

**TOWN OF NORTH CANAAN  
CONNECTICUT**

**ZONING  
BYLAW**

**EFFECTIVE DATE: July 5, 1999**

**Revisions: Through February 28, 2005**

AN ORDINANCE ESTABLISHING FEES FOR THE PLANNING AND ZONING COMMISSION, THE ZONING BOARD OF APPEALS, AND THE INLAND WETLANDS COMMISSION.

Pursuant to Section 8-1c of the Connecticut General Statutes, the Town of North Canaan does hereby enact and ordain the following schedule of fees for applications to the Planning and Zoning Commission, the Zoning Board of Appeals, and the Inland Wetlands Commission, as follows:

I. FEES TO THE PLANNING AND ZONING COMMISSION

|                                   |               |
|-----------------------------------|---------------|
| Zoning Permit . . . . .           | \$ 50.00      |
| Special Permit . . . . .          | 125.00        |
| Subdivision Application . . . . . | 50.00 per lot |

II. FEES TO THE ZONING BOARD OF APPEALS

|                            |          |
|----------------------------|----------|
| All applications . . . . . | \$ 75.00 |
|----------------------------|----------|

III. FEES TO THE INLAND WETLAND COMMISSION

|                            |          |
|----------------------------|----------|
| All applications . . . . . | \$ 50.00 |
|----------------------------|----------|

IV. ADDITIONAL FEES APPLICABLE TO ANY OF THE ABOVE

A. When the actual cost of processing an application exceeds the scheduled application fee set forth above, due to the need for outside consultant services, the Board or Commission, as the case may be, shall charge the applicant a surcharge fee to fund the approximate actual costs of processing the application.

B. The expenses for such outside consultants may be estimated by the Board or Commission, as the case may be, upon receipt of the application, or at any of subsequent review or hearing on the application, based on the projected expenses of reviewing, evaluating and processing the application. This reasonable estimate shall be paid forthwith and the application shall be deemed incomplete until the surcharge fee(s) has (have) been submitted.

C. For the purpose of this ordinance, an “outside consultant” means a professional who is not an employee of the town (as defined by the IRS), and may include, but is not limited to, engineering, traffic, environmental and planning professionals.

D. Any portion of the surcharge fee not expended by the town on the project shall be rebated to the applicant upon completion of the review, evaluation and processing of the application.

E. The Board or Commission, as the case may be, shall bill the applicant for any costs incurred by the town in excess of the surcharge fee or fees paid by the applicant. This bill shall be paid by the applicant prior to the issuance of any permit.

F. Add the actual cost of publication of notices and certified mail in connection with the application.

V. If any section, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

VI. This ordinance shall be effective fifteen (15) days after its publication, pursuant to the provisions of Section 7-157 of the Connecticut General Statutes.

Published: December 1, 2005  
Effective: December 16, 2005

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\* SEE BACK OF BOOK FOR AMENDMENTS.

## **ARTICLE I. INTENT AND PURPOSE**

- A. To retain the general “quality of life” of North Canaan - its residential character, its agricultural/industrial/commercial economic base, historic heritage, and natural environment. At the same time to recognize the need for balanced growth at a pace and quality that does not upset this balance, while seeking to resolve problems that are incompatible with that quality of life.
- B. To promote and protect public health, safety and welfare.
- C. To encourage and facilitate the orderly growth and expansion of the Town in accordance with the adopted Town Plan of Development.
- D. To promote, protect and maintain a healthy agricultural economic base.
- E. To facilitate the adequate provision for transportation, public water, schools, parks and other public requirements.
- F. To protect the character and maintain the stability of residential, business and industrial areas within the Town.
- G. To provide for land uses, buildings and structures that are compatible with the town and its various neighborhoods.

## **ARTICLE II. ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL MAP**

### **A. Establishment of Zoning Districts**

The Town of North Canaan is hereby divided into the following Zoning Districts:

|     |                          |
|-----|--------------------------|
| R-A | Residential/Agricultural |
| R   | Residential              |
| C-B | Central Business         |
| C   | Commercial               |
| I   | Industrial               |

### **B. Provision of Official Zoning Map**

The boundaries of the Town’s zoning districts are established and shown on the map entitled “Zoning Map of the Town of North Canaan, Connecticut”, filed in the Office of the Town Clerk.

This map, together with all explanatory matter therein, is hereby adopted by reference and declared to be a party of these regulations.

## 1. Zone Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

- a. Boundaries indicated as abutting right-of-way lines of streets, highways or alleys shall be construed as extending to the center line of such streets, highways or alleys;
- b. Boundaries indicated as approximately following plotted lines shall be construed as following such lot lines;
- c. Boundaries indicated as following railroad lines shall be construed as to be midway between the main tracks;
- d. Boundaries indicated as approximately following the center line of streams, rivers or other bodies of water shall be construed as following such center lines;
- e. Boundaries indicated as parallel to or extension of features indicated in subsections (a) through (d) above shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by measurement in accordance with the scale of the map.
- f. In cases of uncertainty, the Planning and Zoning Commission shall determine the location of the boundary.

## **ARTICLE III. APPLICATION OF ZONING REGULATIONS**

Except as hereinafter provided the requirements set by this regulation within each district shall be minimum requirements and shall apply uniformly to each class or kind of structure or land.

- A. No building structure or land shall hereinafter be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all the regulations herein specified for the district in which it is located.
- B. No building or other structure shall hereafter be erected or altered:
  1. To a greater height;
  2. To accommodate or house a greater number of families;
  3. To occupy a greater percentage of lot area;
  4. To have narrower or smaller rear yards, front yards, side yards, or other spaces, than herein required, or in any other manner contrary to the provisions of this regulation.
- C. No building to be used for dwelling purposes shall be constructed or altered in the rear of a building situated on the same lot, nor shall any building be constructed in front of or moved to the front of a dwelling situated on the same lot. This provision shall not, however, prevent the erection alteration or maintenance of dwelling quarters in an accessory building on the rear of a lot when such building is occupied by persons in domestic service and/or

- farm workers who work on the premises, or when used as temporary quarters for guests.
- D. Uses of land, buildings or structures not clearly permitted in the various zoning districts are prohibited.

## **ARTICLE IV. DEFINITIONS**

**Accessory Use or Building:** A use or building on the same lot or adjoining lot in common ownership with the principal use or building, and of a nature customarily incidental and clearly subordinate to such use or building.

**Apartment:** A residential structure containing not less than four dwelling units, or a group of such buildings.

**Bed and Breakfast:** A residential structure designed as a temporary abiding place providing for a maximum of four (4) sleeping rooms for which lodging is provided for compensation with a morning meal.

**Boarding House:** A building or portion thereof designed exclusively for residential occupancy that provides sleeping accommodations for a total of sixteen or fewer persons on either a transient or permanent basis but without separate cooking facilities for individual occupants.

**Building:** An independent structure having a roof. A detached building is one separated on all sides from adjacent buildings by open spaces from the ground up.

**Building Height:** The vertical distance from mean grade to the top of the highest roof beams of a flat roof or the mean level of the highest gable or slope of a hip roof.

**Cottage Industry:** A traditional craft or artisan business activity including but not limited to pottery, weaving, leatherwork, clothesmaking, woodworking, etc. Such activity is conducted for financial gain in whole or in part within a dwelling or accessory building zones only for residential use. A Cottage Industry may utilize as much as 50% of the gross floor area of a building(s) and may employ as many as three (3) employees who are not residents of the property.

**Dwelling:** A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family and multi-dwellings but not including hotels, motels or boarding houses.

**Dwelling Unit:** One or more rooms constituting a separate, independent housekeeping establishment with cooking, living, sanitary and sleeping facilities for the use of one family.

**Family:** One or more individuals related by blood, marriage, adoption or foster children, or not more than five (5) individuals who are not so related, living in a single dwelling unit.

**Farm:** A tract of land containing five acres or more, used for the production of crops for human or animal consumption, livestock, grazing, aquaculture, commercial dairying, forestry, nurseries and the raising of poultry and sale of eggs.

**Floor area:** The sum of the horizontal area of the several floors of a building measured from the outside, excluding basement floor areas, garage, porches, and open spaces and open attics or unfinished rooms and for which a certificate of occupancy has been issued.

**Garage, Private:** A detached or accessory building portion of a main building used for parking of vehicles and storage.

**Garage, Public:** A building or use, other than a private garage used for the maintenance and, repair and/or storage of motorized vehicles.

**Home Occupation:** An occupation or business activity which results in a product or service for financial gain, which is conducted in whole or in part within a dwelling or accessory building zones only for residential use. A Home Occupation is incidental to, and clearly subordinate to the residential use of the property.

**Hotel/Inn/Motel/Motor Inn:** A building or group of buildings designed as a temporary abiding place with lodging provided for compensation with or without meals.

**Lot of Record:** An area of land designated as a lot on an approved plot of subdivision or described on a deed duly recorded or registered, pursuant to statute.

**Lot, corner:** A lot fronting on the intersection of two or more streets.

**Lot, frontage:** That portion of a lot bordering the street. On rear lots, the abutting rear lot line of the front lot is the frontage of the rear lot.

**Lot, through:** A lot located between two streets and fronting on both streets.

**Lot, Zoning:** A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control, and therefore, may not coincide with a lot of record. Except as the context shall indicate a lot of record, all lots referred to in this regulation are zoning lots.

**Lot, Line:** The property line bounding the lot.

**Mobile Home:** A completely enclosed structure built on a chassis, designed as a dwelling unit to be transported after fabrication on its own wheels or detachable wheels or on a flatbed or trailer. For the purpose of this by-law, the term “mobile home” includes also trailers incorporating the characteristics of mobile homes as herein defined.

**Non-Conforming use or structure:** Any land, building or structure or their use which does not comply with all of the requirements of this regulation governing the district in which it is located and existed before the adoption of these regulations.

**Nursery:** A use whose main function is the growing of trees or plants. Commercial activities shall be primarily limited to the sale of products grown on the premises and in no case shall such use be interpreted as a retail outlet selling garden supplies or a landscape services business or the storage of equipment related thereto.

**Professional Office:** The office of a recognized profession including but not limited to doctors, lawyers, dentists, architects, engineers, artists, musicians, designers, teachers and others, who through training or experience are qualified to perform services of a professional as distinguished from a business nature.

**Recreational Facility:** A facility for leisure time sport activities that usually require equipment.

**Sign, Business:** A sign which directs attention to a business, commodity service or entertainment conducted sold or offered upon the premises where such sign is located or to which it is affixed.

**Story:** That portion of a building above the basement included between any floor and the ceiling or roof above it.

**Story, half:** Any place under a gable, hip or gambrel roof, the floor of which is not more than two feet below the plate.

**Street:** A public or private way open to travel by the general public, or a way shown on a plan of subdivision duly approved by the Planning and Zoning Commission.

**Street Line:** The line between the lot and the street right-of-way.

**Structural Alteration:** Any change in or addition to the structural or supporting members of a building such as bearing walls, columns, beams, or girders.

**Structure:** Anything that is constructed or erected which requires location on the ground or attached to something having a location on the ground.

**Warehouse:** A commercial building and/or buildings designed for storage and/or distribution of goods and materials.

**Yard:** An open space on a zoning lot which is unobstructed and upon which no structure may be located, except as otherwise permitted.

**Yard, Front:** That portion of the yard adjacent to the street or, if no portion is adjacent, that portion parallel to the street to which the lot has access.

**Yard, Rear:** The yard opposite or greater than 45 degrees from the front yard.

**Yard, Side:** Any yard not designated as front or rear.

## **ARTICLE V. GENERAL PROVISIONS**

### **A. Lots in Two Zoning Districts**

Where a lot of record at the time of passage of these regulations or any amendments thereto falls into two or more zoning districts, any questions of uncertainty as to district boundaries shall be determined by the Planning and Zoning Commission.

### **B. Temporary Uses**

1. Permits may be issued by the Zoning Enforcement Officer for the following purposes, but only under conditions which will safeguard the character of the neighborhood.
  - a. A non-conforming temporary building shown to be necessary, pending construction of a conforming building or use, for not more than one year, but renewal permits for successive periods of six months may be granted.
2. Trailers
  - a. A single trailer may be parked and occupied for a period of not to exceed one year by the owner of the premises on which it is located, provided that such owner is in the act of constructing a house for his own occupancy and further provided that he submit with his license application a certificate from the health Officer stating that suitable provisions for household water and sanitary sewage disposal have been made.
  - b. Trailers may be parked and used at the job site in connection with any type of construction work provided that it is not used for human habitation. Said trailers shall be removed from any job site within 30 days after the issuance of the Certificate of Occupancy. Said trailers shall not be on any single job site for a period of more than one year unless a renewal is granted by the Zoning Enforcement Officer.

### **C. Accessory Buildings**

Accessory buildings or uses are permitted in any zone provided that:

1. A building attached to the principal building by a covered passageway, or by having a wall or part of a wall in common, shall be considered as part of the principal structure.
2. Accessory uses not expressly permitted are prohibited.

### **D. Development of Rear Lots**

The provisions of this section are intended to permit the use of land for residential purposes, which has been unintentionally landlocked or deprived of minimum frontage on a street, or, in the case of subdivision, where the topography of unusual shape of the property lends itself to the use of the rear lot to accomplish the best use of land. In case of a subdivision, the Commission shall not approve rear lots unless it finds that such lots provide the best development of the land because of the topography and shape of the land.

The rear portion of a lot of record may be divided to create one new residential lot with at least 20' of street frontage where all the following conditions apply:

1. Access to the rear lot must be provided with street frontage and must be within a right-of-way owned in fee at least 20 feet wide and be sufficient to accommodate fire apparatus and other emergency vehicles.
2. The lot line from which the right of access leads must be considered the front line of the rear lot.

Notice is hereby given that at the Planning & Zoning meeting of November 17, 2004 it was voted unanimously to approve the following changes to zoning regulations.

Page 10, Article VI-Table of Uses (Table 1)

The following uses were changed:

Multi-Family Dwelling, change to special permit in all zones.  
Nursing Home, change to special permit in all zones except I.  
Assisted Living Facility, change to special permit in all zones except I.  
Hospital, change to special permit in all zones except I.  
Boarding House, change to special permit in all zones except I.  
Bed and Breakfast (4 bedrooms or less) change to special permit in all zones except I.  
Bed and Breakfast (5 bedrooms or less) change to special permit in all zones except I.  
End of changes.

ARTICLE VI. TABLE OF USES (TABLE I)

All uses permitted in this article are subject to the height and area requirements contained in Article VII and all other applicable requirements of the zoning regulations.

| USES  | R-A | R  | C-B | C  | I  |
|---|-----|----|-----|----|----|
| ACCESSORY USES                                | P   | P  | P   | P  | P  |
| AGRICULTURAL                                  | P   | P  | SP  | P  | P  |
| ASSISTED LIVING FACILITY                      | SP  | SP | SP  | SP | X  |
| AUTO SALVAGE YARDS                            | X   | X  | X   | X  | SP |
| BAKERY  | SP  | SP | P   | P  | P  |
| BANK  | X   | X  | P   | P  | SP |
| BED AND BREAKFAST (4 Bedrooms or Less)        | SP  | SP | SP  | SP | X  |
| BED AND BREAKFAST (5 Bedrooms or Less)        | SP  | SP | SP  | SP | X  |
| BOARDING HOUSE                                | SP  | SP | SP  | SP | X  |
| BOAT LIVERY                                   | SP  | X  | P   | P  | P  |
| BUILDING/EXCAVATING CONTRACTOR ESTABLISHMENTS | SP  | X  | SP  | P  | P  |
| CAFE/TAVERN                                   | X   | X  | P   | P  | SP |
| CAMPGROUND                                    | P   | SP | SP  | P  | P  |
| COMMERCIAL GREENHOUSE/NURSERY                 | P   | P  | SP  | P  | P  |
| COMMERCIAL PARKING LOT                        | SP  | X  | SP  | SP | SP |
| CONVENIENCE STORE                             | X   | X  | P   | P  | X  |
| COTTAGE INDUSTRY                              | P   | X  | P   | P  | P  |
| DAYCARE OR CHILDCARE FACILITIES               | P   | SP | P   | P  | P  |
| DOG KENNEL                                    | SP  | X  | X   | P  | SP |
| EDUCATIONAL USES                              | P   | SP | P   | SP | P  |
| FAST FOOD RESTAURANT                          | X   | X  | SP  | SP | X  |
| GARAGE/PRIVATE                                | P   | P  | P   | P  | P  |
| GARAGE PUBLIC                                 | X   | X  | P   | P  | SP |
| GOLF COURSE                                   | SP  | SP | SP  | P  | P  |

| <b>USES</b>   | <b>R-A</b> | <b>R</b> | <b>C-B</b> | <b>C</b> | <b>I</b> |
|---|------------|----------|------------|----------|----------|
| GRAVEL/SAND EXTRACTION  | P          | P        | X          | P        | P        |
| HOME OCCUPATION   | P          | P        | P          | P        | P        |
| HOSPITAL  | SP         | SP       | SP         | SP       | X        |
| HOTEL/INN/MOTEL/MOTOR INN   | X          | X        | P          | P        | X        |
| LABORATORIES  | X          | X        | SP         | SP       | P        |
| MACHINE/WELDING/SHEET METAL SHOPS                                 | X          | X        | SP         | SP       | P        |
| MANUFACTURING OPERATIONS  | X          | X        | X          | SP       | P        |
| MOBILE HOME   | SP         | SP       | P          | SP       | X        |
| MOBILE HOME PARK  | X          | X        | X          | X        | X        |
| MULTI-FAMILY DWELLING   | SP         | SP       | SP         | SP       | SP       |
| MUNICIPAL USES  | P          | P        | P          | P        | P        |
| NON-PROFIT RECREATIONAL USES                                      | P          | P        | P          | P        | P        |
| NON-RESIDENTIAL USES GREATER THAN 10,000 SQ. FT. GROSS FLOOR AREA | X          | X        | SP         | SP       | SP       |
| NURSING HOME  | SP         | SP       | SP         | SP       | X        |
| PETROLEUM STATIONS  | X          | X        | SP         | SP       | SP       |
| PRINTING ESTABLISHMENTS   | X          | X        | P          | P        | P        |
| PRIVATE CLUB  | SP         | SP       | P          | P        | SP       |
| PROFESSIONAL OFFICE   | X          | X        | P          | P        | SP       |
| PUBLIC UTILITY INSTALLATIONS                                      | P          | P        | P          | P        | P        |
| QUARRY/GRAVEL PROCESSING AND CEMENT MIXING PLANTS                 | X          | X        | X          | X        | SP       |
| RELIGIOUS USES  | P          | SP       | P          | SP       | P        |
| REPAIR SHOP   | SP         | X        | P          | P        | SP       |
| RESTAURANT/SNACK BAR  | SP         | X        | P          | P        | P        |
| RETAIL ESTABLISHMENTS   | X          | X        | P          | P        | SP       |
| RIFLE RANGE   | SP         | X        | X          | X        | SP       |

| <b>USES</b>                   | <b>R-A</b> | <b>R</b> | <b>C-B</b> | <b>C</b> | <b>I</b> |
|-------------------------------|------------|----------|------------|----------|----------|
| SERVICE ESTABLISHMENTS        | SP         | X        | P          | P        | SP       |
| SHOWROOM/SALESROOM            | X          | X        | P          | P        | SP       |
| SINGLE-FAMILY DWELLING        | P          | P        | P          | P        | P        |
| SKI AREA                      | SP         | X        | X          | X        | SP       |
| SUMMER CAMP                   | P          | SP       | SP         | P        | SP       |
| SWIMMING POOLS/PRIVATE        | P          | P        | P          | P        | P        |
| TELECOMMUNICATIONS FACILITIES | SP         | SP       | SP         | SP       | SP       |
| TRANSPORTATION SERVICES       | X          | X        | P          | P        | P        |
| TRANSPORTATION SERVICES       | X          | X        | SP         | SP       | X        |
| VETERINARY HOSPITAL           | P          | X        | SP         | P        | SP       |
| WAREHOUSE/DISTRIBUTOR         | X          | X        | SP         | P        | P        |
|                               |            |          |            |          |          |

**ZONES:**

R-A Residential/Agricultural

R Residential

C-B Central Business

C Commercial

I Industrial

X = NOT PERMITTED

P = PERMITTED

SP = SPECIAL PERMIT REQUIRED

## **ARTICLE VII. PERFORMANCE STANDARDS**

### **A. PURPOSE**

These performance standards are established to permit nuisances to be measured in terms of their potentially dangerous or objectionable elements rather than by classification of use which may not reflect actual conditions or nuisances. They are also established to provide controls to protect the community from dangerous or objectionable elements and to protect any potential use from arbitrary exclusion.

New construction, new facilities and new activities shall not be permitted except in compliance with these standards. Any use already established on the effective date of this bylaw shall not be so altered or modified as to conflict with or further conflict with said performance standards.

### **B. Regulation of Nuisance Elements**

No land, or building or structure in any district shall be used or occupied for non-residential purposes in such a manner so that it will cause any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard; electrical or other disturbance; glare, heat, odor, smoke, noise or other substance, condition or element in such amount or manner as to adversely affect the surrounding area of premises; provided that any use permitted by this bylaw may be undertaken and maintained in the respective district if it conforms to the regulations limiting dangerous and objectionable elements at the specified point or points of the determination of their existence, as provided herein.

### **C. Location of Determination**

The determination for enforcement purposes of the existence of any dangerous or objectionable conditions shall be made at the property boundary, or where such conditions or disturbances are the most apparent.

### **D. Standards to be Enforced**

- a. Lighting, Glare and Heat. Exterior lighting shall be of such intensities and shielded in such a manner as to divert direct light away from and minimize indirect light cast on adjacent properties or public ways. Every use shall be so arranged that any glare or heat produced is shielded so that it is not perceptible at or beyond any boundary line of the lot on which the use is located.
- b. Hazardous Materials. All activities involving and all storage of flammable, explosive or other hazardous materials shall be provided with adequate safety measures to prevent the occurrence of fire, explosion, groundwater contamination, or similar hazards.

- c. Outdoor Storage and Waste Disposal. No materials or wastes shall be deposited on a lot in such form or manner that they may be transferred off the lot by natural causes or forces.
  - 1) All materials or wastes which constitute a fire hazard or which may be edible or attractive to animals or insects shall be stored outside only in secure, closed containers.
  - 2) No discharge at any point into a public sewer, private sewage disposal system, or stream, or into the ground of any materials of such nature or temperature as can contaminate any surface water, or water supply, or cause the emission of dangerous or offensive elements, shall comply with standards approved by the Connecticut Department of Environmental Protection.

## **ARTICLE VIII. SPECIAL PERMIT USES**

### **A. General**

This Article sets forth the standards and procedures for Planning and Zoning Commission action on Special Permit uses as listed in Article VI of these Regulations. Certain uses are placed in Special Permit classification because their characteristics or proposed locations could be detrimental to adjacent properties, the neighborhood or zoning district. Each special permit use shall be considered on an individual basis subject to the standards and requirements of these Regulations.

### **B. Authority**

No other permit required by the Town of North Canaan shall be issued for any Special Permit use unless and until the Commission has approved a Special Permit.

### **C. Procedures**

1. All applications for a Special permit shall include a plan of the proposed area, at a scale of forty feet to the inch and sheet size of 36" long by 24" wide as prescribed by Section 7-31 of Ch. 92 of the Connecticut General Statutes, Plans shall include engineering or architectural seal, A-2 survey, property lines, adjacent public streets, size and location of existing and proposed structures, existing topography, accurate description of proposed utilities, driveways and internal circulation proposed landscaping, parking areas and lighting plan. All maps shall conform to the accuracy standards as outlined in "Code of Recommended Practice for Standards of Accuracy of Surveys and Maps October 1976" State Board of Registration for P.E.'s and L.S.'s. Floor plans, lighting, building elevations and other features considered necessary by the Commission for adequate study of the proposal. The Commission may deem the application insignificant and require only information it considers essential for making an informed judgment.

2. The Commission may require additional information in the plan that may be necessary to meet the specific requirements of the development type and may make such additional requirements necessary to promote and to protect the sound and orderly growth of the community.

#### **D. Findings Required**

Before granting a special permit for any use the commission shall find that the proposed use:

1. Is in compliance with all provisions and requirements of these Regulations and in harmony with its general intent and purpose.
2. Is essential or desirable to the public convenience or welfare at the proposed location.
3. Will not be detrimental to adjacent uses or to the established or future character of the neighborhood.
4. Will not create undue congestion, or unduly impair pedestrian safety.
5. Will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting public health, safety and welfare.
6. Is in conformity with the Town Plan of Development.

#### **E. Conditions, Safeguards and Limitations**

Special Permits may be issued subject to such conditions, safeguards or limitations as the Commission may impose for the protection of neighboring uses or otherwise serving the purpose of these Regulations. Such conditions, safeguards or limitations may include, but are not limited to the following:

1. Front, side or rear yards greater than the minimum required by these Regulations; screening buffers or planting strips, fences or walls as specified by the Commission.
2. Limitations upon the size, number of occupants, method and time of operation, time duration of the permit or extent of facilities.
3. Regulation of the number or location of driveways, or other traffic features. off street parking or loading or other special features beyond the minimum required by these Regulations.

The special permit and any conditions attached thereto shall remain with the property as long as the Special Permit use is in operation or for such term as may be established as a condition of the permit.

#### **F. Performance Guarantee**

The Commission may require a performance bond in an amount and in a form satisfactory to the Commission to guarantee satisfactory completion of drainage facilities, erosion and sediment

control measures, parking and access facilities, buffer strips, and any other site improvements, other than buildings. The applicant shall provide a cost estimate of improvements to be bonded, together with a description of the basis for the estimate.

#### **G. Decision - Notice and Requirements for Filing and Recording of Special Permits**

In its decision on a special permit application the Commission shall cite on its records the reasons for the decision and shall notify the applicant and publish the decision in accordance with the requirements of the Connecticut General Statutes.

### **ARTICLE IX. HEIGHT AND AREA REQUIREMENTS**

#### **A. Scope of Requirements**

All buildings or structures erected after the enactment of this zoning regulation shall conform to the requirements specified for the zone in which the building or structure is located listed in Table 2. entitled "Area and Dimensional Requirements" of these regulations.

#### **B. Minimum Lot Size Criteria**

1. Where private subsurface septic disposal systems are required, no single-family dwelling or non-residential structure shall be constructed on any parcel of land containing less than 60,000 sq. ft. exclusive of land regulated under section 22a-36 through 45, (Inland Wetlands and Watercourses) inclusive, of the Connecticut General Statutes, as amended and of which 40,000 sq. ft. shall contain no slope in excess of twenty-five percent (25%) original grade. The 60,000 sq. ft. minimum lot size shall also be exclusive of any grants of right-of-way.
2. Where private subsurface disposal systems are required, no multi-family dwellings shall be constructed at a density greater than one (1) dwelling unit per 40,000 sq. ft., exclusive of land regulated under section 22a-36 through 45 inclusive, of the Connecticut General Statutes and of which at least 30,000 sq. ft. per dwelling unit shall contain no slope in excess of twenty-five percent (25%) original grade. The 40,000 sq. ft. minimum lot size shall be exclusive of and grants of right-of-way.

#### **C. Exceptions to Height and Area Requirements**

1. Front Yards and Corner Lots

On corner lots, front yard requirements shall be enforced on both street fronts.

2. Measurement of Required Yards on Irregular Lots.

Where the front lot is an arc or the sidelines converge toward the front lot line, the required frontage may be measured along the rear line of the required yard.

### 3. Height Exceptions

The provisions of these regulations limiting the maximum height of buildings shall not apply to restrict the height of a church spire, tower or belfry, flagpole, radio tower, radio or television antenna, chimney, water tank, elevator bulkhead, silos, or barns.

### 4. Non-Conforming Lots

A residence may be erected in any zone on a lot having an area or frontage less than that required by the Height, Area and Yard Requirements provided that such lot shall be a lot of record prior to the effective date of adoption or amendment of these regulations and an adjoining lot owned by the same owner cannot be combined with the non-conforming lot.

### 5. Landscaped Buffer in Non-Residential Zones

Where non-residential zone abuts a residential zone, the Commission may require a dense landscaped buffer sufficient to screen any detrimental effect upon the abutting existing or future residences.

### 6. Exceptions to Rear Yard Requirements

Swimming pools and tennis courts which are structures may be permitted in required rear yards, but may not be closer than 10 ft. to a property line.

**TABLE 2, AREA AND DIMENSIONAL REQUIREMENTS**

| Public Sewer and Water Availability | Minimum Lot Area |            |                                  | Minimum Frontage (Feet) | Minimum Setbacks |      |      | Max. Height** (Feet) |
|-------------------------------------|------------------|------------|----------------------------------|-------------------------|------------------|------|------|----------------------|
|                                     | Non-Res          | S-Fam      | Multi-Fam                        |                         | Front            | Side | Rear |                      |
| Lot Serviced by Water & Sewer       | None             | 21,780 sf. | 21,780 + 5,000 per dwelling unit | 25/50*                  | 10               | 10   | 20   | 35                   |
| Lot Serviced Only By Sewer          | None             | 30,000 sf. | 25,000 + 5,000 per dwelling unit | 25/100*                 | 10               | 10   | 20   | 35                   |
| Lot Serviced Only By Public Water   | 60,000 sf.       | 40,000 sf. | 35,000 sf. per Dwelling unit     | 25/150*                 | 20               | 20   | 30   | 35                   |
| Lot Not Serviced By Water or Sewer  | 60,000 sf.       | 60,000 sf. | 40,000 sf. per Dwelling unit     | 25/200*                 | 20               | 20   | 30   | 35                   |

\* pertains to multi-family dwelling

\*\* The calculations of height will be determined using the State Building Code method. No non-residential, single family, or multi-family dwelling shall exceed 35 feet and no institutional or industrial building shall exceed 50 feet. Industrial buildings may exceed 50 feet only if there is an existing building over 50 feet within the complex. The new building can not exceed the height of the highest existing building within the complex.

Minimum Lot Area: Amended February 16, 2005  
Effective: February 28, 2005

## **ARTICLE X. NON-CONFORMING LOTS, USES AND STRUCTURES**

### **A. Statement of Intent**

Within the districts established by this regulation or amendments that may later be adopted, there exist lots, uses and structures which were lawful before this regulation was passed or amended, but which would be prohibited, regulated or restricted under the terms of this regulation or future amendment.

Such uses are declared by this regulation to be incompatible with permitted uses in the districts involved. It is the intent of this regulation to permit these non-conformities to continue so long as they are not enlarged upon, expanded or extended if such a change increases the non-conformity, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district. A change in ownership in no way effects the status of the non-conforming lot, use, or structure.

A non-conforming use of a structure, use of land or non-conforming use of a structure and land shall not be extended or enlarged after passage of this regulation by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which could be prohibited generally in the district involved. To avoid undue hardship, nothing in this regulation shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of the adoption of this regulation.

### **B. Non-Conforming Lots of Record and in Subdivisions**

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this regulation, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this regulation. This provision shall apply even though such lot fails to meet the requirements of the area or lot frontage, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or frontage, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Appeals.

Nothing in this regulation shall restrict the future construction of structures in conformance at the effective date of these regulations in subdivisions in the process of approval at such effective date or in subdivisions approved prior to such effective date.

### **C. Non-Conforming Uses of Land**

Where, at the effective date of adoption or amendment of this regulation lawful use of land exists that is made no longer permissible under the terms of this regulation as enacted or amended, such

use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this regulation.
2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this regulation.
3. If any such non-conforming use of land ceases for any reason for a period of more than two years, any subsequent use of such land shall conform to the regulations specified by this regulation for the district in which such land is located.

#### **D. Non-Conforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of this regulation that could not be built under the terms of this bylaw by reason of restrictions on area, lot coverage, height yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No such structure may be enlarged or altered in a way which increases its non-conformity.
2. Should such structure be destroyed or damaged, it may be repaired or replaced to an extent which does not increase the non-conformity. If such repair or replacement is not accomplished within two years, it shall not be reconstructed except in conformity with the provisions of this regulation.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter be subject to the requirements of the regulations for the district in which it is located after it is moved.

#### **E. Non-Conforming Use of Structures**

If a lawful use of a structure, or of a structure and premises in combination, exists at the effective date of adoption or amendment of this regulation that would not be allowed in the district under the terms of this regulation, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this regulation in the district in which it is located shall be enlarged, constructed moved or structurally altered in a manner which increases the non-conformity except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any non-conforming use of structure, or structure and premises, may be changed to another non-conforming use provided that the Planning and Zoning Commission shall find that the proposed use is equally appropriate or more appropriate to the district than the

existing non-conforming use. In permitting such change, the Commission may require appropriate conditions and safeguards in accord with the provisions of this regulation.

3. Any structure and land in combination, in or on which a non-conforming use is superceded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
4. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for two years, the structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

#### **F. Repairs and Maintenance**

On any building devoted in whole or in part to a non-conforming use, work may be done on ordinary repairs or remodeling which does not increase the non-conformity.

Nothing in this regulation shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### **G. Uses Under Exception Provisions Not Non-Conforming Uses**

Any use which a special exception is permitted as provided in this regulation. Shall not be deemed a non-conforming use, but shall, without further action, be deemed a conforming use in such district.

### **ARTICLE XI. SPECIAL PROVISIONS**

#### **A. Signs and Billboards (RESERVED FOR FUTURE USE)**

#### **B. Off-Street Parking Requirements**

In any district no use of premises shall be authorized or extended and no building or structure shall be erected or enlarged, unless there is provided for such extension, erection, or enlargement, off-street automobile parking space indoors, or if outdoors, treated with a surface binder, gravel or crushed stone within 300 ft. of the main building, structure or use of the premises, in accordance with the following minimum requirements. An area 10 ft. x 20 ft. for the parking of an automobile, exclusive of drives or aisles, shall be considered as an off-street parking space. In the interest of safety, for all uses except single family dwellings, it shall be required that drives be provided so that entry to and exit from said off-street parking spaces does not require the backing of automobiles on to or off of from the street.

1. Two spaces for each dwelling unit within the building or buildings on the premises.
2. One space for each sleeping room in a bed and breakfast, boarding house, hotel, motel or cabin.
3. One space for each two beds in a hospital.
4. One space for each four beds in a nursing home or rest home.
5. One space for each 200 sq. ft. or fraction thereof of any retail, wholesale or service establishment, or office or professional building and one space for each two employees.
6. One space for each two employees and one space for each three seats, permanent or otherwise, for patron use for restaurants and other places serving food or beverages, and for theaters, auditoriums, and other places of amusement or assembly.
7. One space for each three persons employed or anticipated to be employed on the largest shift for all types of shops, buildings, storage, manufacturing, or other permitted uses.
8. Adequate spaces to accommodate customers, patrons and employees at automobile filling stations, drive-in establishments, open air businesses and amusements, and other permitted uses not enumerated herein. Frequent parking of such automobiles on a public street or way adjacent to the premises shall be considered evidence of the inadequacy of the off-street parking spaces provided.
9. For uses not specified the Commission will determine the number of required spaces.

### **C. Off-Street Loading**

No building or structure shall be erected or enlarged unless the off-street loading space requirements are provided as specified in Table 3. of this section. Where use of premises requires frequent truck deliveries, there shall be provided adequate off-street loading spaces for said deliveries. The required area shall be in addition to that required for automobile parking. The access to said off-street loading areas shall not create a traffic hazard. Frequent parking of trucks on public and private streets adjacent to the premises shall be considered evidence of the inadequacy of the off-street loading area.

Each loading bay shall not be less than (10) feet in width and thirty-five feet (35) in length exclusive of drives and maneuvering space, and all required bays, drives and maneuvering space shall be located entirely on the lot with direct access to the building intended to be served. Loading areas shall not include areas used for parking spaces.

**TABLE 3. OFF STREET LOADING SPACE REQUIREMENTS**

| USE                         | NUMBER OF LOADING BAYS REQUIRED<br>BY GROSS FLOOR AREA (in thousands of sq. ft.) |         |          |           |            |            |
|-----------------------------|--|---------|----------|-----------|------------|------------|
|                             | Under 4  | 4 to 15 | 15 to 50 | 51 to 100 | 101 to 150 | 101 to 150 |
| Retail Trade                | 1  | 2       | 3        | 4         | 5          | 6          |
| Wholesale<br>Storage        | 2  | 3       | 4        | 5         | 6          | 7          |
| Transportation<br>Terminals | 2  | 4       | 6        | 8         | 10         | 12         |
| Manufacturing               | 1  | 1       | 2        | 3         | 4          | 5          |
| Consumer Service            | 1  | 2       | 3        | 4         | 5          | 6          |
| Office                      | 1  | 1       | 2        | 3         | 4          | 5          |
| Recreation                  | 1  | 1       | 2        | 3         | 4          | 5          |
| Research                    | 1  | 1       | 2        | 3         | 4          | 5          |

**D. Common Driveways**

1. Common driveways are permitted provided they service no more than three (3) lots and have a maximum grade of no greater than ten percent (10%).
2. The Planning and Zoning Commission shall endorse its approval on a plan of land showing the location of the common driveway once the applicant has satisfied the Commission's requirements. Such plan shall be recorded in the Registry of Deeds.
3. No lots shall be sold or construction of any buildings begun until the common driveway has been constructed in accordance with the approved plan.
4. The application for a common driveway must be accompanied by a plan of maintenance of said driveway.
5. Common driveways can never be used to satisfy zoning frontage requirements. Each lot served shall have frontage on ways that serve to satisfy frontage requirements under this bylaw.
6. No common driveways shall be located within 100 ft. of an intersection of public ways.

7. The design of the driveway shall in the opinion of the Planning and Zoning Commission, assure adequate safety for emergency vehicles including police and fire vehicles.

## **E. Home Occupations**

### **1. Purpose**

- a. Permit residents of the Town of North Canaan a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal and family income.
- b. Protect residential property values.
- c. Protect residential areas from any adverse impacts associated with home occupations and cottage industries.
- d. Establish performance criteria and standards for home occupations and cottage industries conducted in dwelling units and accessory structures in residential areas.

### **2. Applicability**

- a. Home Occupations are permitted by right as accessory uses in all zones provided that they do not detract from the residential character of the neighborhood.
- b. Cottage Industries are permitted by right as accessory uses only in the **R-A, C, C-B,** and **I** zones.

### **3. Performance Criteria**

All home occupations and cottage industries must fully comply with the following relevant criteria:

- a. A Home Occupation shall be incidental to the use of a dwelling unit for residential purposes. No more than 30% of the gross floor area of the building(s) may be used in connection with the Home Occupation or for storage purpose in connection with the Home Occupation. Floor area, in this case, shall include the gross floor area of all heated and ventilated and thereby habitable rooms on the property including basements, attic space and accessory buildings.
- b. A Cottage Industry may utilize as much as 50% of the gross floor area of the building(s). Floor area shall include the gross floor area of all heated and ventilated and thereby habitable rooms on the property including basements, attic space and accessory buildings.
- c. A Home Occupation shall be limited in employment to residents of the property and not more than one (1) additional employee.
- d. A Cottage Industry shall be limited in employment to residents of the property and not more than (3) additional employees.
- e. A Home Occupation or Cottage Industry shall not produce any noise, odors, vibrations, glare, dust, heat, fume or electrical interference detectable to normal sensory perception beyond the confines of the subject dwelling or accessory building, including transmittal through part walls.

- f. There shall be no sales of products or services on the premises that are not produced on the premises. In addition, there shall be no designated area intended specifically for retail sales.
- g. Home Occupations and Cottage Industries should not generate significantly greater traffic volumes than would otherwise be expected in the particular residential area in which the Home Occupation or Cottage Industry is located.
- h. Parking needs generated by the Home Occupation or Cottage Industry shall be met only with additional off-street spaces, to be located at the side or rear of the dwelling unit were feasible.
- i. No outdoor display or storage of materials, goods, supplies or equipment shall be permitted.
- j. No highly toxic, explosive, flammable, combustible, corrosive, radioactive or similarly hazardous materials are to be used or stored on the premises in amounts that exceed those typically found in normal residential use.
- k. The Home Occupation or Cottage Industry shall not involve the use or storage of heavy vehicles or heavy equipment or involve trucking or warehousing activities.
- l. Signage will be limited in size to two (2) sq. ft. In all other respects, signs will conform to the existing sign regulations of the Town of North Canaan Zoning Bylaw.
- m. No external structural alterations will be made which are not customary in residential buildings.

## **F. Multiple Dwellings**

- 3.1 No person, partnership or coproration shall, from the effective date of this regulation, construct more than one dwelling unit on any lot without a permit granted by the Commission. Permits are required for cluster housing, condominiums under Chapter 825 of the Connecticut General Statutes, and multiple dwellings on a single lot.
- 3.2 The minimum lot size for any multiple dwellings shall be determined by the criteria in TABLE 2 (page 18).
- 3.3 Applications for a permit must comply with Section 4, 5 and 6 of this regulation.

## **SECTION 4 - REQUIREMENTS**

- 4.1 Any proposed project must have access to a public street.
- 4.2 Any project which requires interior roads shall provide for the construction of roads that comply with the standards for construction of town roads, as illustrated in figures #1 and #2 and made a part of this ordinance.
- 4.3 All projects shall also provide for the construction of sidewalks along each public road and along each road to be constructed, in accordance with figure #4 and made a part of this ordinance.
- 4.4 All minimum site distances shall comply with figure #5, and made a part of this ordinance.
- 4.5 Plans shall indicate that during the period of excavation, filling or removal, such barriers or fences shall be erected as necessary for the protection of pedestrians and vehicles.
- 4.6 Truck access to the site shall be arranged as to minimize danger to traffice and nuisance to surrounding properties. That portion of the access road within the site shall be maintained in such condition as not to constitute a nuisance.
- 4.7 When excavation, filling or removal operations, or any of them are completed, the disturbed area shall be graded so that no gradients in disturbed earth shall be steeper than a slope of three to one (horizontal to vertical). All debris shall be removed or buried. The area shall be seeded with a perennial rye grass or equally suitable vegetation and maintained until approved by the Commission.
- 4.8 There will be no excavation, fill, or removal within 50 feet of any property or street line except to an elevation equal with or above the established grade of the adjoining street or property.
- 4.9 Buildings shall be so located on the lot as to provide for the amenities of suburban living, to assure the maximum of light and ventilation, to control the impact of traffic and parking on the site, and integrate the development with the neighborhood.
- 4.10 Off street parking spaces shall be provided in garage, carport, or parking lot on the same lot, totaling not less than two paces for each dwelling unit.
- 4.11 Driveways shall be established for each unit in accordance with figure #3.
- 4.12 No units shall be constructed unless an appropriate drainage plan has been established and will not create a hazard of storm water runoff, or undue accumulation of surface water.
- 4.13 No permit may be approved without the following:
  - a. proper provision for vehicle traffic, control of entrance from an exit to highway, and adequate parking;

- b. proper provision for pedestrian traffic, including sidewalks;
  - c. proper provision for water supply, and for the disposal of storm water and sanitary sewage, in accordance with this ordinance and with the requirements of other departments of the town and the Fire District.
- 4.14 In any case where septic systems will provide inadequate for the appropriate disposal of waste, no permit may be granted unless appropriate provision has been made and approval been given for connection to the Fire District services for septic disposal.
- 4.15 Except for driveways giving access to public streets, all buildings, driveways and parking areas shall be not less than 25 feet from the nearest property line.
- 4.16 No permit may be granted unless the land is suitable for multiple dwellings. Land subject to periodic flooding, poor drainage, steep slopes, or a specific hazardous condition, shall not be considered suitable. Land with inadequate capacity for subsurface sewage disposal shall not be considered appropriate unless connected to public sewers.
- 4.17 A major consideration in determining the buildability of land is the slope. Among the the factors to be considered when dealing with slope conditions:
- a. Access to site - suitable and safe access to the building site must be available, for the maximum allowable driveway slope of 15%.
  - b. Soil conditions - the soil conditions present on the site must allow an adequate area for a septic system installation including a useable reserve septic area.
  - c. Character of surrounding land - surrounding land use must be compatible with the proposed use of the property.
  - d. Intensity of development in area - land areas of steep slopes severely limit the intensity of development that can be sustained in a manner which protects the public health and safety.
  - e. Relief - any proposed building with steep slopes must contain a natural area of relief providing for a building site and sewage disposal area.
  - f. It must be stressed that all slope considerations are to be applied to land in its natural state. Any drastic or extensive manmade slope provisions will not be considered an improvement upon or betterment of the building site's suitability. It is the express intent of this ordinance to protect topographically self-preserving land, and in that way preserve land, and in that way preserve the natural beauty and rural character of North Canaan. The provisions of this regulation will be applied to land as it existed before manmade changes.
- 4.18 Any deviation from any plans submitted and the above conditions shall be cause for the Commission to revoke the permit.
- 4.19 Before the permit is granted the applicant shall file a performance bond with the Treasurer of the Town of North Canaan, in a form approved by the Town Attorney, and in such amount as the Commission shall deem necessary to ensure compliance with the conditions set forth in Section 4.2, 4.3, 4.12, and 4.14.

## **SECTION 5 - APPLICATION, MAPS AND PLANS**

- 5.1 The applicant shall submit to the Commission an application on a form supplied by the Commission, together with a site plan and such additional documentation as may be required.

- 5.2 Each application shall be accompanied by the following fee: \$300.00
- 5.3 All maps to be submitted shall be at scale of 1"=40' and be 36" long by 24" wide as prescribed by Section 7-31 of Chapter 92 of the Connecticut General Statutes.

Maps to be submitted shall be:

- Topographic Map
- Site Plan
- Plan and Profile
- Engineering Plan

In the case of a project containing large acreage, an overall map showing all property boundaries at a more appropriate scale may be required.

Written evidence must be submitted assuring the Commission that the Town Sanitarian is satisfied that the proposed sanitary systems meet the requirements and that the Inland Wetlands Commission has reviewed the plan where necessary, and that if other referrals to other agencies are required they have been submitted.

- 5.4 All maps shall conform to the accuracy standards as outlined in "Code of Recommended Practice for Standards of Accuracy of Surveys and Maps October 1976" State Board of Registration for P.E.'s and L.S.'s.
- 5.5 Maps submitted for filing with the Town Clerk and Commission shall conform to Section 7-31 of the General Statutes. Final maps submitted shall be: Two copies, mylar or translucent linen, one suitable for filing in the records of the Commission and one suitable for the records of the Town Clerk, and two copies, black or blue line, for distribution to agencies designated by the Commission.
- 5.6 The site plan shall show the location and size of the property, location of buildings, location of wetlands, facilities, parking and restricted areas, sidewalks, numbers of dwellings units proposed and all necessary statistical data to show that the requirements of this ordinance have been carried out. The site plan shall be prepared at the scale of not more than 40" to the inch and shall be prepared by a Professional Engineer or Landscape Architect registered in Connecticut.
- 5.7 An engineering plan shall be submitted showing all drainage and utility proposals with existing and proposed contours at intervals of at least two feet.
- 5.8 a landscaping plan shall be submitted, including buffer areas.
- 5.9 A plan of outdoor lighting, if applicable.
- 5.10 A plan of solid waste disposal facilities.
- 5.11 Plans submitted shall contain such illustrations, elevations and renderings of the proposed buildings and project area sufficient to show clearly what is proposed.
- 5.12 The Commission may require such changes in the site plan as are necessary to meet the specific requirements of the development type and they make such additional requirements as are necessary to promote and to protect the sound and orderly growth of the community.

## **MAPS and PLANS**

### **5.13 General information required**

- scale 1' = 40"
- title block & approval block
- location map at 1" = 1000'
- title of development, name of owner
- date
- key map
- certification by a land surveyor to "Class A-2" as defined by "Code of Recommended Practice for Standards of Accuracy of Surveys and Maps October 1976" State Board of Registration for P.E.'s and L.S.'s.

### **Specific Information Required**

- lot line with mates and bounds, angles and curves and dimensions
- abutting property owners
- lot and block numbers for existing lots
- lot and block numbers for new lots assigned by assessor's office
- square footage of lots
- setback lines
- rights-of-way
- location of monuments

Plans to be presented to the Commission shall be 2 Mylar (or other stable material) 4 black line paper and 1 reduction at 1"=200' or a scale as required by the assessor. All maps and plans shall be 24"x36".

### **Topographic Map**

The topographics plan shall include as required:

- location of test pits, wells and percolation tests
- contours at 2' intervals or at intervals as required by the Commission
- driveways
- existing structures
- stone walls
- location of sanitary sewers (if provided)
- ledge outcroppings
- sidewalks (if required)
- edge of woods
- water bodies, streams and wetlands
- location of specimen trees within street r-o-w
- existing and proposed contours
- existing and proposed streets

### Plan and Profile

A plan and profile for new streets and sanitary sewers shall be provided when required and shall be prepared by a professional engineer licensed in the State of Connecticut. It shall include:

- horizontal dimensions 1"=40'
- vertical dimensions 1"=4'
- all on 24"x36" sheets
- profiles of existing and proposed elevations along the center line of all roads.  
Whenever a proposed road intersects an existing road or roads, within 100 feet of the intersection, the existing intersection shall be shown. All elevations must be referenced to establish U.S. Government or approved local Bench Marks, where they exist within 1/2 mile of the boundary of the subdivision.
- Plan and profiles showing the location and typical section for new road pavements, including curbs and gutters, sidewalks, manholes, and catch basins, and street signs: the location, size and invert elevation of existing and proposed sanitary sewers, storm water drains, and fire hydrants; the exact location and size of all water, gas, and other underground utilities or structures, and detailed description of all other required improvements.
- Location, size, elevation, and other appropriate description of any existing facilities or utilities at the point of connection to proposed facilities and utilities within the subdivision.
- All specifications and references required by the Town of North Canaan, Design and Construction Standards and Specifications.
- Title of development, title of map, name, embossed seal, and signature of licensed Professional Engineer and/or Land Surveyor, and date including revisions.

### As-Built Street Plans

Upon completion of the streets, roads and utilities, the subdivider shall present final as-built street plans to the Commission. They will consist of as-built plans and profiles and 24"x36" permanent transparent material at a scale of 1"=40' and shall contain the following information:

#### Plan and Profile with

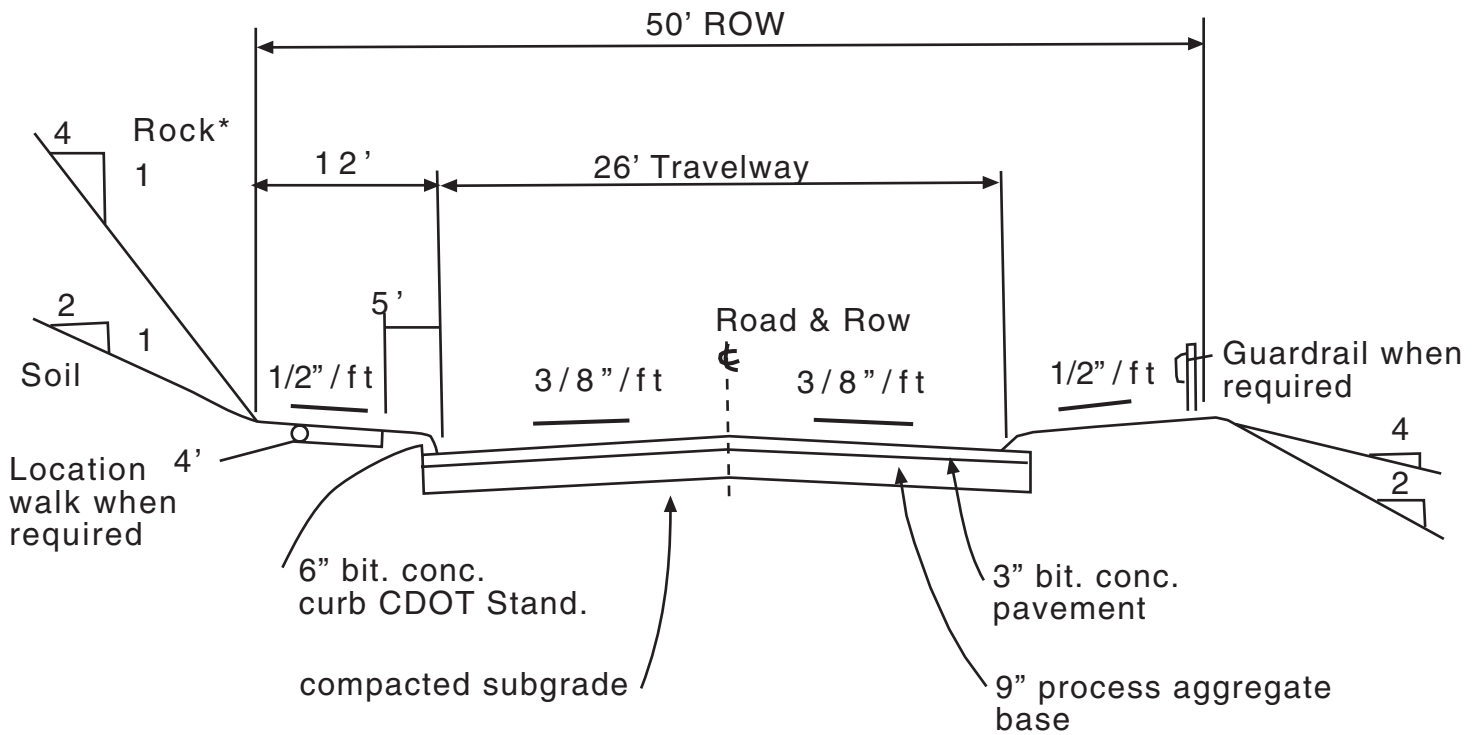
- street lines and grades
- lot frontage dimensions
- angles made by the intersection of the street lines with lot lines
- horizontal and vertical location of utilities
- location of edge of traveled way
- location and type of monuments
- all data necessary to reproduce any and all lines on the ground

There shall be no more than one street on each sheet.

The as-built street plans shall be prepared upon the completion of the subdivision improvements. The plans shall be prepared by a licensed Professional Engineer and/or Land Surveyor and shall bear his name and seal.

## **SECTION 6 - HEARING PROCEDURES**

- 6.1 The official date of receipt of an application shall be the day of the next regularly scheduled meeting of the Commission following the day of submission to the secretary of the Commission of the completed application.
- 6.2 The Commission shall include a public hearing on the application within 45 days of the official receipt of that application. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the community not less than seven and not more than twenty-one days prior to this hearing.
- 6.3 The applicant shall send by certified mail a notice describing the address, the location of the property, and the number of dwelling units proposed to all property owners abutting or within 100 feet of the proposed project, at least ten days prior to the public hearing. Proof of notice must be supplied by the applicant at the public hearing.
- 6.4 The public hearing may be adjourned or continued from time to time as may be required. The public hearing must be completed within 65 days of its commencement.
- 6.5 The Commission shall render its decision within 65 days of the close of the public hearing.
- 6.6 The Commission may approve, with conditions or modifications, or disapprove any application.



Max. Fill Slope: 2:1 guardrail required  
4:1 (or higher) guardrail not required

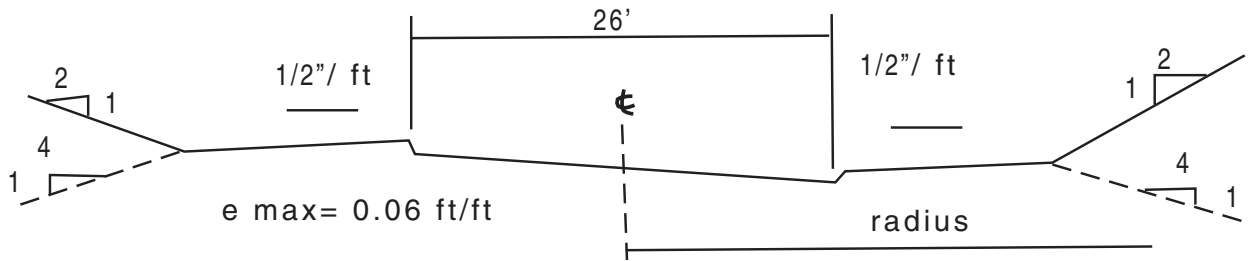
Max. Cut Slope: 4:1 rock cut \*  
2:1 earth cut

Design Data: Max. grade ± 12%  
Design speed 30 MPH  
Min. grade ± 1%  
Max. rate of super-elevation = e = 0.06

TYPICAL ROADWAY CROSS SECTION

NOT TO SCALE

FIG. # 1



Off road drainage required to capture swale flow when required.

CROSS SECTION

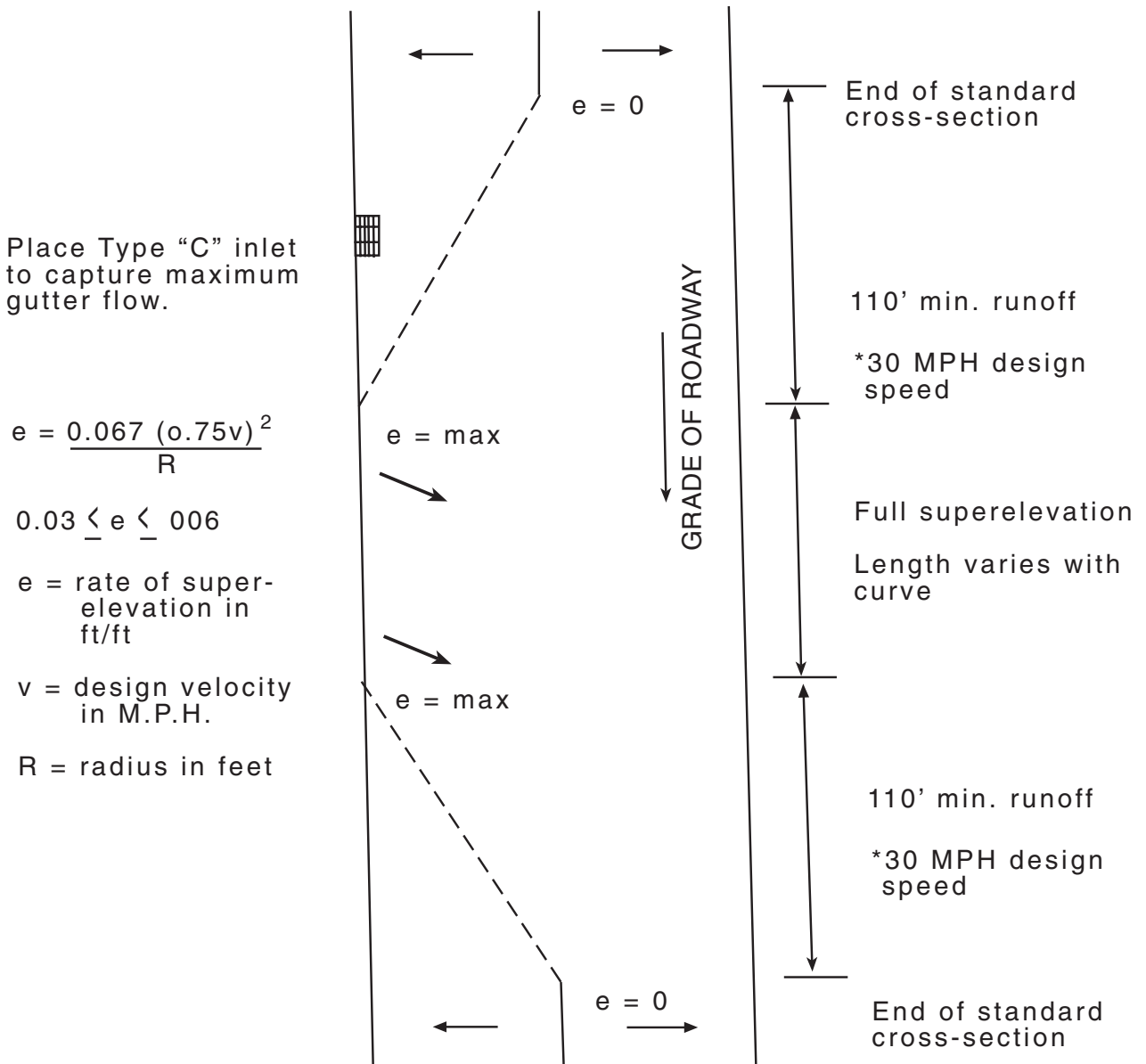
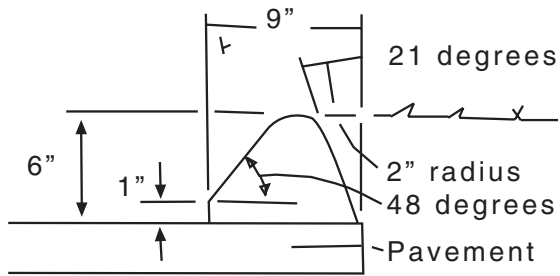
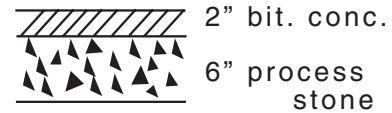


FIG. # 2

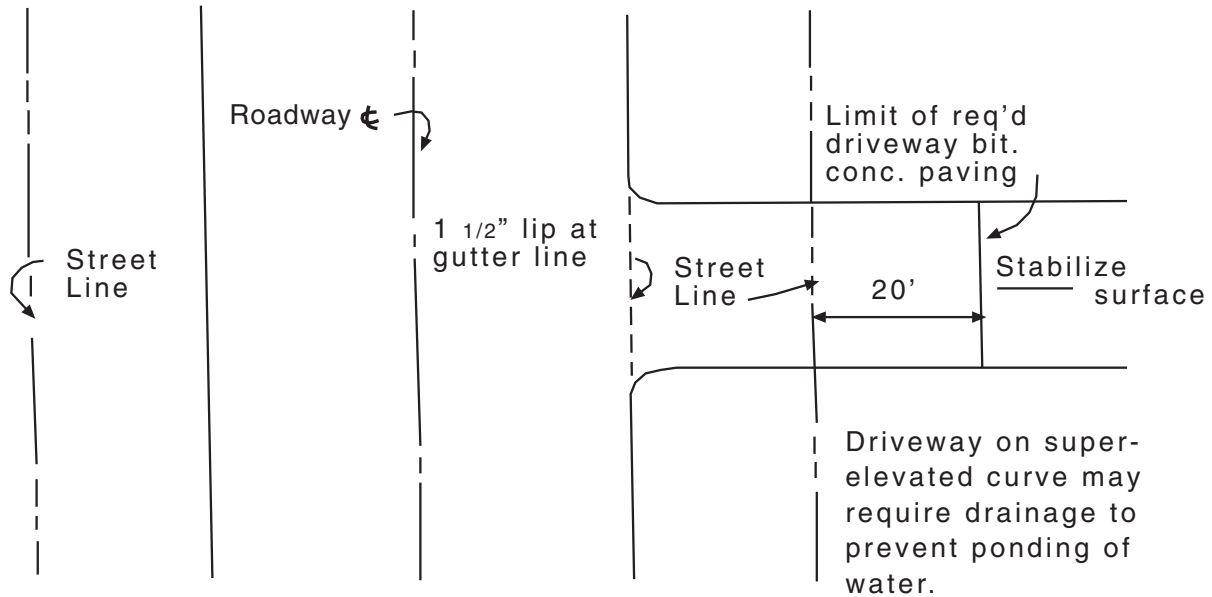
PLAN  
SUPER ELEVATION OF ROADWAY ON CURVE NOT TO SCALE



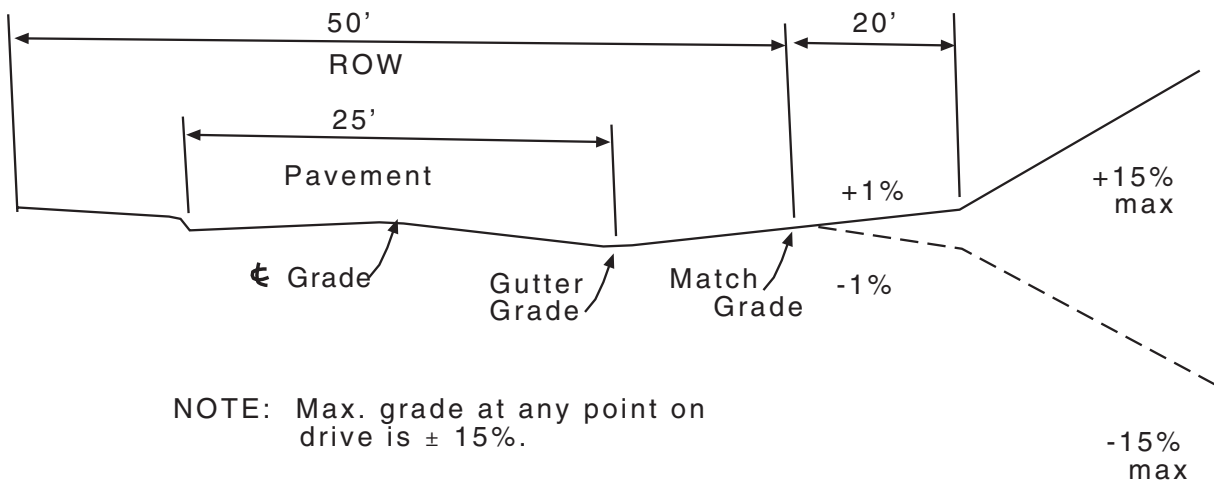
BITUMINOUS CURB DETAIL



Driveway section with bit. conc. paving



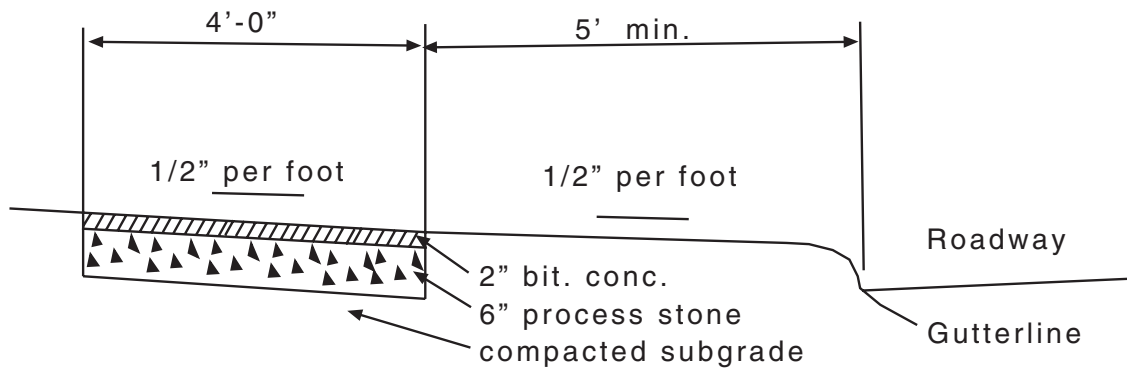
Lot to be served by driveway



NOTE: Max. grade at any point on drive is  $\pm 15\%$ .

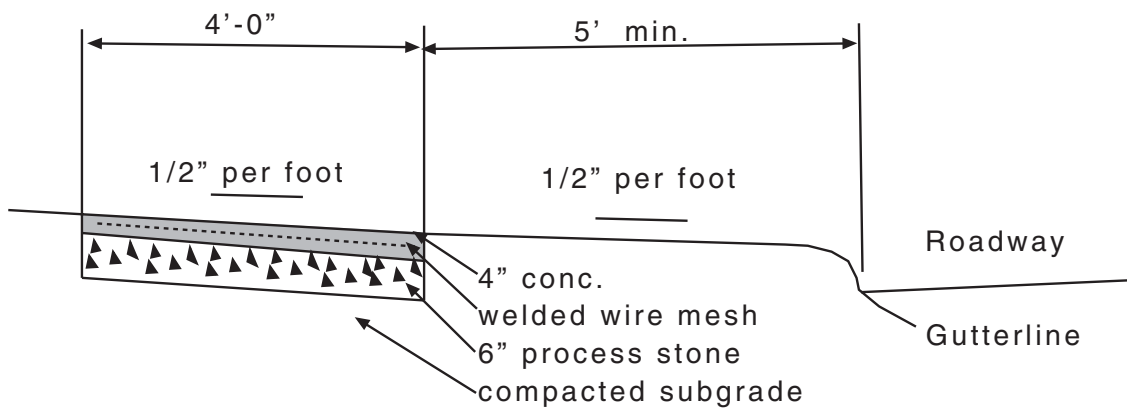
RESIDENTIAL DRIVEWAY CROSS ELEVATION

NOT TO SCALE



BITUMINOUS CONCRETE SIDEWALK

NOT TO SCALE



1. 6"x 6" (10x10 gauge) welded wire mesh
2. Concrete to be Class "C" (CDOT Spec.)
3. Expansion joint at max. interval of 30'
4. Contraction joints - full cut joint every 15' and 1/3 cut (dummy joint) @5'
5. Surface finish to be non-slip fine hair broom
6. Liquid membrane curing compound required

CONCRETE SIDEWALK

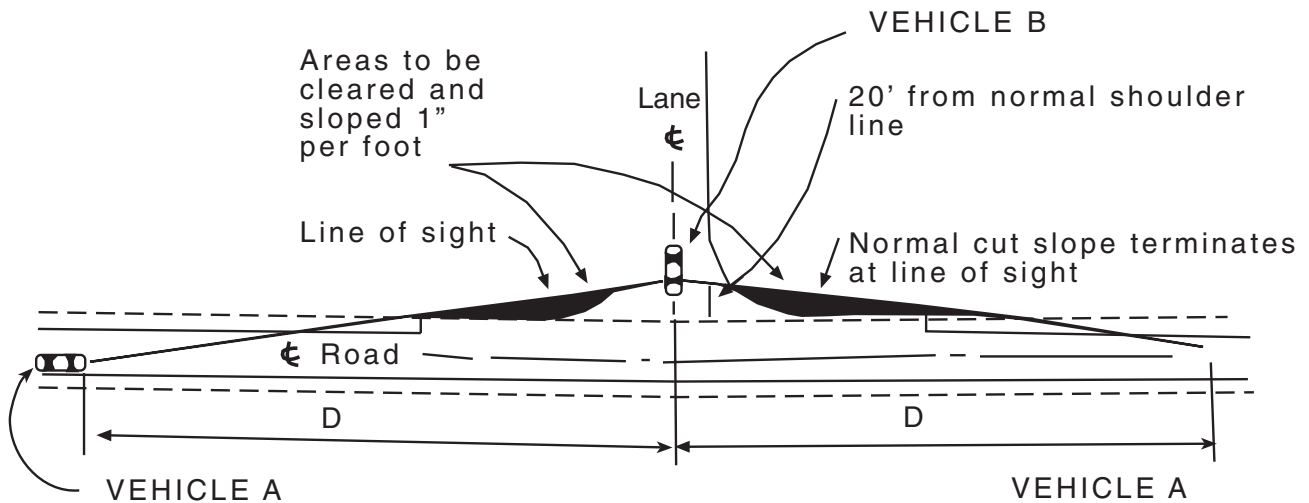
NOT TO SCALE

SIDEWALKS

FIG. # 4

GENERAL NOTES: Distance "D" to be measured from the center of the lane utilized by the Right or Left turning traffic.

Sight distance must be provided based on height of eye of 3'-0" and height of object of 3'-0".



D = MINIMUM SIGHT DISTANCE

- 300' for 25 mph design speed
- 350' for 30 mph design speed
- 425' for 35 mph design speed
- 475' for 40 mph design speed
- 525' for 45 mph design speed
- 575' for 50 mph design speed

INTERSECTIONS AT GRADE

MINIMUM SIGHT DISTANCE

NOT TO SCALE

FIG. # 5

## ARTICLE XII. WIRELESS COMMUNICATION FACILITIES

# ZONING REGULATION FOR PERSONAL WIRELESS SERVICE FACILITIES NORTH CANAAN, CT

### 01.0 Purpose and Intent

This regulation enables the review and approval of personal wireless service facilities by the Planning & Zoning Commission. This regulation establishes standards and requirements for personal service facilities.

The purpose of this regulation is to regulate the placement of these facilities, to protect the Town's visual quality, and to safeguard the safety of the community, and:

- to require the information necessary to evaluate the proposed facility,
- to establish locations least disruptive to the public health, safety and welfare of the Town of North Canaan and consistent with the Town of Plan.
- to minimize adverse visual effects through proper design, siting and vegetative screening.
- to avoid potential damage to adjacent properties
- to minimize the height of towers and the number of towers, especially free standing ground mounted towers.
- to provide for the orderly removal of discontinued or abandoned PCS facilities.

### 02.0 Definitions

02.1 **Above Ground Level (AGL).** A measurement of height from the natural grade of a site to the highest point of a structure.

02.2 **Adequate Coverage:** Coverage is considered to be “adequate” within that area surrounding a Base Station Tower where the predicted or measured median field strength of the transmitted signal is greater than -95 dbm. It is acceptable for there to be holds within the area of Adequate Coverage where the signal is less than -95 dbm, so long as the signal regains its strength to greater than 095 dbm further away from the Base Station tower. The boundary of the area of Adequate Coverage is that location past which the signal does not regain a strength of greater than -95 dbm.

- 02.3 **Antenna.** The surface from which wireless radio signals are sent and received by a personal wireless service facility.
- 02.4 **Camouflaged.** A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered “camouflaged.”
- 02.5 **Carrier.** A company that provides wireless service.
- 02.6 **Co-location.** The use of a signal mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.
- 02.7 **Commission.** The Planning and Zoning (or Zoning) Commission of the Town of North Canaan, CT.
- 02.8 **Elevation.** The measurement of height above sea level.
- 02.9 **Environmental Assessment (EA).** An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.
- 02.10 **Equipment Shelter.** An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.
- 02.11 **Fall Zone.** The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- 02.12 **Functionally Equivalent Services.** Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.
- 02.13 **Guyed Tower.** A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- 02.14 **Lattice Tower.** A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
- 02.15 **Licensed Carrier.** A company authorized by the FCC to construct and operate a commercial radio service system.
- 02.16 **Monopole Tower.** The type of mount that is self-supporting with a single shaft of wood, steel, or concrete and a platform (or racks) for panel antennas arrayed at the top.
- 02.17 **Mount.** The structure or surface upon which antennas are mounted, including the following four types of mounts:
1. Roof-mounted. Mounted on the roof of a building.

- 2. Side-mounted. Mounted on the side of a building.
  - 3. Ground-mounted Tower. Mounted on the ground.
  - 4. Structure-mounted. Mounted on a structure other than a building.
- 02.18 **Omnidirectional (whip) antenna.** A thin rod that beams and receives a signal in all directions.
- 02.19 **Panel Antenna.** A flat surface antenna usually developed in multiples.
- 02.20 **Personal Wireless Service Regulated Facility.** Facility for the provision of personal wireless services, as defined by the Telecommunications Act. (These facilities are referred to in this regulation as “Regulated Facilities”).
- 02.21 **Personal Wireless Services.** The three types of services regulated by this Model Regulation.
- 02.22 **Radiofrequency (RF) Engineer.** An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.
- 02.23 **Radiofrequency Radiation (RFR).** The emissions from personal wireless service facilities.
- 02.24 **Security Barrier.** A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.
- 02.25 **Separation.** The distance between one carrier’s array of antennas and another carrier’s array.

### 03.0 **District Regulations**

**03.1 Use Regulations.** A regulated facility shall require a Zoning Permit and Site Plan approval as a Special Permit as specified herein and subject to the requirements of this regulation.

03.1.1 A regulated facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Section 03.3.5 below. Such installations shall not require a Special Permit but shall require a Zoning Permit and Site Plan approval by the Commission.

03.1.2 A PCS facility involving construction of one or more ground or building (roof or side) mounts in all zoning districts (or in zones as specified in the Table of Uses) subject to a Zoning Permit and Site Plan approval provided that the proposed use complies with the height and setback requirements of Section 03.3.

03.1.3 A regulated facility that exceeds the height of Sections 03.3.1 - 03.3.5 may be permitted by Special Permit provided that the proposed facility complies

with all of the setback and Special Permit Regulations set forth in Sections 03.3 and 04.0 of this regulation.

**03.2 Location**

- 03.2.1 If feasible, regulated facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for regulated facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.
- 03.2.2 If the applicant demonstrates that it is not feasible to locate on an existing structure, regulated facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.
- 03.2.3 The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a zoning permit and/or Special Permit.

**03.3 Dimensional Requirements Regulated facilities shall comply with the following requirements:**

- 03.3.1 Permitted Uses Height Requirements, General. Regardless of the type of mount, regulated facilities shall:
  - be no higher than ten feet above the average height of buildings within 300 feet of the proposed facility; and
  - not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney, or similar structure or is on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
- 03.3.2 Permitted Use Height Requirements, Ground-Mounted Facilities
  - Ground-mounted regulated facilities shall:
    - not project higher than 10 feet above the average building height or
    - if there are no buildings within 300 feet, shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL).
    - if there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted regulated facilities shall be surrounded by dense tree

growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on site.

03.3.3 Permitted Use Height Requirements, Side - and Roof-Mounted Facilities. Side- and roof mounted PCS facilities shall:

not project more than ten feet above the height of an existing building.

not project more than ten feet above the height limit of the zoning district within which the facility is located.

may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

03.3.4 Permitted Use Height Requirements, Existing Structures New antennas located on any of the following structures existing on the effective date of this regulation shall be exempt from the height restrictions of this regulation provided that there is no increase in the height of the existing structure as a result of the installation of a personal wireless service facility: Water towers, guyed towers, lattice towers, fire towers and monopoles.

03.3.5 Permitted Use Height Requirements, Existing Structures, (Utility) New antennas located on any of the following existing structures shall be exempt from the height restrictions of this regulation provided that there is no more than a twenty foot (20') increase in the height of the existing structure as a result of the installation of a regulated facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in Historic Districts, within 150 feet of the right-of-way of any Town or State designated scenic roadway.

03.3.6 Lot Size and Setbacks. All regulated facilities and their equipment shelters shall comply with the building lot size and setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

03.3.6.1 In order to ensure public safety, the minimum distance from the base of any ground-mounted regulated facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount, including any antennas or other appurtenances. This setback is considered a "fall zone."

03.3.6.2 In the event that an existing structure is proposed as a mount for a PCS facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, regulated facilities and their equipment shelters shall not increase any non-conformities, except as provided in Section 03.3.7 below.

03.7 **Flexibility.** In reviewing a Special Permit application for a regulated facility, the Commission may reduce the required fall zone and/or setback distance of the zoning district by as much as 50% of the required distance, if it finds that a substantially better design will result from such reduction. In making such

a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use. Monopoles shall be the type and design of mount for tall structures.

04.0 **Special Permit Regulations** All regulated facilities which are subject to a Special Permit shall comply with the Performance Standards set forth in this section.

04.1 Design Standards

04.1.1 Visibility/Camouflage Personal wireless service facilities shall be camouflaged as follows:

04.1.1.1 Camouflage by Existing Buildings or Structures:

- a. Where a regulated facility extends above the roof on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit impact on the building's silhouette.
- b. Side mounted regulated facilities shall blend with the existing building's architecture and, if over 5 square feet, shall be painted or shielded with material consistent with the design features and materials of the building.

04.1.1.2 Camouflage by Vegetation:

If regulated facilities that are not camouflaged from public view by existing buildings or structures, shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create to the extent feasible effective year-round visual buffer. Ground-mounted wireless service facilities shall provide a vegetated buffer of sufficient height and a depth of not less than 50' to screen the facility to the extent feasible. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. "In instances where it is not feasible to fully buffer a facility, the applicant shall submit a landscape plan prepared by a Connecticut Licensed Landscape Architect. The landscape shall recommend the type of tree and plant materials and depth of buffer appropriate to the site and the design, height and location of the facility. The Commission may require reasonable modifications to the landscape plan where it determines such are necessary to minimize the visual impact of the facility on the neighborhood and community character."

04.1.1.3 Color:

- a. Regulated facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.
- b. Any alteration made to an historic structure to accommodate a regulated facility shall be fully reversible.

- c. Regulated facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

#### 04.1.5 Scenic Landscapes and Vistas

- a. Regulated facilities shall not be located within open areas that are visible from public roads, recreational areas or residential development. As required in the Camouflage section above, all ground-mounted PCS facilities which are not camouflaged by existing buildings or structures shall be surrounded by a buffer of dense tree growth.
- b. If the town has an inventory of scenic sites recommended for protection, it can be used as a basis for this regulation. Any regulated facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road as designated by the town or identified in the Town Plan shall not exceed the height of vegetation at the proposed location.

*Commentary: In order to protect key vistas from visual intrusions, towns should make an effort to inventory distinctive scenic vistas, landscapes and scenic roads in the Town Plan and should limit PCS facilities in these areas.*

### 04.2 Environmental Standards

- 04.2.1 Regulated facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.
- 04.2.2 No hazardous waste shall be discharged on the site of any regulated facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- 04.2.3 Stormwater run-off shall be contained on-site.
- 04.2.4 Ground-mounted equipment for regulated service facilities shall not generate noise in excess of 50 db at the property line.
- 04.2.5 Roof-mounted or side-mounted equipment for regulated facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.

### 04.3 Safety Standards

#### 04.3.1 Radiofrequency Radiation (RFR) Standards

All equipment proposed for a regulated facility shall be authorized per the FCC *Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation* (FCC Guidelines).<sup>1</sup>

## 05.0 Application Procedures

### 05.1 Pre-Application Conference

Prior to the submission of an application for a Special Permit under this regulation, the applicant is strongly encouraged to meet with the Commission at a public meeting to discuss the proposed PCS facility in general terms and to clarify the filing requirements. The Commission shall meet with an applicant under this regulation as soon as possible following a written request.

### 05.2 Pre-Application Filing Requirements

The purpose of the conference is to inform the Commission as to the preliminary nature of the proposed facility. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Commission of the location of the proposed facility, as well as its scale and overall design.

### 05.3 Application Filing Requirements

The following shall be included with an application for a Special Permit for all personal wireless service facilities:

#### 05.3.1 General Filing Requirements

- a. Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.
- b. Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the regulated facility.
- c. A licensed carrier shall either be an applicant or a co-applicant and shall provide documentation of qualifications as a “licensed carrier.”
- d. Original signatures for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant. Photoreproductions of signatures will not be accepted.

#### 05.3.2 Location Filing Requirements

- a. Identify the subject property by including the Town as well as the name of the locality, name of the nearest road or roads, and street address, if any.
- b. Tax map and parcel number of subject property.
- c. Zoning district designation for the subject parcel (Submit copy of Town zoning map with parcel identified.)
- d. A line map to scale showing the lot lines of the subject property and all properties within

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<sup>1</sup> The FCC Guidelines were published on August 1, 1996. The FCC has extended the implementation date of the FCC Guidelines from January 1, 1997 to September 1, 1997. The existing guidelines remain in effect.

300 feet and the location of all buildings, including accessory structures, on all properties shown.

- e. A town-wide map showing the other existing personal wireless service facilities in the Town and outside the Town within one mile of its boundary.
- f. The proposed locations of all existing and future personal wireless service facilities in the Town on a Town-wide map for this carrier.

#### 05.3.3 Siting Filing Requirements

- a. A one-inch-equals-40 feet vicinity plan showing the following:
  - 1. Property lines for the subject property.
  - 2. Property lines of all properties adjacent to the subject property within 300 feet.
  - 3. Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
  - 4. Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
  - 5. Proposed location of antenna, mount and equipment shelter(s).
  - 6. Proposed security barrier, indicating type and extent as well as point of controlled entry.
  - 7. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the personal wireless service facility.
  - 8. Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.
  - 9. Contours at each two feet AMSL (see definition section) for the subject property and adjacent properties within 300 feet.
  - 10. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
  - 11. Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.
  - 12. Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" sub-section below:
    - a. Sight lines and photographs as described below:
      - 1. Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest façade of each residential building (viewpoint) within 300

feet to the highest point (visible point) of the regulated facility. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.

2. Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six inch color photograph of what can currently be seen from any public road within 300 feet.
3. Proposed (after condition). Each of the existing condition photographs shall have the proposed regulated facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.
- b. Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed regulated facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:
  1. Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
  2. Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.
  3. Any and all structures on the subject property.
  4. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
  5. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

#### 05.3.4 Design Filing Requirements

- a. Equipment brochures for the proposed regulated facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- b. Materials of the proposed regulated facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- c. Colors of the proposed regulated facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- d. Dimensions of the regulated facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.

- e. Appearance shown by at least two photographic superimpositions of the regulated facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.
- f. Landscape plan prepared by a Connecticut licensed landscape architect including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- g. Within 21 days of filing an application for a Special Permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least 15 days, but not more than 21 days prior to the test.
- h. If lighting of the site is proposed, the applicant shall submit a manufacturers computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

#### 05.3.5 Noise Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:

- 1) Existing or ambient: the measurements of existing noise.
- 2) Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.

Such statement shall be certified and signed by an acoustical engineer, stating the noise measurements are accurate and meet the Noise Standards of this regulation.

#### 05.3.6 Radiofrequency Radiation (RFR) Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed personal wireless service facility, for the following situations:

- 1) Existing or ambient: the measurements of existing RFR
- 2) Existing plus proposed personal wireless service facilities: maximum estimate of RFR from the proposed personal wireless service facility plus the existing RFR environment.

#### 05.3.7 Federal Environmental Filing Requirements

- a. The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPS is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CFR Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:

- a) Wilderness areas.
  - b) Wildlife preserves
  - c) Endangered species habitat
  - d) Historical site
  - e) Indian religious site
  - f) Flood plain
  - g) Wetlands
  - h) High intensity white lights in residential neighborhoods
  - i) Excessive radiofrequency radiation exposure
- b. At the time of application filing, an Environmental Assessment that meets FCC requirements shall be submitted to the Commission for each personal wireless service facility site that requires such an environmental assessment to be submitted to the FCC.
  - c. The applicant shall identify and assess the impact of the proposed facility on areas recommended for conservation as presented in the Town Plan and State Plan of Conservation and Development.
  - d. The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the PCS facility that are considered hazardous by the federal, state or local government.

05.3.8 The Commission may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a PCS facility.

**06.0 Co-Location**

06.01 Licensed carriers shall share regulated facilities and sites where feasible and appropriate, thereby reducing the number of PCS facilities that are stand-alone facilities. All applicants for a Special Permit for a PCS facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

- 1) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
- 2) Contact with all the other licensed carriers for commercial mobile radio services operating in the County; and
- 3) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

06.02 In the event that co-location is found to be not feasible, a written statement of the

reasons for the infeasibility shall be submitted to the Commission. The Commission may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant as provided in the Town Ordinance as Land Use Fees. The Town may deny a Special Permit to an applicant that has not demonstrated a good faith effort to provide for co-location.

- 06.03 If the applicant does intend to co-locate or to permit co-location, the Commission shall request drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at full build-out.
- 06.04 If the Commission approves co-location for a personal wireless service facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Special Permit shall require a new Special Permit.

Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

#### 07.0 **Modifications**

A modification of a regulated facility may be considered equivalent to an application for a new personal wireless service facility and will require a Special Permit when the following events apply:

- a. The applicant and/or co-applicant wants to alter the terms of the Special Permit by changing the regulated facility in one or more of the following ways:
  - 1) Change in the number of facilities permitted on the site;
  - 2) Change in technology used for the regulated facility.
- b. The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

#### 08.0 **Monitoring and Maintenance**

- 08.1 After the regulated facility is operational, the applicant shall submit, within 90 days of beginning operations, and at annual intervals from the date of issuance of the Special Permit, existing measurements of RFR from the PCS. Such measurements shall be signed and certified by an RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Standards section of this Regulation.
- 08.2 After the regulated facility is operational, the applicant shall submit, within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, existing measurements of noise from the regulated facility. Such measurements shall be signed by an acoustical engineer, stating that

noise measurements are accurate and meet the Noise Standards sub-section of this regulation.

- 08.3 The applicant and co-applicant shall maintain the regulated facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

**09.0 Abandonment or Discontinuation of Use**

- 09.1 At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Commission by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the regulated facility shall be considered abandoned upon such discontinuation of operations.

- 09.2 Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. “Physically removed” shall include, but not be limited to:

- a. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
- b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- c. Restoring the location of the personal wireless facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

- 09.3 If a carrier fails to remove a regulated facility in accordance with this section of this regulation, the town shall have the authority to enter the subject property and physically remove the facility. The Commission may require the applicant to post a bond at the time of construction to cover costs for the removal of the personal wireless service facility in the event the Town must remove the facility.

**10.0 Reconstruction or Replacement of Existing Towers and Monopoles**

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this regulation may be reconstructed, altered, extended or replaced on the same site by Special Permit, provided that the Commission finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Commission shall consider whether the proposed reconstruction, alteration, co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration,

extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

**11.0 Term of Special Permit**

A Special Permit issued for any personal wireless facility over fifty (50) feet in height shall be valid for fifteen (15) years. At the end of that time period, the regulated facility shall be removed by the carrier or a new Special Permit shall be required.

## **ARTICLE XIII. ADMINISTRATION**

### **A. Administration and Enforcement**

The Zoning Enforcement Officer (ZEO) designated by the Planning and Zoning Commission shall be the administrative officer for the enforcement of these regulations.

If the ZEO shall find that any of the provisions of this regulation are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures or of additions, alterations, or structural changes thereto, discontinuance of any illegal work being done; or shall take any action authorized by this regulation to ensure compliance with or to prevent violation to its provisions. Penalties for illegal acts shall be as provided in the General Statutes and Special Acts of the State of Connecticut.

### **B. ZONING Permits**

The applicaiton for a permit shall contain all the information necessary for a decision that the proposed building, alteration or use complies with the provisions of these regulations and stakes or markers shall be fixed on the lot to indicate the relation of lot lines to the proposed buildings. Nothing herein contained shall require any change in the plans, construction or use of a building for which a building permit has been issued or for which plans were filed with the Planning and Zoning Commission before the effective date of these regulations.

## **ARTICLE XIV. BOARD OF APPEALS**

A Board of Appeals, hereinafter called the Board, shall be established and shall serve as provided by the General Statutes and Special Acts of the State of Connecticut and shall have the following powers and duties.

- A. Adopt such rules and procedures as may be necessary to carry out these regulations.
- B. Hear and decide appeals where it is alleged that there is error in any order or decision of the Building Inspector or Zoning Enforcement Officer.
- C. Authorize on appeal in specific cases variance or modification of the terms of these regulations whereby reason of exceptional shape, size or topography of the lot or other exceptional situaitons or conditions of the building or land, exceptional difficulty or unusual hardship would result to the owners of said property from a strict enforcement of the regulations. Before any variance is granted, the Board shall make written finding in its minutes as part of the record in the case:
  1. That special circumstances, described in detail, attached to the property which do not generally apply to other property in the neighborhood, and that these circumstances constitute the hardship to the owner.
  2. That relief can be granted without detriment to the public welfare or impairment to the integrity of these regulations.

- D. The Board of Appeals shall not approve any use variance and shall not approve any variance specifically prohibited by the Planning and Zoning Commission in these regulations.
- E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted shall be deemed a violation of this regulation.

#### **ARTICLE XV. AMENDMENTS**

These regulations may be amended or repealed as provided in the Zoning Law either on the initiative of the Planning and Zoning Commission or by petition. Every petition for such action shall be filed with the Planning and Zoning Commission which may act on it only after a public hearing.

No petition for amendment or repeal which has been rejected by the Planning and Zoning Commission or withdrawn by the petitioners shall be heard again within one year from the date of rejection or withdrawal. The Planning and Zoning Commission may grant a re-hearing if it finds, on facts presented in writing, that a material change in the situation justifies this action in the interest of the public as well as the petitioner.

In any petition for change of zone, the Planning and Zoning Commission may require the submission of plans showing proposals for the development of the land involved in the change including the location of buildings, streets, and open spaces, and other information as the Commission considers helpful to its decision. On the basis of such plans, The Commission may grant the change of zone, subject to conditions which will protect the public interest and neighboring properties, and building permits will be issued only in conformity with the plans as approved and conditioned.

#### **ARTICLE XVI. REGULATIONS DECLARED TO BE MINIMUM REGULATIONS**

In their interpretation and application, the provisions of this regulation shall be held to be minimum regulations, adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of any other lawfully adopted rules, regulations, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

#### **ARTICLE XVII. VALIDITY**

Should any section or provision of this regulation be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulation as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

#### **ARTICLE XVIII. EFFECTIVE DATE**

These regulations shall take effect, JULY 5, 1999.

A copy of these Zoning Regulations and the accompanying zoning map of the Town of North Canaan, are on file with the Office of the Town Clerk, North Canaan, Connecticut.

Revisions effective:   November 15, 1999  
                          November 24, 1999  
                          July 29, 2000  
                          October 18, 2000  
                          May 21, 2001

# **SIGN REGULATIONS\***

**NOTE:** *This section constitutes the sign regulations for North Canaan and the regulations in this section supercede any and all other references to signs in other sections of these Zoning Bylaws.*

## **1 Permits Required**

Unless specifically exempted, a permit must be obtained from the Zoning Enforcement Officer for the erection and maintenance of all signs erected or maintained within this jurisdiction and in accordance with other ordinances of this jurisdiction. Exemptions from the necessity of securing a permit, however shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all the other applicable provisions of this ordinance.

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## **2 Permit Fees**

Permit fees to erect, alter or relocate a sign shall be in accordance with the fee schedule adopted within this jurisdiction.

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## **3 Abandoned Signs**

Any on-premises sign which advertises a business no longer conducted on the premises, or any off-premises sign which advertises a business no longer conducted at its separate premises, shall be removed by the owner within one hundred and twenty (120) days of abandonment or cessation of such business. If the owner fails to do so, the Zoning Enforcement Officer may have the sign removed at the owner's expense. Both the sign and any structure used exclusively for the sign must be removed.

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## **4 Animated Signs**

Rotating signs, animated signs, rotating beacons, flashing strobes, electronic message signs or centers, and otherwise moving signs shall be prohibited in all Zones. Laser/Holographic signs shall be prohibited in all Zones. Theater marquees by special permit may be given exceptions.

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## **5 Awning Signs**

Awning signs shall not extend over the public right of way. Awning signs may extend up to the curb line. No portion of any awning sign (or such awning on which it is located) shall be lower than six feet-eight inches (6'-8") above grade. If projecting over an alley or driveway subject to vehicular traffic, the clearance must be at least thirteen feet six inches (13'-6"). All awning signs shall comply with the other applicable ordinances and regulations. No awning signs shall be allowed in any residential or residential-agricultural zones.

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## **6 Freestanding Signs**

The top of a freestanding sign shall not exceed a height greater than the distance from the traveled way (measured perpendicularly from the traveled way to the base of the pole) or twenty (20) feet above the traveled way, whichever is less. No freestanding sign shall be constructed in such a fashion as to obstruct traffic sight lines or otherwise impair pedestrian or vehicular safety.

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## **7 Illuminated Signs**

Any illuminated sign shall employ only lights emitting a constant intensity; no flashing, intermittent, rotating, or moving lights shall illuminate a sign. No illuminated sign or lighting device shall be placed such that a beam or illumination can cause a glare or reflection that may constitute a traffic hazard or nuisance to neighbors. Illuminated signs in residential or residential-agricultural zones or within two hundred (200) feet of a residential or residential-agricultural zone shall be either (a) turned off between 11:00 p.m. and 6:00 a.m. or (b) screened or designed to prevent a beam or illumination from shining onto any residential or residential-agricultural zoned property. Internally illuminated signs shall not be permitted in a residential or residential-agricultural zone. Signs with exposed neon or other glowing tubes located less than eight and one-half (8-1/2) feet above ground shall be mounted only inside windows and shall qualify as window signs.

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**8 Portable Signs**

Portable signs are prohibited in residential or residential-agricultural zones. Signs painted or affixed to a duly registered motor vehicle are permitted.

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**9 Projecting Signs**

Projecting signs shall not extend more than five (5) feet from the building. Projecting signs shall not be closer than three (3) feet to the face of a curb line. No portion of any projecting sign shall be lower than ten (10) feet above grade. If projecting over an alley or driveway subject to vehicular traffic, the clearance must be thirteen feet six inches (13'-6"). The method of attachment as well as the anticipated structural, wind, and other loads shall be detailed on the application and shall be approved by the Building Inspector.

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**10 Roof Signs**

No roof signs shall be permitted in residential or residential-agricultural zones.

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**11 Safe Condition**

All signs shall be maintained in good repair, in good structural condition, and in compliance with all building and electrical codes. No sign shall be erected that obstructs any door, window, or fire escapes or otherwise interferes with the proper functioning of any building. No sign shall constitute a hazard to public safety or health by reason of its location, inadequate maintenance, dilapidation, abandonment, or by causing any obstruction of sight distances for vehicular traffic or interference with pedestrian safety.

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**12 Temporary Signs for Business Premises**

Temporary signs and posters shall not be posted for more than 45 continuous days. If any premises shall have any temporary signs or posters posted for more than ninety (90) days in any calendar year, all such signs at such premises shall be considered permanent signs for the purposes of this article, and shall be regulated accordingly. Temporary signs must be removed promptly when the event advertised is concluded. Temporary signs shall not be placed closer than ten (10) feet to the traveled way. There shall be a maximum of two temporary signs per business, with a maximum aggregate area of 40 square feet, the area of which shall not be counted towards the aggregate permanent sign area permitted for the business.

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**13 Traffic Signs**

No sign shall use amber, red, or green lights resembling traffic signals, or the words "stop", "caution", "danger", or other word, phrase, symbol, shape, or character that might be construed as a public safety warning or traffic sign.

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**14 Traffic Sight Lines**

No sign shall be erected that obstructs traffic sight lines for drivers or pedestrians. A freestanding sign shall not be placed within the triangle formed by connecting the intersection of any street lines with the points on each street line twenty (20) feet from such intersection.

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**15 Trees, Etc.**

No sign shall be permitted on trees, utility poles, or street identification signs except such signs as are erected by the town or for traffic or pedestrian safety purposes.

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**16 Window Signs**

Temporary window signs shall not exceed in aggregate area 50% of the total square footage of the window or glass door on which they are located. Permanent window signs may cover up to 50% of the total window area or glass door on which they are located and will count towards the total aggregate of the premise. Regulations regarding size and illumination shall apply to window signs as to the other building mounted signs within the zone in question.

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**17 Government Flags**

Governmental flags and governmental insignia except when displayed with a commercial message or in connection with a commercial promotion are allowed in all zones. Governmental flags and insignias displayed on motor vehicles offered for sale shall be considered to be in connection with a commercial purpose.

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**18 Historic Signs**

Historic signs are allowed in all zones.

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**19 Historical Markers & Memorial Signs**

Historical markers erected or placed by a historical association, governmental agency, or owner of property that has been placed on the State or Federal Register of Historic Places are allowed in all zones.

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**20 Incidental Signs**

Incidental signs are allowed in all zones.

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**21 Informational and Directional Signs**

Informational and directional signs no greater than two (2) square feet in area each, directing traffic to hospitals, parking areas, cultural institutions, and commercial areas or other permitted uses, are allowed in all zones.

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**22 Legal Notices**

Legal notices and identifications not exceeding two (2) square feet in area, including “No Trespassing” and “No Hunting” signs are allowed in all zones. Signs required to be larger by State or Federal law are exempt from these sign limits.

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**23 Non-Commercial Signs**

Signs having no commercial message and which bear only house numbers, post box numbers, names of residents, or identification of premises and do not exceed four (4) square feet in aggregate area per premises are allowed in all zones. The sign may include identification of an on-premise professional office or customary home occupation allowed in this section.

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**24 Real Estate Signs**

One (1) “For Sale”, “For Rent”, or “For Lease” sign is allowed per premises in any zone. Such sign shall not exceed thirty-two (32) square feet in area per premises in a non-residential zone or twelve (12) square feet in area per premise in a residential or residential-agricultural zone and shall advertise for sale or for rent only the premises upon which the sign is located. The sign shall be removed promptly when the advertised sale or rental is concluded. Such signs shall be set back at least three (3) feet from the street line or ten (10) feet from the traveled way, whichever is greater.

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**25 Vending Machine Signs**

Permanent signs on vending machines, gas pumps, ice containers, or similar devices indicating only the contents of such devices and prices of the merchandise are allowed in central-business, commercial and industrial zones only.

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## REGULATIONS APPLICABLE TO SPECIFIC ZONES

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The following signs are allowed in **ALL ZONES** (except as noted) provided that the sign meets all other requirements of the bylaw.

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**26 Banners**

Banners may be hung along the wall of a building or they may span a public way. Banners shall have a maximum square footage equal to four (4) times the width of the vehicular traveled way over which they are suspended, or in the event they are hung on a building façade, they shall not exceed sixty (60) square feet in area per banner. The banner cannot be installed more than thirty (30) days prior to the start date of the event. They shall be removed within five (5) business days of the date on which the event they are advertised is concluded. A maximum of two (2) banners per event shall be permitted.

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**27 Bulletin Board Signs**

One bulletin board sign per premises not to exceed thirty-two (32) square feet in area for any of the following organizations: religious institutions, schools, museums, civic or service organizations, community recreational facilities, or libraries. Such sign shall indicate only the name and current or upcoming activities of the organization.

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**28 Construction Site Signs**

Signs on active construction sites denoting the owner, contractor, consultants, or funding agency not to exceed thirty-two (32) square feet in area in the aggregate per site in non-residential zones or twelve (12) square feet in area in aggregate per site in residential or residential-agricultural zones. Signs shall be removed from the site within seven (7) days of the completion of construction.

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**29 Decorative Flags and Pennants**

Decorative Flags and Pennants are allowed. Strings of pennants are prohibited.

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**30 Directional Signs**

Directional signs for the purpose of giving directions to a religious institution, school, museum, community recreational facility, library, licensed innholder, or other permitted uses, not to exceed two (2) square feet in area, and subject to applicable regulations of the department of public works and the highway department.

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**31 Entry-way Signs**

Signs on an entry-way to the town containing information regarding community or civic organizations, not to exceed either (a) one sign per entry-way per organization no larger than four (4) square feet in area each or (b) one sign per entry-way for all such organizations no larger than twenty-four (24) square feet in area; all such signs subject to applicable regulations of the department of public works and the highway department.

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**32 "Open" Flags**

"Open" flags shall be allowed in all zones. One (1) flag shall be allowed per premises, in good repair, no larger than twelve (12) square feet in area, without a commercial message, displayed only while the business conducted at the premises is open, and indicating that the business conducted at the premises is open.

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**33 Posters**

Posters of religious, charitable, civic, fraternal, or similar organizations are not to exceed eight (8) square feet each and are limited to two (2) per premises. Posters in place for more than forty-five (45) calendar days per year shall be considered permanent signs and be regulated accordingly.

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The following signs are allowed in **RESIDENTIAL OR RESIDENTIAL-AGRICULTURAL ZONES** (except as noted) provided that the sign meets all other requirements of the bylaw.

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**34 Temporary Signs in Residential or Residential-Agricultural Zones**

Temporary signs not to exceed eight (8) square feet in aggregate area are allowed in residential or residential-agricultural zones. They shall not be posted for more than thirty (30) days per calendar year.

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**35 Hospitals, Nursing Homes, and Other Institutional Uses**

Hospitals, nursing homes, and other institutional uses, by special permit, shall be allowed to have such signs as can be demonstrated as necessary for the safety and well being of the community. These include internally, illuminated signs indicating Emergency Room Entrances, and such other similar signs.

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**36 On Premise Signs In Residential or Residential-Agricultural Zone**

One (1) on premises sign per premises advertising a permitted use in a residential or residential-agricultural zone not to exceed twelve (12) square feet in an area freestanding or twenty (20) square feet wall mounted. On State routes 7 and 44, free standing signs of twenty four (24) square feet are permitted (to recognize heavier traffic flow and faster travel speeds).

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**37 Subdivision Signs**

One (1) sign per entrance from a public way to the subdivision, advertising any real estate development or subdivision, not to exceed twenty-four (24) square feet in area each.

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The following signs are allowed in **CENTRAL-BUSINESS, COMMERCIAL AND INDUSTRIAL ZONES** (except as noted) provided that the sign meets all other requirements of the bylaw.

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**38 Awning Signs**

Awning signs are permitted and are subject to the square footage allowed under signs. All signs on an awning shall be counted against the aggregate allowed area of signs.

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**39 Billboards**

No new billboards shall be permitted.

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**40 Building Mounted On-Premise Signs**

Any one façade of a business in a central-business, commercial or industrial zone shall be allowed one (1) or more on-premise building mounted signs which shall not exceed in aggregate area the lesser of ten percent (10%) of the surface area of the façade of the building to which the sign is attached, or one hundred fifty (150) square feet. These may be wall signs, window signs, projecting signs, directory signs, and any other permitted sign type. A business with two (2) or more façades visible from paved public ways or public parking area shall be allowed additional on-premise sign or signs directed toward such public ways or parking areas which shall not exceed fifty (50) additional square feet in the aggregate area per façade. No single building mounted on-premise sign shall exceed one hundred (100) square feet in area. Any off-premise sign for a business shall be treated as separate from the on-premise signs and shall not count towards the aggregate allowed area.

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**41 Business Center Signs**

In addition to other signs allowed to individual businesses, a business center shall be allowed one (1) freestanding sign not to exceed one hundred and twenty-five (125) square feet in area and only for the purpose of identifying the business center and the individual businesses. Signs for any individual business mounted on the business center sign shall not exceed twelve (12) square feet. The portion identifying the common business center sign shall be similar with regard to material, color, lighting, lettering, and other characteristics. A business center sign, if utilized, shall be the only freestanding sign allowed along the road frontage of any business center.

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**42 Free Standing Signs**

Except for Business Center Signs as described in that section, a freestanding sign in a central-business commercial 1 or industrial zone shall not exceed the lesser of one half (0.50) square foot per foot of frontage along the primary road frontage of the lot on which the sign is located or forty (40) square feet in size. There shall be a limit of one freestanding sign per premises in any permitted zone unless as excepted in Gas Station Signs. If the premise is a corner lot on two public ways, then a freestanding sign may be allowed on each street.

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**43 Gas Station Signs**

Gas stations are allowed to have the following signs in addition to any signs which do not require a permit. A sign located on the vertical surface(s) of any attached or freestanding canopy(s). The maximum area of signs on all canopy(s) on a gas station's premises shall be twenty-four (24) square feet. These canopy-mounted signs shall be allowed in addition to the freestanding signs permitted in Free Standing Signs section of these regulations.

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**44 Off Premises Signs**

Any free standing off premise sign, which is not a billboard, shall conform to the conditions and limitations set forth in the Free Standing Sign section of these regulations. Any building mounted off premise sign shall count towards the aggregate allowed area of signs of the building on which it is mounted.

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**45 Projecting Signs**

Projecting signs shall be allowed. Only one projecting sign shall be allowed per business, and shall be allowed only instead of, not in addition to, any permitted wall-mounted signs. Projecting signs shall not exceed twenty (20) square feet in area.

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**45 Marquee Signs**

Marquee signs may be permitted only on the premises of theaters or cinemas within central-businesses, commercial and industrial zones, and shall comply with all the conditions set forth in this Chapter. No marquee sign shall be permitted in any residential or residential-agricultural zone. Marquee signs shall not exceed seventy-five (75) square feet on each visible surface of the marquee. No under marquee signs are allowed.

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**46 Bond**

Banners suspended over public property or public ways, as well as marquees, require the posting of a bond with the Building Inspector, satisfactory to the Town, and in the penal sum hereinafter set forth, duly executed by the applicant and a surety company qualified to do business conditioned to indemnify the Town against any and all claims (including any and all legal costs) for personal injuries, consequential damages, and death, or damage to property resulting from the placing, construction, or maintenance or removal as such sign, and further conditioned to pay all judgments obtained against the owner or operator of the premises upon or to which the sign is to be placed, or against any person subsequently becoming the owner or injuries or damage to property resulting from the placing, construction or maintenance or removal of such sign. the penal sum of such bonds shall be established by the Zoning Enforcement Officer with the approval of the board of Selectmen. Such bond or one similar in effect and amount shall be maintained in force for each such bond. A liability insurance policy giving the same protection to the Town may be substituted for such bond. Annual certification that a bond or liability insurance policy is in effect shall be submitted to the Town Clerk and the Zoning Enforcement Officer. The failure to maintain such bond in force may be cause to terminate the sign permit under which the sign was erected and maintained. The office of the Town Clerk shall be notified if the insurance policy or bond is reduced or canceled.

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**47 Violations**

Violations of this Article shall be handled in accordance with Chapter 124, Section 8-12 & Section 8-12a of the State of Connecticut General Statutes.

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**48 Enforcement**

The Zoning Enforcement Officer is authorized to order the repair or removal of any sign and its supporting structure that, in his judgment, is abandoned, dangerous, in disrepair, or maintained contrary to this Article. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the Zoning Enforcement Officer, or if any sign shall be unlawfully in stalled, erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the Zoning Enforcement Officer (forthwith in the case of immediate danger) within not more than 10 days, make such sign conform to the provisions of this ordinance, or remove it. If within 10 days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner of the building, structure or ground on which the sign is located. Failure to maintain any bond or insurance required under Bond section of these regulations may be cause for the Zoning Enforcement Officer to order the removal of a sign.

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**49 Transfer of Ownership**

Upon the sale or transfer of ownership of any sign, or business or premises to which a sign relates, the new owner shall file with the Zoning Enforcement Officer a written application for the transfer of the sign permit for such sign. Such application shall be accompanied by a certification that such sign complies with the provisions of the Article. Such sign permit shall be transferred by the Building Inspector, subject to the filing of any necessary bond by the applicant.

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**50 Appeals**

All appeals will be handled in accordance with Chapter 124, Section 8-7 of the State of Connecticut General Statutes.

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**51 Non-Conforming Signs**

A sign erected prior to the effective date of this ordinance which was permitted by previous regulations contained in the Zoning Ordinance or other ordinances of the town but which is not in conformity with the provisions of this Article, shall be considered a non-conforming sign. Non-conforming signs may be maintained except as hereafter provided:

A non-conforming sign shall not be changed to another sign not in conformity with this Article.

A non-conforming sign shall be brought into compliance with this Article if the owner of a non-conforming

sign substantially changes, improves, or replaces the non-conforming sign.

A non-conforming sign shall be brought into compliance with this Article if the owner of a premises upon which a non-conforming sign is located shall change the use of the premises, or shall change the location of the sign, the building, or the property line.

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### **52 Removal of Non-Conforming Signs**

A non-conforming sign shall not be maintained or re-established after the activity, business or usage to which it relates has been discontinued or ceases to operate for one hundred and eighty (180) days or longer. Such non-conforming sign shall be removed by the permit holder or the owner of the premises upon order of the Zoning Enforcement Officer.

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### **53 Exempt Signs**

The following signs shall be exempt from provisions in this ordinance except for TRAFFIC VISIBILITY and safety aspects of the MAINTENANCE, REPAIR AND REMOVAL section.

1. Official notices authorized by a court, public body or public safety official.
  2. Directional, warning or information signs authorized by federal, state or municipal governments.
  3. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.
  4. The flag of a government or noncommercial institution, such as a school.
  5. Religious symbols and seasonal decorations within the appropriate public holiday season.
  6. Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain.
  7. Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 6 square feet in area.
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# ***SIGN DEFINITIONS***

*Words and phrases used in this Article shall have meanings set forth in this section. Words and phrases not defined in this section but defined in the Zoning Bylaws of the Town shall be given the meanings set forth in the Zoning Bylaws. Words not defined in the Zoning Bylaws shall be given the meaning in the most current edition of the Webster's Unabridged Dictionary. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.*

**Abandoned Sign** - A sign that no longer identifies or advertises a location, product, or activity conducted on the premises on which the sign is located.

**Aggregate Area of Signs** - The sum of the allowed Area of signs on any premises.

**Animated Signs** - A sign that uses movement, or the illusion of movement, moving images or changes of lighting to depict action or create a special effect or scene. Animated signs are prohibited in all zones.

**Area of Sign** - The area of a sign shall be determined by measuring in accordance with TABLE A.

**Architectural Projection** - Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but excluding any signs as defined herein.

**Awning** - An architectural projection or shelter projecting from and supported by the exterior wall of a building or other similar means and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable.

**Awning Sign** - A sign displayed on, lettered on or attached to the surface or surfaces of an awning.

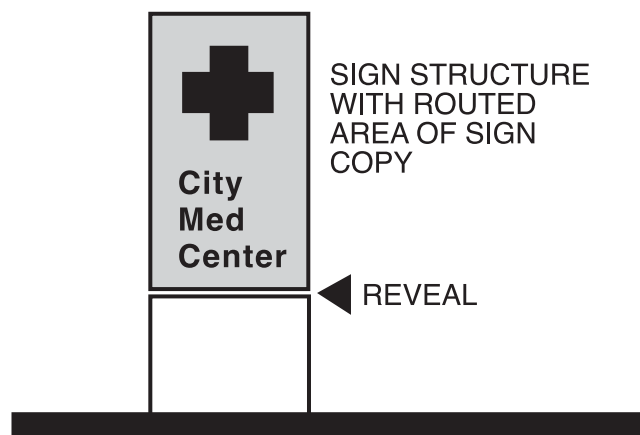
**Background Area of Sign** - The entire area of a sign on which copy and/or graphics could be placed. Refer to illustrations of TABLE A.

**Banner** - A flexible substrate on which copy or graphics may be displayed.

**Banner Sign** - A sign utilizing a banner as its display surface.

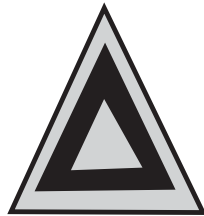
**TABLE A**

Sum of shaded areas only represent “sign area” for signs constructed with panels or cabinets. Clarifying examples noted below.



**TABLE A (cont)**

Sum of shaded area only represents sign area for signs consisting of individual letters, elements or logos placed on canopies, awnings, or building walls. Clarifying examples noted below.



**Billboard** - A commercially owned and operated freestanding or wall sign which exceeds 40 square feet in area and does not advertise a business or profession conducted, a service offered or a commodity sold upon the premises where such sign is located.

**Building Façade** - That portion of any exterior elevation of a building extending vertically from grade to the roof line.

**Building-Mounted Sign** - A sign attached to any part of a building, as contrasted with a freestanding sign. Building signs include wall signs, projecting signs and window signs.

**Bulletin Board Sign** - A sign whose message copy or content can be changed manually on a display surface.

**Business** - A single store, office, research facility, manufacturing facility, or commercial establishment, or similar location for a single activity.

**Business Center** - A location with 2 or more businesses or potential which has a name different from the name of any of the individual businesses and which has common private parking and vehicular entrances.

**Canopy** - A multi-sided structure supported by columns or attached on one end to a building. The vertical surface (s) and or soffit of a canopy may be illuminated by means of internal or external sources of light.

**Canopy Sign** - A sign affixed to the visible vertical surface(s) of an attached or freestanding canopy. May be internally or externally illuminated.

**Commercial Message** - Any working logo, or other representation that directly or indirectly names, advertises, or calls attention to a business, product, accommodation, service, or commercial activity.

**Commercial Outdoor Advertising Sign** - A permanent off-premise sign erected, maintained or used in the outdoor environment for the purpose of providing copy area for commercial or non-commercial messages.

**Copy** - The graphic content and the commercial message of a sign.

**Directional Sign** - Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

**Directory Sign** - A sign which lists the tenants or occupants of a premises and may indicate respective professions.

**Double-Faced Sign** - A sign with two (2) faces back-to-back.

**Electronic Message Sign or Center** - An electrically activated sign whose variable message capability can be electronically programmed. The copy can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices: or it may be from an external light source designed to reflect off the changeable component display. These signs are prohibited in all zones.

**Exterior Sign** - Any sign placed outside a building.

**Externally Illuminated Sign** - A sign which has characters, letters, figures, designs, or outlines illuminated by light reflecting off its surface(s) from lights placed at some distance from the sign.

**Façade** - Any Building Façade which is visible from a paved public way.

**Freestanding Sign** - A sign principally supported by one (1) or more columns, poles, or braces placed in or upon the ground, including V-signs.

**Frontage** - (Property) - The length of a property line(s) of any single lot along either a public way or other properties on which it borders.

**Historic Sign** - An accessory sign fifty (50) or more years old that is structurally safe, or any other pre-existing sign designated by an accredited historical association or governmental agency to have historical significance.

**Internally Illuminated Sign** - A sign which has characters, letters, figures, designs, or outlines illuminated from within a sign by electric lights, luminous tubes or other light source.

**Interior Sign** - Any sign placed within a building, but not including Window Signs as defined by this ordinance. Interior Signs, with the exception of Window Signs as defined, are not regulated by this ordinance.

**Incidental Sign** - An informational sign, no larger than two (2) square feet, which has a purpose secondary to the use of the premises on which it is located, such as “loading only”, “no parking”, “entrance”, “telephone”, “credit cards accepted”, “open”, “closed”, “back in one hour”, and other similar directives. No sign with a commercial message with lettering greater than two (2) inches in height shall be considered an incidental sign.

**Laser/Holographic Signs** - Laser, holographically projected or similarly electronically produced signs which use these technologies to project visible images.

**Lot** - A parcel of land that is recognized as a separate lot by the Assessor's Office.

**Marquee** - A multi-sided structure or architectural projection supported by attachment to a building on one or more sides, whether hung, cantilevered or supported by columns. The surface(s) and/or soffit of a marquee may be illuminated by means of internal or external sources of light.

**Marquee Sign** - A sign attached to the sides of a marquee.

**Multuple-Faced Sign** - A sign containing three (3) or more faces.

**Off-Premises Sign** - A sign whose copy bears no relationship to the activities conducted on the premises on which it is located.

**Parapet** - The extension of a building façade above the line of the structural roof.

**Political Sign** - A temporary sign intended to advance a political statement, cause, or candidate for office.

**Portable Sign** - Any sign not permanently attached to the ground or to a building.

**Poster** - A temporary sign no more than eight (8) square feet in area printed on cardboard, paper or other similar non-durable material.

**Premises** - A single residence, building or place of business and the land on which it sits.

**Projecting Sign** - A sign attached directly to a building wall, which extends more than ten (10) inches from the surface of the wall.

**Real Estate Sign** - A temporary sign advertising the sale, lease, or rental of the property or premises upon which it is located.

**Roof Line** - The uppermost line of the roof of a building or, in the case of an extended façade or parapet, the uppermost line of said façade or parapet.

**Roof Sign** - Any sign mounted on a roof.

**Sandwich Signs** - An A-frame, T-frame, sidewalk, or curb sign.

**Sign** - Any device visible from a public place whose design is to convey commercial or non-commercial messages by means of graphic presentation of alphanumeric or pictorial symbols or representations. Noncommercial flags or any governmental flags displayed from flagpoles or staffs will not be considered to be signs.

**Sign Structure** - Any structural element designed to support a sign.

**Street Line** - The boundary of the public right-of-way and private property.

**Substantial Change, Improvement or Replacement** - Change, improvement or replacement of a sign which modifies an existing sign in any aspect except its color, and which affects greater than 20% of the total area of a sign, including the background. Proper maintenance of signs is permitted and encouraged.

**Temporary Sign** - A sign intended to display either commercial or non-commercial messages of a temporary nature. Any sign not permanently embedded in the ground, nor permanently affixed to a building or sign structure that is permanently embedded in the ground, is considered a temporary sign.

**Traveled Way** - The portion of a street which is surfaced for vehicular traffic. The 'traveled way' may not coincide with the street line.

**Under Canopy Sign or Under Marquee Sign** - A sign attached to the underside of a canopy or marquee.

**V sign** - A sign containing two (2) faces, positioned at an interior angle of less than thirty (30) degrees.

**Wall Sign** - A sign painted on or attached directly to the surface of a building wall and extending not more than (10) inches from the face of such wall.

**Window Sign** - A sign on exterior windowpanes or glass or placed inside an exterior window or door and intended to be visible from the exterior of the premises.

## ***SIGN REGULATION REFERENCE TABLE***

This table provides guidance on where to look in the regulations but is not the final interpretation of the regulations. When the table conflicts with the regulations, the written regulations shall take precedence. Note: X = Prohibited and P = Permitted and the number following is the paragraph from the regulations that primarily determined the X/P classification in the table. In almost all cases there are other general sections of the regulations that apply to any P classification in this table as related to size, location, etc. This Table alone does not provide complete information on sign regulations.

|                                      | Residential<br>Agricultural | Residential | Commercial | Central<br>Business | Industrial |
|--------------------------------------|-----------------------------|-------------|------------|---------------------|------------|
| Animated Signs                       | X 4                         | X 4         | X 4        | X 4                 | X 4        |
| Anwing Signs                         | X 5                         | X 5         | P 5        | P 5                 | P 5        |
| Free Standing                        | P 6                         | P 6         | P 6        | P 6                 | P 6        |
| Illuminated Signs (Internal)         | X 7                         | X 7         | P 7        | P 7                 | P 7        |
| Illuminated Signs (External)         | P 7                         | P 7         | P 7        | P 7                 | P 7        |
| Portable Signs                       | P 8                         | P 8         | P 8        | P 8                 | P 8        |
| Projecting Signs                     | P 9                         | P 9         | P 9        | P 9                 | P 9        |
| Roof Signs                           | X 10                        | X 10        | P 10       | P 10                | P 10       |
| Temporary Signs for Business Premise | P 12                        | P 12        | P 12       | P 12                | P 12       |
| Traffic Signs                        | P 13                        | P 13        | P 13       | P 13                | P 13       |
| Window Signs                         | P 16                        | P 16        | P 16       | P 16                | P 16       |
| Government Flags                     | P 17                        | P 17        | P 17       | P 17                | P 17       |
| Historic Signs                       | P 18                        | P 18        | P 18       | P 18                | P 18       |
| Historical Markers & Memorial Signs  | P 19                        | P 19        | P 19       | P 19                | P 19       |
| Incidental Signs                     | P 20                        | P 20        | P 20       | P 20                | P 20       |
| Informational and Directional Signs  | P 21                        | P 21        | P 21       | P 21                | P 21       |
| Legal Notices                        | P 22                        | P 22        | P 22       | P 22                | P 22       |
| Non-Commercial                       | P 23                        | P 23        | P 23       | P 23                | P 23       |

| Signs   | Residential<br>Agricultural | Residential | Commercial | Central<br>Business | Industrial |
|---|-----------------------------|-------------|------------|---------------------|------------|
| Real Estate Signs                             | P 24                        | P 24        | P 24       | P 24                | P 24       |
| Vending<br>Machine Signs                      | X 25                        | X 25        | P 25       | P 25                | P 25       |
| Banners                                       | P 26                        | P 26        | P 26       | P 26                | P 26       |
| Bulletin Board<br>Signs                       | P 27                        | P 27        | P 27       | P 27                | P 27       |
| Construction<br>Site Signs                    | P 28                        | P 28        | P 28       | P 28                | P 28       |
| Decorative<br>Flags and Pennants              | P 29                        | P 29        | P 29       | P 29                | P 29       |
| Strings of Pennants                           | X 29                        | X 29        | X 29       | X 29                | X 29       |
| Directional Signs                             | P 30                        | P 30        | P 30       | P 30                | P 30       |
| Entry-way<br>Signs                            | P 31                        | P 31        | P 31       | P 31                | P 31       |
| “Open” Flags                                  | P 32                        | P 32        | P 32       | P 32                | P 32       |
| Posters                                       | P 33                        | P 33        | P 33       | P 33                | P 33       |
| Temporary<br>Signs                            | P 34                        | P 34        | P 34       | P 34                | P 34       |
| Hospitals,<br>Nursing Homes<br>& Institutions | SP 35                       | SP 35       | SP 35      | SP 35               | SP 35      |
| On Premise<br>Sign                            | P 36                        | P 36        | X 36       | X 36                | X 36       |
| Subdivision Sign                              | P 37                        | P 37        | P 37       | P 37                | P 37       |
| Awning Sign                                   | X 38                        | X 38        | P 38       | P 38                | P 38       |
| Billboards                                    | X 39                        | X 39        | X 39       | X 39                | X 39       |
| Building Mounted<br>on Premise signs          | X 40                        | X 40        | X 40       | X 40                | X 40       |
| Business Center<br>Signs                      | X 41                        | X 41        | P 41       | P 41                | P 41       |
| Free Standing<br>Signs                        | X 41                        | X 41        | P 41       | P 41                | P 41       |
| Gas Station Signs                             | X 42                        | X 42        | P 42       | P 42                | P 42       |
| Off Premise Signs                             | X 43                        | X 43        | P 43       | P 43                | P 43       |
| Projecting Signs                              | X 44                        | X 44        | P 44       | P 44                | P 44       |
| Marquee Signs                                 | X 45                        | X 45        | X 45       | P 45                | P 45       |

# NORTH CANAAN ZONING REGULATIONS FOR EARTH MATERIALS EXCAVATION

## SECTION 16 - - EXCAVATION

### INEX

- 16.00 Intent**
- 16.1 Permitted Uses**
- 16.2 Special Permitted Uses**
- 16.3 Application Procedure**
- 16.4 Granting the Permit**
- 16.5 Expiration of Permit**
- 16.6 Grandfathering Existing Mining Operations**
- 16.7 Bonding Requirements**
- 16.8 BLANK**
- 16.9 Stages of Operatons**
- 16.10 Application Procedure (Staged Operations)**
- 16.11 Granting the Permit (Staged Operations)**
- 16.12 Expiration of Permit (Staged Operations)**
- 16.13 Permit Renewal Application (Staged Operations)**
- 16.14 Bonding Requirements (Staged Operations)**
- 16.15 BLANK**
- 16.16 Abandonment**
- 16.17 Effect of Operations**
- 16.18 Transferability**
- 16.19 Severability**

### **16.00 Intent**

The intent of this section is to ensure that land used for any purposes permitted hereunder shall, during and after excavation, be maintained in such a way as to prevent unusual dust conditions, erosion and sedimentation, and to avoid in any other way adversely affecting the environment or the health, safety, and welfare of the residents and taxpayers of the Town of North Canaan; and further, the purpose of this section is to provide that, when a site or a section of a site is complete, it shall be returned to an environmentally and functionally sound condition.

#### 16.0.1 DEFINITIONS

1. Mining Operations --- The excavation, deposition and/or removal of soil, loam, sand, gravel, clay, ore, rock, stone or other earth material for off site use. Mining Operations do not include processing plants, transportation facilities, or other facilities pertaining to the mining operations that are not located on the same premises on which the excavation, deposition and/or removal activities occur or are proposed to occur.
2. Existing Mining Operations --- Mining Operations in existence prior to the effective date of these regulations.
3. Soft Rock Mining --- Soft Rock Mining does not require the routine use of explosives to dislodge material.

NORTH CANAAN ZONING REGULATIONS FOR EARTH MATERIALS EXCAVATION

ADOPTED MARCH 19, 2003

EFFECTIVE APRIL 15, 2003

Page 1 of 7

1. Hard Rock Mining --- Hard Rock Mining requires the routine use of explosives to dislodge material.

### **16.1 Permitted Uses**

The following uses are permitted in all districts:

- 16.1.0 A permit shall not be required under these regulations for the following:
  - a. Any excavation incidental to the construction of a home, commercial or industrial building or town related construction projects, providing all proper building permits have been obtained.
  - b. Excavation in the course of customary agricultural use of land for a farm, garden or nursery, provided that no removal of soil, sand, gravel, stone or other earth material for profit occurs.
  - c. Excavation in compliance with the specific requirements of an approved subdivision plan.
  - d. Excavation in the normal use of a cemetery or a town park.
  - e. Removal of various soils, sand, stone, bedrock and other assorted aggregates from an individual parcel so long as cumulatively less than three hundred (300) cubic yards of such material is removed.

### **16.2 Special Permitted Uses**

The following uses are permitted in all districts, except the Central Business District, subject to Commission approval: Any sand or gravel pit, peat bog, or earth loam, clay, silt, rock, stone or other material removal operation. The excavation and removal of earth materials for off-site use may be permitted in all zoning districts, except the Central Business District, upon the acquisition of a special permit from the Commission. All applications for special permits shall be submitted on a form approved by the Commission. Notice of the date and time of the public hearing shall be provided to the applicant and be published by the Commission in conformance with the General Statutes. The applicant shall send by certified mail, a notice describing the address, the location of the property, and the proposed earth material excavation, to all property owners abutting or within 100 feet of the proposed project, at least 10 days prior to the public hearing. Proof of notice must be supplied by the applicant at the public hearing.

### **16.3 Application Procedure**

The Commission shall not act on any request for an earth materials excavation permit until a complete application has been received. A complete application includes:

- 16.3.1 All plans and information as required by the Planning and Zoning Commission form.
- 16.3.2 The following maps, plans, and specifications shall also be included:
  - a. An estimate of the type and amount of material to be removed.
  - b. Existing and proposed drainage of the site including natural waterways and wetlands.
  - c. Grading plan showing existing contours in the area to be excavated and proposed contours for the area after operations. Such plan shall include the area to be excavated as well as the surrounding area within 100 feet of the excavation and shall be drawn at a convenient scale. Contour interval shall be not more than 100 feet. (The plan may be an enlargement of the most recent United States Geological Survey topographical map of the area showing the property lines of the parcel and all of the information listed above.)
  - d. Proposed truck access to the excavation.
  - e. An estimate of the number and types of trucks and other machinery to be used on the site, hours of operation and locations and types of any buildings to be erected.

- f. Details of final grading, top soil depth and planting of the site.
- g. Location and dimensions of all proposed structures.
- h. Limits of excavation.
- i. Sections or stages of operations.
- j. Reclamation/Restoration Plan
- k. Erosion Control Plan
- l. End Use Plan
- m. Finished Topography Map

16.3.3 All application and permit fees required.

#### **16.4 Granting the Permit**

The Commission shall approve the application only when all conditions it requires are shown on the plans to be approved or are agreed to in writing, and when it is satisfied that the following requirements are compiled within the undertaking of such excavation. The permit can be granted only after approval and after all permit fees have been paid.

##### *16.4.1 PERMIT REQUIREMENTS STANDARDS AND HOURS OF OPERATIONS:*

All permits issued hereunder shall include at a minimum the following standards and hours of operations:

- a. Reclamation activities shall be on-going to the extent practicable and shall include the grading and seeding of suitable ground cover to minimize any erosion or dust generation on disturbed lands.
- b. The reclamation security, in the form of a cash bond or a Letter of Credit issued by a Connecticut bank, posted pursuant to section 16.7, shall be adjusted annually on the anniversary date to maintain an amount equal to or greater than \$10,000 per acre for disturbed lands not yet reclaimed and for lands proposed to be disturbed during the succeeding twelve month period. Under no circumstances may an un-bonded area be disturbed.
- c. Normal hours of operation shall be limited to Monday through Friday from 7:00am to 5:00pm and Saturday from 8:00am to 1:00pm. There shall be no Mining Operations or blasting on the following legal holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. In addition to the normal hours, an additional 200 hours of operation to cover "emergencies" such as weather delays, breakdown delays or seasonal demand can be scheduled in Industrial zones at the operator's discretion but the operator must fax the ZEO before such operations begin indicating when such operation will occur, how many hours it will occur and the total number of such hours used in the calendar year.
- d. All access roads shall be treated with suitable material to reduce dust and mud. The permit holder shall clean up any spillage on public ways immediately and on neighboring private lands daily.
- e. There shall be no excavation within 150 feet of any dwelling or within fifty (50) feet of an adjacent property.

- f. Removal of resources below the water table will be allowed. The plan of reclamation shall be submitted and approved in advance by the Planning and Zoning Commission, which plan shall provide for either back-filling with suitable materials or the establishment of a permanent pond.
- g. Annual fees to be paid by permit holders hereunder may be established at any time at a town meeting.
- h. Maintenance and Repair of equipment are not considered mining and are allowed as necessary outside normal hours of mining operations subject to good faith efforts to minimize unnecessary noise.

16.4.2 In addition to the requirements set forth in section 16.4.01. Soft Rock Mining Operations permitted hereunder shall be subject to the following further requirements:

- a. The allowable open or active area to be mined at any one site shall be no more than five (5) acres at any time.
- b. Access roads shall be constructed at an angle to the public way or with a curve so as to maximize screening of the operation from public view.
- c. No finished slope shall be steeper than 1:2 (rise to run) except in the presence of ledge.
- d. Where it is necessary to protect the surrounding nearby residential properties, the Commission may require a landscape buffer and/or an earth berm. Existing vegetation and natural topography shall be preserved where feasible. If a berm is required, it must be at least eight feet tall and shall be installed to minimize visual and noise nuisances. The Planning and Zoning Commission shall have the option of requiring a higher berm if a higher berm is necessary to buffer the adjoining properties. These berms must be seeded with an appropriate ground cover to minimize dust and erosion.
- e. A minimum of four (4) inches of topsoil and/or subsoil shall be placed on disturbed lands for reclamation purposes, sufficient to support ground cover and other appropriate vegetation.

16.4.3 In addition to the requirements set forth in section 16.4.1, Hard Rock Mining Operations permitted hereunder shall be subject to the following further requirements:

- a. The allowable open or active area to be mined shall be established in accordance with the highest standards for the industry consistent with good mining and engineering judgment.
- b. Final slopes shall be stabilized and the plan of reclamation shall incorporate reasonably necessary precautions with respect to human access and safety, including development of safe means of access to and from any permanent water body created as part of the plan of reclamation.
- c. Disturbed lands, including areas of waste rock and overburden, but not including the actual excavation, shall be reclaimed through development of ground cover and other appropriate vegetation.
- d. The commission may require seismographic measurement and reports of all results of all blasting at any time it deems necessary allowing the Commission to weigh the complaining party's requests against the cost of monitoring for the mining company.

16.4.4 Departures from the following recommended mining reclamation/restoration guidelines must be explained in the Reclamation/Restoring Plan prior to issuance of a North Canaan Planning and Zoning Commission Permit to Operate. The Permit applicant will be required to submit a modified Reclamation/Restoration Plan to the commission for approval should unexpected conditions arise that will not allow compliance with the initial Plan. Failure to satisfactorily complete the Reclamation/Restoration Plan may result in forfeiture of the Performance Bond. North Canaan Planning and Zoning Commission approval of the Reclamation/Restoration Plan is required before a Permit to Operate will be issued.

- a. SLOPE STABILITY - Slopes will be left in a 1:2 (rise to run) or shallower configuration. Deviations from this guideline due to local conditions shall be explained in detail.

- b. DEBRIS - The handling of all debris generated by the development of the mine area shall be addressed in the Reclamation Plan.
- c. TOPSOIL AND SUBSOIL RECLAMATION - Retained topsoil and subsoil shall be spread over the disturbed area to minimum depth of 4 inches. The Reclamation Plan should include storage location of all excavated soils and other stripped materials. This storage area also should be addressed in the Erosion Control Plan.
- d. EROSION CONTROL - An Erosion Control Plan must be submitted to the North Canaan Planning and Zoning Commission addressing relevant issues, including (but not limited to) vegetation type, erosion barriers, fertilizer usage (quantity and type) and reclaimed topography. The Erosion Control Plan will define both operational plans (while property is actively being mined) and the final (post mining) plan.
- e. DRAINAGE CONSIDERATIONS - Drainage systems should meet the 25-year storm event sizing using standard Army Corps of Engineers procedures.
- f. ACCESS/EGRESS - Reclaimed/Restored land shall have appropriate access/egress. Additionally, the operator will provide to the North Canaan Planning and Zoning Commission appropriate ownership/lease information, including access/egress stipulations.
- g. EQUIPMENT AND TEMPORARY STRUCTURES - All equipment, temporary buildings and temporary structures not part of the reclamation plan shall be removed from the property within 90 days of completion of the approved mining.
- h. RE-VEGETATION - A re-vegetation plan shall be presented as part of the overall Reclamation/Restoration Plan. This plan shall describe vegetation type, size, spacing, fertilizer and timeline. Trees and/or shrubs of suitable species to provide screening and to reduce erosion during the establishment period may also be required.
- i. END USE - An End Use Plan will be included, accompanied by a descriptive Finished Topography Map.
- j. TIMETABLES - All phases of reclamation shall include timetables for completion. (i.e. after X months of inactivity item Y will be completed in Z time frame).
- k. SPECIAL ISSUES - Any special issues which are not covered in the above checklist. The Commission has the right to request references and general description and location of previous mining projects.

### **16.5 Expiration of Permit**

A special permit granted for the removal of earth materials shall be valid for a period established by the Commission. Permit conditions and operations shall be reviewed periodically to determine compliance. Permit holders must make premises available to the North Canaan Zoning Enforcement Officer and other qualified agents of the Commission for this review or refusal of access will be considered a violation of the permit.

- a) A special permit granted for the removal of sand and gravel shall be valid for a period established by the Commission but shall not exceed 3 years from the date of approval.
- b) A special permit granted for hard rock mining shall be granted based on the plan of operations approved by the Commission but shall not exceed 10 years from the date of approval.

Permit holders have the right to re-apply for a new permit at any time during the life of an existing permit. The requirements for permit renewals shall be in accordance with the provisions of section 16.3 Application Procedure.

### **16.6 Grandfathering Existing Mining Operations**

A statement and a plan must be submitted regarding existing earth removal operations currently operating. This statement shall set forth only the operations, activities, and the type of excavating that is currently being carried on that is not in conformance with the current regulations and shall specify the real estate tax classification as of the date of adoption of these regulations of all acreage claimed to be involved in such earth removal operations. A statement must be submitted within six months of the effective date of these regulations. No extension of the area or change in the method of operation from that filed with the Commission shall be made.

### **16.7 Bonding Requirements**

On or before issuance of a Permit to Operate hereunder, the owner or operator of the Mining Operations shall post a cash bond or a Letter of Credit issued by a Connecticut bank in the amount of \$10,000 per acre for the reclamation of land proposed to be disturbed by the Mining Operation during the first 12 months of operation. Following issuance of a permit, the amount of such performance bond shall be adjusted in accordance with the Standard of Operations set forth in section 16.4 (b).

### **16.8 BLANK**

### **16.9 Stages of Operations**

Depending on the size of the proposed excavation site, the Commission may require that the excavation take place in two or more stages. In this case, one stage shall be completed before work can commence on any other stage except as provided for in section 16.11.4.

### **16.10 Application Procedure (Staged Operations)**

The application procedure shall be in accordance with section 16.3, except all the required information shall be broken down by stage. The following additional information will be required:

16.10.1 A plan clearly delineating each section and showing the limits of excavation in each stage.

### **16.11 Granting the Permit (Staged Operations)**

The permit shall be granted in accordance with the provisions of section 16.4 with the following exceptions:

16.11.1 The applicant shall file with the Commission a performance bond as required in 16.7 of these regulations. The bond amount shall be determined only for the stage which is being worked on at the time.

16.11.2 Work on the next stage shall not commence until the area of the previous stage has been reclaimed and until a bond has been posted covering the next stage.

16.11.3 The bond on any stage shall not be released until it is determined by the commission that the site has been reclaimed in complete accordance with the approved plan.

16.11.4 The Commission may permit work to be conducted in more than one approved stage if the Commission is satisfied that the operation is progressing in accordance with the approved application.

### **16.12 Expiration of Permit (Staged Operations)**

Staged Permits are subject to the provisions of section 16.5 of these regulations.

### **16.13 Permit Removal Application (Staged Operations)**

The requirements for permit renewals shall be in accordance with the provisions of section 16.3. Application procedure.

**16.14 Bonding Requirements (Staged Operations)**

The bond(s) may be increased or reduced in accordance with the provisions of section 16.3. Application Procedure.

**16.15 BLANK**

**16.16 Abandonment**

If for any reason the operation of the excavation is abandoned for 6 months during the period of the permit, the permit is void and the owner or his agent must apply for a new permit and furnish such engineering data and bonds as may be required by the Commission.

**16.17 Effect of Operations**

In passing on applications for permits under these regulations, the Commission shall give full consideration to the facts of each case, taking into account the full effect of such removal on surrounding property, the duration of the operation, the future usefulness of the premises when the operation has been completed, and the general welfare of the community itself.

**16.18 Transferability**

The special permits and grandfathering rights run with the property and not with the owner or applicant. Changes in ownership shall not change or eliminate any of the permit conditions.

**16.19 Severability**

In the event that any one or more of the provisions of these regulations is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of any remaining provisions that can be given effect without the invalid provisions will not in any way be affected or impaired thereby.

**AMENDMENTS**

| <b>DATE</b>       | <b>ARTICLE</b>  | <b>DESCRIPTION</b> |
|-------------------|---|--------------------|
| November 15, 1999 | <b>Article IV</b><br>Pg. 5 - Bed & Breakfast definition<br>Pg. 6 - "Garage / Private"<br>Hotel/Inn./Motel/Motor Inn definition<br>Pg. 7 - Warehouse<br>Pg. 12 - "Garage/Public"<br>Pg. 18 - "Minimum" above frontage<br>Pg. 18 - Change minimum frontage<br>Pg. 40 - Article XII<br>Pg. 40 - Add paragraph to zoning permits pertaining to<br>Issued building permits   |                    |
| November 24, 1999 | <b>Article IX</b><br>Pg. 17 - Height exceptions paragraph A & B<br>Pg. 17 - Exceptions to rear yard requirements for Swimming<br>Pools & Tennis courts.<br><b>Article VI</b><br>Pg. 10 - Added to Table of Uses<br>Accessory Uses permitted in all zones<br>Garage/Private permitted in all zones<br>Replace Motel w/Hotel/Inn<br>Motel/Motor Inn<br>Pg. 11 - Remove Commercial Gravel Operations<br>Pg. 12 - Swimming pools/private, permitted in all zones<br>Pg. 18 - Maximum Height determined by State Building Code |                    |
| July 29, 2000     | <b>Article V</b><br>General Provisions. B. Temporary Uses<br>2. Trailers b. add specifications<br><b>Article IX</b><br>Table 2, area & dimensional requirements pertaining to<br>calculations of height & height exceptions.  |                    |
| October 18, 2000  | <b>Article IV</b><br>Definitions/add boarding house<br><b>Article VI</b><br>Table 1/add Bed & Breakfast with more than 4<br>Bedrooms to Table of uses.  |                    |
| May 21, 2001      | Sign Regulations  |                    |
| April 15, 2003    | Add Earth Materials Excavation  |                    |

**AMENDMENTS**

| <b>DATE</b>       | <b>ARTICLE</b>    | <b>DESCRIPTION</b>   |
|-------------------|-------------------|--|
| November 17, 2004 | <b>Article VI</b> | Table of Uses (Table 1)<br>Multi-Family Dwelling, change to special permit in all Zones.<br>Nursing Home, change to special permit in all zones except I.<br>Assisted Living Facility, change to special permit in all Zones except I.<br>Hospital, change to special permit in all zones except I.<br>Boarding House, change to special permit in all zones except I.<br>Bed & Breakfast (4 bedrooms or less) change to special Permit in all zones except I.<br>Bed & Breakfast (5 bedrooms or less) change to special Permit in all zones except I. |
| February 25, 2005 | <b>Article XI</b> | Height & Area Requirements<br>Pg. 18 Table 2 Area and Dimensional Requirements<br>Lots serviced by Sewer & Water 21,780+5,000  |