncompliance issued by the Zoning Office, the special exception may be revoked by the Commission following a public hearing on said violations. For purposes of the section of the regulations, each successive day of said violation(s) continuing shall be considered a separate violation;
- E. Upon the happening of any event that is prohibited under the terms of granting the special exception or appropriate city regulation, code or ordinance; or
- F. The owner of said property petitions the Commission for the revocation of said special exception.

### **§ 195-50. Amendments or modifications.**

- A. When the Commission determines that a proposed amendment or a modification of an approved special exception is to be minor in nature and will not impact the substance of the original approval, the amendments or the modifications may be authorized by the Commission without the calling of a public hearing.
- B. Amendments to an approved special exception which are considered to be significant in nature and found to have an impact upon the substance of the original approval shall be made in accordance with §§ 195-46 and 195-47A of these regulations and will require the calling of a public hearing.

### **§ 195-51. Performance bond/maintenance bond.**

To assure conformance with all work being completed in accordance with the approved site development plan and other approved required documents exclusive of buildings, a performance bond in an amount and form acceptable to the appropriate city authorities shall be posted prior to the start of said work. The Commission may also require the posting of a maintenance bond upon the completion of said work. Such bonds, when required, shall be in conformance with the provisions of the Derby Zoning Regulations.

### **§ 195-52. Filing and effective date.**

A special exception granted by the Commission shall become effective upon the filing of a copy thereof in the Office of the Town Clerk and in the city land records in accordance with Section 8-3(d) of the General Statutes of Connecticut, as amended.

# ZONING

---

## ARTICLE VII, Off-Street Parking and Loading

---

### § 195-53. General requirements.

- A. It is the purpose and intent of this article to assure that parking spaces and loading spaces are provided off the street in such number and with suitable design and construction to accommodate the motor vehicles of all persons normally using or visiting a use, building or other structure at any one time. Off-street parking and loading spaces required to be provided by this article shall be permanently maintained and made available for occupancy in connection with and for the full duration of the use of land, buildings and other structures for which such spaces are herein required. If any existing use of land, buildings or other structures, conforming to the requirements of this article, is changed to a use requiring additional off-street parking or loading spaces to comply with this article, the additional spaces shall be provided for the new use in accordance with the standards hereinafter specified. All off-street parking and loading spaces hereafter established shall conform to the design and construction standards specified in this article as well as to the site development and landscaping standards of Article V and any conditions attached to the approval of a site plan or special exception under these regulations.
- B. Definitions. For the purpose of this article, one parking space shall constitute an area with such shape, vertical clearance, access and slope as to accommodate one automobile having an overall length of 18 feet and shall contain an area of 180 square feet, except that zero degree (parallel) parking spaces shall contain a minimum area of 176 square feet and further excepting that the minimum area may be reduced to 160 square feet for spaces located in or on a building or structure; one loading space shall constitute an area 12 feet in width and 30 feet in length with a vertical clearance of 15 feet with such shape, access and slope as to accommodate one truck having an overall length of 30 feet. (Amended 10/16/2007)

### § 195-54. Parking spaces; number and location. (Amended 7/19/2024)

- A. For each use of land, buildings and other structures, off-street parking spaces shall be provided in such number and in the location specified as follows:

Use	Minimum Required Parking Spaces
Adult Day Care	1 space per employee plus 1 space per every 6 participants
Child Care Center/Day Care Center	1 space per employee plus 1 space per every 6 students
Church; synagogue; auditorium; theater; places of worship or assembly	1 space per 4 seats

## ZONING

Banks and similar financial institutions	8 spaces per 1,000 SF gross floor area (freestanding)
Business offices	3 spaces per 1,000 SF gross floor area
Bowling alleys; indoor tennis; indoor athletic	3 spaces per alley or court
Convalescent or nursing home	1 space per 2 beds
Church; synagogue, place of worship	1 space per 6 seats
Educational dormitory residence	1 space per staff member on duty during the largest shift, plus 1 space per 10 student residents, plus 1 space per student transport vehicle parked overnight on the premises
Family Child Care Home/Group Child Care Home	No less than the minimum required for Residential: One-Family, Two-Family, or Multi-Family depending on where the dwelling unit where the Family Child Care Home/Group Child Care Home is being provided, plus one space for each employee not residing in the residential unit
Funeral home	1 space per 75 SF of assembly room area
Home occupation; office in residence	3 spaces in addition to residential requirement
Industrial; manufacturing	2 spaces per 1,000 SF gross floor area
Medical, dental, health care office	5 spaces per 1,000 SF gross floor area
Membership club	10 spaces per 1,000 SF of assembly area

## ZONING

Public library; museum, philanthropic	5 spaces per 1,000 SF accessible to the public institution
Research institute; laboratory	2 spaces per 1,000 SF gross floor area
Residential: Assisted living	.75 space per dwelling unit
Residential: Housing for elderly	1 space per dwelling
Residential: One- and two-family	2 spaces per dwelling
Residential: Multi-family	2 spaces per dwelling
Residential: Rooming house, dormitory	.5 space per guest room or resident
Restaurant — sit down	1 space per 2 seats
Restaurant — take out	14 spaces per 1,000 SF of space utilized by public
Retail: individual stores; personal service (under 50,000 SF)	6 spaces per 1,000 SF net floor area
Retail: supermarket; shopping center (over 50,000 SF)	5 spaces per 1,000 SF net floor area
Schools: Elementary	2 spaces per classroom plus space for auditorium / gymnasium
Schools: High school	4 spaces per classroom plus space for auditorium / gymnasium
Warehouse and other enclosed storage	1 space per 1,000 SF gross floor area
Wholesale food; discount and home	5 spaces per 1,000 SF net floor area improvement center
Mixed uses	The sum of the requirement of the component uses computed separately
Other uses not listed above	See Section B.(3) below

## ZONING

- B. Interpretation of required parking spaces.
- (1) The parking required herein is in addition to space for storage of trucks or other vehicles used in connection with a business, commercial or industrial use.
  - (2) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
  - (3) The parking space requirements for a use not specifically listed in this section shall be determined by the Commission based on parking demand generation for a listed use of similar characteristics or based on data provided by such authoritative sources as the Urban Land Institute or the Institute of Transportation Engineers. (Amended 11/15/2000).
  - (4) Off-street parking requirements shall be waived for all but residential uses within three hundred feet of a municipal parking facility. Distance shall be measured from property to property along the center line of the nearest street line or other public right-of-way.
  - (5) Unless otherwise specified, for the purpose of determining the number of spaces, the floor area shall be deemed to be net floor area. Net floor area shall be either 85 percent of the gross floor area or, when an actual floor plan is provided for retail establishments, shall be the floor area developed to customer use. (11/15/2000, 2001)
  - (6) An applicant may request, and the Commission may approve, a special exception to reduce the number of parking spaces required herein when the applicant can demonstrate through the presentation of historical data or by similar means that a lesser number of spaces will be sufficient to accommodate the proposed use and the Commission finds that the intent of this article will be satisfied by such reduction in the number of spaces. (11/15/2000)

### **§ 195-55. Location of parking.**

- A. In all residential zones, no off-street facilities shall be designed and/or located in any required front yard except for the paved portion of the driveway which gives access to said facility.
- B. In residential zones, parking spaces required for all uses shall be provided on the same lot as the principal use.
- C. In nonresidential zones, off-street parking facilities may abut the front property line. However, a landscaped strip in accordance with § 195-59F(1) of these regulations shall be provided whenever possible. The Commission may require a wider front landscaped buffer when deemed appropriate by the Commission to facilitate a visual break between the parking area and the street and/or to enhance the visual aesthetics of the nonresidential zones.
- D. In all nonresidential zones, required parking facilities may be required to be located on the same lot as the building they serve or on a lot within 300 feet from such building. If the parking facility is not located on the same lot it is intended to serve, a written affidavit of agreement, binding each participating owner and successor in interest for the life of the joint use of the facility, shall be recorded in the land records prior to endorsement of any site plan. A site plan of the off-site parking facility

## ZONING

prepared in accordance with Article V of these regulations indicating those parking spaces devoted to the off-site use shall be submitted with an application for site plan approval. Two or more parking facilities on adjoining lots, if designated for use as a single parking area, may be required to use the same means of access.

- E. Any vacant parcel of land in a nonresidential zone intended for use as a parking facility in connection with an off-site use shall be designed and improved in accordance with these regulations.

### **§ 195-56. Joint parking.**

The Commission may reduce the parking requirements no more than 50% for sites where uses will be generating a demand for parking during periods when other uses are not in operation in accordance with the following:

- A. Joint-off street parking facilities provided by another building or use shall be within 300 feet of the property it is intended to serve.
- B. A written affidavit of agreement, binding each participating owner and successor in interest for the life of the joint use of the facility, shall be signed by the owners of the properties involved and shall be recorded in the land records prior to Commission endorsement of the plan.
- C. The use of land in any residential zone for parking in connection with and adjacent to a use in a nonresidential zone shall not be extended into the residential zone more than 30 feet.
- D. Any vacant parcel of land in a nonresidential zone intended for use as a parking facility in connection with an off-site use shall be designed and improved in accordance with these regulations;
- E. Public parking facilities shall not be used to satisfy parking requirements for residential uses.

### **§ 195-57. Off-street loading requirements.**

On the same premises with every building devoted to retail trade, retail and wholesale food markets, warehouses, supply houses, wholesale or manufacturing trade, hotels, hospitals, laundry, dry cleaning establishments or other buildings where large amounts of goods are received or shipped erected in any district after the date of the adoption of these regulations shall provide loading and unloading space as follows:

- A. Loading space shall be not less than 12 feet wide, 30 feet long and 15 feet high.
- B. Every building or block of buildings containing more than 5,000 square feet of gross floor space: one loading space.
- C. Every building or block of buildings containing more than 20,000 square feet gross floor area: one loading space for each 20,000 square feet or fraction thereof.
- D. No such space shall be located closer than 50 feet to any other lot in any residence zone, unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or opaque fence not less than six feet in height.
- E. Such loading space, maneuvering space and all vehicles using the loading space shall be contained within the lot.

## ZONING

### § 195-58. Access to parking areas.

All off-street automobile parking facilities shall be designed with appropriate means of vehicular access to a street or alley as well as maneuvering areas. The Commission shall determine the appropriate curb cut when a site plan is submitted and detailed plans of driveway and curb cuts shall be submitted to the State Highway Department as appropriate, for approval for all curb cuts or driveway openings before a permit may be obtained therefor.

- A. Parking spaces and loading facilities and access roadways shall have adequate all-weather surfacing with proper drainage and shall be capable of allowing free and safe movement of all vehicles customarily using the facility.
- B. Any parking area designed or intended for use by three or more vehicles, which is located and adjacent to any public sidewalk or the planned location of a public sidewalk, shall be separated from such sidewalk by a suitable barrier so placed as to prevent the encroachment or parking of automobiles on such public sidewalk or planned location thereof.
- C. Lighting of parking areas and access driveways shall have the light source shaded to substantially protect contiguous landowners and public streets.

### § 195-59. Design requirements.

All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley as well as maneuvering areas. The layout and traffic circulation of parking and loading areas shall be designed so as to avoid unsafe conditions and traffic congestion in the streets upon which the area has access according to the following standards:

- A. Curb cuts. The Commission shall determine the appropriate curb cut when the site plan is submitted. Detailed plans of driveway and curb cuts shall be submitted to the State Highway Department, as required, for approval of all curb cuts or driveway openings involving state roads before a zoning permit is issued.
- B. Fire lanes. Where required, fire lanes shall be designated on the site plan. Fire lanes shall be at least 10 feet in width and shall be marked "No Parking Fire Lane." No required parking or loading space shall encroach on any required fire lane.
- C. Adjoining lots. The interconnection of adjoining parking lots shall be encouraged where said connections would result in improved circulation, increased parking spaces, decreased curb cuts and/or signalized access. Parking spaces lost or abandoned due to adjoining parking lots may be exempted from the minimum parking requirements by the Commission.
- D. Drainage.
  - (1) Off-street parking and loading facilities and access roadways/driveways for all commercial and industrial uses shall be paved with a durable and dustless surface consisting of three inches or bituminous concrete over four inches of three-fourths- to one-and-one-fourth-inch processed aggregate base and eight inches of rolled gravel base. Proper drainage shall be provided as specified in Article V of these regulations. No surface water from any parking lot shall be permitted to drain directly onto adjoining property without drainage easements and/or rights to drain.

## ZONING

- (2) Except for one-, two- and three-family dwellings, all residential off-street parking facilities and access roadways/driveways shall be paved with three inches of bituminous concrete over four inches of three-fourths- to one-and-one-fourth-inch processed aggregate base and eight inches of rolled gravel base. Proper drainage infrastructure shall be provided as specified in Article V of these regulations. No surface water from any parking lot shall be permitted to drain onto adjoining property.
  - (3) The Commission may waive the foregoing requirements with respect to the type of surfacing and drainage infrastructure:
    - (a) For areas where existing drainage problems warrant use of porous material;
    - (b) For groundwater recharge areas (or potential recharge areas) where surfacing and change in drainage patterns will reduce or increase groundwater levels;
    - (c) For areas where surfacing and change in drainage patterns will be detrimental to the hydrology and wildlife of surface waterbodies, streams or wetlands;
    - (d) For industrial uses not devoted to employee and/or public parking and only when it is proven that any and all proposed uses will not pollute potential ground and surface water supplies;
    - (e) For sites proposed for recreation activities; or
    - (f) For proposals located within a floodplain.
  - (4) Such conditions shall be documented in a detailed report prepared by a licensed professional engineer, hydrogeologist and/or biologist, where applicable. Said report shall be subject to review and approval the City Engineer, Department of Public Works or any other agency the Commission deems necessary to review the report, prior to Commission approval. A request for waiver shall be submitted in writing and accompany the development application.
- E. Marking. All required parking spaces, except for single-family or two-family residences, shall be marked by painted lines, curbs or other means to indicate individual spaces.
- F. Landscape buffer.
- (1) In cases where a nonresidential parking facility abuts a residential use, a landscaped buffer area at least 25 feet in depth and located on the nonresidential property shall be required by the Commission and shall be maintained by the owner and/or occupants of such parcel. Landscaping of such buffer shall be in accordance with § 195-25(1) of these regulations. (Amended 1/1/2006)
  - (2) The Commission may require that the area lying between the front property line and the parking facility consist of a landscaped berm, mound, wooden fence or masonry wall which may be planted with shrubs, hedges and/or flowering plants, so as to provide effective screening from the street and to improve the appearance of the site.
- G. Design. All off-street parking facilities shall be laid out with standard size parking spaces. Such standard size spaces shall have a width of 10 feet and a length of 18 feet, except for zero degree (parallel) parking spaces which shall have a minimum width of 8 feet and a minimum length of 22 feet. (Amended 10/16/2007)
- (1) Ninety-degree parking. The overall wall-to-wall width shall be 60 feet, including a two-foot allowance for bumper overhang. Aisle width shall be 24 feet for two-

## ZONING

- way traffic.
- (2) Sixty-degree parking. The overall wall to wall width shall be 58 feet, including a two-foot allowance for bumper overhang. Aisle width shall be 18 feet for one-way traffic.
  - (3) Forty-five-degree parking. The overall wall to wall width shall be 51 feet, including a one-and-five-tenths-foot allowance for bumper overhang. Aisle width shall be 13 feet for one-way traffic.
  - (4) Thirty-degree parking. The overall wall-to-wall width shall be 45 feet, including a one-and-five-tenths-foot allowance for bumper overhang. Aisle width shall be 12 feet for one-way traffic.
  - (5) Zero Degree parking spaces, if located adjacent to a building or property line, shall be separated from the building or property line by a curb and landscaping and/or a sidewalk that is at least 48" wide. Zero degree (parallel) parking spaces shall be designed in a manner, which avoids conflicts with other parking spaces, parking aisles and/or other site plan requirements. (Amended 10/16/2007)
  - (6) Sidewalks. Concrete sidewalks a minimum of four feet in width shall be installed on site and along the street frontages to provide walkways between parking areas and building and/or principal or accessory uses when deemed necessary and appropriate for pedestrian safety and convenience. Such walkways shall provide handicapped access ramps in accordance with the Connecticut General Statutes and the State Building Code.
  - (7) Lighting. Adequate lighting shall be provided in lots of more than 10 spaces if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare beyond the property line.

### **§ 195-60. Phased parking development.**

The Commission may, depending on the specific parking needs of a particular use, approve a phased development of the off-street parking area for a proposed or an existing development, in accordance with the following conditions:

- A. The total number of spaces required to be shown on the site plan shall be determined in accordance with the standards for that particular use, as specified in § 195-54 of these regulations;
- B. The construction of the parking area and the installation of the spaces may be phased according to short-term requirements as designated on the plan, except that no less than 50% of the total spaces required shall be constructed as part of the short-term requirement.
- C. The balance of the spaces not constructed shall be designated as "reserve spaces" on the site plan and laid out as an integral part of the overall parking layout and must be located on land suitable for parking area development and either left in its natural state or suitably landscaped.
- D. Under any circumstances, the owner may construct the total number of parking spaces required as per § 195-54 of these regulations; or if the Zoning Officer determines that additional spaces, identified as reserve spaces on the site plan, may be required, he shall notify the owner of the property concerning his findings, and the owner shall construct the required spaces within six months of such notification.

## ZONING

### § 195-61. Supplemental regulations and standards.

- A. In all districts, an access drive to an accessory garage, parking area or truck loading space may be located within a required side yard.
- B. In any residence district, a private garage or parking area may be utilized only as an accessory to the main use, except that one parking space in a private garage accessory to a one-family or two-family dwelling may be rented to a person who is not a resident of the main building.
- C. In any residence district, not more than one commercial vehicle, with a gross weight limited to two tons, may be housed on any lot, and then only in a private garage; except that motorized equipment properly accessory to a farm, or to a group of multiple-family dwellings, may be housed, but only within a roofed enclosure.
- D. In any residence district, not more than fifty percent of the area of a minimum required rear yard shall be used as a parking area.
- E. In all districts, required parking areas for dwellings shall be on the same lot with the main building.
- F. No public or private garage accommodating more than five vehicles and no gasoline station shall be located or shall have any entrance or exit within two hundred feet of the entrance to a public school, public library, theater, assembly hall, church, hospital, public park, or playground or fire station.
- G. All public garages and gasoline stations shall be so arranged, and all gasoline pumps shall be so placed, so as to permit all services to be rendered entirely within the lot lines. No gasoline or oil pump shall be placed within fifteen feet of any street line or side lot line.
- H. Parking for the physically handicapped. Parking shall be provided for the physically handicapped in accordance with the Basic Building Code of the State of Connecticut.
- I. Parking exemption areas. The Commission, after due notice and public hearing as required for adoption or amendment of these regulations, may delineate areas of the city which shall be exempt from the required provision of off-street parking spaces. Such delineation shall be shown on the Zoning Map and may be made only after the Commission determines that the City of Derby or a combination of the City of Derby and property owners will provide sufficient and permanent off street parking spaces to carry out the purpose and intent of this article.

---

## ARTICLE VIII, Flag Lots

---

### § 195-62. Flag lot regulations. (Amended 11/4/2013)

- A. In all Residential and P Zones, a lot of record may be divided to form a flag lot subject to subdivision approval and provided that:
  - (1) Said flag lots are in accordance with all applicable sections of these regulations.
  - (2) A flag lot shall not be approved in conjunction with any flag lot created by the resubdivision of any lot(s) which is part of any subdivision approved after the effective date of this regulation (i.e., a flag lot cannot be resubdivided into

## ZONING

- another flag lot).
- (3) A note shall be placed on each flag lot of all record subdivision plans approved after the effective date of this regulation stating, "This lot shall not be resubdivided to form additional flag lot(s)."
- B. General land characteristics.
- (1) The purpose of allowing flag lots is to allow for some flexibility in site design so as to:
- (a) Take advantage of unique topographical situations;
  - (b) Create a more cost-effective development which promotes the optimum usage of land.
- (2) A "flag lot" is defined as a parcel of land that is situated generally behind a lot or lots fronting on the street; does not have the required street frontage as per the Zoning Regulations (but does maintain street frontage along the width of the access strip); and is accessible from the street only over an access strip that is owned in fee simple.
- (3) It shall be the responsibility of the applicant or subdivider to prove to the satisfaction of the Commission that the land characteristics and physical site conditions make flag lot development practical, reasonable and desirable; and that such flag lot(s) will be in compliance with all applicable town codes, ordinances and regulations.
- (4) No zoning or building permit shall be issued for a structure on a flag lot unless the lot is part of an approved subdivision or is a flag lot of record.
- (5) Flag lots of record shall not be divided or otherwise altered in area or dimension unless the lot division is done as part of a formal subdivision/resubdivision application and results in all remaining parcels of land being in compliance with the Derby Zoning and Subdivision Regulations. The use of a right-of-way as an access to a flag lot of record shall establish that lot as being a nonconforming flag lot of record.
- (6) In the case where a flag lot is situated in two different zones, the land requirements of the more restrictive zone shall be adhered to.
- (7) Flag lots situated behind flag lots are strictly prohibited.
- (8) Landscaping.
- (a) A permanent and continuous landscaped buffer strip shall be provided on the flag lot at least 20 feet set back from any lot line shared by a front lot and a flag lot. At least 50% of the required plantings shall consist of evergreen species, at least six feet in height and 1.5 inches in caliper. Suitable existing trees and shrubs may be preserved or augmented by plantings to provide the required buffer. Said buffer strip shall be recorded on the deed as a restrictive covenant and shall be maintained by the property owner. Said deed shall be filed in the land records of the Town Clerk prior to endorsement of any record map.
  - (b) The access strip of a flag lot shall be maintained in a suitable fashion so as to provide safe access to said flag lot and to prevent degradation to abutting properties.
  - (c) The above landscape planting requirements may be waived by the Commission if a suitable vegetative cover exists or if the Commission finds

## ZONING

that an alternate landscaping layout or configuration will result in a development of higher quality.

### C. Area and yard requirements.

- (1) In all Residential and P zones, the minimum required area of a flag lot shall be subject to 195-62A and the area and yard requirements listed in 195-62 C(3).
- (2) The minimum width of a flag lot shall be along the lot line most parallel to the street or as designated by the Commission.
- (3) Schedule of Area and Yard Requirements for Flag Lots.

<b>Requirements</b>	<b>Zones: R-1, R-2, R-3, R-4, R-5, R-6, R-M, and P</b>
Minimum area	50,000 SF
Minimum width	175 feet
Front yard setback	60 feet
Rear yard setback	60 feet
Side yard setback	25 feet

### D. Access.

- (1) Access from a city road to a flag lot shall be on land which is owned in fee simple by the owner of said flag lot. The access strip shall be limited to the exclusive use of the single flag lot and shall not be used for access to another lot unless approved by the Commission and considered to be in the public interest.
- (2) No portion of an access strip shall be included in computing the required lot area for a flag lot.
- (3) The minimum width of an access strip shall be 25 feet. When issues concerning the access strip such as, but not limited to safety and adequacy, are raised, the Commission may require a width in excess of 25 feet to ensure for proper design and public safety.
- (4) The maximum number of adjoining flag lot access strips shall not exceed two.
- (5) The minimum separation distance, as measured along the street, between single flag lot access strips shall be 300 feet. The minimum separation distance between adjoining access strips and any other access strip(s) shall be 600 feet.
- (6) The maximum grade of the access strip shall not exceed a ten percent grade at any point and shall not exceed a three-percent grade within 25 feet of its intersection with the street. All flag lot driveways shall be 15' wide and paved with bituminous concrete and maintained in good repair.
- (7) All flag lot access strips shall be designed so as to adequately provide for watercourses, wetlands and stormwater runoff and shall not discharge stormwater runoff to adjacent properties
- (8) Driveway construction plans shall be submitted to the Commission or its designated agent in order to demonstrate adequate ingress and egress for emergency vehicles to the proposed development. Where the adequacy of lot access is questioned, the applicant may be required to submit plan profiles for the proposed driveway.

## ZONING

---

### ARTICLE IX, Home Occupations

---

#### § 195-63. Home occupation regulations.

Home occupations, where permitted, shall comply with the following:

- A. Said home occupations shall be conducted by members of the family residing on the premises. Not more than one nonresident shall be employed therein.
- B. Said home occupation shall be incidental and subordinate to the residential use and shall not occupy more than 50% of the area of one floor of the principal building. No home occupation shall be conducted in an accessory building or outside of the principal building.
- C. In no manner shall the appearance of the building be altered or shall the occupation within the residence be conducted in a manner that would cause the premises to differ from its residential character, either by the use of colors, materials, construction, lighting, size, or the emission of sounds, noises or vibrations. No display of products shall be visible from the street, and no stock in trade shall be kept on the premises.
- D. The home occupation shall not increase the vehicular traffic flow by more than one additional vehicle at a time and shall not involve the use of outdoor storage of commercial vehicles for delivery of materials to and from the premises.
- E. No home occupation shall create noise, dust, vibration, odor, smoke, electrical interference, fire hazard or any other hazard or nuisance to any greater extent or more frequent extent than that usually experienced in the district under circumstances wherein no home occupation were to exist.
- F. Home occupations shall, in no event, be deemed to include animal hospitals, kennels, barber shops, beauty parlors, clinics or hospitals, dancing schools, mortuaries, nursery schools or day-care centers, clubs, auto repair shops, restaurants, tourist homes, rooming houses or boardinghouses and uses similar to those listed above.

---

### ARTICLE X, Swimming Pools

---

#### § 195-64. Swimming pool regulations.

- A. General.
  - (1) No swimming pool greater than three feet in depth of water or appurtenance thereto shall be constructed, installed, enlarged or altered until a permit has been obtained from the Building Official. The approval of all city and state authorities having jurisdiction over pools shall be obtained before applying to the Building Official for a permit. Certified copies of these approvals shall be filed as a part of the supporting data for the application for the permit. In the event of any conflict between the provisions of these regulations and any provision of state law or requirement, rules or regulations of the State Department of Public Health, the provision imposing the higher standard or the more stringent requirement shall have precedence.
  - (2) Before any permit for a swimming pool is issued, plans, including a site plan

## ZONING

- with elevations, shall be submitted showing accurate dimensions and construction of the pool and appurtenances, properly established distances to lot lines and details of water supply, drainage and water disposal systems.
- (3) A private swimming pool may be constructed in any zone as an accessory use to a residential use.
  - (4) Any swimming pool and appurtenances shall conform to the same yard and coverage requirements for buildings as set forth for each zone and shall conform to the standards for walls and fences set forth in these regulations.
- B. Water supply and drainage system.
- (1) No direct mechanical connection between a source of domestic water supply shall be made to a swimming pool or to the piping to the pool. The water supply for filling the pool, when derived from a potable supply, shall be by means of an over-fall fillspout to the pool or an over-fall supply to a surge tank, wherein the water will freely overflow at deck level or the top of the surge tank before coming into contact with the water supply outlet.
  - (2) The swimming pool and equipment shall be equipped to be completely emptied of water, and the discharged water shall be disposed of in an approved manner that will not create a nuisance to the adjoining property. Whenever any waste or drainage from a swimming pool is connected to a sanitary sewer or storm sewer, an air-gap or a relief manhole shall be provided which will positively preclude against surge or back flow introducing contaminated water into the swimming pool or water treatment plant. The written permission of the public authority having control of such sanitary or storm sewer shall be filed with the application for a permit.
- C. (Subsection deleted 1/1/2006)

---

### ARTICLE XI, Signs

---

#### § 195-65. Intent.

- A. It is the intent of this article to provide for appropriately designed signs which are suitable to perform designated functions within a particular zone, which are compatible with adjacent developments and land uses and which do not detract from property values or impair the public health, safety and welfare.
- B. Application for a sign permit shall be submitted to the Zoning Officer for approval prior to submittal of a building permit application.

#### § 195-66. Definitions.

As used in this article, the following terms shall have the meanings indicated:

A. Sign function definitions.

**BILLBOARD** -- A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

**BUSINESS** -- A sign which directs attention to a business, commodity, service or

## ZONING

entertainment conducted, sold or offered upon the premises where such sign is located or to which it is affixed. Such signs shall include those of individual retail, wholesale, industrial or commercial establishments.

**CONSTRUCTION** -- A sign erected on a site which is to be developed or is being developed.

**DIRECTIONAL** -- A sign which improves the flow and safety of vehicular and pedestrian circulation of a site through the use of messages such as "entrance," "parking" and "shipping and receiving."

**IDENTIFICATION** -- A sign on the premises indicating only the name of a professional or office building; an occupied residential development, industrial area or park or commercial shopping center; or the name of a school, park, church, hospital or other public or quasi-public facility.

**NAMEPLATE** -- A sign on the premises indicating the name and/or the activity of the occupant or occupants of a professional or office building or the name and nature of a home occupation.

**PUBLIC INTEREST** -- A sign informing the public of matters of public interest associated with political, fraternal, social or service organizations.

**PUBLIC WARNING** -- A sign informing the public of danger, hazard, trespass, infringement or request.

**REAL ESTATE** -- A sign offering for sale or lease the property on which it is located. It may include reference to the owner or agent.

**ROADSIDE** -- A sign which directs attention to the sale of agricultural produce grown on the premises.

**SPECIAL EVENT** -- A temporary sign which announces a business opening, special event, festival or bazaar.

**B. Sign construction definitions.**

**ANIMATED** -- A sign which involves motion or rotation of any part or which displays flashing lights, intermittent lights, creates an illusion of movement or the copy or image of which changes at intervals of once each 10 or more seconds.

**CANOPY** -- A sign placed on the panels of a permanent canopy or erected above and supported by the canopy and extending no higher than the eaves or the top of a parapet wall.

**CHANGEABLE COPY SIGN** -- A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign at intervals of less than once each 10 seconds.

**FREESTANDING** -- A sign placed on the ground or supported by a structure other than a building placed in or upon the ground.

**PROJECTING** -- A sign supported solely by a building and projecting more than 18 inches.

**ROOF** -- A sign erected above roof level, but not including a sign which extends no higher than the eaves or the top of a parapet wall.

**TEMPORARY** -- Any sign, banner, pennant, valance or advertising display constructed of cloth, fabric, cardboard or other light material intended to be displayed for a short period of time.

**WALL** -- A sign placed on a wall of a building and extending no higher above roof level than the eaves of the top of a parapet wall.

## ZONING

ELECTRONIC MESSAGE DISPLAYS -- A sign capable of displaying digital or internally illuminated words, symbols, figures or images that can be electronically changed. (Amended 11/4/2013)

C. Sign lighting definitions.

INDIRECTLY ILLUMINATED -- A sign illuminated by devices which project artificial light from within (halo lighting) or outside (floodlighting) it and involves no translucent surfaces.

INTERNALLY ILLUMINATED -- A sign which has a light source that is concealed within the sign and becomes visible in darkness through a translucent surface. This includes signs having a translucent and illuminated background and those with opaque background and translucent and illuminated copy, symbols, etc.

NATURAL -- A sign depending on natural light for illumination.

### § 195-67. Miscellaneous sign regulations.

- A. Signs other than public interest, public warning and directional signs shall be considered accessory uses.
- B. Portable sidewalk signs are prohibited.
- C. Animated signs are prohibited, except as per § 195-71C.
- D. Signs painted directly upon the surface of any wall are prohibited, except that the Commission may approve such signs (e.g., supergraphics) if it finds that the sign will be in harmony with surrounding developments; that the removal of the sign (if it should be necessary, for whatever reason) can be reasonably achieved without despoiling the surface of the wall; and that the sign conforms to sign area requirements.
- E. Roof signs are prohibited, except that the Commission shall approve such signs in industrial zones if it finds that the sign will not excessively detract from adjacent properties and that other types of signs are unsuitable because of topography or other barriers to reasonable visibility. No roof sign shall be erected in a manner which prevents free passage from one part of the roof to any other part thereof. Roof signs shall provide not less than four feet of clearance between the lowest point of the sign and the roof and not less than three feet clear passageway from other roof obstructions. The distance between the highest point of a roof sign and the roof of the supporting building shall not exceed 1/2 of the height of that building. The highest point of a roof sign shall be no higher than 40 feet above ground.
- F. No line of exposed lights (festooned lights) shall be erected except during the month of December, unless approved by the Zoning Officer.
- G. Projecting signs shall provide not less than eight feet ground clearance or as specified by the Connecticut State Building Code if situated in an area where the public walks. No part of a freestanding sign shall be less than five feet from a public right-of-way. No freestanding sign shall be of a height greater than the eaves or the top of a parapet wall of the building to which it relates.
- H. Except for corner lots and as provided in Subsection Q and § 195-71F, only one freestanding sign or one projecting sign shall be permitted for one lot, even if there is more than one use or business on such lot. However, the Commission may allow more than the permitted freestanding signs as a special use if the applicant demonstrates a need based upon the lot's configuration, size, location, topography or

## ZONING

placement of buildings. For corner lots with combined frontages of 150 feet or greater, one freestanding sign per street front shall be permitted.

- I. Nothing in these regulations shall be construed as prohibiting or regulating the installation of emergency, street, public interest or public warning signs by a governmental body.
- J. Nothing in these regulations shall be construed as prohibiting signs intended for viewing principally from within a building or signs temporarily attached to the inside face of a display window, announcing a sale or similar feature, provided that the later shall not occupy more than 25% of the total display window area.
- K. Signs placed within three feet of a window and visible from the exterior of the building shall be included in sign area calculations.
- L. All signs relating to a use or activity shall be removed within 30 days after termination of the use or activity.
- M. No construction sign shall be displayed for a time period exceeding 18 months, unless the Commission grants an extension. Construction signs shall be removed immediately after a building project has been completed.
- N. Real estate signs shall not be displayed after the property has been sold.
- O. (Subsection deleted 10/18/2000)
- P. No site shall be allowed more than two types of construction or business signs.
- Q. For sites abutting limited access highways, wall signs shall be allowed only on the building elevation facing whichever street is utilized in the address, except as provided below. By special exception, the Commission may permit one wall sign visible towards a limited access highway upon finding that:
  - (1) (Subsection deleted 1/1/2006)
  - (2) The sign is not unduly distracting to drivers, thus constituting a traffic hazard.
  - (3) The sign is compatible with the building.
  - (4) The sign is not too large for its intended viewer.
  - (5) The sign will not despoil the city's image for passing motorists because of its excessive size, its color or design.
  - (6) The sign will not negatively affect abutting property values.
  - (7) If the sign is internally illuminated it shall be turned on only during normal business hours.
- R. The construction and erection of all signs shall conform to the requirements of the Connecticut State Building Code.
- S. Electronic Message Displays: (Amended 11/4/2013)
  - (1) The City of Derby, acting by and through its Planning and Zoning Commission, finds it necessary for the promotion and preservation of the public health, safety and welfare, to regulate the location, construction, size, brightness, operation, messaging, and maintenance of signs that display electronic messages. Electronic signs have been found to have a direct impact on traffic safety, pedestrian safety, community appearance and property values. Electronic signs that display messages are highly visible have wide viewing angles, during the day and night and are designed to attract the attention of persons in viewing sight lines for an extended period of time.

The purposes of the regulations promulgated in this Section include:

## ZONING

- (a) To eliminate potential hazards to motorists and pedestrians using the public streets, sidewalks, and rights-of-way;
  - (b) To safeguard and enhance property values;
  - (c) To control nuisances;
  - (d) To protect government investments in public buildings, streets, sidewalks, traffic control and utility devices, parks, and open spaces;
  - (e) To eliminate excessive and confusing sign displays;
  - (f) To promote the public health, safety, and general welfare; and
  - (g) To provide advertising signage for commercial shopping centers on a parcel with a total gross building coverage in excess of 100,000 square feet and where the Commission deems appropriate. Advertising shall be limited to goods or services sold on the parcel and to public service messages. (Amended 4/05/2019)
  - (h) To provide for fair and consistent enforcement of the regulations set forth herein. (Amended 4/05/2019)
- (2) Any sign utilizing electronic message displays in whole or in part must meet the following operational standards:
- (a) The use of electronic message displays shall only be permitted by Special Exception in the P and B-1 Zones. The message must have a minimum duration of thirty (30) seconds and/or be limited to a static display, and be limited to text only. No portion of any electronic message display shall fluctuate in light intensity or use intermittent, strobe or moving light or light that changes in intensity in sudden transitory bursts, streams, zooms, twinkles, sparkles or in any manner creates the illusion of movement. No portion of any electronic message display shall change its message or background in a manner or by a method of display characterized by motion or pictorial imagery, or depicts action or a special effect to imitate movement, or the presentation of pictorials or graphics displayed in a progression of frames that give the illusion of motion or the illusion of moving objects, moving patterns or bands of light or expanding or contracting shapes; and (Amended 4/05/2019)
  - (b) Electronic message displays shall be limited to no more than one (1) sign per lot;
  - (c) Electronic message displays shall be limited to no more than sixteen (16) square feet in area per side, and no more than thirty-two (32) square feet in total area of both sides combined in the P zone and no more than seventy (70) square feet per side and no more than one hundred forty (140) square feet in total area on both sides combined in the B-1 zone; (Amended 4/05/2019)
  - (d) No electronic message display shall be closer than ten (10) feet to any property line abutting a street or closer than six (6) feet to any other lot line provided that in the B-1 zone if the property abuts a State Highway and the Right of Way line greater than fifteen (15) feet from the roadway edge of pavement the Commission may reduce the setback to one (1) foot from the State Right of Way line; (Amended 4/05/2019)
  - (e) No electronic message display shall exceed twenty (20) feet in height;

## ZONING

- (f) No illumination from an electronic message display shall cause objectionable glare onto or toward any residential properties. In addition, no illumination from such sign shall interfere with the safe movement of motor vehicles on public thoroughfares;
  - (g) Electronic message displays shall not display any off-premises advertising;
  - (h) Audio speakers or any form of pyrotechnics are prohibited in association with a sign.
- T. The requirements of Subsections A through R shall apply to all signs in all zones but shall not apply to developments in the Center Design District or to special exceptions, in which cases the Commission shall approve the appropriateness of all such signs.  
(Amended 11/4/2013)
- U. A change of a site's or building's use will require the new use to bring all signs relating to the premises such use occupies into conformity with these regulations.  
(Amended 11/4/2013)

### **§ 195-68. Sign lighting requirements.**

- A. Sign illumination which simulates traffic lights or emergency warning lights are prohibited.
- B. Internally illuminated signs shall not be permitted if the property on which the sign is proposed abuts a residential zone or is located across a public right-of-way from a residential zone except in such cases where the Commission determines by special exception that there is no negative impact on the residential zone.
- C. All indirect illumination sources shall be shielded so that the light will not shine in the eyes of any person external to the premises on which the sign is displayed.
- D. Signs designed for viewing from one side shall be opaque on the side opposite that containing copy.

### **§ 195-69. Sign design and area regulations.**

- A. Design.
  - (1) Signs shall be designed in harmony with the building and established surrounding development. All store units in the same building or in separate buildings on the same lot shall have a uniform design and placement of signs (see Appendix Figures 34 and 34A).
  - (2) Signs, the geometry or location of which blocks the public's visibility of pedestrians, vehicular traffic, public information signs or traffic signals, are prohibited.
- B. Area.
  - (1) In all zones except residential zones, the following shall apply:
    - (a) The maximum allowable sign area for all wall or projecting signs shall equal:
      - [1] One square foot for each linear foot of the front wall of the building or establishment for signs located less than 100 feet from the right-of-way.
      - [2] One and one-half square feet for each linear foot of the front wall of the building or establishment for signs located between 100 feet and 200 feet from the right-of-way.

## ZONING

- [3] Two square feet for each linear foot of the front wall of the building or establishment for signs located more than 200 feet from the right-of-way.
- (b) For a unified site that contains more than one building or establishment, each such establishment shall be entitled to the sign area attributable to the linear feet of that portion of the front wall which such establishment occupies irrespective of the total sign area of the development.
- (c) The front wall of a building or establishment shall be, for the purposes of this article:
  - [1] The wall facing whichever street is utilized in the address, if the building or establishment is oriented to the street; or
  - [2] The wall which contains the main entrance, if the building or establishment is not oriented to the street.
- (d) If a site contains no occupied principal building (e.g., a park or a future construction site), the maximum allowable area shall be that designated for the appropriate construction sign in the appropriate zone, as per § 195-71.
- (2) In single-family residential zones, the maximum allowable sign area shall be as per § 195-71B.
- (3) At no building, establishment or site shall the total area of all signs exceed the maximum allowable sign area for that building, establishment or site.
- (4) The total area of any individual wall or projecting sign shall not exceed the maximum allowable sign area for that sign function and construction, as per § 195-71.
- (5) The sign area shall be the area of the smallest rectangle which will encompass the extreme limits of the writing, representation, emblem, logo or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting structure, bracing or decorative fence or wall when such fence or wall otherwise meets zoning regulations and is clearly incidental to the display itself.
- (6) For freestanding and projecting signs, all sides that are utilized as a sign or part of a sign shall be included in the computation of the total sign area.
- (7) Directional signs shall not be subtracted from the permitted sign allocation, provided that they do not exceed six square feet and not more than 25% of the area is used for business name and/or logo. However, a sign permit must be obtained and the size and location of directional signs must be approved by the Zoning Officer.

### **§ 195-70. Approval and violations.**

- A. No sign shall be permitted in a public right-of-way unless the location is approved by the Zoning Officer or other relevant authorities.
- B. Prior to the installation of all signs, necessary permits and approvals shall be obtained as follows:
  - (1) In cases where site development approval is required, the provisions of the applicable requirements of Articles V and XI shall apply.
  - (2) Any sign requiring a sign permit but not site development approval shall comply

## ZONING

with the applicable requirements of this Article XI.

- (3) Noncompliance with any provisions of this section shall be construed as a zoning violation subject to the full penalties and fines as noted in § 195-139.

### § 195-71. Permitted signs by district.

#### A. Signs permitted in business zones.

- (1) Public interest. The Zoning Officer may grant permission for the temporary display of public interest signs of a size, construction and lighting and for such time periods deemed by him/her appropriate for the purpose. However, such signs must be removed three weeks after erection.
- (2) Public warning. The Zoning Officer may grant permission for the erection of public warning signs of a size, construction and lighting deemed by him/her appropriate for the purpose. (Amended 1/1/2006)
- (3) Business. A gasoline filling station may erect only one freestanding sign, not exceeding 60 square feet with an additional 20 square feet allowed for price information only.

#### B. Signs permitted in residential zones.

- (1) Construction: one freestanding sign not exceeding 40 square feet per side, to advertise a building or project. Each subcontractor may display one freestanding sign not to exceed four square feet.
- (2) Identification: one wall or freestanding sign not exceeding 24 square feet.
  - (a) Points of historical interest: one wall or freestanding sign not exceeding four square feet. Additional signs may be permitted by the Zoning Officer if the use is public or quasi-public in nature.
- (3) Nameplate: one wall or freestanding sign per dwelling unit, not exceeding 1 1/2 square feet per side.
- (4) Real estate: one freestanding sign per property offered for sale, not exceeding four square feet per side.
- (5) Roadside: one freestanding sign not exceeding 16 square feet. The sign shall not be displayed during seasons of non-sale.

#### C. Signs permitted in business zones.

- (1) Construction: as per residential zones.
- (2) Business.
  - (a) An establishment may erect only one projecting sign, not exceeding 16 square feet; or an establishment with less than 3,000 square feet of ground floor area in the main building (except gasoline filling stations) may erect only one freestanding sign, not exceeding 32 square feet; or An establishment with 3,000 square feet or more of ground floor area in the main building (except gasoline filling stations) may erect only one freestanding sign, not exceeding 50 square feet.
  - (b) Motels located adjacent to a limited access highway may erect only one freestanding sign not exceeding 100 square feet. Motels in other locations may erect only one freestanding sign not exceeding 50 square feet.
  - (c) A barber shop may erect one animated sign, not exceeding three feet in height and not projecting more than 12 inches from the building face.
  - (d) Other business signs not outlined above that may be erected shall be of the

## ZONING

following construction: roof, wall or canopy. All such signs shall conform to the applicable requirements of § 195-39I and Article XI.

- (3) Identification: One wall or freestanding sign not exceeding 32 square feet.
- (4) Shopping centers occupying less than 10 acres: One freestanding sign not exceeding 50 square feet per side, solely to identify the center. Shopping centers in the B-I District occupying 10 acres or more; One freestanding sign identifying the center and its occupants, the allowable sign area for said sign shall equal .75 square feet for each linear foot of the front wall of the building but in no event shall the total area of a sign face per side exceed 300 square feet.

Due to the complexities of site design and occupancy associated with large shopping centers in excess of 100,000 gross square feet and similar mixed use developments, the Commission may permit signs differing from the standards contained in this section and electronic message displays as per Section 195-67S by granting a special exception for an Alternative Signage Program when the Commission finds that; (Amended 4/05/2019)

- (a.) Such signage program would be consistent with the purpose and intent of this Article XI; and
  - (b.) Such signage program would result in a more comprehensive and attractive arrangement and display of signs that could otherwise be accomplished under the standards of this article. (Amended 10/18/2000)
- (5) Nameplate: one wall, freestanding or projecting sign per office or establishment, not exceeding two square feet per side.
  - (6) Real estate: as per residential zones, except that the sign may be of wall or freestanding construction. The area of a freestanding real estate sign is 32 square feet.
  - (7) Roadside: as per residential zones.
  - (8) Special event: In order to promote the economic development and viability of Derby businesses, the temporary display of a special event sign(s) based on such factors as its size, the size of the site, its placement on the site, potential safety impacts and the degree to which the sign(s) compromises the character of the surrounding area may be approved as follows:
    - (a) By the Zoning Officer for an initial period of three months if he finds that the display has not created nuisances, hazards or excessively compromised the character of the area.
    - (b) The Commission, by special exception may grant approval for up to an additional three months beyond any approval period granted by the Zoning Officer if it confirms the findings in Subsection C(8)(a) above, and further finds that approval will not create an undue competitive advantage for the applicant over other Derby businesses that do not have temporary special event signs, and that the approval will not create or promote an undue concentration of special event signs.
- D. Signs permitted in the Hospital Campus Zone.
- (1) Construction: as per residential zones.
  - (2) Business: one freestanding sign not exceeding 50 square feet.
  - (3) Identification: one freestanding sign not exceeding 50 square feet.

## ZONING

- (4) Nameplate: one wall or freestanding sign per office not exceeding 1 1/2 square feet per side.
  - (5) Real estate: as per residential zones.
- E. Signs permitted in industrial zones.
- (1) Construction: as per residential zones.
  - (2) Business:
    - (a) One projecting sign not exceeding 50 square feet or one freestanding sign not exceeding 100 square feet.
    - (b) Motels located adjacent to a limited access highway may erect only one freestanding sign not exceeding 100 square feet. Motels in other locations may erect only one freestanding sign not exceeding 50 square feet.
    - (c) For lots containing two or more buildings separated by a minimum of 70 feet and oriented to a common drive, one freestanding sign not exceeding 100 square feet for each building shall be permitted.
    - (d) Other business signs not outlined above that may be erected shall be of the following construction: roof, wall or canopy. All such signs shall conform to the applicable requirements of Article XI and § 195-39I.
  - (3) Identification: one freestanding sign not exceeding 100 square feet.
  - (4) For lots containing two or more buildings separated by a minimum of 70 feet and oriented to a common drive, one freestanding sign not exceeding 100 square feet shall be permitted in addition to the permitted freestanding business signs(s).
  - (5) Nameplate: one wall, freestanding or projecting sign for each establishment, not exceeding four square feet.
  - (6) Real estate: one wall or freestanding sign not exceeding 16 square feet per side.
  - (7) Special event: The Zoning Officer may grant permission for the temporary display of special event signs based on such factors as size, placement on the site, the appropriateness of the location of the site in relation to its surroundings and potential safety impacts for such time periods deemed by him appropriate for the purpose subject to compliance with the standards of the Connecticut State Building Code. All such signs must be removed three weeks after erection. The Commission may grant as a special exception the temporary display of special event signs for a time period greater than three weeks, but in no case in excess of three months.
- F. Signs permitted in the Center Design District. The location size and design of all signs in the Center Design District shall be approved by the Commission (see § 195-67T) (Amended 11/4/2013)
- G. Signs permitted in public zones.
- (1) Construction: as per residential zones.
  - (2) Identification: one freestanding sign not exceeding 32 square feet.
  - (3) Business: as per business zones, except that the Commission shall approve the appropriateness of all signs.
  - (4) Special event: The Zoning Officer may grant permission for the temporary display of special events signs based on such factors as size, placement on the site, the appropriateness of the location of the site in relation to its surroundings and potential safety impacts for such time periods deemed by him appropriate for the purpose subject to compliance with the standards of the Connecticut State

## ZONING

Building Code. All such signs must be removed three weeks after erection. The Commission may grant as a special exception the temporary display of special event signs for a time period greater than three weeks, but in no case in excess of three months.

- (5) Electronic Message Displays: as per Section 195-67S (Amended 11/4/2013)

---

### **ARTICLE XII, Zoning Board of Appeals**

---

#### **§ 195-72. Membership; terms.**

In accordance with the provisions of the General Statutes of the State of Connecticut, the Zoning Board of Appeals shall consist of five electors who shall not be members of the Planning and Zoning Commission. They shall be appointed for terms of five years, so arranged that the term of not more than one member shall expire in any one year.

#### **§ 195-73. Officers.**

The Board of Appeals shall elect from its membership a Chairman, Vice Chairman and Secretary, each to serve for a term of one year and subject to reelection. The Chairman or, in his absence, the Vice Chairman, shall have power to administer oaths and compel the attendance of witnesses.

#### **§ 195-74. Rules of procedure.**

The Board shall adopt such rules, regulations and procedures as may be deemed necessary to carry into effect the provisions of these regulations. These shall include, among other things, regulations relating to notices for public hearings, fees to be charged for all applications filed with the Board, forms to be used in the submission of applications, times when hearings shall be held, procedures for the conduct of public hearings, regulations regarding notices for public hearings and the form of written report of findings of the Board.

#### **§ 195-75. Meetings; records.**

The Board shall meet at the call of the Chairman and at such other times as the Board may determine. All meetings of the Board of Appeals shall be open to the public. Records of the Board may be examined in the offices of the Board at any reasonable time.

## ZONING

### **§ 195-76. Minutes and findings.**

The Board shall keep minutes of its proceedings, recording the action of the Board and the vote of each member upon each action or, if absent or failing to vote, indicating such fact. It shall also keep records of its examinations and other official action, all of which shall be filed promptly in the office of the Board and shall be open to public examination. All findings and actions of the Board shall be in writing and shall set forth the reasons for the action taken, whether to be in favor of the granting of an application or petition. Findings shall be complete, detailed and in specific terms, setting forth the reasons for the decision, and shall go beyond such generalities as "in the interest of public health, safety and the general welfare... ." In every instance, a statement of the hardship upon which such action is based shall appear in the minutes.

### **§ 195-77. Assistance from other officials.**

The Board may call upon any other city department or agency for assistance in the performance of its duties, and it shall be the duty of such other departments or agencies to render such assistance to the Board as may be reasonably required.

### **§ 195-78. Referrals.**

The Zoning Officer or Building Official's advisory opinion on any matter before the Zoning Board of Appeals shall be sent to the Board at least four days prior to the public hearing assigned for such matter, and such findings of the Zoning Officer or Building Official shall be read into the record at such public hearing. The failure of the Zoning Officer or Building Official to submit its report to the Zoning Board of Appeals prior to the public hearing shall not prevent the Zoning Board of Appeals from reaching a decision on any matter before it.

### **§ 195-79. Guiding principles.**

- A. Every variance granted by the Zoning Board of Appeals shall be based upon and accompanied by a specific finding or findings, supported by evidence produced at a public hearing in the manner provided by law, to the effect that the exceptional circumstances of the particular case are such as to constitute exceptional difficulties or unusual hardship in the way of carrying out the strict application of the regulations of this chapter.
- B. Every variance granted by the Zoning Board of Appeals shall be designed by the Board to safeguard the public health, safety, convenience and welfare and shall be further designed to provide reasonable consideration among other things to the character of the neighborhood or district, the conservation of property values, the direction of building development in accordance with any plan of development or portion thereof which has been adopted by the Commission; and shall not involve substantial detriment to the public good nor substantially impair the intent and purpose of the zone plan of this chapter, to the end that the spirit of this chapter shall be observed, public safety ensured and substantial justice done.
- C. Every variance granted by the Zoning Board of Appeals shall, in appropriate cases, be

## ZONING

made subject to such conditions and safeguards as the Board shall deem to be applicable to the particular case.

- D. Any variance granted by the Zoning Board of Appeals pursuant to the provisions of this article, shall be construed to be a nonconforming use.

### § 195-80. Powers and duties.

The Zoning Board of Appeals shall have the following powers:

- A. Appeals. To hear and decide appeals made by any person or persons severally or jointly aggrieved by any order, requirement or decision of an administrative official in the enforcement of these regulations. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement or decision appealed from, and shall make such order, requirement or decision as in its opinion ought to be made in the premises and shall have the powers of the officer from whose order, requirements or decision the appeal was taken, provided that the affirmative vote of four members shall be necessary to reverse or modify the order, requirement or decision appealed from.
- B. Variances. Grant variances from the strict application of these regulations when, by reason of exceptional narrowness, shallowness, shape or substandard size of specific parcels of property, the strict application of these regulations or amendments thereto would result in unusual difficulty or unreasonable hardship upon the owner of said property; provided that such relief or variance can be granted without substantial impairment of the intent, purpose and integrity of these regulations. Uses not permitted as of right in any particular zoning district shall not be permitted in that particular zoning district by variance. Before granting a variance on the basis of unusual difficulty or unreasonable hardship, there must be a finding by the Board of Appeals that all of the following conditions exist:
- (1) That if the owner complied with the provisions of these regulations, he would not be able to make any reasonable use of his property.
  - (2) That the difficulties or hardship are peculiar to the property in question, in contrast with those of other properties in the same district.
  - (3) That the hardship was not the result of the applicant's own action.
  - (4) That the hardship is not merely financial or pecuniary.
- C. Specific types of variances. In conformity with its general power to grant variances as provided in this article, and pursuant to the guiding principles stated in this article, the Zoning Board of Appeals is hereby specifically empowered:
- (1) To grant a building permit, in appropriate cases, where the lot of the appellant, as such lot existed at the time of the effective date of this chapter, lies across the boundary of two districts, that a building permit be granted for the extension into the more restricted district of a lawful conforming use permitted in the less restricted district, but for a distance not exceeding 35 feet measured at right angles to such district boundary.
  - (2) To grant a building permit for the enlargement or extension of a nonconforming use or building to any portion of the lot occupied by such use or building at the effective date of the chapter, which portion was arranged, intended or designed for such nonconforming use at the date of this chapter; provided that such

## ZONING

enlargement or extension shall not exceed in all 50% of the appraised value of such use or existing building at the effective date of this chapter.

- (3) To grant a building permit for the reconstruction, structural alteration, restoration or repair of a structure used for a nonconforming use, to an extent exceeding in aggregate 50% of the replacement cost of such structure.
- (4) To grant a certificate of occupancy for a change in nonconforming use, provided that the Planning and Zoning Commission shall have made a determination that such change will be beneficial to the general neighborhood and further provided that such change be made subject to such reasonable conditions and safeguards as the Board may stipulate.
- (5) To modify the side yard requirement on the side street of a corner lot, in cases where such requirement would unduly reduce the buildable width of such corner lot.
- (6) To grant a temporary building permit for a period not to exceed one year for a nonconforming building, structure or use incidental to a building or other construction project, including such uses as the storage of building supplies and machinery, and a real estate office located on a tract of land where individual properties are being offered for sale; provided that such temporary permit shall be issued only upon written agreement by the owner or his agent to remove such building or structure upon expiration of such permit; and further provided that such permit shall be subject to such reasonable conditions as the Board shall determine to be necessary to protect the public health, safety and welfare. Such permit may be renewed annually, at the discretion of the Board, over a period not to exceed three years.

### D. Floodplain District.

- (1) When considering a variance from the provisions of Article XV, Floodplain Management Controls, the Board shall take into consideration the following:
  - (a) The variance shall not increase flood heights during flood discharge, create additional threats to the public safety or result in extraordinary public expense or nuisance;
  - (b) The variance is the minimum necessary in relation to flood hazard to afford the relief requested; and
  - (c) The variance may be granted for new construction or improvement of structures or buildings on lots of 1/2 acre or less when such lots are contiguous to and surrounded by lots with existing structures or buildings constructed below base flood level.
- (2) In granting a variance to permit construction of a building or other structure below the water surface elevation of a flood having a one-percent chance of being equaled or exceeded in any given year, the Board shall notify the applicant, in writing, that such variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and that such construction increases risk to life and property. § 195-81.  
Applications.

Every application for a variance or for an interpretation of a ruling of the Zoning Officer or Building Official shall be made on a form approved by the Board of Appeals,

## ZONING

providing space showing the ownership of the property involved, the dimensions of the property and the reasons for the application. Said application shall also be filed with the Board of Appeals and shall also include a statement by the applicant of the reasons for the application.

### **§ 195-82. Hearings.**

The Board of Appeals shall fix a reasonable time for the hearing of the appeal. At such hearing, any party may appear in person and may be represented by agent or attorney. Upon filing an application to overrule the action of the Zoning Officer or Building Official, or the filing of an application for a variance upon forms to be provided by the Board of Appeals, a date shall be set for a public hearing, and due notice thereof shall be given to the parties. Notice of the time and place of such hearing shall be published in a newspaper having substantial circulation in the City of Derby at least twice, at intervals of not less than 10 days; the first not more than 15 days, nor less than 10 days, and the last not less than two days before such hearing. Notice shall be sent by the applicant to the owners of record of all property within 150 feet of the subject property. Evidence of such mailing, in the form of Certificates of Mailing from the United States Post Office, shall be provided to the Board prior to or at the public hearing. Whenever the Zoning Board of Appeals has before it for consideration an application for a variance in the use of property, any portion of which lies within 500 feet of a contiguous municipality, such Board shall, at least one week prior to the hearing thereon, notify the Clerk of such municipality, in writing, of the fact of such application and of the date fixed by it for such hearing. (Amended 2/28/2017)

### **§ 195-83. Decision of Board.**

The Board of Appeals shall render its decision on such an appeal within 65 days after the hearing. The Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken. Decisions of the Board shall take effect when rendered, provided that a copy thereof shall be filed in the office of the Town Clerk. Any person who appeals to the Board shall be notified of the Board's decision on his appeal by certified mail within three days after such decision is rendered. Notice of the decision of the Board shall be published in a newspaper having a substantial circulation in the City of Derby within 10 days after such decision has been rendered.

---

## **ARTICLE XIII, Nonconforming Uses**

---

### **§ 195-84. Intent.**

It is the intent of these regulations that nonconformities are not to be expanded, that they should be changed to conformity as quickly as the fair interest of the parties permit and

## ZONING

that the existence of any existing nonconformity shall not in itself be considered grounds for the issuance of a variance for any other property.

### **§ 195-85. Definitions.**

For the purpose of this article, a nonconforming building or use is defined as any use, whether of a building or tract of land, or both, which does not conform to the regulations respecting permitted uses as set forth in this regulation for the district in which it is situated but which lawfully existed prior to the enactment of this Zoning Regulation or any revision or amendment thereto, and which is maintained after the effective date thereof, although it does not conform to the use regulations of the district in which is located.

### **§ 195-86. Continuance.**

Any building or use lawfully existing under the provisions of the Zoning Regulations in effect at the time of the creation of said building or the establishment of said use, or prior to the establishment of any zoning regulation in the City of Derby, although not conforming with the provisions of the regulation for the district in which it is situated, may be continued subject to compliance with the conditions set forth below. Similarly, whenever a district shall be changed hereafter, the provisions of this regulation with regard to any building or uses lawfully existing at the time of the passage of this regulation shall apply subject to compliance with the conditions set forth below to any building or use lawfully existing in such changed district at the time of the passage of such amendment.

### **§ 195-87. Conditions governing nonconforming uses.**

- A. No building which is nonconforming with respect to any provisions of this regulation shall be altered or enlarged in such manner as to increase such nonconformance. The provisions of this subsection shall not apply to any alteration which may be required by order of the Building Official to strengthen or restore a building or structure or any part thereof to a safe condition.
- B. Any nonconforming building or nonconforming use, if changed to conform to the requirements of this regulation, shall not thereafter be changed back to a nonconforming building or use.
- C. Any nonconforming use, if discontinued for whatever cause for six months or longer, shall be deemed to be abandoned and shall not be resumed. Intent to resume a nonconforming use shall not confer the right to do so. (See § 195-90 below.)
- D. If any building in which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building was located and the subsequent location and use of any building thereon shall be in conformity to the regulations specified by the regulation for the district in which such land is located.
- E. Damage over 50%.
  - (1) Any nonconforming use, if damaged or destroyed from any cause to the extent, as determined by the Building Official in consultation with the City Assessor, of

## ZONING

over 50% of the current replacement cost of such structure above the foundation, shall not be rebuilt or restored for the continuance of a nonconforming use therein. Such building, if damaged to the extent, as determined by the Building Official, of less than 50% of the replacement cost of such structure above the foundations, may be restored in the same location provided that it is not enlarged or extended; it is made substantially to conform to the height and yard requirements applicable to the district in which it is located; the Commission grants permission for the restoration and continuance thereof without the enlargement or extension of any previously existing nonconforming use therein subject to such additional limitations and safeguards as the Commission may deem necessary in the public interest for the protection of nearby conforming uses.

- (2) Application for a permit to build or restore the damaged portion of any building damaged or destroyed as set forth in the preceding subsection shall be filed within three months of the day of such damage and shall be accompanied by plans for reconstruction which as to such portion shall comply with the requirements set forth above. If such permit is issued, it shall lapse six months thereafter unless reconstruction in accordance with the approved plans has been initiated.

- F. A nonconforming building or structure that is not devoted to a nonconforming use may be reconstructed, structurally altered, restored or repaired in whole or in part, without the need of a variance, but must get a zoning certificate of compliance from the Zoning Officer.

### **§ 195-88. Repair.**

Nothing in this article shall be deemed to prohibit work on any nonconforming building or other structure when required by law to protect the public health or safety and when ordered by the Fire Marshal or Director of Health, provided that such work does not increase the nonconformity. Nothing in this article shall be deemed to prohibit work on ordinary repair and maintenance of a nonconforming building or other structure or replacement of existing materials with similar materials.

### **§ 195-89. Moving.**

No nonconforming use of land shall be moved to another part of the lot or outside the lot, and no nonconforming use of a building or other structure shall be moved or extended to any part of the building or other structure not manifestly arranged and designed for such use at the time the use became nonconforming, and no building or other structure containing a nonconforming use shall be moved, unless the result of any such move is to end the nonconformity. No nonconforming building or structure shall be moved unless the result of such moving is to reduce or eliminate its nonconformity.

### **§ 195-90. Abandonment.**

- A. Any nonconforming use which has been abandoned shall not thereafter be reestablished. Any structure or land, or structure and land in combination which was

## ZONING

formerly devoted to a nonconforming use which has been abandoned, shall not again be devoted to any use other than those uses which are allowable in the zoning district in which it is located.

- B. The term "abandonment," as used herein, shall mean the voluntary discontinuance of a use, when accompanied by an intent not to reestablish such use. Any one of the following shall constitute prima facie evidence of intent to abandon:
- (1) Any failure to take all necessary steps to resume the nonconforming use with reasonable dispatch in the circumstances, including advertising of the property for sale or for lease;
  - (2) In the case of a nonconforming use of a structure or of a structure and land in combination, discontinuance of the nonconforming use for six consecutive months or for a total of 18 months during any three-year period; or
  - (3) In the case of land only, discontinuance of the nonconforming use for 30 consecutive days or for a total of three months during a one-year period.

### **§ 195-91. Change of use.**

No nonconforming use of land, building or other structure shall be changed to any use which is substantially different in nature and purpose from the former nonconforming use, except such uses as are permitted as of right in the district in which they are to be located. No nonconforming use of land, building or other structure if once changed to conform or to more nearly conform to these regulations shall thereafter be changed so as to be less conforming again. No nonconforming building or structure if once changed to conform or to more nearly conform to these regulations shall thereafter be changed so as to be less conforming again.

### **§ 195-92. Nonconforming lots.**

A permit may be issued for a permitted use on a lot which does not meet the standards for lot area and/or width of the particular district in which the lot is located if:

- A. The lot was of legal size on the date it was created as a lot; and the owner of such lot owns no adjacent land available for combination with the lot to decrease or eliminate the nonconformity (see § 195-99 below); (Amended 1/1/2006)
- B. The present owner or any prior owner did not illegally create this nonconforming lot and all yard, coverage and other zoning requirements can be met; however, in those instances where the lot area or shape prevents conformance with one or more yard requirements, the requirement for that yard shall be the same as the most restrictive district to which the lot area most nearly conforms; and
- C. The owner or his agent presents satisfactory evidence of compliance with this article.

### **§ 195-93. Construction in progress.**

Nothing in these regulations shall require any change in the plans, construction or designated use of any building or part thereof, as approved in a building and zoning permit, the construction of which shall be lawfully in progress at the time of promulgation of these regulations, provided that such construction shall be completed

## ZONING

within one year of the date of these regulations.

### **§ 195-94. Change of title.**

No change of title, possession or right of possession shall be deemed to affect the right to continue a nonconforming use, building or other structure.

### **§ 195-95. Off-street parking and loading.**

Any use, building or structure which does not conform to one or more of the provisions of Article VII, Off-Street Parking and Loading, shall continue to conform to such provisions to the extent that it conforms on the effective date of such section. Any use of land, buildings or other structures which does not conform to one or more of the provisions of Article VII shall not be changed to a use which would need additional off-street parking and loading spaces to comply with the provisions of Article VII unless such spaces are provided as required for the new use under Article VII.

### **§ 195-96. Signs.**

Signs of a size or type not permitted in the zone in which they are situated, that are improperly located or illuminated or that are nonconforming in any other way shall be considered nonconforming structures under this article and any increase in size or illumination of such signs shall be deemed to be an enlargement or extension producing an increase in nonconformity.

### **§ 195-97. Special exception provisions not nonconforming.**

Any use which is allowed in a district as a special exception shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in such district.

### **§ 195-98. Required termination of nonconforming uses.**

- A. Each of the nonconforming uses specified in this article is deemed sufficiently objectionable, undesirable and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district and blight the proper and orderly development and general welfare of such district and the community, to the point that each such nonconforming use must be, and shall be, terminated on or before the expiration of the specified period of time after the effective date of this regulation; which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use.
- B. In any residence district, any nonconforming use of vacant land, including but not limited to such uses as a parking lot, trailer or open storage yard for materials or equipment, may be continued for three years after the effective date of this regulation, provided that, after the expiration of that period, such nonconforming use shall be terminated. Any such use that was made nonconforming by previous zoning shall be governed by the provisions of said previous regulation.

## ZONING

### § 195-99. Adjoining nonconforming lots.

If one or more adjoining lots of record, one or more of which fails to meet the minimum requirements of these regulations with regard to lot area, shape or frontage and if the lots have continuous frontage, are in single ownership at any time after the application of the provisions of these regulations to such lots, and if taken together would form one or more lots meeting the requirements of these regulations with regard to lot area, shape and frontage; such lots shall be combined so as to no longer be considered nonconforming and must be used in such a fashion so as to be in compliance with the lot area, shape and frontage requirements regardless of subsequent changes of ownership.

---

## ARTICLE XIV, Soil Erosion and Sediment Control

---

### § 195-100. General.

When any use, building or other structure or site development that is subject to these regulations involves a disturbed area of 1/2 acre or more, or otherwise when provision for soil erosion and sediment control is required by these regulations, a certified soil erosion and sediment control plan in connection therewith shall be in effect prior to, during and upon completion of construction. The control plan may be integrated with plot plans, site plans, other maps and plans and statements of use required by these regulations and shall cover all construction, clearing, grading and site development locations that constitute a disturbed area. A control plan certified by the Commission in connection with approval of a subdivision under the Subdivision Regulations of the City of Derby and in effect for the lot where the disturbed area is located may constitute the control plan required by these regulations.

### § 195-101. Definitions.

Certain words used in this article are defined as follows:

**DISTURBED AREA** -- An area where the cover is destroyed or removed leaving the land subject to accelerated erosion.

**EROSION** -- The detachment and movement of soil or rock fragments by water, wind, ice and gravity.

**INSPECTION** -- The periodic review of sediment and erosion control measures shown on the certified control plan.

**SEDIMENT** -- Solid material, either material or organic, that is in suspension, is transported or has been moved from its site of origin by erosion.

**SOIL** -- Any unconsolidated mineral and organic material of any origin.

**SOIL EROSION AND SEDIMENT CONTROL PLAN** -- A plan for minimizing soil erosion and sedimentation, consisting of no less than a map and narrative as follows:

- A. A narrative describing the project, the schedule of conservation practices, design criteria, construction details and the maintenance program for any erosion and sediment control facilities that are installed; and
- B. A map showing topography, cleared areas and graded areas, proposed area alterations

## ZONING

and the location of and detailed information concerning erosion and sediment control measures and facilities.

### § 195-102. Control plan.

To be eligible for certification, a soil erosion and sediment control plan shall contain proper provision adequate to control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the lot based on the best available technology. Such principles, methods and practices necessary for certification are found in the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended, published by the Connecticut Council on Soil and Water Conservation. Alternative principles, methods and practices may be used with prior approval of the Zoning Officer. The control plan shall contain the following to the extent applicable to the particular use, building or other structure and site development:

- A. Narrative. A narrative describing elements such as the following:
  - (1) The use, building or other structure and site development;
  - (2) The schedule for grading and construction activities, including start and completion dates; sequence of grading and construction activities; sequence for installation and/or application of soil erosion and sediment control measures; and sequence for final stabilization of the project site;
  - (3) The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities;
  - (4) The construction details for proposed soil erosion and sediment control measures and stormwater management facilities;
  - (5) The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities; and
  - (6) The operations and maintenance program for proposed soil erosion and sediment control measures and stormwater management facilities.
- B. Map. A site plan map at a scale of one inch equals 50 feet to show the following:
  - (1) The location of the proposed use, building or other structure and site development and adjacent properties;
  - (2) The existing and proposed topography, including soil types, wetlands, watercourses and water bodies;
  - (3) The existing structures on the lot, if any;
  - (4) The proposed area alterations, including cleared, excavated, filled or graded areas and proposed buildings, structures, utilities, roads and, if applicable, new property lines;
  - (5) The location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities;
  - (6) The sequence of grading and construction activities;
  - (7) The sequence for installation and/or application of soil erosion and sediment control measures;
  - (8) The sequence for final stabilization of the development site; and
  - (9) The name, address and telephone number of the person designated by the applicant for the use, building, other structure or site development to be responsible for supervision of installation and completion of the control plan.
- C. Any other information deemed necessary and appropriate by the applicant or

## ZONING

requested by the Zoning Officer or the City Engineer may be made part of the control plan.

### **§ 195-103. Minimum standards.**

The following are minimum standards applicable to soil erosion and sediment control plans required by these regulations, and the preparer of the control plan shall certify that the plan complies with the minimum standards:

- A. Plans for soil erosion and sediment control shall be developed using the principles as outlined in Chapters 3 and 4 of the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended. The soil erosion and sediment control plan shall result in a development that minimizes erosion and sedimentation during construction, is stabilized and protected from erosion when completed and does not cause off-site erosion and/or sedimentation.
- B. The minimum standards for individual measures shall be those in the Connecticut Guidelines for Soil Erosion and Sediment Control, (1985) as amended. The Zoning Officer, the City Engineer or the New Haven County Soil and Water Conservation District may approve alternate standards when requested by the applicant if technically sound reasons are presented.
- C. The appropriate method from Chapter 9 of the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended, shall be used in determining peak flow rates and volumes of runoff unless an alternative method is approved by the Zoning Officer or the City Engineer.

### **§ 195-104. Certification.**

The soil erosion and sediment control plan shall be in effect when certified as follows:

- A. The Zoning Officer or the City Engineer, or the New Haven County Soil and Water Conservation District if so requested, shall certify that the soil erosion and sediment control plan, as filed, complies with the requirements and criteria of this article or shall deny certification when the control plan does not comply. Certification may be incorporated in the approval of a site plan, approval of a special exception or other action by the Commission and otherwise shall be incorporated in the approval of a zoning permit by the Zoning Officer.
- B. The Zoning Officer shall coordinate certification of the control plan with related actions of other agencies, such as, but not limited to, the Planning Commission and the Inland Wetlands Commission.

### **§ 195-105. Conditions.**

The soil erosion and sediment control plan shall be certified subject to the following conditions and requirements:

- A. The estimated cost of measures and facilities to control erosion and sedimentation shall be guaranteed by a cash or savings account bond in a form acceptable to and in an amount deemed sufficient by the Commission in connection with its actions under these regulations or otherwise acceptable to and deemed sufficient by the Zoning

## ZONING

Officer. It is not intended, however, that such bond duplicate similar bonds required by other agencies.

- B. No site development shall commence unless the soil erosion and sediment control plan is certified, the bond has been posted and the control measures and facilities in the plan, scheduled for installation prior to site work, have been installed and are functional.
- C. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified control plan.
- D. All control measures and facilities shall be maintained in effective condition to ensure compliance with the certified control plan.

### **§ 195-106. Inspection and orders.**

Soil erosion and sediment control measures of the certified control plan are subject to inspection and orders as provided for administration and enforcement of these regulations. The Zoning Officer may require the applicant under these regulations to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed in accordance with the certified control plan and are being operated and maintained.

---

## **ARTICLE XV, Floodplain Management Controls**

---

### **§ 195-107. General.**

This article is adopted to protect the public health and safety and property values from floods and flood-related dangers.

### **§ 195-108. Floodplain zone boundaries.**

The Floodplain Zone is a class of zone in addition to and overlapping one or more of the other zones. The Floodplain Zone is delineated on a map adopted by the Board of Aldermen of the City of Derby in conjunction with the Ordinance Concerning Floodplain Management, which map is entitled "Flood Insurance Rate Map, City of Derby, Connecticut, New Haven County," was prepared by the Federal Insurance Administration and shows the Floodplain Zone as consisting of all lands located within the natural stream channel of the Housatonic River and Naugatuck River as well as lands identified on said map as Zone A and Zone A-13. Said map is a part of these Zoning Regulations.

### **§ 195-109. Permit required; regulations in addition to underlying provisions.**

The requirements of this article are in addition to the requirements of the underlying district or districts where located. In a Floodplain Zone, except as provided in § 195-110, Exemptions, no lot or land and no building or other structure shall be used, no building or other structure shall be erected, constructed, moved, altered, reconstructed, enlarged or extended and there shall be no man-made change to improved or unimproved real estate,

## ZONING

including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation and drilling, until a zoning permit is issued or an application for special exception use or application for approval of site plan, if applicable, is approved in accordance with the standards and procedure specified in Articles V and VI.

### **§ 195-110. Exemptions.**

The requirements of this article are not applicable to the following:

- A. Improvement, including repair or reconstruction, of existing buildings or other structures, when the total cost of such improvement is less than 50% of the market value of the building or structure before improvement is started or, if the building or structure has been damaged, before the damage occurred;
- B. Improvement, including repair or reconstruction, necessary to comply with existing state or city health, sanitary or safety codes and such improvement is solely necessary to assure safe living accommodations; or
- C. The improvement, including repair or reconstruction, if directly related to a structure listed on the National Register of Historic Places or any State of Connecticut Inventory of Historic Places.

### **§ 195-111. Standards and uses.**

The proposed use, building or other structure or development shall conform to all the requirements of the district where located except that mobile homes, general hospital or nursing homes and buildings for public assembly are specifically prohibited. The proposed use, building or other structure or development shall conform to the standards and other requirements of the Ordinance Concerning Floodplain Management.

### **§ 195-112. Procedure.**

- A. Application for a zoning permit or application for special exception use or site plan, where applicable, shall be prepared and submitted in a manner to satisfy the requirements of Sec. 25-17 or 25-18, shall show the boundaries of the Floodplain Zone and shall provide all information required by the Ordinance Concerning Floodplain Management, including identification of the water surface elevation of a flood having a one-percent chance of being equaled or exceeded in any given year.
- B. Any decision of approval of a zoning permit granted by the Zoning Officer or of an application for special exception use or site plan by the Commission shall be conditioned upon the applicant submitting evidence that a flood compliance permit has been issued in accordance with the Ordinance Concerning Floodplain Management.
- C. In granting a permit for construction of a building or other structure below the water surface elevation of a flood having a one-percent chance of being equaled or exceeded in any given year, the applicant shall be notified, in writing, that such variance will result in an increased premium rate for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and that such construction increases risk to life and property.

## ZONING

---

### ARTICLE XVI, Earth Material Removal, Filling and Excavation

---

#### § 195-113. Temporary special exception required.

No owner, developer, excavator or other person shall dig, excavate, scrape or otherwise disturb or move or cause, allow, permit or suffer to be moved the soil or carry on filling operations on any premises in the city, unless and until after an application for a temporary special exception from the Commission is obtained. A temporary special exception may be granted by the Commission, subject to the requirements of this article and subject to conditions deemed necessary to prevent damage to other property and to protect the health, safety and general welfare of the public.

#### § 195-114. Exemptions.

A special exception is not required in connection with the following excavation, grading, removal or filling operations:

- A. Any subdivision, special exception use and/or site plan approved by the Planning and Zoning Commission.
- B. Any excavation, grading, removal or filling of an area 1/2 acre or less in size.
- C. Necessary foundation and trench work on a lot for which a zoning permit and a building permit have been issued and then not exceeding 1/2 acre.
- D. Plowing, spading, cultivating, harrowing of soil or any operation ordinarily associated with the tilling of the soil for agricultural or horticultural purposes.
- E. Any operations for the purposes of soil and conservation as defined or prescribed by the Soil Conservation Service of the United States Department of Agriculture.
- F. Necessary filling, excavation, grading and/or removal in connection with resurfacing of an existing roadway, sidewalk or parking lot, the removal of excess soil resulting from the construction and/or alteration of public streets and ways, including sidewalks.
- G. Any building or improvement carried out by the City of Derby.
- H. Conduct of a sanitary landfill by the City of Derby.
- I. Stock piling of street maintenance material required by the City of Derby.
- J. Regrading or filling as part of a landscaping project on an individual residential lot of less than 1/2 acre and when such operation is not for commercial purposes and then not exceeding 300 cubic yards of material in any calendar year.

#### § 195-115. Application procedure and requirements.

The owner shall clearly delineate the place or places from which the earth material is sought to be removed or deposited. The application shall also specify the number of cubic yards of soil to be removed or filled, the length of time necessary to do so and a concise statement indicating why it is essential and necessary to the development of the property to remove or deposit and/or remove such amount of earth material and a narrative description of measures to be taken to minimize the erosion of soil and the depositing of sediments both during the activity and after completion. Erosion and sediment control plans shall conform to standards prescribed in the Connecticut Guidelines for Soil

## ZONING

Erosion and Sediment Control (1985), as amended. Copies of the guidelines are available from the office of the New Haven County Soil and Water Conservation District. Alternate principles, methods and practices may be used subject to review by the City Engineer and approval by the Commission. The Commission shall schedule and conduct a public hearing on such application in accordance with the applicable provisions of the General Statutes.

### **§ 195-116. Authorization; conditions and safeguards.**

The Commission may, upon application, authorize the issuance of a temporary special exception for earth material removal, filling or excavation. In authorizing the issuance of a temporary special exception, the Commission shall take into consideration the public health, safety and welfare and shall prescribe appropriate conditions and safeguards to ensure the accomplishment of the following objectives:

- A. All proposed structures, equipment or material shall be readily accessible for fire, police and other emergency protection.
- B. The proposal shall be of such location, size and character that it will be in harmony with appropriate and orderly development of the zone, the neighborhood and the city and will not be detrimental to established properties in the area or conflict with the traffic characteristics of the neighborhood.
- C. The location and size of such proposal, the nature and intensity of operations involved in or conducted in connection with such proposal, its site layout and its relation to access streets shall be such that both pedestrians and vehicular traffic to, from and in the vicinity of the use will not be hazardous, inconvenient or detrimental to the character of the zone or conflict with the traffic characteristics of the neighborhood.
- D. The nature and extent of landscaping and excavation on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land or buildings or impair the value thereof.

### **§ 195-117. Application information required.**

Application for a special exception under this article shall be submitted, in writing, with an application prescribed by the Commission. The Commission may request the applicant to submit such additional information that it deems necessary in order to decide on the application. In acting on any application, the Commission shall hold a public hearing, shall decide thereon and shall give notice of its decision as required by law. The application shall be signed by the owner or his authorized agent, state where the excavation, grading, removal or filling operation is proposed and shall be accompanied by maps and plans, drawn to a scale of one inch equals 50 feet, with profiles on the longitudinal axis 200 feet on center or closer if required by the Commission, prepared by a licensed surveyor or engineer and showing the following:

- A. Zoning district for the lot, the City Assessor's map and lot number for the lot and the acreage of the lot.
- B. The quantity in cubic yards of earth material involved in project.
- C. A small-scale map, drawn to the same scale as the City Assessor's map of the area, showing the location of the lot, the names of all owners within 500 feet and streets and the names of the applicant and the owner of the lot.

## ZONING

- D. In the area of the proposed operation and within 200 feet thereof, existing contours and the proposed contours for the completed operation, which contours shall have a maximum interval of two feet.
- E. The grades of all abutting streets and lands.
- F. Location and size of any existing and proposed building or structures on the lot.
- G. Proposed slopes and lateral supports at limits of project upon completion.
- H. Proposed travel access to the area of the proposed operation.
- I. Location of rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, floodplains and wooded areas on and adjacent to the lot.
- J. Details of existing and proposed drainage systems and proposed measures for erosion and sedimentation control and details of proposed planting for the area of the proposed operation, both to prevent erosion during the course of the operation and at the conclusion thereof.
- K. The location and limits of the area of the proposed operation.
- L. The proposed details of entry and egress for surface water drainage and of any streams, bodies of water and watercourses, natural or artificial. Filling operations must be conducted in such a manner as not to alter the course of rivers, streams or other water bodies unless approved by the Inland Wetlands Commission or, in the case of water bodies, with encroachment lines by the State of Connecticut, Department of Environmental Protection.
- M. Clearing, grading and vegetative stabilization.
  - (1) Areas to be cleared, staging and sequence of clearing.
  - (2) Disposal of cleared material.
  - (3) Areas to be graded, staging and sequence of grading.
  - (4) Areas and acreage to be vegetatively stabilized.
  - (5) Planned vegetation with details of plants, seed, mulch, fertilizer planting dates, etc.
  - (6) Temporary erosion protection of disturbed areas.
  - (7) Temporary erosion protection when time of year or weather prohibit establishment of permanent vegetative cover.
- N. Typed narrative addressing the following (written provisions for soil erosion contingency plans):
  - (1) Nature, purpose and description of project.
  - (2) Potentially serious erosion or sediment problems.
  - (3) The stages of development if more than one stage is planned.
  - (4) The sequence of major operations on the land, such as installation of erosion control measures, clearing, grading, temporary stabilization, road base, road paving, building construction, permanent stabilization, removal of temporary erosion control measures.
  - (5) The time required for the major operations identified in the sequence.
  - (6) Maintenance requirements or measures during construction of project.
  - (7) Person responsible for maintenance during construction of project.
  - (8) Maintenance requirements of permanent measures when project is complete.
  - (9) Organization or person responsible for maintenance of permanent measures when project is complete.
  - (10) Certification that neither proposed work nor progress of work will have any

## ZONING

impact on an inland wetland or that of a previously obtained inland wetland permit.

### **§ 195-118. Approval; requirements to be satisfied.**

The Commission may grant a special exception for a maximum period of two years, when it is satisfied that the following requirements will be met:

- A. The applicant shall be required to section the entire property which is the subject of his permit into areas of not more than five acres and he shall so schedule the work of soil removal or filling so that the operation conducted in one section shall be complete and the section shall be at final grade before work shall commence in any other section of the premises.
- B. When the operation of each section is completed, or work has progressed sufficiently to where reclamation is practicable, the area affected by the operation shall then be graded so that slopes in disturbed areas shall be no steeper than 1 to 2 (vertical-horizontal). A layer of topsoil shall be spread over the compaction in accordance with the approved final grading plan. The area shall then be seeded with a suitable grass mixture at the minimum rate of five pounds per 1,000 square feet, containing at least 75% permanent grasses and maintained by mulching, repairing and reseeding until the area is stabilized and approved by the Commission. Any permitted operation that remains inactive for 30 days or more shall be graded to no steeper than a one-to-two (vertical-horizontal) slope.
- C. The operation will be carried out in conformity with the maps and plans as approved.
- D. Screening, sifting, washing or crushing of material native to the site and used for site purposes only may be permitted by special permit. All other processing shall be restricted to the I-Zone only.
- E. No machinery, such as a screener, sifter or crusher, shall be erected or maintained within 100 feet of any property line or street line.
- F. The existing grade shall be maintained for a distance of 25 feet parallel to the property line from top (cut) or toe (fill) of slope. Excavation occurring from 25 feet to 50 feet of a property or street line shall maintain a slope of 1 to 3 (vertical-horizontal). When deemed appropriate by the Commission and where a joint agreement between property owners has been filed with the Commission, an excavation may be allowed to adjoin adjacent property when such adjointment will not create a hazard and will provide a more harmonious blend.
- G. No building or other structures shall be erected on the lot during the operation except temporary shelter for machinery and portable sanitary facilities, subject to approval by the Commission.
- H. At all stages of the operation, and upon completion, proper drainage shall be provided to prevent collection and stagnation of water and the prevention of harmful effects upon surrounding properties through soil erosion or interference with natural watercourses, as specified in Article XIV of these regulations.
- I. The plans shall provide that all access roads from the project to public highways or streets or to adjoining properties within 500 feet of such highways, residences or streets maintain a combined 50 feet travel and 50 feet paved entrance/egress to minimize the tracking of soil onto city and state roads.
- J. Proper measures shall be taken to minimize the impact on adjacent properties for

## ZONING

noise, flying dust or rock and unsightly or dangerous conditions. Such measures may include, when considered necessary, screening, fencing, limitations upon the practice of stockpiling excavated materials upon the site and shall include covering truck loads.

- K. Whenever any owner, developer or excavator shall remove topsoil in or upon any land in the city, and is to store said topsoil, provisions shall be made for the storage of said topsoil within the boundary of said property. Disturbance within the preservable section of the area shall be minimized to avoid erosion, loss of vegetation and windblown material products by means of a seeded covercrop or other organic mesh covering or seeding process.
- L. Except as hereinafter provided, when topsoil is stored, it shall be uniformly replaced over the entire area or surface of the land on or before the completion date set forth in the soil removal special exception so that the final grades of said replaced topsoil shall conform to the proposed final grades shown on the topographical map. In the case of a filling operation, a layer of topsoil shall be uniformly placed over the area to conform to proposed final grades.
- M. There shall be no removal, filling, grading or hauling from any approved project between the hours of 6:00 p.m. and 7:00 a.m., nor on Saturdays, Sundays or legal holidays.
- N. In land excavation operations, the location of tree stumps and other debris shall be delineated on the site plan.

### **§ 195-119. Review considerations.**

- A. The Commission, in considering and reviewing the application and in arriving at its decision, shall be guided and take into consideration the public health, safety and general welfare, and particular consideration shall be given to the following factors:
  - (1) Soil erosion by water and wind.
  - (2) Drainage (surface and subsurface).
  - (3) Soil fertility.
  - (4) Lateral support slopes and grades of abutting streets and land.
  - (5) Adjacent land values and uses.
  - (6) Potential groundwater drinking supplies.
  - (7) Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the city.
- B. In the case of removal of quarry stone and mining operation, the Commission may modify the foregoing requirements where such operations will not endanger public health and safety or be detrimental to the neighboring properties.
- C. The Commission may require weekly or monthly inspection reports on the operations and maintenance program for the proposed soil erosion and sediment control measures and stormwater management facilities. Such reports shall include:
  - (1) Phase of areas to be stripped of vegetation.
  - (2) A week's schedule of operations, including starting and completion dates for major improvements and phases such as clearing, grading, paving and installation of drainage features.

## ZONING

### § 195-120. Permit expiration and renewal.

- A. Any special exception granted under this article shall expire two years from the date of Commission approval, unless specifically granted for a shorter period to time.
- B. The Commission may grant renewals of an approved special exception for a period not to exceed two years, provided that the operation is being conducted as approved and provided by the Commission and may determine that a revised or additional performance bond shall be posted.
- C. Before a permit is granted under this article, the applicant shall post a surety bond with the Zoning Officer in an amount approved by the City Engineer as sufficient to guarantee conformity with the provisions of the permit issued hereunder.
- D. All renewal applications shall be applied for and shall be subject to all the requirements of this article. A renewal application shall be treated as a new application. Site plans for all renewal applications shall include revised spot elevations. Said spot elevations shall be determined in the field by a licensed land surveyor.

---

## ARTICLE XVII, Alcoholic Beverages

---

### § 195-121. Applicability.

The following regulations shall apply to the location of any business where alcoholic liquor, wine, beer or ale is sold at retail for consumption off the premises under a package store permit; package store beer permit; grocery store beer permit; druggist permit; or druggist beer permit only, which business is hereinafter referred to as a "liquor outlet" and which permit may be issued by the State of Connecticut.

### § 195-122. Location of liquor outlets. (Amended 2/28/2017)

No land, building, or premises which prior to the effective date of these regulations is not the site or location of a liquor outlet shall thereafter be used either in whole or in part for a liquor outlet if the liquor outlet would be located within the minimum distances specified below and corresponding to the zoning district in which the liquor outlet would be located.

### § 195-123. Measurement. (Amended 02/28/2017)

- A. No land, building, or premises located within the Center Design District shall be used as a liquor outlet if said land, building, or premises is located within 500 feet of any of the following:

## ZONING

- (1) Any other liquor outlet governed under a like permit, as issued by the State of Connecticut.
  - (2) Any school.
- B. No land, building, or premises located in a zone other than the Center Design District shall be used as a liquor outlet if said land, building, or premises is located within 1,500 feet of any of the following:
- (1) Any other liquor outlet governed under a like permit, as issued by the State of Connecticut.
  - (2) Any school, public park, or church.
- C. Said 500 and 1,500 foot distances shall be the shortest total horizontal distance that can be measured beginning at the midpoint of the principal outside public entrance door of the building, wherein is proposed to be located a liquor outlet, thence in one or more straight lines, measured along the right-of-way, via the shortest distance to a property line of the lot on which another liquor outlet is located.

### **§ 195-124. Discontinuance.** (Amended 2/28/2017)

If any existing liquor outlet, which shall be located within the minimum distances specified in §195-122 and §195-123 above, shall be discontinued with intent to abandon for a period of 30 days, such liquor outlet shall not be resumed except in conformity to §195-122 above.

### **§ 195-125. Applications.**

Nothing in this article shall be construed to deny any applicant who has duly applied for a liquor permit to the State of Connecticut before the effective date of this article, from thereafter receiving such permit pursuant to said application for any land, building or premises in the City of Derby. Land, building or premises used pursuant to a permit applied for and received as stated in this section shall be subject to all the provisions of this article in the same manner as if they had been in use under such permit on the effective date of this article.

### **§ 195-126. Shopping centers.**

Notwithstanding the provisions of this article, one liquor outlet may be located in a shopping center having a gross floor area for retail stores of 50,000 square feet or more, provided that such shopping center was constructed as a single design unit.

### **§ 195-127. Grocery store beer permits in shopping centers.**

Notwithstanding the provisions of this article, and notwithstanding the provisions of § 195-126, limiting to one the number of liquor outlets in a shopping center as therein defined, any business meeting the definition of "grocery store" as set forth in Section 30-1 of Chapter 545 of the Connecticut General Statutes and occupying a gross floor area of 15,000 square feet or more in any shopping center as defined in § 195-126 shall be allowed to have a grocery store beer permit; provided, however, that the existence of a grocery store beer permit in any such shopping center as of the date of this adoption of

## ZONING

this section shall preclude the establishment of any other liquor outlets in such shopping center unless such other liquor outlet is located in full compliance with the distance restrictions set forth in § 195-122 above.

---

### **ARTICLE XVIII, Building Official and Building Permits**

---

#### **§ 195-128. Building official.**

- A. No building or structure shall be erected, added to or structurally altered until a building permit has been issued by the Building Official. No building permit or certificate of occupancy shall be issued for any building unless said construction, addition or alteration or use thereof is in compliance with the provisions of these regulations and other applicable state and local ordinances.
- B. The Building Official shall obtain and maintain records of elevations and floodproofing levels for all new or substantially improved structures, and whether or not such structures contain a basement, located within the special flood hazard areas of Derby.

#### **§ 195-129. Building permits.**

An application for a building permit shall be made by the owner or his/her agent in writing, on approved forms which shall include:

- A. For all new dwellings, a site plan conforming to A-2 survey standards, scale one inch equals 40 feet, showing size and location of structure; location of septic system; location of well; location of all proposed footing drains; location of building lateral two-foot contours; and location and grade of driveway. In addition, when a septic system is required, a design plan shown at a scale of one inch equals 20 feet shall be required.
- B. For all other residential construction (additions, pools, sheds, etc.), one copy of the plot plan drawn to scale, one inch equals 40 feet, and showing lot lines, open spaces, building and accessory building sizes and locations on the lot and the location of any septic systems, leaching fields and well either on the property or within 100 feet of the property lines.
- C. Two copies of dimensional floor plans and elevations of the building and sufficient details to indicate the kind, size and quality of the proposed construction.
- D. Each building permit issued by the Building Official shall expire and be null and void six months from the effective date of such permit unless substantial work has been commenced and the work diligently prosecuted to completion thereafter.
- E. The filing of building plans as required in Subsection B above may be modified or

## ZONING

waived when the proposed work is of simple construction or repairs, provided that the scope of the work is adequately described in the application.

- F. Such application shall be accompanied by a fee, payable to the City of Derby, and shall include the cost of the certificate of occupancy. Valuation of the work shall be estimated on the basis of current labor and material costs and shall be in accordance with the applicable city ordinance.

### **§ 195-130. Final inspection.**

No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a final inspection is conducted by the Building Official. When the building conforms to the requirements of these regulations and the required living quarters or floor areas have been completed, including entrances and steps or stairs to the ground, sanitary, heating, electrical and plumbing facilities, the building shall be approved for occupancy.

### **§ 195-131. Certificate of occupancy.**

- A. All certificates of occupancy shall be applied for at the same time as the application for a building permit. Said certificate shall be issued only after the signing of the zoning certificate of compliance and after the final inspection shows the structure to be in compliance with all appropriate codes and ordinances. A structure may be occupied while undergoing alterations or repairs, provided that the sanitary, heating, electrical and plumbing facilities are maintained in operating order.
- B. The Building Official shall maintain a record of all certificates, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the affected building or structure.

### **§ 195-132. Change of use.**

The change of use of an existing use of land, buildings or structures, or part thereof, to another proposed use which is allowable in the applicable zoning district shall be subject to the provisions of this article for the issuance of a zoning permit in the same manner as a new building, structure or use.

- A. Where a change of use does not constitute a substantial change to the use of the property, a zoning permit may be issued by the Zoning Officer. It shall be the responsibility of the Zoning Officer to determine whether or not a change of use will result in substantial site changes.
- B. When it is determined that a change of use will require some substantial site changes, the Zoning Officer shall refer said applicant to the Commission for its formal review of the application.
- C. A building or structure hereafter altered to change from one "use group," as defined by the State of Connecticut Building Code, to another or to a different use within the same "use group," in whole or in part, and a building or structure hereafter altered for which a certificate of use and occupancy has not been issued, shall not be occupied or used until the certificate has been issued by the Building Official.

## ZONING

- D. A change from one "use group" to an equally intensive or less intensive "use group" shall be addressed by the Zoning Officer through the issuance of a zoning permit. The Commission however reserves the right to formally review all changes from one "use group" to a more intensive "use group."

### **§ 195-133. Foundation verification.**

The applicant shall submit a certified as-built plot plan in accordance with the standards of an A-2 survey to the Zoning Officer or his/her designated agents, showing foundation footings, columns, piers or walls, for verification of setbacks for any new, detached building or structure on a lot. The Zoning Officer or his/her authorized agents may require a record drawing plot plan in other situations involving close proximity to setback lines, lot lines, wetland boundary lines, channel encroachment lines or other similar building restriction lines.

### **§ 195-134. Utility verification.**

All storm drainage facilities and water and sanitary sewer facilities required by any site plan, special exception or subdivision approved by the Commission shall be installed by the applicant and inspected for compliance by the City Engineer or his/her designated agents prior to the backfilling of any such utility holes or trenches. The applicant shall notify the proper city department when the utility is ready for inspection; the proper department shall inspect the utility within a reasonable period of time.

### **§ 195-135. Construction entrance.**

At the discretion of the Zoning Officer and at least three days prior to the start of site preparation or construction at an approved building site, a construction entrance as defined below shall be put in place. This construction entrance is to be maintained until the construction on the site is concluded, and final inspection by the Building Official is completed. Upon final inspection and approval, the construction entrance is to be improved to meet town specifications for the construction of access driveways.

- A. Definition. A "construction entrance" is a stone-stabilized pad, located at points of vehicular ingress and egress on a construction site.
- B. Purpose. The purpose of a stabilized construction entrance is to reduce the tracking or flowing of sediment onto public rights-of-way.
- C. Applicability. A stabilized construction entrance applies to points of construction ingress and egress where sediment may be tracked or flow off the construction site.
- D. Planning considerations. Roads adjacent to a construction site shall be clean at the end of each day. The construction entrance provides an area where mud can be removed from construction vehicle tires before they enter a public road. If the action of the vehicle traveling over the gravel pad is not sufficient to remove the majority of the mud, then the tires must be washed before the vehicle enters a public road. If washing is used, provisions must be made to intercept the wash water and trap the sediment before it is carried off-site. Construction entrances should be used in conjunction with the stabilization of construction roads to reduce the amount of mud picked up by construction vehicles.

## ZONING

- E. Design criteria.
- (1) Aggregate size. Aggregate size must meet Connecticut DOT two-inch size crushed gravel.
  - (2) Entrance dimensions. Thickness: not less than four inches; width: not less than full width of points of ingress or egress; length: 25 feet minimum, except where the traveled length is less than 25 feet. At poorly drained locations, subsurface drainage should be installed before installing the stabilized construction entrance.
  - (3) Washing. If conditions on the site are such that the majority of the mud is not removed by the vehicles traveling over the gravel, then the tires of the vehicles must be washed before entering a public road. Wash water must be carried away from the entrance to a settling area to remove sediment. A wash rack may also be used to make washing more convenient and effective.
  - (4) Location. The entrance should be located to provide for maximum utility by all construction vehicles.
- F. Installation requirements. The area of the entrance should be cleared of all vegetation, roots and other objectionable material. A road-stabilization filter cloth can be placed on the subgrade prior to the gravel placement to prevent pumping. The gravel shall be placed to the specified dimensions. Any drainage facilities required because of washing should be constructed according to specifications. If wash racks are used, they should be installed according to manufacturer's specifications.
- G. Maintenance. The entrance shall be maintained in a condition which will prevent tracking or flowing of sediment onto public rights-of-way. This will require periodic top dressing with additional stone or additional length as conditions demand and repair and/or cleanout of any measures used to trap sediment. All sediment spilled, dropped, washed or tracked onto public rights-of-way must be removed immediately.
- H. Waiver. In the event the construction is an addition to or a replacement of an existing structure with a paved driveway that meets or exceeds the requirements of this section, the Zoning Officer may waive the requirements of this section and allow construction to commence upon receipt of a building permit.

---

### **ARTICLE XIX, Administrative Requirements and Provisions**

---

#### **§ 195-136. Completion of existing buildings.**

These regulations or any amendment thereto shall not affect any building or its designated use under the following series of conditions and circumstances:

- A. Complete plans for such building or structure legally filed prior to the effective date of these regulations or any amendment thereto affecting such building or structure or the use thereof.
- B. Actual construction begun within 90 days after the building permit was issued.
- C. Structural framework completed within six months after the building permit was issued.

## ZONING

- D. Entire building completed according to the filed plans within two years after the building permit was issued.

### § 195-137. Certificate of occupancy.

- A. No certificate of occupancy shall be issued by the Building Official for any building or structure hereafter constructed, erected or altered, and any lot or land hereafter put into use, or occupied or used in whole or in part for any use whatsoever, and any change of use of any building, structure, lot or land, or part thereof, shall hereafter be made until a certificate of zoning compliance shall have been issued by the Zoning Officer certifying that such building, structure, lot or land, or part thereof, complies with all applicable provisions of these regulations and of all other applicable ordinances.
- B. Certificates of occupancy shall be granted or denied by the Building Official within 10 days from the date of written application therefor by the owner or his authorized agent.
- C. The Building Inspector shall require from the Zoning Commission or Board of Appeals a written order before issuing a certificate of occupancy in a case involving a special exception use pursuant to Article VI or a variance from the provisions of this chapter pursuant to Article XII.
- D. A certificate of occupancy shall be applied for by the owner or his authorized agent in the case of any building or structure, lot or land proposed to be put into use pursuant to any variance granted by the Zoning Board of Appeals. Such certificate of occupancy, when issued by the Building Official, shall include a detailed description of such variance.
- E. Fee. Compare with fee schedule. (Amended 1/1/2006)
- F. A record of all certificates of occupancy shall be kept on file in the office of the City Clerk, and certified extra copies thereof shall be furnished upon payment of a fee of \$1 per permit to the city.

### § 195-138. Administration and enforcement.

- A. Enforcement. (Amended 03/28/23)
  - (1) Purpose and Definitions
    - (a) Purpose. The purpose of this ordinance shall be to encourage compliance with the Zoning regulations of the City of Derby and to discourage violators from allowing violations to continue unabated by increasing the penalties
    - (b) Definitions. For the purposes of this chapter, the following words, terms, and phrases shall have the following meanings, unless the context clearly indicates otherwise:

PERSON --An individual or a group of individuals, corporation, partnership, limited partnership, limited liability company, or such other entity or association which exists under law.

- (2) Zoning Enforcement Officer: The Commission shall appoint a Zoning

## ZONING

Enforcement Officer, who shall also be the citation officer, and may appoint one or more Deputy Zoning Enforcement Officers. The Commission also shall have the responsibility and authority to enforce the provisions of these regulations.

- (3) Enforcement. These regulations shall be enforced by the Zoning Enforcement Officer and/or designee of the Commission, who shall be empowered to cause any building, structure, place, or premises to be inspected and examined and to order, in writing, the remedying of any conditions to be found to exist therein or threat in violation of any provision of these regulations or any permit or approval issued hereunder. The Zoning Enforcement Officer and/or designee of the Commission shall have such powers and authority as enumerated in Chapter 124 of the Connecticut General Statutes, as amended, and to issue a citation to any person whom the Zoning Enforcement Officer determines is violating the Derby Zoning Regulations.
- (4) Issuance of Citation. Any such citation may be issued by the Zoning Enforcement Officer either by hand or by Certified Mail, return receipt requested. If the person named in any such citation fails or refuses to accept such mail, the citation may be sent by regular United States mail.
- (5) Schedule of Fines.
  - (a) The amount of the fine specified in any citation shall be \$150, plus an additional \$150 for each day after the date of issuance of the citation that the violation continues.
  - (b) If an assessment and judgment is entered against a person pursuant to this section, the assessment shall accrue against that person at the rate of \$150 for each day that the violation continues.
- (6) Procedure to be followed incident to the issuance of citations.
  - (a) Within 10 days following the date that the citation was issued, a person receiving citation may:
    - i. Pay the amount of the fine; or,
    - ii. Request a hearing before the municipal hearing officer.
  - (b) The failure to respond to a citation within 10-days following the date of its issuance will result in a judgment being entered against the person who received the citation and an assessment of the associated fine.
  - (c) If the citation has been sent by regular mail pursuant to the provisions of Subsection B.3 of this Ordinance, the day of receipt of the citation shall be considered to be three (3) business days after the date of mailing of the citation. For the purposes of this Ordinance, the term "business days" shall include any days other than Saturdays, Sundays, and legal holidays upon which the City Hall is closed.
- (7) Selection of hearing officers. The Mayor shall in accordance with Public Act 96-210 be authorized to select the hearing officers necessary to affect this article.

## ZONING

- (8) Notice of Violations. If the person who has been issued a citation does not make uncontested payment of the fine specified in the citation to the City within the time allowed under subsection B.5 of this Ordinance, the Zoning Enforcement Officer shall send a notice to the person cited, informing such person anew:
- (a) Of the allegations against him and the amount of the fines, penalties, costs or fees due;
  - (b) That he may contest his liability before a citation hearing officer by delivering in person or by certified mail, return receipt requested, within 10 days of the date of the receipt of the notice, a written demand for a hearing;
  - (c) That if he does not demand such a hearing, an assessment and judgment shall be entered against him; and
  - (d) That such assessment and judgment may accrue an additional fine of \$150 for each day that the violation continues; and
  - (e) That such judgment may issue without further notice.
- (9) Admittance of liability. If the person who is sent notice pursuant to section 6 of this article wishes to admit liability for any alleged violation, such person may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to an official designated in such notice. Any person who does not deliver or mail written demand for a hearing within 10 days of the date of the first notice provided for in section 5 shall be deemed to have admitted liability, and the designated municipal official shall certify such person's or entity's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in section 9.
- (10) Hearing Requirements. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of notice, provided the hearing officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the issuing official or policeman shall be filed and retained by the municipality and shall be deemed to be a business record within the scope of Section 42-180 and evidence of the facts contained therein. The presence of the issuing official or policeman shall be required at the hearing if such person so requests. A person wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality. If such person fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The hearing officer may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he

## ZONING

deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his decision within ten (10) days of the completion of the hearing. If he determines that the person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the municipality.

- (11) Notice of Assessment. If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court for the geographical area in which the municipality is located together with an entry fee of \$8.
- (12) The requirements and remedies of this section shall be in addition to and not in place of any other provisions of the Connecticut General Statute and the Derby City municipal code.
- (13) Conflict with other provisions. In the event of any conflict of the provisions of this article or any other ordinance with respect to any procedures for citations, the provisions of this article shall apply.

### B. Zoning permits; application.

- (1) Prior to the construction, reconstruction, change of use, enlargement, extension, moving or structural alteration of any building and prior to any occupancy or use or change in use of any land, building or other structure or part thereof, an application for a zoning permit shall be submitted to the zoning officer. If the Zoning Officer determines that the proposed building or other structure or use is in compliance with these regulations, he/she shall issue a zoning permit. However, no such permit shall be issued for the construction, reconstruction, change of use, enlargement, extension, moving or structural alteration to any building requiring approval of the Commission, Zoning Board of Appeals and/or the Conservation Inland Wetlands Commission until such approvals have been granted by said commissions and boards.
- (2) Application for a zoning permit or a sign permit shall be applied for and submitted to the Zoning Officer prior to submittal of a building permit application.
- (3) Application for a zoning permit shall be accompanied by the following as applicable to the particular proposal:
  - (a) A plot plan and building plan as specified in Subsection C.
  - (b) A site plan as required in Article V.
  - (c) Building and floor plans as specified in Article XVIII.
  - (d) A copy of the recorded variance, special exception certificate and/or wetlands permit.
  - (e) Verification of local health authority approval.

## ZONING

- (f) Such additional information that the Zoning Officer deems necessary to determine compliance with the provisions of these regulations.

### C. Plot plan.

- (1) A plot plan shall be submitted with an application for a zoning permit for any proposed building, structures and/or improvements. The plot plan shall be submitted in duplicate, shall be drawn to a scale not to exceed one inch equals 20 feet, shall be based on the City of Derby Assessor's maps and shall show all of the following information both existing and proposed, where applicable:
  - (a) The name of applicant and property owner.
  - (b) The area of the lot and the dimensions of all lot lines and proposed and existing grades.
  - (c) Street address and Assessor's map and lot numbers.
  - (d) North arrow and graphic scale.
  - (e) The height, dimension, use, floor area, ground coverage and location of all buildings and other structures.
  - (f) The locations, area and dimension of off-street parking and loading spaces, driveways, easements, and rights-of-way.
  - (g) Dimensions of all setback lines observed by buildings and structures.
  - (h) The location of any on-site sewage disposal system, water supply well and building lateral.
  - (i) Signs and other facilities and improvements that are subject to the provisions of these regulations.
  - (j) Any wetlands, watercourses and special flood hazard areas.
  - (k) When located in a floodplain area, include existing and proposed site grades, contours and elevations, base flood elevation data, top of foundation elevation, finished floor elevation and any proposed watercourse relocation.
  - (l) Soil erosion and sedimentation control plan.
  - (m) Such additional information as may be necessary to determine compliance with the provisions of these regulations.
- (2) A certified A-2 plot plan containing all information required in Subsection C(1)(a) through (k) above shall be submitted with an application for a zoning permit for any new dwelling, for any new detached structures 850 square feet in area or larger, and for any addition to an existing detached structure which will result in an area of 850 square feet or larger if the proposed location of the structure is within five feet of required front, side and/or rear yard setbacks.
- (3) The Zoning Officer may waive the A-2 plot plan requirements to allow a partial A-2 survey for critical property lines only in cases where an A-2 survey of the entire property is deemed not practical and/or is not needed to determine conformity with these regulations.
- (4) In cases where an A-2 survey exists, the applicant may use such A-2 survey as a basis for an application without the assistance of a licensed land surveyor, engineer or architect.
- (5) Foundation verification. The applicant shall submit a certified A-2 as-built plot plan to the Zoning Officer within 14 days after completion of foundation

## ZONING

footings, columns, piers or walls for verification of setback lines for any new dwelling, for any new detached structures 850 square feet in area or larger and for any addition to an existing detached structure which will result in an area of 850 square feet or larger, if the proposed location of the structure is within five feet of required front, side and/or rear yard setbacks.

- D. Certificate of zoning compliance. Prior to the issuance of any certificate of occupancy by the Building Official, an application for a certificate of zoning compliance shall be submitted to the Zoning Officer. If the Zoning Officer determines the building or other structure, use and/or site work is in compliance with an approved site plan, special exception or special permit and with these regulations, he shall issue a certificate of zoning compliance. Failure to comply with all conditions of an approved plan or with these regulations will cause a delay in the issuance of a certificate of zoning compliance.

### **§ 195-139. Penalties for offenses.**

- A. Any person, firm or corporation violating any of the provisions of these regulations shall, for each violation upon conviction thereof, pay a penalty of up to \$100 per violation for each day that such violation shall continue, but, if the offense be willful, the person, firm or corporation thereof shall be fined not less than \$100 nor more than \$250 for each day that such violation shall continue or be imprisoned not more than 10 days for each day such violation shall continue, or both. Each day that a violation is continued shall be considered a separate violation.
- B. Any person who, having been served with an order to remove any such violation, shall fail to comply with said order within 10 days after such service or shall continue to violate any provision of this regulation in the respect named in such order may also be subject to civil penalty of up to \$2,500.

### **§ 195-140. Amendments.**

The Commission may, from time to time, amend, change, modify or repeal these regulations, including the Zoning Map, which is part hereof,<sup>8EN</sup> on its own initiative or when initiated by a written petition. Any amendment may be adopted only after due notice and a public hearing as prescribed by Section 8-3 of the Connecticut General Statutes, as amended. Any petition for amendment shall be submitted, in writing, on a form prescribed by the Commission, along with the proper fee in accordance with a fee schedule adopted by the Commission, as amended, and shall be accompanied by the following:

- A. Text. For petitions concerning the text of these regulations, 10 copies of the precise wording of the existing and proposed text shall be submitted.
- B. Map. For petitions concerning the Zoning Map:
- (1) Ten copies of a map, drawn to the same scale as the Town Tax Assessor's map, covering the area of the proposed change and all area within 500 feet of the proposed change, and showing for such area the existing and proposed zoning

## ZONING

- district boundary lines, the existing property lines and the names of the current property owners as indicated in the City of Derby Assessor's records.
- (2) A metes and bounds description of the property to be changed.
  - (3) "Notice of Public Hearing" sign. The petitioner requesting amendment of the Zoning Map shall post a sign on the property in the area proposed to be changed, which sign shall be visible and legible to passersby on the principal street at the change area. Such sign, to be provided to the petitioner by the city, shall state the date, time and place of the public hearing, shall indicate what change of zone is being requested and shall be in evidence for the continuous period of 10 days preceding the date of the public hearing.
  - (4) In addition to Subsection B(3), the petitioner requesting amendment of the Zoning Map shall provide proof to the Commission, of letter notification by first class mail, in the form of Certificates of Mailing from the United States Post Office, to all property owners within 150 feet in all directions of the property included in the proposed change 10 days prior to any public hearing. The letter shall state the time, place, date and purpose of the hearing. Prior to the date of the Commission's public hearing regarding the application, the applicant shall submit: (Amended 2/28/2017)
    - (a) The certificates of mailing.
    - (b) A list of the people notified.
    - (c) A copy of the letter and any enclosures sent to people.

### **§ 195-141. Notification.**

- A. Purpose. The purpose of this notification procedure is to alert those property owners abutting the subject property of an application pending before the Commission in order that the abutting owners may have the opportunity to review the application and make their views known to the Commission.
- B. Applicant responsible for notification. Notwithstanding the other applicable sections, applicants shall be responsible for notifying owners of property abutting the subject property for any application(s) for special exception or site plan approval. An amendment of the Zoning Map shall be covered by § 195-140 and all of its subsections. (Amended 1/1/2006)
- C. Site plan and/or special exception procedure. The submission of an application for special exception or site plan or a combination thereof to the Commission shall be accompanied by the following:
  - (1) A list of names and addresses of owners of property abutting [including directly across a street(s) from] the subject property. The latest records of the City of Derby Assessor shall be utilized to determine the owner of each property.
  - (2) A sketch showing the subject property and the surrounding properties within 100 feet of the subject property.
  - (3) If the application shall be scheduled for a public hearing, the applicant shall notify each property owner within 150 feet of the subject property of the time, place, date and purpose of the hearing by sending a copy of the legal notice to each abutting property owner not less than 10 days prior to the scheduled hearing. Notice shall be sent by first class mail, postage prepaid with a

## ZONING

Certificate of Mailing from the United States Postal Service. Proof of the notice shall be provided to the Commission as per Subsection C(5) below. (Amended 2/28/2017)

- (4) If the application shall not be subject to a public hearing, the applicant shall notify each abutting property owner of the pending application by sending them a letter informing them of the application and the time and place of the Commission's meeting and describing the proposed activity.
- (5) Prior to the date of the Commission's public hearing (or discussion if there is not a public hearing) regarding the application, the applicant shall submit:
  - (a) The certificates of mailing.
  - (b) A list of the people notified.
  - (c) A copy of the letter and any enclosures sent.

### **§ 195-142. Severability; repealer; effective date; copy on file.**

- A. Validity and separability. Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of these regulations as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.
- B. Savings clause. The enactment of these regulations repealing the prior regulations shall not operate as an abatement of any action or proceeding then pending under or by virtue of said prior regulations.
- C. Repealer. All ordinances or parts of ordinances or regulations inconsistent with the provisions of these regulations are hereby repealed.
- D. Effective date. These regulations shall take effect on January 26, 2000.
- E. A copy of these Zoning Regulations, including the Official Zoning Map of the City of Derby showing zones as herein described are now on file at the office of the City Clerk, City Hall, Derby, Connecticut.

---

<sup>1</sup> Editor's Note: See Building Construction.

<sup>2</sup> Editor's Note: The Zoning Map is on file in the city offices.

<sup>3</sup> Editor's Note: See Ch. 92, Flood Damage Prevention.

<sup>4</sup> Editor's Note: See Ch. 92, Flood Damage Prevention.

<sup>5</sup> Editor's Note: The Appendixes are located at the end of this chapter.

<sup>6</sup> Editor's Note: The Appendixes are located at the end of this chapter.

<sup>7</sup> Editor's Note: See Ch. 92, Flood Damage Prevention.

<sup>8</sup> Editor's Note: The Zoning Map is on file in the city offices.

## **Appendix A**

### **Site Plan Checklist of Zoning Requirements City of Derby**

All residential buildings (excluding single- and two-family dwellings), all commercial or industrial buildings, parking lots and all buildings allowed as special exception uses shall have a site plan submitted for review and approval by the Commission before any foundation or building permit can be issued by the Building Official.

The items listed on the attached checklist must appear on the site plan submitted for review by the Zoning Officer or indicate "N/A" is not applicable.

If items are missing, the site plan will be returned for revisions, and the submission may be removed from the agenda of the Commission's meeting.

### Site Plan Zoning Requirements

		YES	NO	VARIANCE																																																
<b>A. <u>General information</u></b>																																																				
(1)	<u>Application form complete</u>																																																			
(2)	<u>Name of applicant</u>																																																			
(3)	<u>Name of owners of record and address</u>																																																			
(4)	<u>Written description of use(s)</u>																																																			
<b>B. <u>Site plan map</u></b>																																																				
(1)	<u>Name of applicant</u>																																																			
(2)	<u>Name of owner(s) of record and addresses</u>																																																			
(3)	<u>Signature and seal of P.E./architect licensed by State of Connecticut</u>																																																			
(4)	<u>Scale not less than 1" = 50'</u>																																																			
(5)	<u>A-2 survey, including distances with angles or bearings</u>																																																			
(6)	<u>North arrow</u>																																																			
(7)	<u>Numerical and graphic scale</u>																																																			
(8)	<u>Date of map</u>																																																			
(9)	<u>Key map</u>																																																			
(10)	<u>Zone classification of property</u>																																																			
(11)	<u>Zone classification of adjacent properties and name of owner(s) of record</u>																																																			
(12)	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Table/chart containing:</th> <th style="text-align: center;">Required</th> <th style="text-align: center;">Sub-mitted</th> <th style="text-align: center;">Variance</th> </tr> </thead> <tbody> <tr> <td>(a) <u>Lot size</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td>(b) <u>Lot width</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td>(c) <u>Front yard</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td>(d) <u>Side yard</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td>(e) <u>Rear yard</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td>(f) <u>Parking spaces</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td>(g) <u>Buffer area</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <th style="text-align: center;">Allowed</th> <th style="text-align: center;">Sub-mitted</th> <th style="text-align: center;">Variance</th> </tr> <tr> <td>(h) <u>Lot coverage</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td>(i) <u>Floor area</u></td> <td></td> <td></td> <td></td> </tr> <tr> <td>(j) <u>Bldg. height</u></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Table/chart containing:	Required	Sub-mitted	Variance	(a) <u>Lot size</u>				(b) <u>Lot width</u>				(c) <u>Front yard</u>				(d) <u>Side yard</u>				(e) <u>Rear yard</u>				(f) <u>Parking spaces</u>				(g) <u>Buffer area</u>					Allowed	Sub-mitted	Variance	(h) <u>Lot coverage</u>				(i) <u>Floor area</u>				(j) <u>Bldg. height</u>						
Table/chart containing:	Required	Sub-mitted	Variance																																																	
(a) <u>Lot size</u>																																																				
(b) <u>Lot width</u>																																																				
(c) <u>Front yard</u>																																																				
(d) <u>Side yard</u>																																																				
(e) <u>Rear yard</u>																																																				
(f) <u>Parking spaces</u>																																																				
(g) <u>Buffer area</u>																																																				
	Allowed	Sub-mitted	Variance																																																	
(h) <u>Lot coverage</u>																																																				
(i) <u>Floor area</u>																																																				
(j) <u>Bldg. height</u>																																																				
(13)	<u>Boundary dimensions</u>																																																			
(14)	<u>Street lines and names</u>																																																			
(15)	<u>Location; width; purpose of existing and proposed R.O.W's and easements</u>																																																			

**Site Plan Zoning Requirements  
(Cont'd)**

	YES	NO	VARIANCE
(16) <u>Buildings and uses</u>			
(1) <u>Existing</u>			
(a) <u>Heights</u>			
(b) <u>Dimensions</u>			
(c) <u>Setbacks</u>			
(d) <u>Distances on all sides from property line</u>			
(e) <u>Fences/walls, including type and height</u>			
(f) <u>Use(s)</u>			
(g) <u>Number of employees/occupants</u>			
(h) <u>Location and dimensions of any tennis courts, swimming pools, dumpsters, tanks, transformers, etc.</u>			
(i) <u>Architectural plans showing:</u>			
[1] <u>Elevations of all buildings and structures</u>			
[2] <u>Window treatment</u>			
[3] <u>Roof top mechanical equipment</u>			
[4] <u>Building materials</u>			
[5] <u>Schematic floor plans indicating square footage by uses</u>			
(2) <u>Proposed</u>			
(a) <u>Heights</u>			
(b) <u>Dimensions</u>			
(c) <u>Setbacks</u>			
(d) <u>Distances on all sides from property lines</u>			
(e) <u>Fences/walls, location, height, type</u>			
(f) <u>Use(s)</u>			
(g) <u>Number of employees/occupants</u>			
(h) <u>Location and dimensions of any tennis courts, swimming pools, dumpsters, tanks, transformers, etc.</u>			
(i) <u>Architectural plans showing:</u>			
[1] <u>Elevations of all buildings and structures</u>			
[2] <u>Window treatment</u>			
[3] <u>Roof top mechanical equipment</u>			
[4] <u>Schematic floor plans indicating square footage by uses</u>			
C. <u>Parking, loading and circulation</u>			
(1) <u>Curb cut radii existing and proposed</u>			
(2) <u>Curb cut width existing and proposed</u>			

**Site Plan Zoning Requirements  
(Cont'd)**

	YES	NO	VARIANCE
(3) <u>Location/arrangement/dimension of new and existing</u>			
(a) <u>Parking spaces</u>			
(b) <u>Aisles</u>			
(c) <u>Vehicular drives</u>			
(d) <u>Fire lanes</u>			
(e) <u>Ingress/egress</u>			
(f) <u>Ramps</u>			
(g) <u>Loading/unloading areas</u>			
(h) <u>Pedestrian walkways</u>			
(i) <u>Limits of street cartways, curbs and sidewalks</u>			
(j) <u>Parking lot directional arrows</u>			
D. <u>Signs, existing and proposed</u>			
(1) <u>Location</u>			
(2) <u>Size</u>			
(3) <u>Height</u>			
(4) <u>Orientation and design</u>			
E. <u>Lighting, existing and proposed</u>			
(1) <u>Location</u>			
(2) <u>Size</u>			
(3) <u>Height</u>			
(4) <u>Orientation and design</u>			
F. <u>Utilities</u>			
(1) <u>Location; design; elevation; size of existing and proposed, whether above or below ground of:</u>			
(a) <u>Storm drainage</u>			
(b) <u>Water supply</u>			
(c) <u>Sanitary sewers</u>			
(d) <u>Septic system(s)</u>			
(e) <u>Catch basins</u>			
(f) <u>Drywells</u>			
(g) <u>Refuse collection areas</u>			
(h) <u>Roof drainage</u>			
(i) <u>Electric poles/structures</u>			
(j) <u>Gas lines</u>			
(k) <u>Fuel tanks</u>			
G. <u>Topographic data, existing and proposed</u>			
(1) <u>Contours at intervals of two feet</u>			
(2) <u>Erosion control measures</u>			
(3) <u>Regrading proposals</u>			

**Site Plan Zoning Requirements  
(Cont'd)**

	YES	NO	VARIANCE
(4) <u>Watercourses</u>			
(5) <u>Wetlands, including boundaries</u>			
(6) <u>Rock outcroppings</u>			
(7) <u>Other significant physical features</u>			
(8) <u>Mean high water line where applicable</u>			
(9) <u>Flood hazard area designation where applicable</u>			
<b>H. <u>Open space and landscaping, existing and proposed</u></b>			
(1) <u>Use, size, arrangement and dimensions of all open space</u>			
(2) <u>Location of all trees more than six inches (except in densely wooded areas where foliage line should be shown)</u>			
(3) <u>Location; dimensions; layout of all proposed or existing buffer or landscaping areas, including:</u>			
(a) <u>Plant material and names or types</u>			
(b) <u>Fencing</u>			
(c) <u>Screening devices</u>			
(d) <u>Decorative paving</u>			
(e) <u>Other</u>			

This checklist sheet is intended as an aid to expedite the work of the city staff, the Planning and Zoning Commission and the developer. It is not intended as a substitute for nor does it contain all of the information and requirements in the Zoning Regulations and other applicable city codes, ordinances and procedures. For related additional aids for site development applicants, see Appendix B, illustration pages in the Zoning Regulations.

**Appendix B**

**Zoning Illustrations**

**City of Derby**

**Figures 1 through 36**

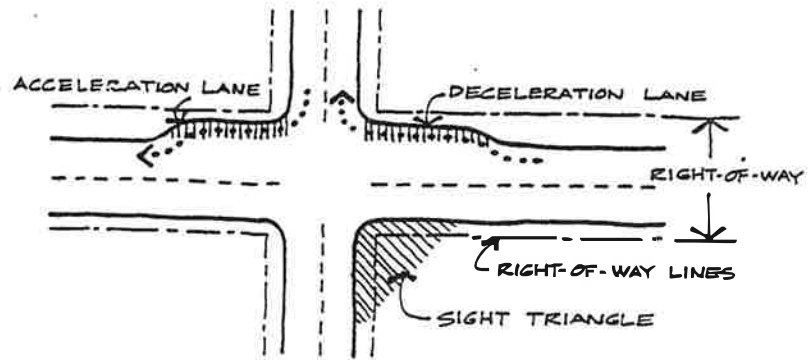


Figure 1

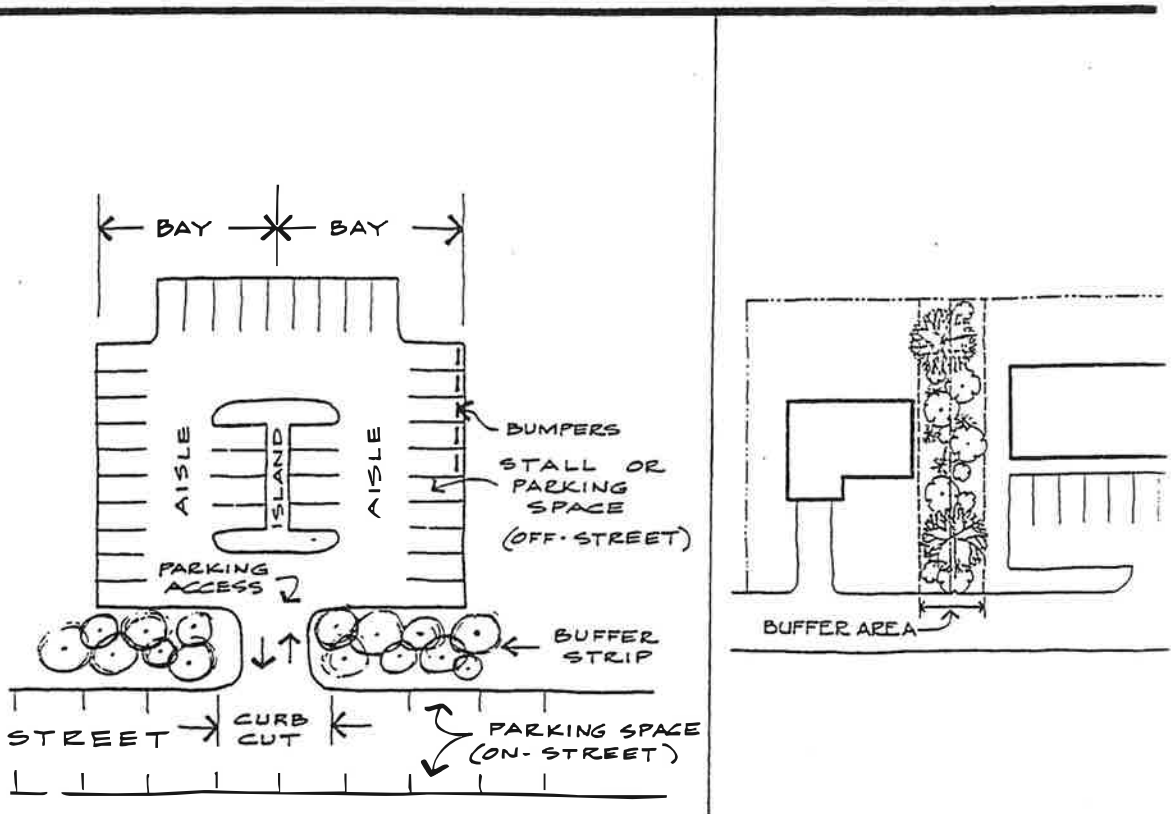


Figure 2

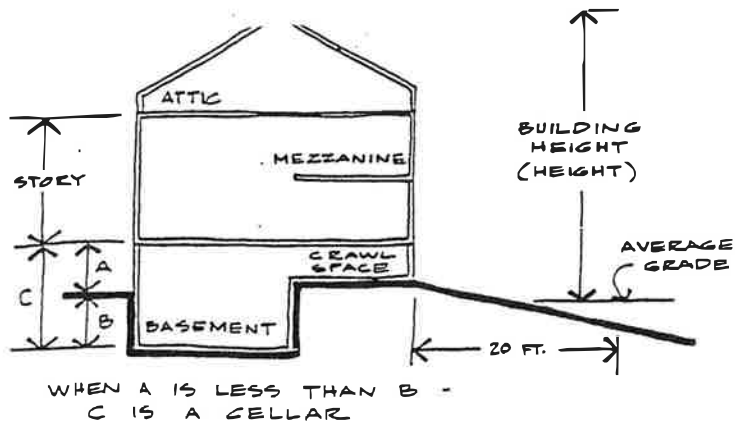


Figure 3

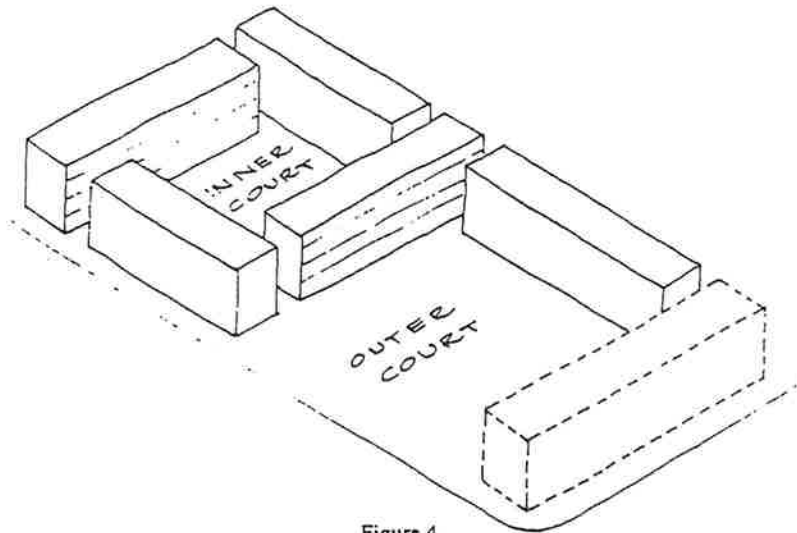
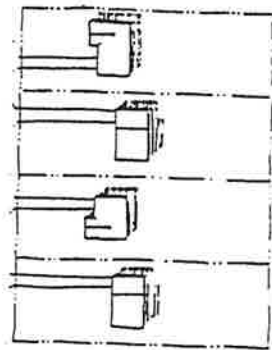
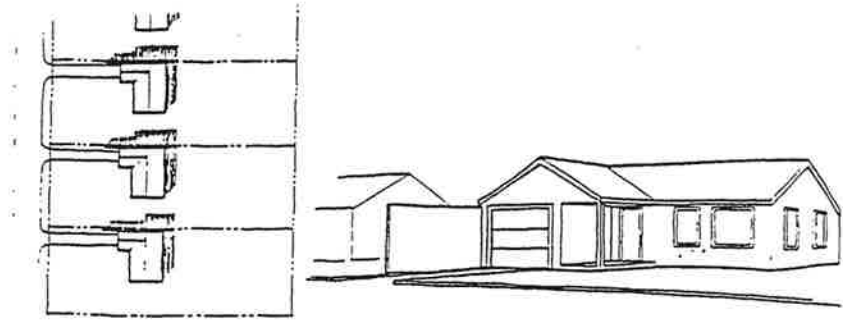


Figure 4



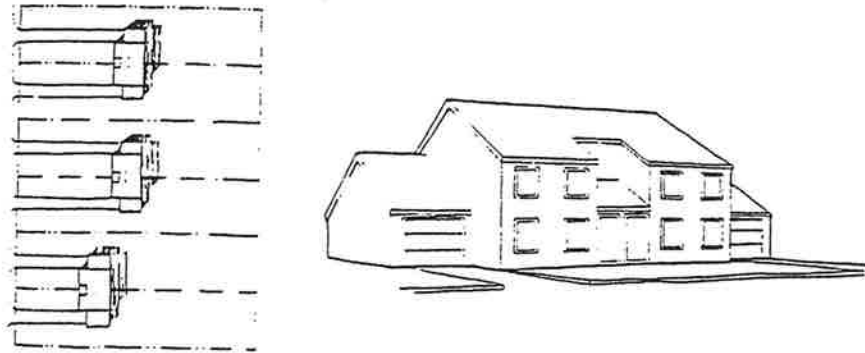
DWELLING, SINGLE FAMILY

Figure 5



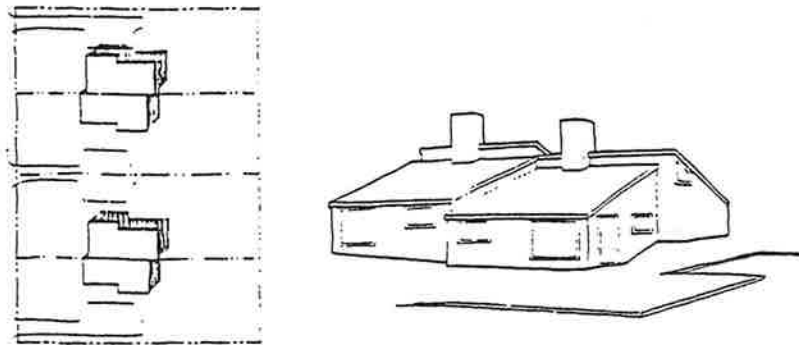
DWELLING, PATIO HOUSE

Figure 6



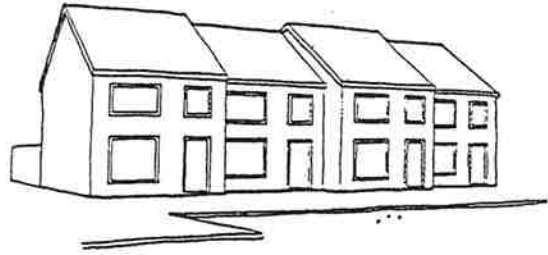
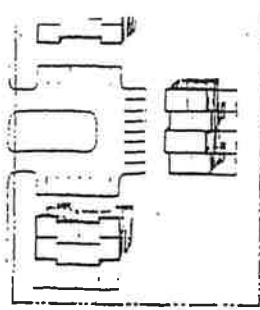
DWELLING, SEMIDETACHED

Figure 7



DWELLING, QUADRUPLEX

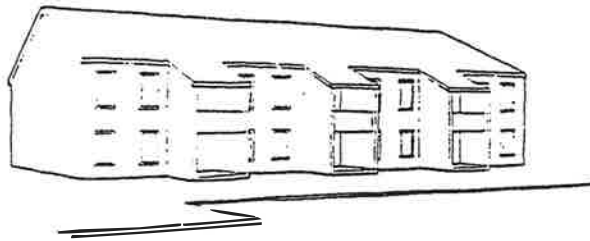
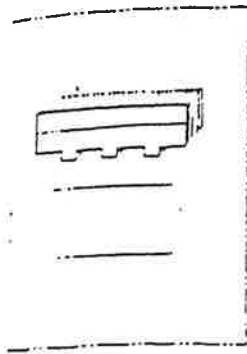
Figure 8



DWELLING, TOWNHOUSE

Figure 9

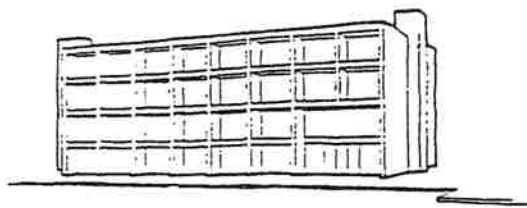
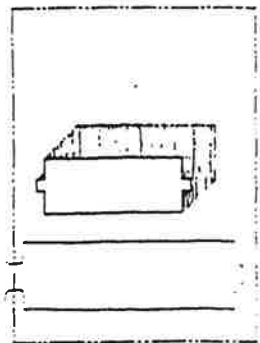
---



DWELLING GARDEN APARTMENT

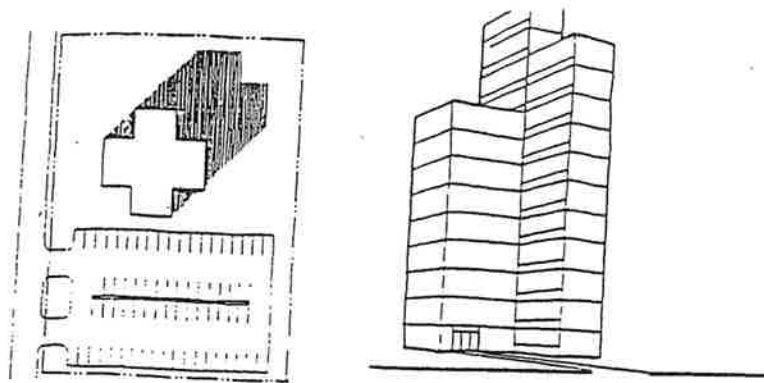
Figure 10

---



DWELLING, MID-RISE

Figure 11



DWELLING, HIGH-RISE

Figure 12

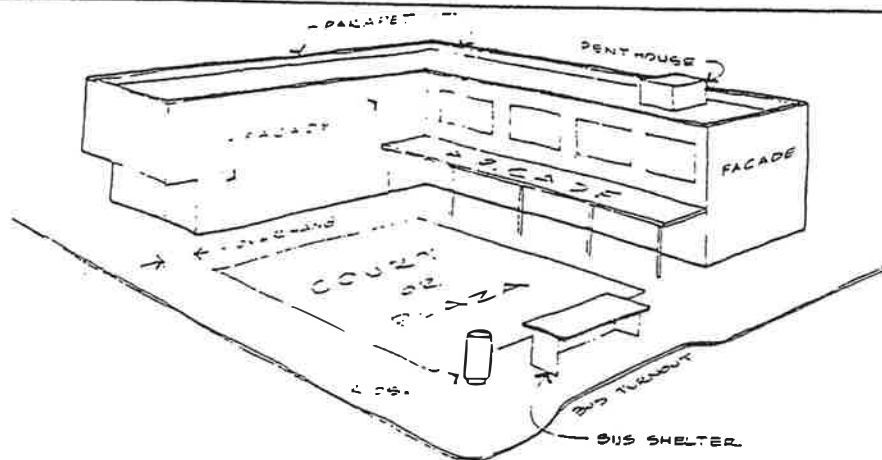
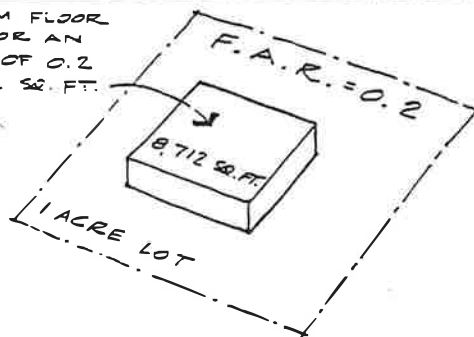


Figure 13

MAXIMUM FLOOR  
AREA FOR AN  
F.A.R. OF 0.2  
= 8,712 SQ. FT.



FLOOR AREA RATIO (F.A.R.)

$$\text{F.A.R.} = \frac{\text{TOTAL BUILDING FLOOR AREA}}{\text{TOTAL LOT AREA}}$$

Figure 14

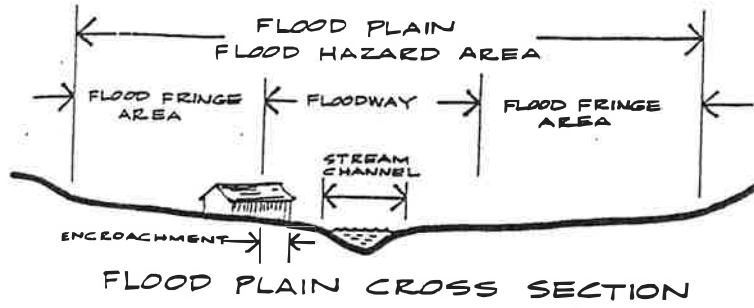


Figure 15

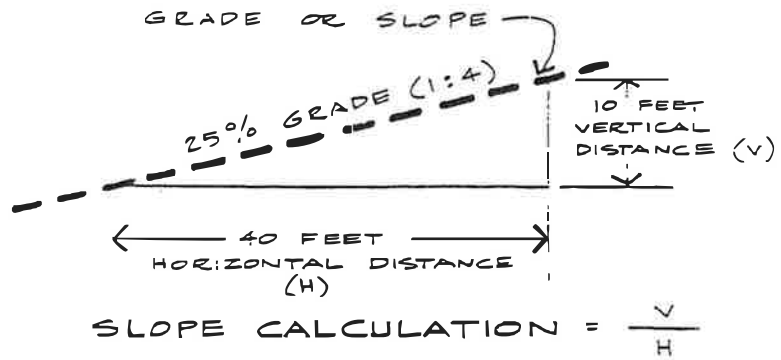
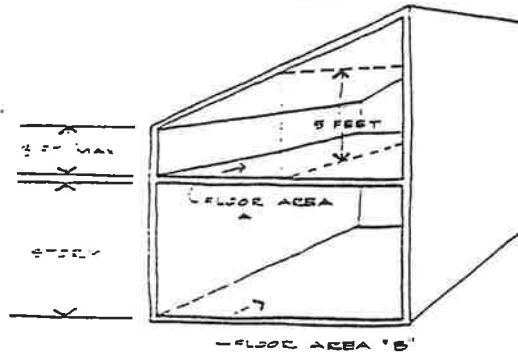


Figure 16



IF FLOOR AREA "A" IS AT LEAST 40% OF FLOOR AREA "B" - THEN "A" IS A HALF STORY.

Figure 17

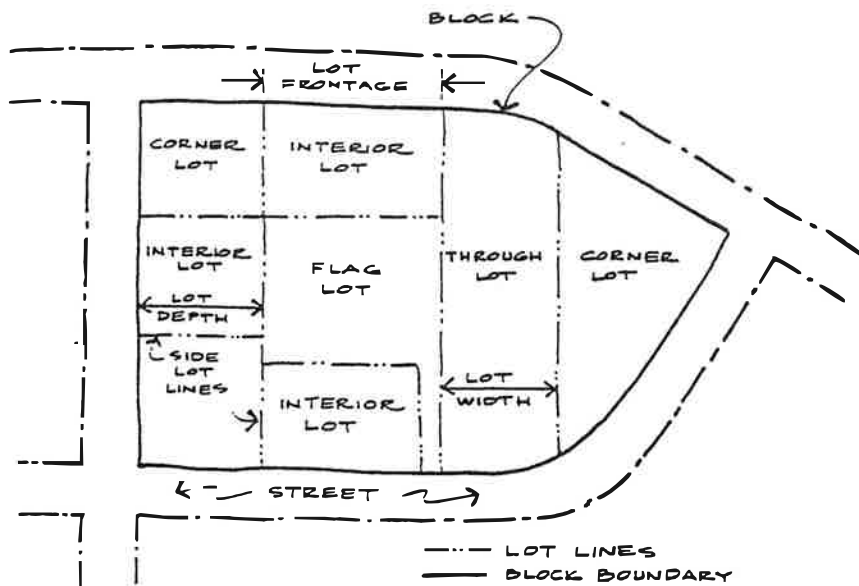
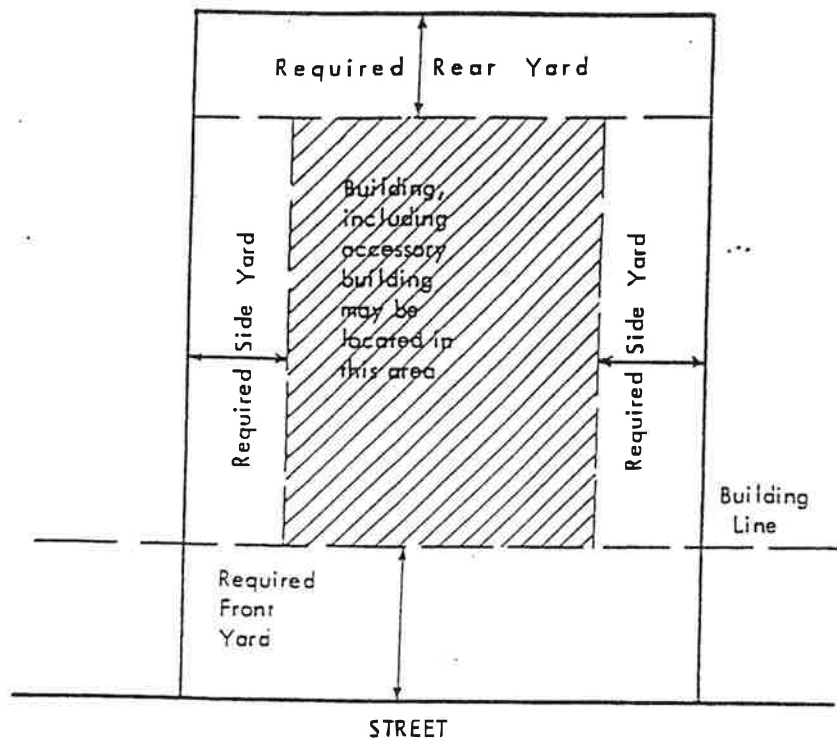
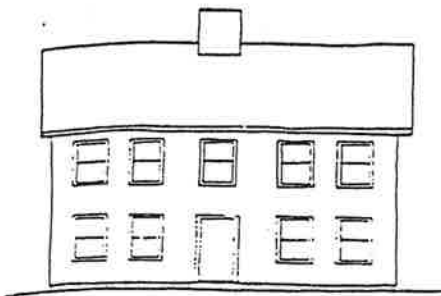


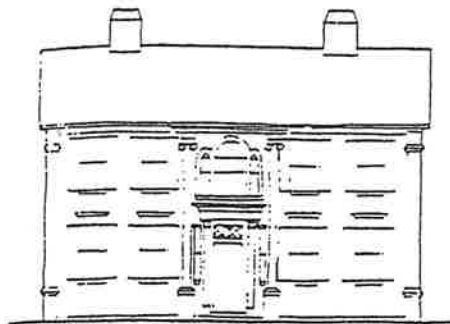
Figure 18



COLONIAL  
(1700-1720)



EARLY GEORGIAN  
(1720-1760)



LATE GEORGIAN  
(1760-1780)



FEDERAL  
(1780-1830)



GREEK REVIVAL  
(1820-1840)



VICTORIAN  
(1830-1850)

HISTORIC BUILDING STYLES  
Figure 19

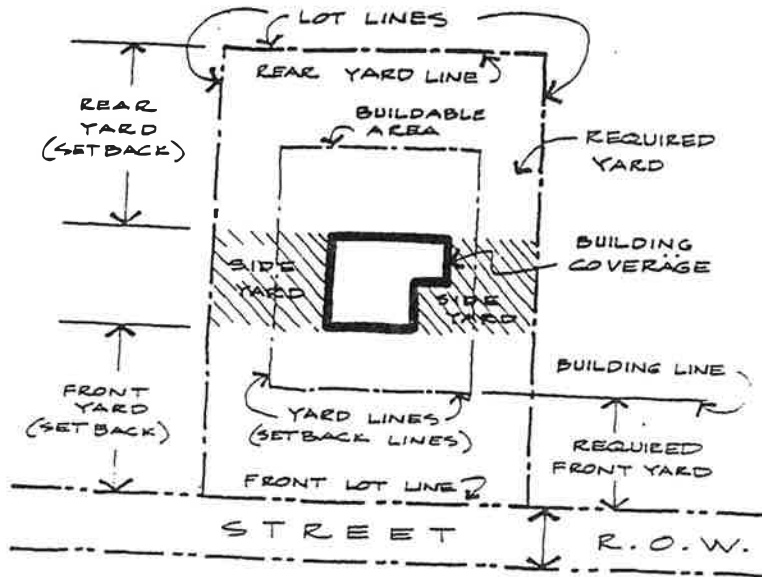
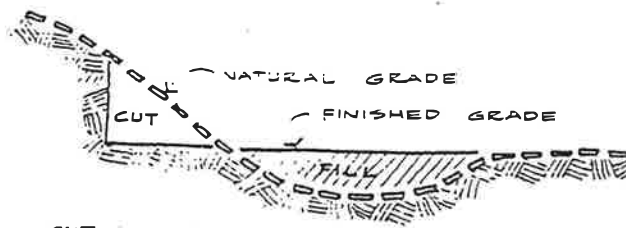


Figure 20



CUT AND FILL CROSS SECTION

Figure 21

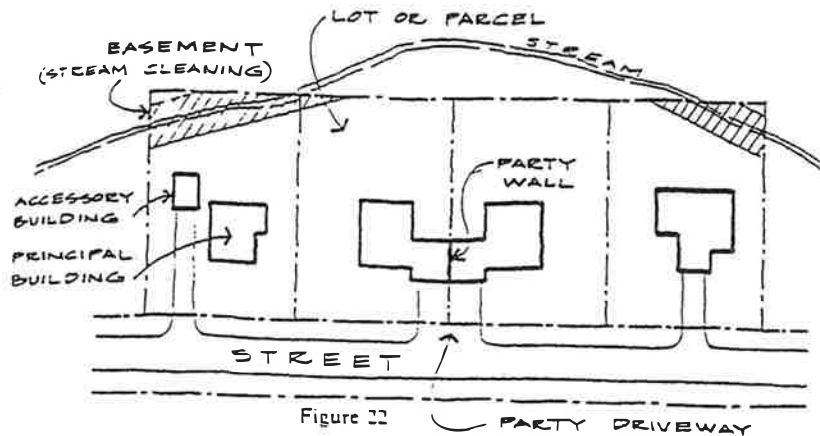


Figure 22

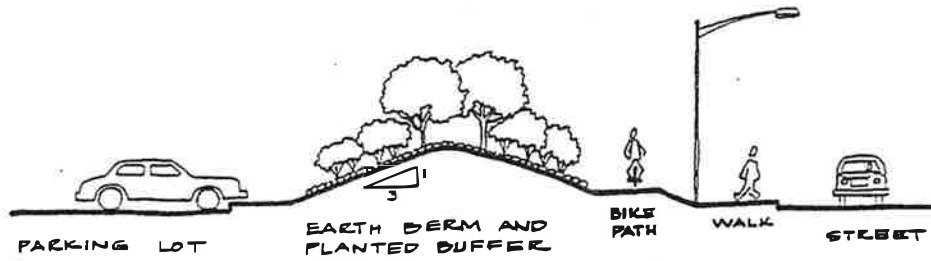


Figure 23

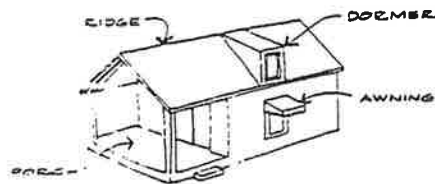


Figure 24

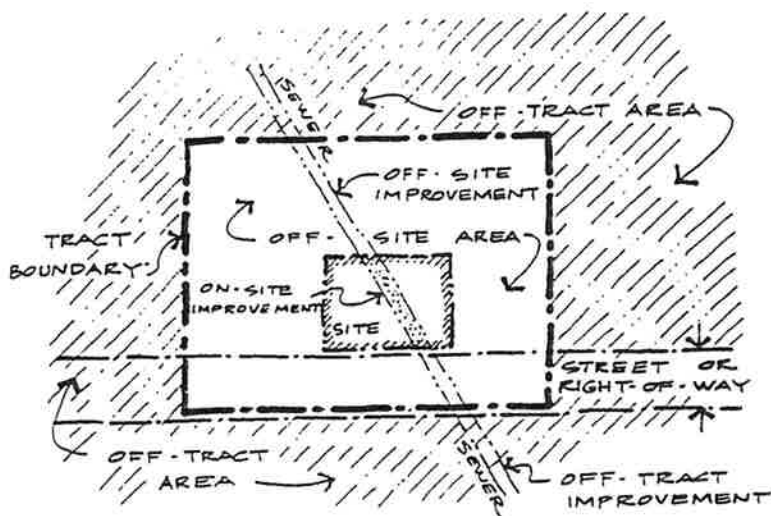


Figure 25

## ROOF TYPES

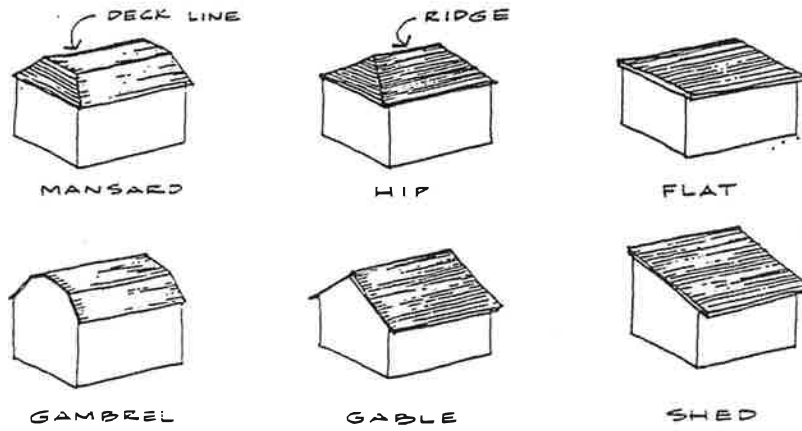
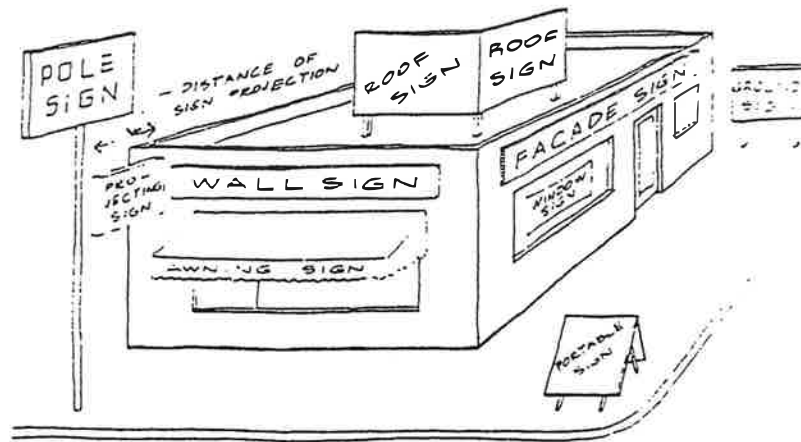


Figure 26



## SIGN TYPES

Figure 27

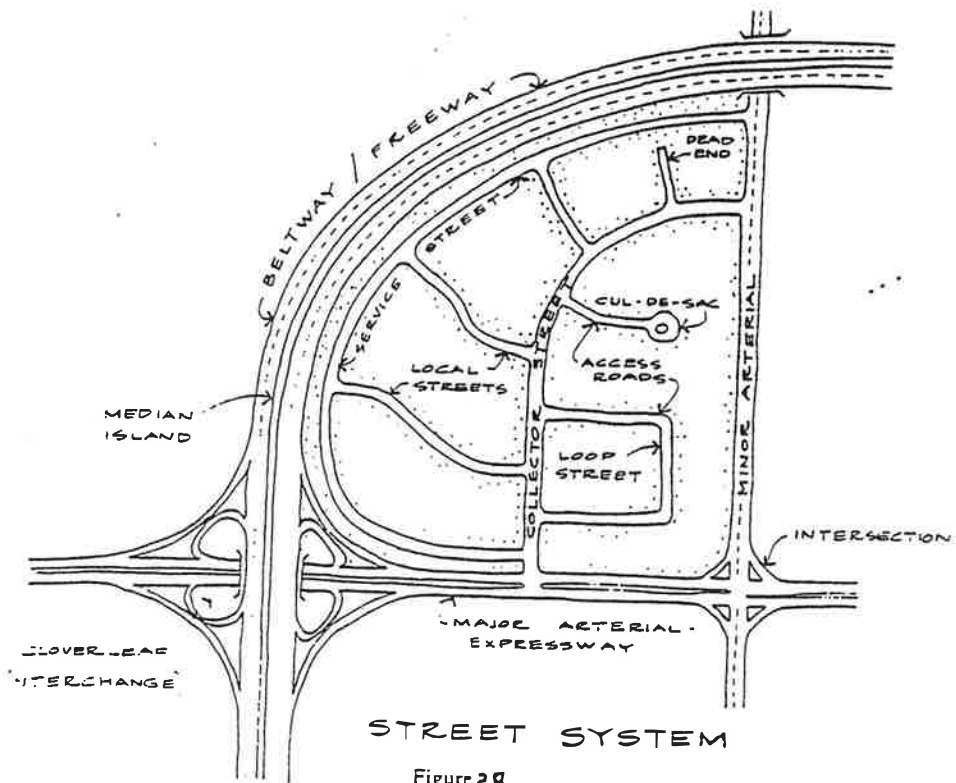


Figure 28

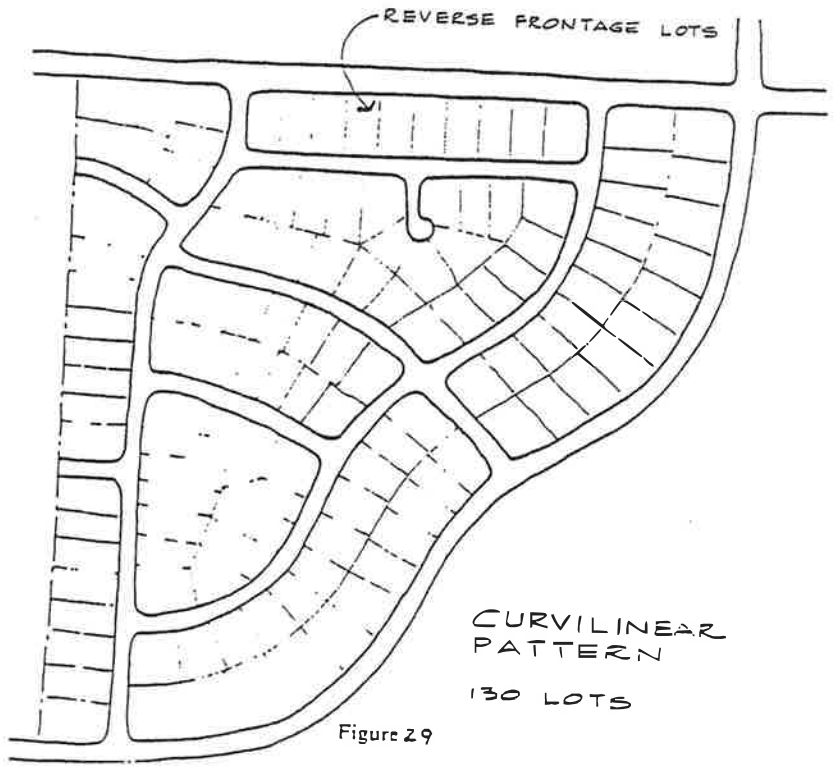
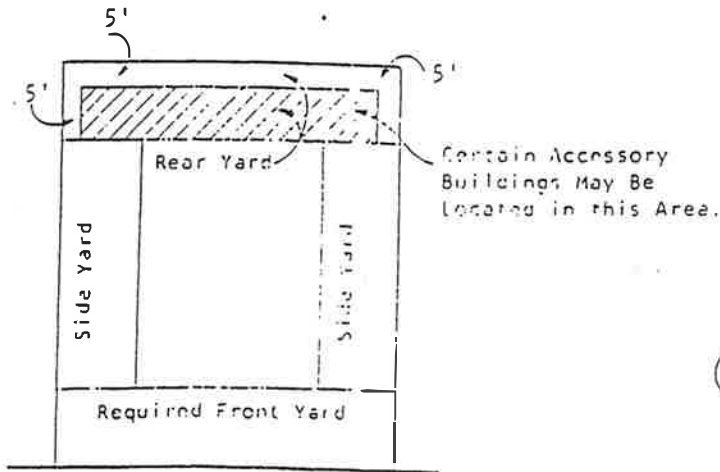


Figure 29

ACCESSORY BUILDINGS



CORNER LOT VISIBILITY

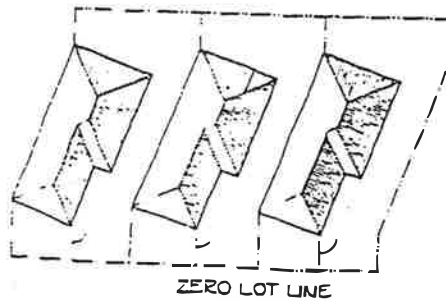
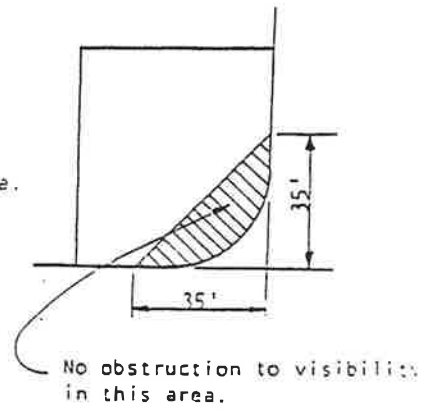
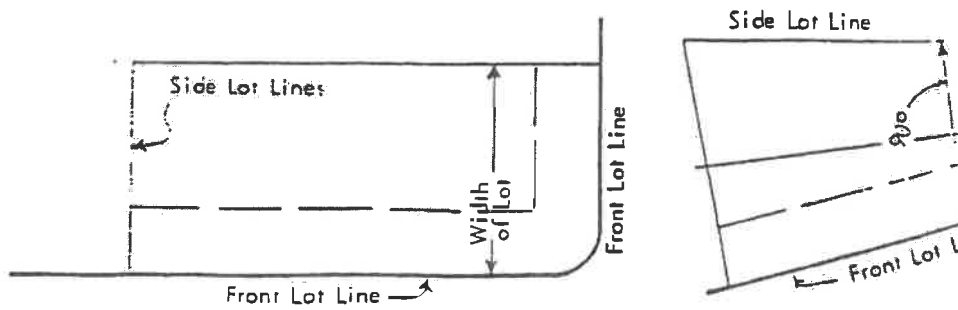
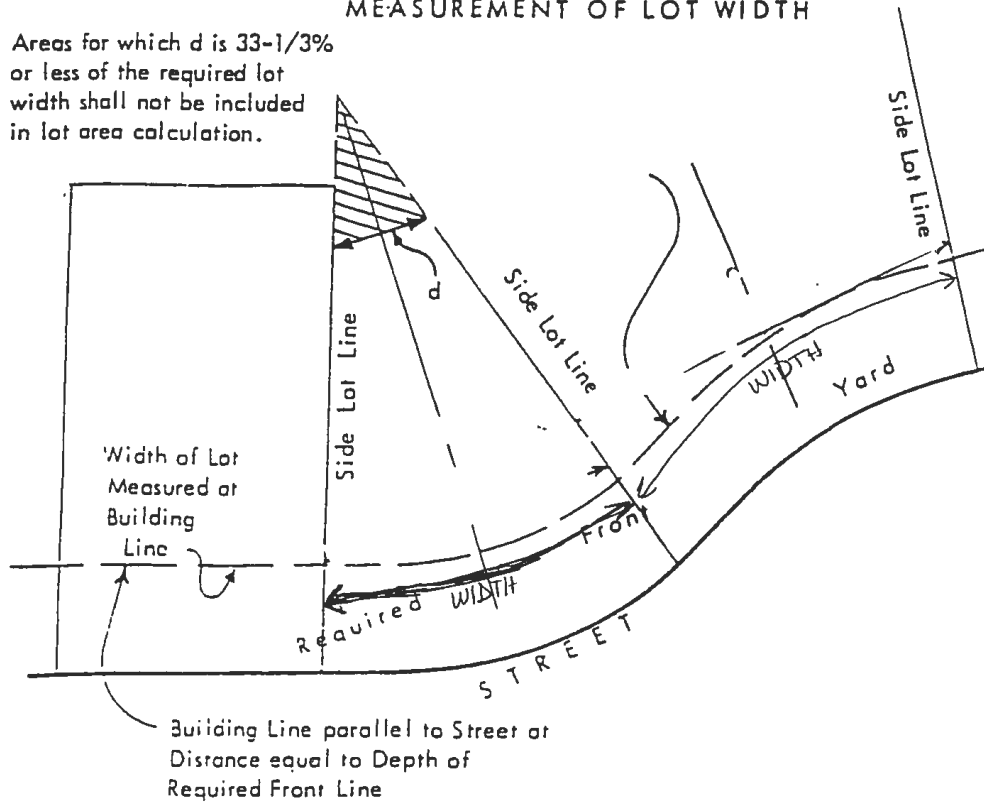


FIG. 30

### MEASUREMENT OF LOT WIDTH

Areas for which  $d$  is 33-1/3% or less of the required lot width shall not be included in lot area calculation.

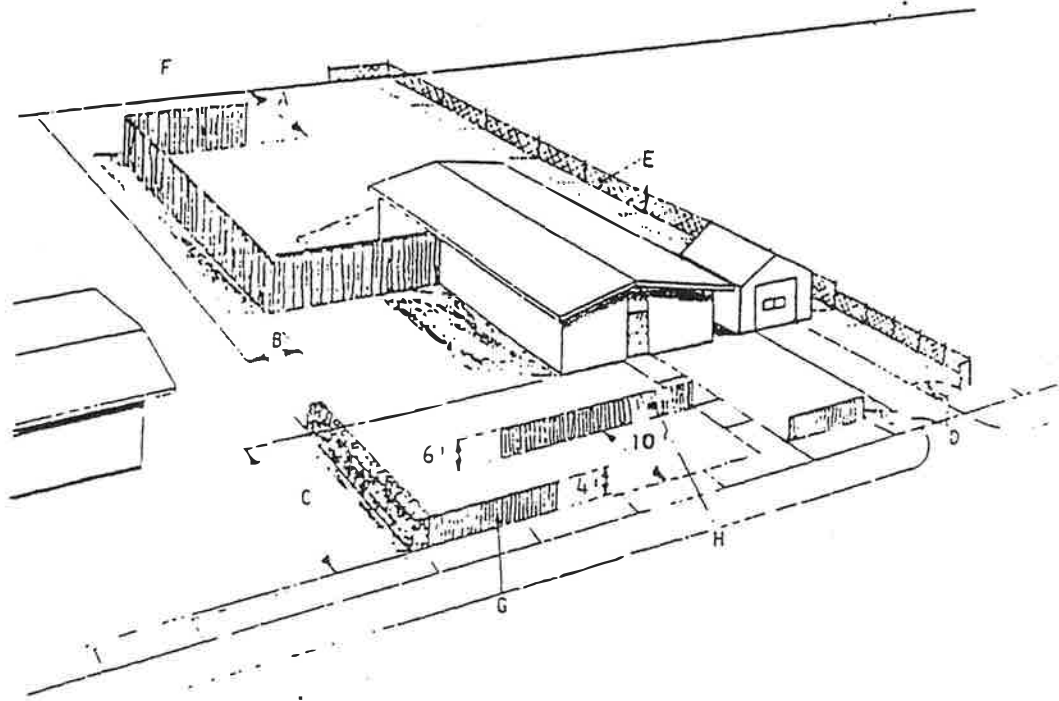


Width of Corner Lot is Measured by Taking Longer Front Lot Line as Though a Side Line

Fig. 31

(Amended 03/06/2015)

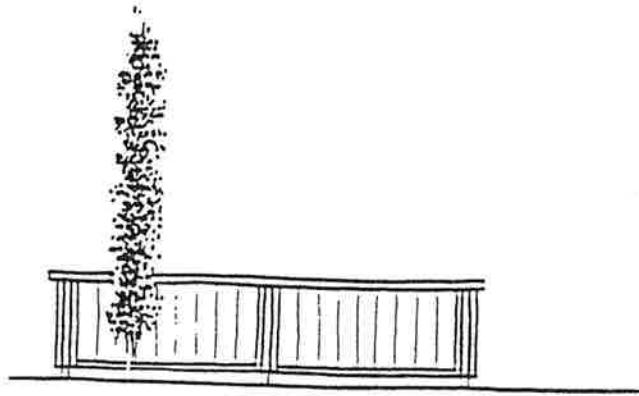
FENCES, FENCE WALLS AND HEDGES IN RESIDENTIAL ZONES



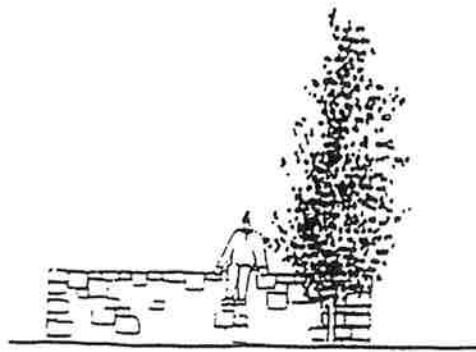
- A. Required Rear Yard
- B. Required Side Yard
- C. Required Front Yard
- D. No fence, wall, or hedge, the gross area of which is 80' or less open, shall be located within a ten-foot radius of the intersection of any driveway edge and a street property line.
- E. No fence, hedge, or wall exceeding six feet in height may be erected within any required side or rear yard.
- F. Fences over six feet in height must be set back from the property line in the same manner as building walls.
- G. No fence, hedge, or wall exceeding four feet in height may be erected within five feet of any property line in the required front yard. Higher fences, hedges, or walls up to a maximum height of six feet may be erected within the front yard if they are set back Ten feet from the property lines (H).

FIG. 32

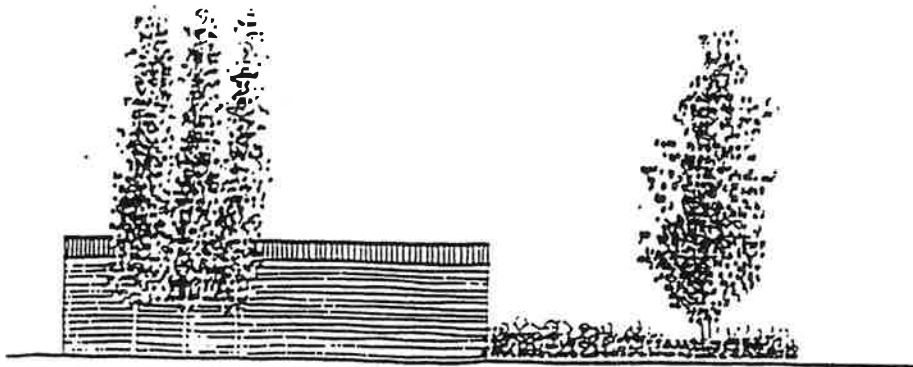
SITE DESIGN DETAILS



wood screen wall



stone screen wall



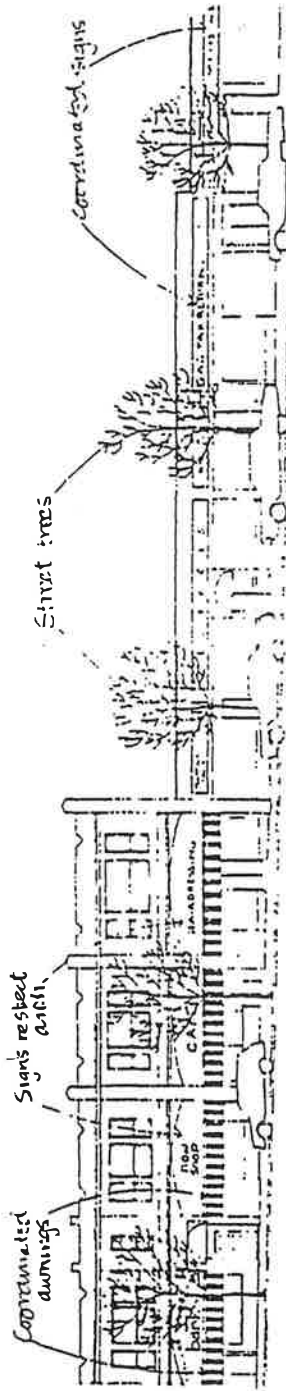
brick screen wall combined with planting screen

FIG. 33A



Existing elevation

Typical retail block, originally a series of stone arches over individual store-fronts, now largely obscured by a variety of signs which are not contained within the originally provided architectural frame.



Preferred elevation

Shows how coordinated awnings and signs improve the architectural appearance. The signs have been lined up but retain the original lettering style. Street trees contribute to the visual improvement of the street.



THIS



NOT THIS

The sign should serve to define or enhance architectural elements of the building, not obscure or obliterate them.

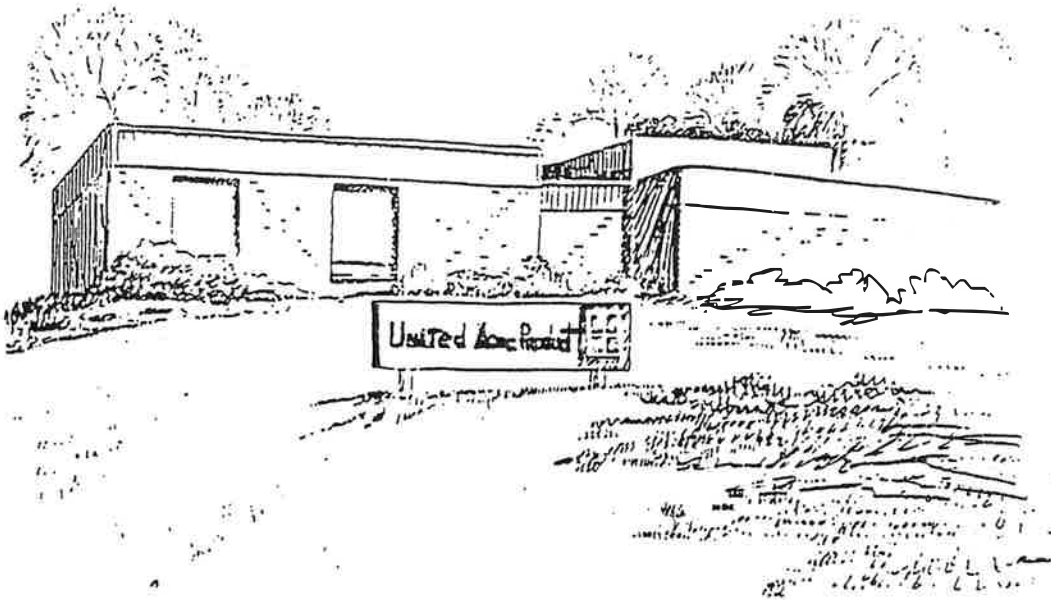


THIS



NOT THIS

The sign should identify the name of the business, not advertise brand names.



Small, tastefully designed industrial sign.

FIG. 34A

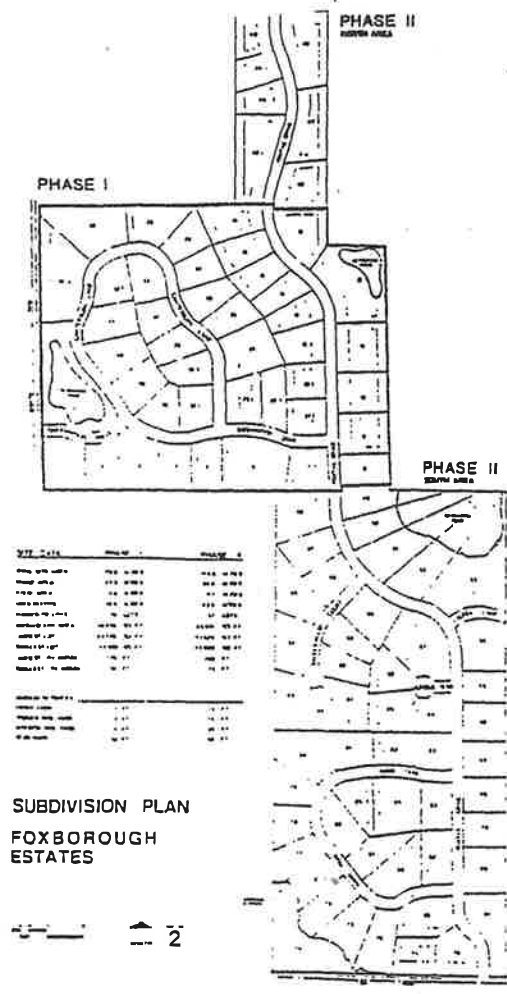


FIG. 35

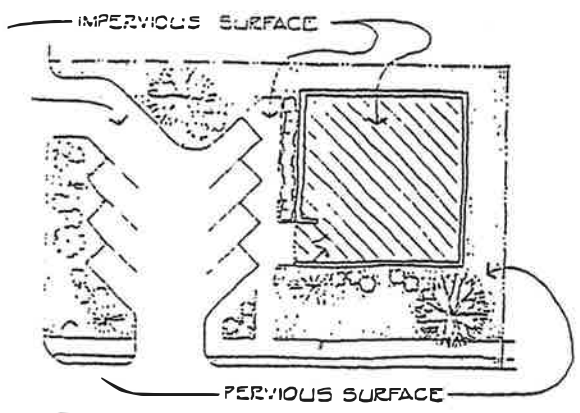


FIG. 36