

# BOROUGH OF STONINGTON, CONNECTICUT

## ZONING REGULATIONS

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## ZONING MAP

## **ARTICLE I. INTRODUCTION, DEFINITIONS, ZONING DISTRICTS**

### **1.1. Purpose and Authority**

These Regulations are adopted under authority of Chapter 124 of the General Statutes of Connecticut, as revised, for the purpose of implementing the Plan of Conservation and Development of the Borough of Stonington. The Plan of Conservation and Development and these Regulations are designed to lessen congestion in the streets; to secure safety from fire, panic, flood and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision for transportation, water, sewerage, parks and other public requirements. They are further designed for the protection of historic sites and structures in the Borough. Consideration has been given to the character of the Borough as an historic waterfront community with a valuable natural harbor and coastal wetlands, and the resulting public suitability for property within the Borough for certain uses. These Regulations are thus designed to conserve the value of unique buildings and encourage the most appropriate use of unique land throughout the Borough.

### **1.2. Validity and Effectiveness**

#### **1.2.1. Validity**

If any section, subsection, paragraph, clause, or provision of these Regulations shall be adjudged invalid, such decision shall apply only to the section, subsection, paragraph, clause, or provision in question, and the remainder of these Regulations shall be deemed valid and effective.

#### **1.2.2. Effective Date**

The Zoning Regulations of the Borough of Stonington were originally adopted on August 1, 1976 and were subsequently amended on various dates. Whenever in these Regulations the phrase "effective date of the Regulations" appears in connection with any existing use, building or structure, the phrase shall mean the most recent date upon which the Zoning Regulations were adopted or amended prior to the date upon which the use, building or structure was lawfully established. Whenever the phrase appears in conjunction with a proposed use, building or structure or proposed alterations thereto, the phrase shall mean the current Zoning Regulations.

### **1.3. Definitions**

For purposes of these Regulations, certain terms and words shall be defined as below. Words in the present tense include the future, the singular number includes the plural and vice versa. The word "person" includes a partnership, corporation or other entity. The word "lot" includes the word "plot". The word "building" includes the word "structure". The word "shall" is mandatory, not directory.

**Abutting:** Separated by no intervening private property.

**Accessory Building (or Structure):** -A detached subordinate building or structure, the use of which is customarily incidental to and located on the same lot as a principal structure, building,

or use, or on a contiguous lot under the same ownership. An accessory building may also include a private garage on a separate lot from the principal use.

**Accessory Dwelling Unit (ADU):** A separate dwelling unit that is located on the same lot as a principal dwelling unit of greater square footage, has cooking facilities, and complies with or is otherwise exempt from any applicable Building Code, fire code and health and safety regulations.

**Accessory Use:** A subordinate use which is clearly incidental to and customary in connection with the principal structure, building or use, and which is located on the same lot as the principal structure, building, or use; except that a private garage may be considered an accessory use even if not located on the same lot as the principal structure, building or use.

**Alteration, Building/Structure:** –As applied to building or structure, means a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether extending on a side, by increasing in height, or the moving from one location or position to another. As applied to use, means a change or extension of hours of operation, scope of use, land or building area utilized, or intensity of use.

**Alteration, Use:** A change or extension of hours of operation, scope of use, land or building area utilized, or intensity of use.

**Awning:** A roof-like covering that is temporary and collapsible in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

**Balcony:** A platform projecting from the wall of a building and enclosed by a railing, usually opening from an upper story of a building.

**Banner:** A sign that exceeds twelve square feet in area that is subject to Borough policy or ordinance.

**Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year.

**Basement:** That portion of a building that is partly or completely below grade. For the purposes of Section 3.3.2 of these Regulations, *basement* shall be defined as that portion of a building having its floor subgrade (below ground level) on all sides.

**Berth:** The place where a ship or boat lies at wharf or pier; also “slip”.

**Building:** Any structure having a roof and intended for shelter, housing or enclosure of persons, animals or materials. Any other structure more than four feet high shall be a building excluding an electric transmission line or electric light, telephone or telegraph pole, radio or television antenna, highway or railway bridge, or flagpole.

**Building Area:** The ground area enclosed by the walls of a building together with the area of all covered porches and other roofed portions; also the “footprint” of a building.

**Building Height:** For buildings with a front yard of ten feet or less, building height is measured as the vertical distance measured from the lowest curb level along the frontage road to the highest point of the building, excluding chimneys. For buildings with a front yard of more

than ten feet, building height is the vertical distance measured from the grade as defined herein to the highest point of the building, excluding chimneys (per Section 2.7).

**Building Line:** A line parallel to the street on which a lot fronts, at a distance equal to the minimum front yard requirement.

**Cemetery:** Land used for the burial of the dead, and dedicated for cemetery purposes, excluding columbariums, crematories, mausoleums, and mortuaries.

~~**Childcare – Child Care Center:** Any establishment which provides regular shelter, care, activity, and supervision (with or without academic instruction) for five or more children. A family child care home, or group child care home as defined in Section 19a-77 of the CGS as may be amended from time to time.~~

**Club:** Buildings and facilities, owned and operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service which is customarily carried on as a business.

**Commission:** The Planning and Zoning Commission of the Borough of Stonington.

**Condominium:** The ownership of individual dwelling units located on a lot or lots which are owned in common by individual unit owners, or any division of the interests in real property, including easements and leases of over five years, which have the effect of permitting more than one dwelling unit on a lot without the division of the fee simple interest in said lot.

**Conversion:** Any modification or change to an existing dwelling which is intended to or actually does increase the number of dwelling units.

**Deck:** A porch-like structure without a roof, used for outdoor living, either free standing or attached to the principal building, usually constructed of wood with structural supports and having a height more than eight inches above the ground.

**Design Overlay Zone:** A zoning district that encompasses one or more underlying zones and that imposes additional requirements above those required by the underlying zone.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

**District:** A zoning district established by provision of Section 1.4 of these Regulations.

**Drive-in:** A term used to describe an establishment designed or operated to serve a patron who is seated in an automobile.

~~**Dump:** A lot of land or part thereof used primarily for the disposal of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind by abandonment, dumping, burial, burning or any other means and for whatever purposes.~~

**Dwelling:** A building or part of a building which contains living, sleeping, housekeeping accommodations and sanitary facilities for occupancy by one or more families.

**Dwelling, Single Family:** A detached building designed for and used exclusively as a dwelling for one family.

**Dwelling, Two Family:** A detached building designed for or occupied by two families living independently of each other but with no division of any interest in any real property, including the lot or the building.

**Dwelling, Multi-Family:** A dwelling or group of dwellings on one lot, containing separate living units for three or more families, having separate or joint entrances, and including apartments, group homes, row houses, and condominiums; also multiple dwellings.

**Dwelling Unit:** One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner or renter occupancy, and containing independent cooking and sleeping facilities and sanitary facilities. No dwelling unit shall contain less than 300 square feet of habitable living area.

**Effective Date:** See Section 1.2.2 of these Regulations

**Enlarge/Enlargement:** An enlargement is an addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To “enlarge” is to increase the size of the structure or parcel of land.

**Extend:** ~~Implies increase or amplification, as distinguished from original configuration.~~ To increase or amplify the original configuration of a building or structure.

**Family:** Any number of individuals related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than five persons not necessarily related by blood, marriage, or adoption, living together as a single housekeeping unit.

**Farm:** Any tract of land containing at least three acres which is used for dairying or for the raising of agricultural products, forest products, livestock or poultry and including the facilities for the sale of such products from the premises where produced, provided that a farm shall not be construed to include commercial poultry and swine production, cattle feeder lots, and fur-bearing animal farms.

**Fence:** A structure for enclosing or screening, including a wall. Any fence over four feet high shall be considered a structure for purposes of these Regulations.

**Floating Zone:** A special detailed use district of undetermined location; a district in which the proposed kind, location, size and form of structures must be pre-approved (but which, unlike a Special Permit use, is not legislatively pre-deemed compatible with the area in which it may be proposed).

**Flood (or Flooding):** A general and temporary condition of partial or complete inundation of normally dry land areas, from the overflow of inland or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.

**Floor Area, Gross:** The sum of the gross area of all floors in all structures on a lot, but excluding any space where the floor to ceiling height is less than six feet. The gross area is

measured from the exterior faces of exterior walls or from the centerline of a party or common wall. All portions of the structure's space with a height of fourteen feet or greater from floor to ceiling shall be calculated as two floors and each additional seven feet as an additional floor. Included in the measurement of floor area are: all interior stairwells, elevator shafts, utility rooms, roofed porches, roofed carports, roofed decks, unenclosed breezeways, roof decks, and balconies. Excluded from the measurement: a basement, to the extent it is located four feet or more below the surface; and any portion of interior space with structural headroom of less than six feet.

**Floor Area Ratio:** The ratio of gross floor area on a lot to the area of the lot.

**Frontage (or Lot Frontage):** The length of the front line of a lot abutting a public street.

**Garage, Parking:** A building or portion thereof designed or used for the temporary storage of motor vehicles, without any sales or service of motor vehicles or parts or supplies for motor vehicles.

**Garage, Private:** A detached accessory building or portion of a principal building used for the storage of motor vehicles.

**Grade:** The lowest point of existing ground adjacent to each wall of a building or structure, or proposed building or structure; or the lowest point of finished ground if an approval has been granted in accordance with Section 3.3.5.3 of these Regulations permitting an individual to deposit fill on the subject lot.

**Headroom:** Unobstructed vertical distance between the floor and ceiling of an interior space.

**Home Occupation, Customary:** An occupation which is clearly accessory and secondary to the residential use of a dwelling for gainful employment involving the manufacture, repair, provision or sales of goods and/or services.

**Ice Cream Parlor:** The retail sale of ice cream, frozen yogurt, candy and similar desserts for consumption on or off the premises, providing there is neither kitchen nor any equipment for the preparation of meals, nor is there any actual preparation of full meals, nor is there seating for more than a total of sixteen persons at a counter or table.

**Illegal Use:** Any use, whether of a building or other structure, or of a tract of land, in which a violation of any provision of these Regulations has been committed or shall exist, or which use is not specifically listed as permitted in these Regulations, other than those non-conforming uses which meet the requirements of Section 2.9 of these Regulations.

**Inn:** A building, non owner occupied, in which more than five but not more than fifteen guest rooms are used to provide or offer overnight accommodations not more than thirty consecutive days in length to transient guests for compensation, which may include the serving of meals to guests, and a conference area, as accessory uses, all not to exceed, in the aggregate, a building capacity of fifty guests.

**Junk:** Discarded material, equipment, machinery, vehicles, waste, rubble or refuse which may or may not be useful in some form.

**Junkyard:** A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking, and structural steel materials and equipment, but not including the purchase or storage of used furniture or household equipment, used cars in operable condition, used or salvaged materials as part of a manufacturing operation.

**Kitchen:** Any room or portion thereof used, intended to be used, or designed to be used, whether wholly or partly for the cooking or preparation of food.

**Lot:** A plot or parcel of land under separate ownership which is occupied or capable of being occupied by one principal building and the accessory buildings customarily incidental to it, including open spaces which are required by these Regulations. In the case of multi-family dwellings and public, institutional, commercial or industrial buildings, a group of buildings under the same ownership may be considered occupying the same lot.

**Lot Area:** The actual area in square feet enclosed by lot lines.

**Lot, Building:** Land occupied or to be occupied by a principal building and its accessory buildings, together with such open spaces as are required under the provision of these Regulations, having not less than the minimum area and frontage required by these Regulations for a lot in the district in which it is situated.

**Lot, Corner:** A lot abutting upon two or more streets at their intersection. For a corner lot in a residential zone, the minimum depth of yard along either frontage shall be the depth of yard required for front yards along that street. One yard, other than the front yard, shall be deemed by the Zoning Official to be a rear yard, and the others side yards.

**Lot, Coverage:** The percent coverage of a lot by permanently erected buildings, including accessory buildings and other structures and also including external staircases, balconies, decks, porches, and their projections which extend more than four feet above grade.

**Lot Line:** The established division line between lots, or between a lot and a street.

**Lot Line, Front:** All lines dividing the lot from a street.

**Lot Line, Rear:** The line which most nearly qualifies as the line most distant and opposite from the front lot line; where the line is irregularly shaped, a line perpendicular to the mean direction of the side lot lines, and at least ten feet in length within the lot.

**Lot Line, Side:** Any lot line other than the front lot line or the rear lot line.

**Lot of Record:** A lot for which a deed has been recorded with the Stonington Town Clerk.

**Manufacturing:** The processing and converting of raw, unfinished or finished materials or products, or any of these into an article or substance of different character, or for use for a different purpose; also industries furnishing labor in the case of manufacturing or the refinishing of manufactured articles.

**Marina:** A place for docking or storage of pleasure boats or providing services to pleasure boats and the occupants thereof, including minor servicing and repair to boats while in the water, and the sale of fuel and supplies as an accessory use. A yacht club shall be considered a marina, but a hotel, motel or similar use, where docking of boats and provision

of services thereto is incidental to other activities shall not be considered a marina, nor shall boat docks accessory to a multiple dwelling where no boat-related services are rendered.

~~**Master Plan:** The Plan of Development, also known as the Plan of Conservation and Development, or any portion thereof, made and adopted by the Planning and Zoning Commission in accordance with Connecticut General Statutes, indicating the general or specific locations recommended for streets, parks, public buildings, zoning districts, and other public improvements and objectives.~~

**Mobile Home:** A one-family dwelling unit of a vehicular portable design, built on a chassis and designed to be moved from one site to another and to be used without a permanent foundation.

**Museum:** A non-profit, noncommercial establishment operated as a repository for a collection of natural, scientific, historic or literary curiosities, or objects of interest or works of art, not including the regular sale or distribution of the objects collected.

**National Register of Historic Places:** The official list, established by the National Historic Preservation Act, of sites, districts, buildings, structures, and objects significant in the nation's history or whose artistic or architectural value is unique. All Stonington Borough buildings and structures built before 1974 and not significantly altered since then remain listed.

**New Construction:** A new building or structure.

**Non-Conforming Building or Structure:** A building or other structure which does not comply with the current restrictions as to size, dimensions, nature of construction, location of the structure on the land, or location of the structure in proximity to other buildings, but which lawfully existed, whether by variance or otherwise, prior to the effective date of these Regulations and which has been continuously maintained thereafter.

**Non-Conforming Use:** A use of any land or structure which does not comply with the current use restrictions of these Regulations, but which lawfully existed, whether by variance or otherwise prior to the effective date of these Regulations, and which has been continuously maintained thereafter.

**Open Space:** When referring to a lot, a space not occupied by a building or other structure on the same lot with the principal building.

**Occupy:** To take or enter upon possession of.

**Occupancy, Change of:** A discontinuance of an existing use and substitution of a different use designation as set forth in these Regulations.

**Park:** A parcel of land set apart for recreation of the public, to promote its health and enjoyment, and owned and operated by a public or non-profit agency.

**Plan of Conservation and Development:** The Plan of Development, or any portion thereof, made and adopted by the Planning and Zoning Commission in accordance with Connecticut General Statutes.

**Premises:** Any lot or combination of contiguous lots held in single ownership, together with the development thereon; a condominium complex constitutes one premises.

**Principal Use:** The primary purpose or function that a lot serves or is intended to serve.

**Professional Office:** The office of a person engaged in any occupation, vocation or calling, not purely commercial, mechanical, or agricultural, in which a professed knowledge or skill in some department of science or learning is required.

**Public Building:** Any building held, used, or controlled exclusively for public purposes by any department or branch of government, without reference to the ownership of the building or the realty upon which it is located.

**Recreational Camping Unit:** A self-propelled or portable unit, such as a camper bus, travel trailer, truck mounted camper, or other similar unit, originally designed and constructed or redesigned and reconstructed for recreation or other shelter for one or more persons. A vehicle which is: (1) building on a single chassis; (2) 400 square feet or less when measured at the longest horizontal projection; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

~~**Renovation:** Any combination of repairs, reconstruction, alteration or improvements to a building or structure for which a zoning permit is required, which take place over a one year period and for which the cumulative cost is less than fifty percent (50%) of the market value of the building or structure. The market value shall be the fair market value immediately prior to the start of the renovations. Absent other evidence, the Town of Stonington assessment of the structure or building will establish fair market value. However, the landowner or any other person having a legal interest in the property may submit an appraisal or other information to the Commission if such person claims that the fair market value is different than the Town's assessment. If provided with such evidence, the Commission shall determine the fair market value based upon its evaluation of the evidence.~~

**Restaurant:** An establishment used principally for the preparation and service of food and beverages to the public for consumption either on or off the premises.

**Restaurant, Class I:** A restaurant that meets all of the following criteria: (1) gross floor area of 1,500 square feet or less, (2) seating capacity is 20 or less; (3) food and beverages served on the premises are actually or expected to be consumed primarily off the premises.

**Restaurant, Class II:** A restaurant that meets all of the following criteria: (1) gross floor area of 2,000 square feet or less, (2) seating capacity of 75 or less, and (3) food and beverages served on the premises are actually or expected to be consumed primarily on the premises.

**Road, Frontage:** One road, other than the side or rear road, shall be deemed by the Zoning Official to be the frontage road. A corner lot may have two or more frontage roads.

**Short Term Rental/Tourist Home:** The use of an owner-occupied furnished legal dwelling unit, in whole or in part, providing transient lodging to the general public, for compensation, for a period of thirty (30) days or less.

**Sign:** As defined in Section 3.7.2.1

**Sign Face:** As defined in Section 3.7.2.2

**Site:** Same as “lot”.

**Start of Construction:** (For other than new construction or substantial improvements under the Coastal Barrier Resources Act [P.L. 97-347]). Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty days of the permit date. Should the permittee fail to commence work within this time frame, a new permit shall be required. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stages of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or any other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Street, Public:** An improved right-of-way accepted for public use by lawful procedure and suitable for vehicular travel; or a proposed public street shown on a subdivision plan in these Regulations, “street” shall mean “public street” unless otherwise specified.

**Street, Unaccepted:** Any private right-of-way providing access to one or more lots or dwelling units, also “private street”.

**Street Line:** A dividing line between a lot and the street right-of-way.

**Structure:** Anything which is constructed or erected and the use of which requires more or less permanent location on the ground or water areas or attachment to something having permanent location on ground or water areas, not, however, including wheels; an edifice or a building of any kind; any production or piece of work, artificially built up or composed of parts and joined together in some definite manner; including fences or walls in excess of four feet in height; a deck, wharf or dock, an above ground tank, or a detached solar panel. For floodplain management purposes, a walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities.

~~**Substantial Improvements:** Any combination of repairs, reconstruction, alteration, or improvements to a building or structure for which a zoning permit is required, which take place over a one year period and for which the cumulative cost is equal to or exceeds fifty percent (50%) of the market value of the building or structure. Substantial improvement shall be determined by the Zoning Official by comparing the estimated total project cost submitted by the applicant to the market value of the building or structure. The market value shall be the fair market value immediately prior to the start of the substantial improvements. Absent other evidence, the Town of Stonington appraisal of the structure or building will establish fair market value. However, the landowner or any other person having a legal interest in the property may submit an appraisal or other information to the Commission if such person claims that the fair market value is different than the Town’s appraisal. If provided with such evidence, the Commission shall determine the fair market value based~~

~~upon its evaluation of the evidence. For the purposes of Section 3.3 only, substantial improvements shall mean the FEMA definition described in Section 3.3.2.2.~~

~~**Tourist Home:** An owner-occupied building in which more than one but not more than five guest rooms are used to provide or offer overnight accommodation to transient guests for compensation, which may include the serving of meals as an accessory use.~~

**Use:** The purpose for which property is arranged, designed or intended, or for which the land and/or building is or may be occupied or maintained.

**Variance:** Permission to depart from the literal requirements of the Zoning Regulations in accordance with CT General Statutes Sec. 8-6 or flood plain requirements (Section 3.3.2). For floodplain management purposes, a grant of relief by a community from the terms of the floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

**Warehouse:** A structure or part of a structure used primarily for the non-residential storage of goods, wares and merchandise.

**Yacht Club:** A club, as defined in these Regulations, the primary focus of which is on social, educational and recreational activities related to boating and the sea. Such activities may include boat design and racing; sailing, seamanship, navigation, and safety education; inter-club regattas; group (fleet) cruises; aquatic sports; and programs to preserve the marine environment, as well as any other activities that are customary and incidental to a club, such as social and dining opportunities. To increase opportunities for participation in water related uses, a yacht club may sponsor activities that are open to participation by the general public.

**Yard, Front:** The open space between the building line and the front lot line, extending the full width of the lot; or in the case of a corner lot, the open space between a building and the front lot line extending the full width of each frontage.

**Yard, Rear:** The open space between the building and the rear lot line or the mean high tide line, whichever is closer, extending the full width of the lot.

**Yard, Side:** The open space between the building and a side lot line, extending from the front yard to the rear yard. Any yard not a front or rear yard shall be deemed a side yard.

**Zone:** Same as "district" under these Regulations.

## **1.4. Zoning Districts**

### **1.4.1. District Classifications**

The Borough of Stonington is hereby divided into the following Zoning Districts:

- Residential One (R-1)
- Residential Two (R-2)
- Residence Preservation (RP)
- Residence (R)
- Rural Residence (RR)
- Reserved Land (RL)
- Planned Commercial (PC)
- Planned Industrial (PI)
- Planned Waterfront (PW)
- Planned Area Development (PAD)
- Planned Multi Family Housing (PMFH)

### **1.4.2. Zoning Map**

The boundaries of said districts shall be as shown on the map entitled “Zoning Map of the Borough of Stonington, Connecticut, dated November 15, 2014”, and any subsequent amendments thereto as may be adopted; which map and amendments are on file in the Office of the Borough Clerk. Such map and amendments are hereby declared a part of these Regulations.

### **1.4.3. District Boundaries**

The boundaries of these Zoning Districts are hereby established as shown on the Zoning Map of the Borough of Stonington. Unless otherwise indicated, the Zoning District boundaries are the center line of streets or rail lines, property lines, waterways, or lines drawn parallel to any of these. In cases of uncertainty, the Planning and Zoning Commission shall determine the location of any District boundary.

## **ARTICLE 2. GENERAL PROVISIONS**

### **2.1. Conflicting Regulations**

When any provision of these Regulations imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other applicable ordinance, statute or law, or the approval of any other governmental agency, including other agencies of the Borough or Town of Stonington, the provisions of these Regulations shall apply and govern.

### **2.2. Covenants Not Annulled**

These Regulations are not intended to abrogate or annul any easement, covenant, or other private agreement which may touch or concern the land within the Borough.

### **2.3. Permitted Uses**

No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered in such manner as to be designed, arranged, intended or used for any purpose other than the uses permitted in the zone in which the building or structure is located, except as provided in Section 2.9 (Non-Conforming Uses and Structures) of these Regulations. Likewise, no parcel of land shall be used, designed or arranged for any purpose other than the uses permitted in the zone in which that land is located, except as provided in Section 2.9 of these Regulations.

### **2.4. Permitted Area, Yards and Lot Coverage**

No building or structure shall be erected, enlarged, or otherwise modified except in conformity with the area, frontage, yards and lot coverage requirements of the district in which such building or structure is located, except as may be otherwise specifically authorized elsewhere within these Regulations.

#### **2.4.1. Yards and Open Space Required for Each Building**

No space which has been counted or calculated as part of a side yard, rear yard, front yard, court or other open space required for any building under these Regulations may be counted or calculated to satisfy yard or open space requirements for any other building.

#### **2.4.2. Projections Into Required Yard Areas**

In determining compliance with the minimum setback requirements established within these Regulations, the controlling distance on each lot shall be measured between the applicable lot line and the closest point thereto on any building or structure erected on said lot, and no portion of any roof overhang, chimney, cornice, heat pump, or other similar architectural or mechanical feature shall project into any required yard area, except roof overhangs or other architectural and mechanical features may project not more than twelve inches from the wall of a structure into the required yard area, provided that no additional interior space is created. Utility meters are exempt from this requirement. Any addition to a structure with a non-conforming setback shall fully conform to setback requirements in both ground floor and elevated additions, except as provided in Section 2.4.2.1.

**2.4.2.1.** The Commission may, by Special Permit, allow an addition to a structure with a non-conforming setback to be erected in a required yard area, if the Commission finds that such a projection is necessary for one or more of the following reasons:

- a. The addition must be designed to meet Building Code requirements which have been enacted since the structure was originally constructed;
- b. The addition is necessary in order to protect public health or safety;
- c. Conformance with the required setback would result in incompatible and inappropriate architectural design or construction.

### **2.4.3 Reasonable Accommodations for ADA**

All setback, coverage, and location requirements of these Regulations do not apply for the alteration, construction, and/or modifications necessary to provide access for persons with disabilities. Once the reasonable accommodation is no longer required, all improvements not in compliance with the Regulations shall be removed within ninety (90) days.

## **2.5. Impact of Wetlands on -Determination of Required Lot Area**

In all zones, land which has been mapped by the U.S. Department of Agriculture, Soil Conservation Service, as “inland wetlands”, or by the State of Connecticut Department of Energy and Environmental Protection as “tidal wetlands” shall not be used to satisfy more than twenty-five percent (25%) of the requirements of minimum lot area. No submerged land or property which is seaward of the mean high tide line at the time of adoption of these Regulations shall be used in satisfying the requirements of minimum lot area.

## **2.6. Design Overlay Zone**

### **2.6.1. Purpose**

The purpose of this Design Overlay Zone is to allow development which will protect, preserve, and enhance the unique historic and architectural qualities of the Borough, and impose limited design controls in order to retain the Borough’s distinctive architectural character and scale.

### **2.6.2. Conformance**

Within this zone, uses and development shall be in conformance with the Borough’s Plan of Conservation and Development and Section 2.6, as applicable.

### **2.6.3. Applicability**

Applies to: Section 5.1 – Residential District One (R-1), Section 5.2 – Residential District Two (R-2), Section 5.3 – Residence Preservation District (RP). Section 5.4 – Residence District (R), Section 6.1-Planned Waterfront District (PW) , Section 6.2 - Planned Commercial District (PC)

#### **2.6.4. Preservation and Protection of Distinctive Characteristics**

Renovations, substantial improvements, and new construction shall promote the cultural, economic, educational, and general welfare of the citizens of Stonington Borough through the preservation and protection of the distinctive characteristics of buildings or structures and places significant in the history of Stonington Borough.

**2.6.4.1.** Renovations, substantial improvements, and new construction shall preserve and protect the Borough's historic character.

**2.6.4.2.** Use and reuse of properties shall be developed to allow safe access and movement of pedestrians and vehicles; stabilize, improve, and protect property values; strengthen the local economy; and promote and protect the public health, safety, and welfare.

**2.6.4.3.** Construction and development of new buildings or structures within the zones shall be permitted in a manner which will not be detrimental to existing structures within the zone and which will ensure the preservation of the general characteristics of the historic character of Stonington Borough by adhering to consistent design standards.

#### **2.6.5. Renovations and Substantial Improvements of Existing Buildings**

~~All but insignificant as determined by the Zoning Official with the concurrence of the Chair, exterior renovations and substantial improvements of a building or structure visible from the frontage road or the waters surrounding Stonington Borough (including Stonington Harbor, Little Narragansett Bay and Fisher's Island Sound) shall be subject to review and approval by the Commission.~~ All significant exterior renovations and substantial improvements of a building or structure visible from the fronting street or the waters surrounding Stonington Borough (including Stonington Harbor, Little Narragansett Bay and Fishers Island Sound) shall be subject to review and approval by the Commission; insignificant renovations and improvements may be approved by the Zoning Official with the concurrence of the Commission Chair, who will endorse a from approving such insignificant renovations/improvements. Insignificant exterior renovations and improvements to a building or structure are those that do not involve 35% or more of the front facing façade or other parts of the structure visible from the public street or the before-mentioned waters, do not alter the size, shape, scale, area, or style of the structure being renovated, and do not allow for any change of use. Design drawings for exterior building or structure renovations and substantial improvements shall specify appropriate materials intended to maintain or restore the integrity of the architectural character of a given building or structure. Excessive uniformity, dissimilarity, inappropriateness, or poor quality of design in the exterior appearance of buildings or structures shall be avoided. Buildings or structures to be renovated or substantially improved shall satisfy the following criteria:

**2.6.5.1.** Every reasonable effort shall be made to provide a compatible use for a structure which requires minimal alteration of its site, environment, or originally intended purpose.

**2.6.5.2.** The distinguishing original qualities or character of a building or structure, its site, and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

**2.6.5.3.** All buildings, structures, and sites shall be recognized as products of their own time. Renovations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

**2.6.5.4.** Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, its site, and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

**2.6.5.5.** Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

**2.6.5.6.** Deteriorated architectural features shall be repaired or replaced to the extent practicable. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture, and other visual qualities when feasible. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

**2.6.5.7.** Renovations and additions which destroy significant historical, architectural, or cultural characteristics shall be discouraged.

**2.6.5.8.** Design shall be generally compatible with the size, scale, material, and character of the original structure, and with structures within two hundred feet of the lot.

**2.6.5.9.** Whenever possible, new additions or renovations to buildings and structures shall be done in such a manner that if such additions or renovations were to be removed in the future, the essential form and integrity of the structure would be maintained.

## **2.6.6. Construction of New Buildings or Structures**

The construction of new buildings or structures shall be subject to the review and approval of the Commission. Design drawings for new buildings or structures shall specify appropriate materials intended to maintain or restore the integrity of the architectural character of a given building or structure. Excessive uniformity, dissimilarity, inappropriateness, or poor quality of design in the exterior appearance of buildings or structures shall be avoided. Designs for buildings or structures shall include appropriate materials and style intended to maintain the historic integrity of the architectural character of the Borough and for buildings and structures within two hundred feet of the lot.

**2.6.6.1.** Exterior building materials used in new construction shall be similar to materials used on existing buildings or structures within two hundred feet of the lot or shall be materials which are normally associated with materials found in buildings or structures of the architectural period of such neighboring buildings or structures. Other materials may be used which provide for compliance with other regulatory requirements or which promote consideration of other goals, such as energy efficiency.

**2.6.6.2.** The architectural design, including scale, proportions, and architectural rhythm of new construction, shall be compatible with the architectural design exhibited by adjacent buildings or structures within two hundred feet of the lot.

**2.6.6.3.** The placement and size of windows and doors in new multi-family dwellings shall retain the character of a single-family dwelling.

### **2.6.7. Standards for Design Review of Buildings and Structures**

In addition to all other requirements of the Zoning Regulations, the applicant for all buildings or structures and sites subject to a design review by the Commission, or its staff, shall submit scaled elevation drawings of the proposed structures for a design review. The scale of such drawings shall not be smaller than one-eighth inch equals one foot (1/8" =1'0"). The drawings shall locate and identify exterior materials, fixtures, roof pitch, and building or structure height and include dimensions and architectural characteristics.

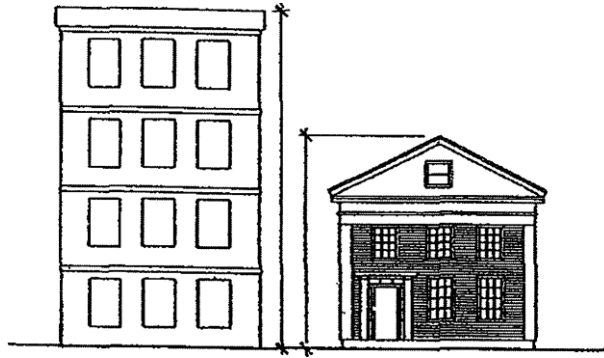
### **2.6.8. Determination of Appropriateness**

—The Commission shall review all plans subject to this section for renovations, substantial improvements, and construction of new buildings or structures for a determination of appropriateness of the design. All determinations will be based on a review of structures within two hundred feet of the lot. The Commission shall issue its determination of appropriateness in writing.

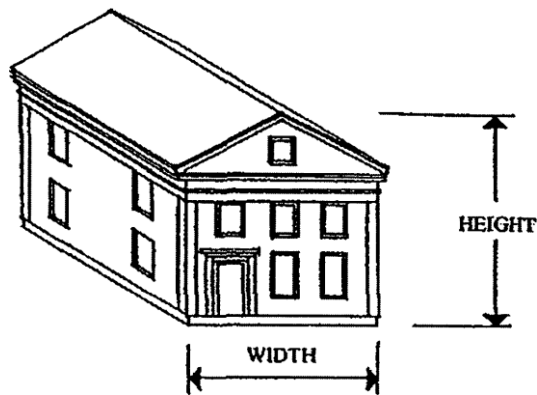
## 2.6.9. Criteria as Guidelines

The following criteria shall be guidelines to be used by the Commission in the determination of appropriateness, in keeping with the architectural fabric of the Borough of Stonington:

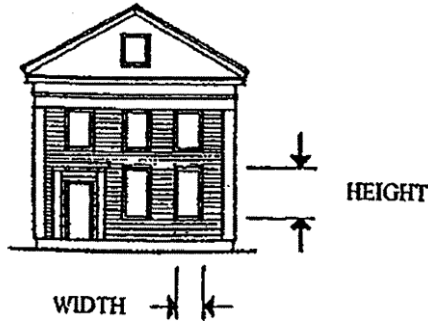
**2.6.9.1. Scale:** Scale of construction, which must relate to human scale, and the scale of structures within two hundred feet of the lot.



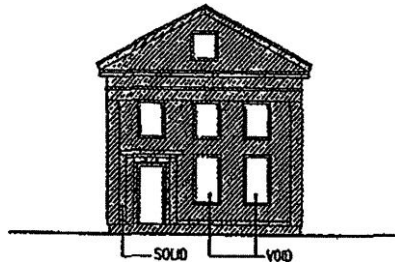
**2.6.9.2. Proportion of Buildings' Front Façades:** Proportion of buildings' front façade is defined as the relationship between width and height of the front elevation of the building.



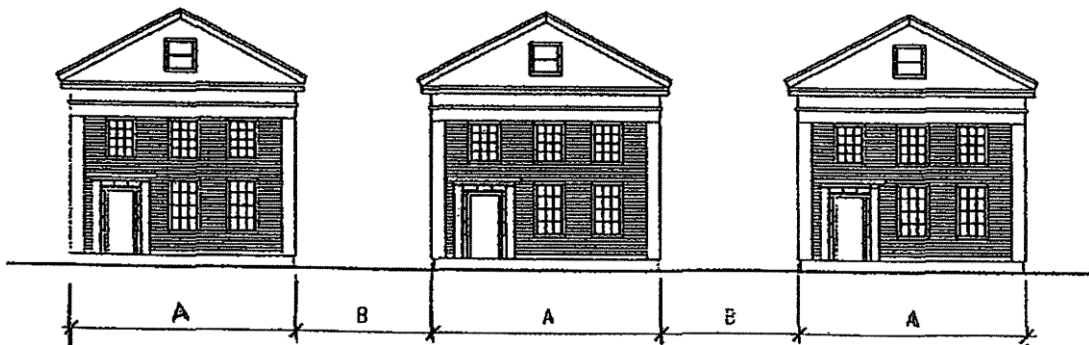
**2.6.9.3. Proportion of Openings Within the Façade:** Proportion of openings within the façade is defined as the relationship of width to height of windows and doors.



**2.6.9.4. The Rhythm of Solids to Voids in the Façade:** This rhythm is defined as an ordered, recurrent alternation of openings to solid walls.

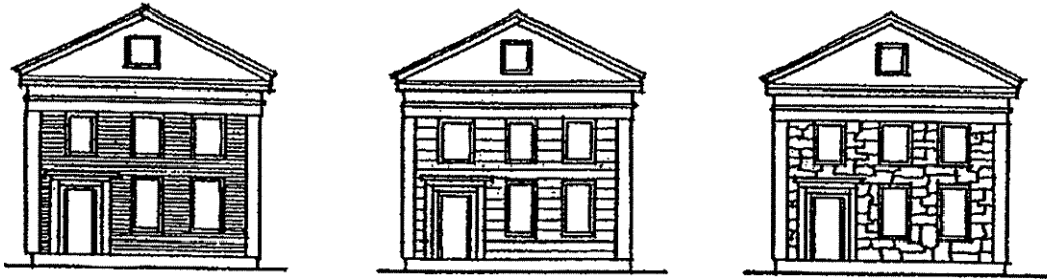


**2.6.9.5. Rhythm of Spacing of Buildings on the Street:** This rhythm is defined as the occurrence of building masses to spaces between them.

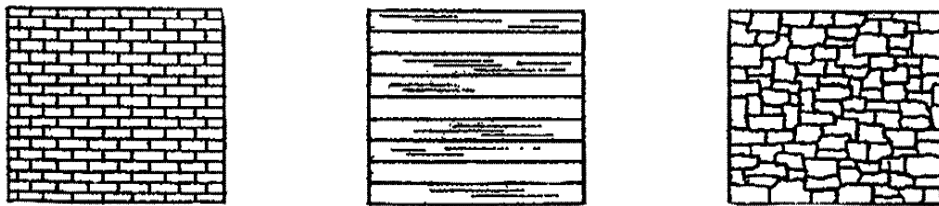


**2.6.9.6. Buildings and Structures and Relationship of Materials To Be Used:** Defined as the relationship of materials to be used in buildings and structures, or the

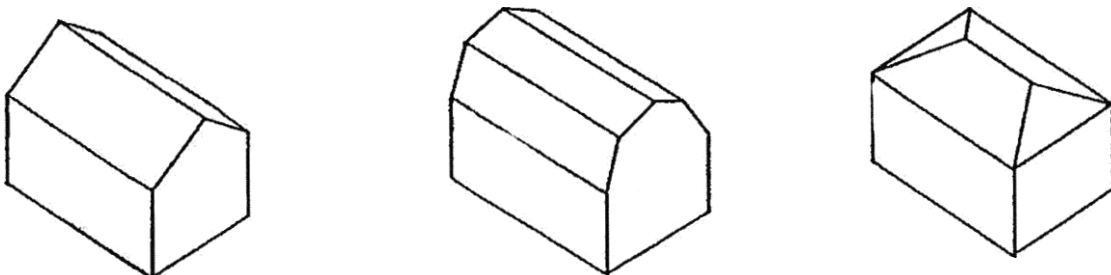
mixture of exterior materials, such as wood, brick, glass, or slate, to those materials used within two hundred feet of the lot.



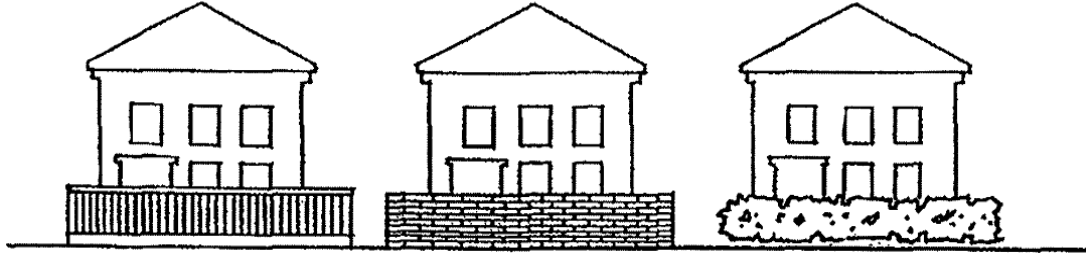
**2.6.9.7. Relationship of Textures:** Defined as the relationship of textures of the predominant material used, which shall reflect the types used within two hundred feet of the lot, such as rough (brick and tooled joints) or smooth (horizontal wood siding).



**2.6.9.8. Relationship of Roof Shapes:** Defined as the relationship of roof shapes, which should be compared to the majority of roofs within two hundred feet of the lot. For example: gable, gambrel, or hip.



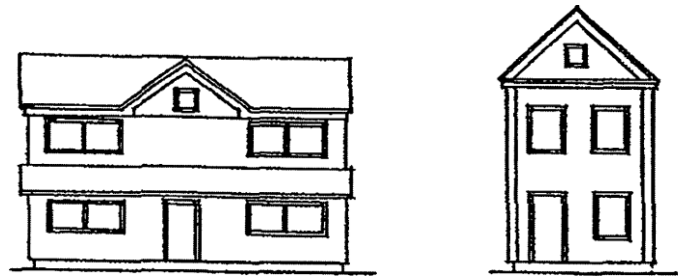
**2.6.9.9. Walls of Continuity:** Defined as the physical ingredients which form screens or enclosures around the project (such as brick walls, iron/wood fences, evergreen screens, berms, and hedges).



**2.6.9.10. Relationship of Landscaping:** Defined as the relationship of landscaping to the blending of the project with the environment within two hundred feet of the lot, or to the needs to buffer, screen, or soften a project from adjoiners or for site users.



**2.6.9.11. Directional Expression:** Defined as the directional expressions of the elevation's structural shape, or placement of details and openings of the front façade, which may have a vertical, horizontal, or a non-directional character.



## **2.6.10. Compliance**

The Commission shall develop a set of findings and required changes that will be forwarded to the applicant. Failure to receive a determination of appropriateness shall be a basis for denial of the application.

## **2.6.11. Modification**

Substantial changes to the proposal after formal approval must be reviewed by the Commission for approval. Insignificant changes that would not materially affect the applicant's compliance with any of the criteria may be approved by the Zoning Official with the concurrence of the Commission Chair.

## **2.7. Increases in Height**

### **2.7.1. Increase in Height of Buildings or Structures Above Maximum Height Limit**

No building or structure shall be erected, enlarged, reconstructed, or structurally altered to exceed the maximum height limit as established in these Regulations for the district in which the building or structure is located; except that the Commission may, by Special Permit, allow the following to project above the maximum height limit for that district: roof structures for the housing of elevators or stairs; skylights, towers, domes, church steeples, spires, belfries, cupolas, and similar ornamental architectural features; flagpoles, chimneys, smokestacks, and silos; television, radio or microwave towers. The Commission may also issue a Special Permit to allow a greater height for buildings that are used or to be used for municipal purposes. Notwithstanding the provisions of this Section, a chimney on a residential building may project no more than three feet above (into) the permitted height limit without the requirement for a Special Permit.

### ~~2.7.2. Increase in Height of Existing Building or Structure~~

~~No existing building or structure shall be increased in height except after review by the Commission. The Commission may deny a height increase if it determines that such increase is not consistent with the purposes set forth in these Regulations and in the Plan of Conservation and Development.~~

## **2.8. Off-Street Parking**

### **2.8.1. Statement of Purpose**

As found in the Plan of Conservation and Development, streets in Stonington Borough are generally narrow, residential densities are high, and off-street parking is very limited. The resulting traffic congestion is severe, and is most serious in the commercial districts during the summer months and weekends when on-street parking is most prevalent. Although little vacant land remains in the Borough, it is necessary that new commercial and residential development at least provide off-street parking and loading areas required for that use, and preferably some surplus to relieve existing off-street parking shortages. In addition, such parking areas should be designed so as to be safe for both vehicles and pedestrians, attractive, and usable by the widest possible number of uses.

## 2.8.2. General Requirements

Any new building or use established after the effective date of these Regulations shall provide off-street parking and loading in accordance with these Regulations. Any intensification of use or change of use shall require compliance with this Section except as provided in Section 2.8.5.12 below.

## 2.8.3. Parking and Loading Standards

**2.8.3.1. Parking Space:** Each and every parking space shall have a minimum width of nine feet and a minimum length of eighteen feet, and shall be indicated on the pavement by painted stripes or other readily visible demarcation. Said space shall be made accessible in non-residential uses by a maneuvering lane no less than twenty-two feet wide for two-way traffic movement, and no less than eleven feet wide for one-way traffic movement. Said space shall be made accessible in residential uses by a maneuvering lane no less than eleven feet wide.

**2.8.3.2. Pedestrian Walkways and Sidewalks:** All pedestrian walkways and sidewalks for commercial and multi-family uses shall be no less than five feet in width, and shall ~~be paved according to the recommendations in Section 9.6 of these Regulations.~~ have a surface in accordance with the requirements of Section 9.6.3.

**2.8.3.3. Driveways:** All parking and loading areas shall be accessible from a public street by a driveway having a minimum width of thirty feet for two-way traffic movements, and fifteen feet per lane for one-way traffic movements. Said driveways shall be clearly marked as to entrance and exit lanes, and no sign or other visible obstruction shall be established or maintained within a triangular area measured along the street line for ten feet in each direction from any driveway, and ten feet distance from the curb measured along said driveway.

**2.8.3.4. Loading Area:** Any loading area shall have a minimum width of ten feet, a maximum length of fifty feet, and a minimum vertical clearance of fifteen feet. No such loading area shall be counted in meeting the off-street parking requirements of this Section.

**2.8.3.5. Location:** All off-street parking and loading areas required by this Section shall be located on the same lot as the building or use for which they are required, and shall be located as conveniently as practical to said building or use, and shall be readily accessible thereto by the use of pedestrian walkways.

**2.8.3.6. Additional requirements** for industrial, commercial, and multi-family parking areas are as follows:

- a. Illumination shall be in accordance with the requirements of Section 9.
- b. Parking for the handicapped shall be in accordance with provisions the Connecticut General Statutes and the Basic Building Code of the State of Connecticut. Required handicapped spaces shall be considered part of the parking spaces required under Section 2.8.5 and not in addition thereto.
- c. Parking shall be suitably separated from the building served in such a way as to assure safe movement of pedestrian traffic to all major entrances of the building. A

walkway shall be provided adjacent to the building being served and shall be protected from vehicles by wheel stops or other suitable devices. In parking lots containing fifty spaces or more, parking is prohibited adjacent to the front of the building unless a minimum ten-foot wide landscaped area is provided in addition to the walkway. (See also 2.8.3.2 and 9.6.3.)

d. Fire lanes shall be provided as recommended by the Fire Marshal. No parking shall be permitted in those areas designated as fire lanes on any site plan approved under these Regulations or otherwise established by the Fire Marshal.

e. All off-street parking areas shall be surfaced and maintained with durable and dustless all-weather material, as may be approved by the Commission.

f. Parking areas shall be graded and drained to dispose of all surface water within the parking area, sufficient to satisfy requirements of MS4 General Permit and to trap any sediment or debris. No surface water from any off-street parking or loading area shall be permitted to drain onto any adjoining property or onto any public street without first obtaining an easement to drain.

g. Landscaping and screening of parking areas shall be provided in accordance with Section 3.2 and Section 9 of these Regulations.

#### **2.8.4. Continuance of Parking Obligation**

The requirements for provision of off-street parking and loading areas shall be the continuing obligation of the owner of the property upon which any structure or use is located for as long as any such structure or use is in existence and its requirement for off-street parking and loading continues. It shall be a violation of these Regulations for any owner of any structure, use, or real property to discontinue, obstruct, or in any way remove from full and free use any parking or loading spaces required by these Regulations.

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

The following off-street parking requirements are minimums, and the Commission may require additional parking spaces where the nature of the development, its location, and any unique features of the development or the surrounding area require such additional parking spaces. In determining the appropriate use category or categories to be applied, the decision of the Commission shall be final. In buildings or lots containing mixed uses, the Commission shall apply the appropriate standard to each such use, and shall aggregate the total parking spaces required. Whenever the term "floor area" is used, it shall refer to gross floor area. Where fractional spaces result from calculation of parking space requirements, the parking spaces required shall be the next highest whole number. The parking herein is in addition to space which is required for the storage of trucks or other vehicles used in connection with a business, commercial, or industrial use:

**2.8.5.1. Single and Two-Family Dwellings:** Two spaces for each dwelling unit; driveways may be included as required space.

**2.8.5.2. Multi-Family Dwellings:** One and one-half spaces for each dwelling unit.

**2.8.5.3. Tourist Homes:** One space for each guest unit, plus two spaces for the owner.

**2.8.5.4. Restaurants:** Class I Restaurants and Class II Restaurants: No requirement for parking.

**2.8.5.5. Industrial Uses:** One parking space for every two hundred fifty square feet of floor area, except warehousing uses shall have one parking space for every four hundred square feet of floor area.

**2.8.5.6. Retail Commercial Uses:** One space for every two hundred fifty square feet of floor area.

**2.8.5.7. Business, Professional or Medical Offices:** One space for every two hundred and fifty square feet of floor area.

**2.8.5.8. Marinas:** Five spaces for each marina, plus one additional space for each boat slip, off-shore mooring, or rental boat. Separate areas shall be designated for parking boat trailers, and for storage cradles, blocking, and similar materials. When a vessel licensed commercially to carry persons for hire is docked at the subject premises, one space shall be provided through the operating season for every three persons the vessel is licensed to carry.

**2.8.5.9. Commercial Fishing Docks:** Five spaces for each commercial fishing dock, plus one additional space for each berth.

**2.8.5.10. Customary Home Occupations, As Per Section 3.5:** Two spaces, in addition to spaces required for the dwelling or other requirements, unless determined by the Zoning Official that the home occupation will attract/generate no traffic other than that of the primary residence, in which case only the spaces serving the dwelling are required.

**2.8.5.11. Clubs, Places of Worship, Theatres, Places of Public Assembly:** One space for every four seats, or one space for every one hundred and twenty-five square feet of floor area if not served by permanent seating.

**2.8.5.12. Parking for Existing Uses and Structures:** As a result of historic development patterns, many existing uses do not conform to the parking requirements of this Section. Existing high-density development often prevents compliance with this Section without disturbing the historic character of existing structures. Within structures existing on August 1, 1976, the date of the original adoption of Zoning Regulations for the Borough of Stonington, any existing use may be changed to any other use permitted within the district, without satisfying the minimum parking requirements, provided that the new use does not result in a significant intensification of use. Intensification includes but is not limited to an increase in floor area, hours of operation, additional customer seating, or an increase in the number of dwelling units. New uses which result in an intensification will be evaluated for their impact on available parking within the immediate area.

**2.8.5.13. Inns:** One and one half spaces per room. One half space per non-registered guest for meeting/conference attendees.

## **2.8.6. Joint Use of Off-Street Parking Spaces**

Notwithstanding the provisions of Section 2.8.5 above, the Commission may, after site plan review as required in Section 9 of these Regulations, allow abutting landowners to utilize one parking area, provided that:

- a.** Said parking area shall contain the minimum number of parking spaces required by these Regulations for each use; and
- b.** Each property owner and applicant shall sign cross-easements which will run with the land, binding present and future owners to permit common use of said parking area and requiring said owners to apportion the costs of maintenance of said parking area.

## **2.8.7. Off-Street Loading Requirements**

Every commercial or industrial use, and every multi-family residential building shall have one off-street loading space for each five thousand square feet of floor area. The foregoing off-street loading requirement is a minimum, and the Commission may require additional loading spaces where the nature of the development, its location, and any unique features of development or the surrounding area require such additional loading space.

## **2.9. Non-Conforming Uses and Structures**

### **2.9.1. Non-Conforming Uses**

For purposes of these Regulations, a non-conforming use shall be defined as a use of any land or structure, which use does not comply with the current use restrictions of these Regulations, but which lawfully existed, whether by variance or otherwise, prior to the effective date of these Regulations, and which has been continuously maintained thereafter.

**2.9.1.1.** Nothing in these Regulations, including the provisions of this section, shall be interpreted as authorization for, or approval of, the continuation of any use of land, building or structure that was in violation of any Regulations when such use, building or structure was established.

**2.9.1.2.** No non-conforming use of land shall be enlarged, extended, or altered except in changing the use to one which is permitted in the district in which such use is located. No non-conforming use of an existing structure shall be extended to occupy land outside such structure or space in another structure.

- a.** The Commission may, by Special Permit, allow the expansion of a non-conforming use in new construction attached to an existing building or structure open to the public for the purposes of making the existing building or structure comply with public health and safety requirements, including but not limited to the Americans with Disabilities Act. Such new construction shall be the minimum required to comply with the applicable code or law as determined by the Commission. In no case shall such expansion involve the reduction of a dimensional setback requirement, or an increase in the allowable floor area or lot coverage without a variance from the Zoning Board of Appeals for such expansion.

**2.9.1.3.** No non-conforming use of land shall be moved to another part of a lot or outside the lot, and no non-conforming use of a structure shall be moved to any part of the structure not manifestly arranged and designed for such use at the time the use became non-conforming, and no structure containing a non-conforming use shall be moved, unless the result of such move is to end the non-conforming use.

- a. The Commission may, by Special Permit, allow a non-conforming use to be moved to another part of the lot, another structure or into a new structure on the lot for the purposes of complying with public health and safety requirements, including but not limited to the Americans with Disabilities Act. Such movement of the non-conforming use shall be the minimum required to comply with the applicable code or law as determined by the Commission. In no case shall such relocation involve the reduction of a dimensional setback requirement, or an increase in the allowable floor area or lot coverage without a variance from the Zoning Board of Appeals for such expansion.

**2.9.1.4.** No non-conforming use of land or of a structure shall be changed to a use which is substantially different in nature and purpose from the former non-conforming use, except such uses as are permitted in the district in which they are located.

**2.9.1.5.** When a non-conforming use has been changed to a conforming use, it shall not hereafter be changed to any use not permitted in the district in which such use is located.

**2.9.1.6.** Any non-conforming use which has been abandoned shall not thereafter be reestablished. Any structure or land, or structure and land, in combination, which has been abandoned, shall not again be devoted to any use other than those uses which are permitted in the district in which the structure or land is located. The term "abandonment," as used herein, shall mean the voluntary discontinuance of a use, when accompanied by an intent not to reestablish such use.

**2.9.1.7.** For purposes of these Regulations, failure to meet the required parking or loading requirements, failure to provide required buffer areas, and/or failure to provide adequate landscaping as required in these Regulations shall be deemed to constitute a non-conforming use. However, nothing in these Regulations shall prohibit a property owner from improving his property in such a way as to eliminate the non-conformity.

## **2.9.2. Non-Conforming Structures**

For purposes of these Regulations, a non-conforming structure shall be defined as a building or other structure which does not comply with the current restrictions of these Regulations as to size, dimensions, nature of construction, location of the structure on the land, or location of the structure in proximity to other buildings but which lawfully existed whether by variance or otherwise, prior to the effective date of these Regulations, and which has been continuously maintained thereafter.

**2.9.2.1** Any non-conforming structure lawfully existing at the time of the adoption of these Regulations may be continued to be used, as long as such use is either permitted within the district in which it is located, or is a legal, non-conforming use. Such structure may be renovated or substantially improved providing the following conditions are met:

- a. No new non-conformity or increased encroachment results.

b. No non-conforming use is established or expanded.

c. A Special Permit must be obtained in accordance with the provisions of Section 10, (a) unless the Commission finds that (i) the work consists solely of exterior renovations (which may, however, require approval under Section 2.6); or (ii) site plan approval is not required under Section 9.2.1, or (iii) the work consists solely of proposed renovations that are themselves conforming.

### **2.9.3. Restoration and Repair**

**2.9.3.1.** Nothing in these Regulations shall be deemed to prohibit the restoration of any non-conforming structure and its use where such structure has been destroyed by means out of control of the owner, provided the restoration of such a structure and its use in no way increases any former non-conformity, and provided further that restoration of such structure is begun within one year after the date of such destruction and all construction is diligently pursued to completion within two years following the date of such destruction.

**2.9.3.2.** In order to insure that structures containing non-conforming uses will be maintained in a safe and decent condition for so long as such non-conforming uses continue, nothing in these Regulations shall be deemed to prohibit the following:

a. Work to be done on ordinary repairs, or on repair or replacement of walls, ceilings, floors, fixtures, wiring, or plumbing, in the non-conforming structure or non-conforming portion of the structure, as the case may be, provided such work does not expand or increase the extent of non-conformity.

b. Any work required by the codes and ordinances of the Town of Stonington as ordered by any Town or Borough official charged with protecting the public health, safety, or welfare, if such work does not enlarge or extend a non-conforming use or otherwise increase any non-conformity.

### **2.9.4. Compatibility**

In order to assure that the restoration and repair is compatible with the immediate area, the following conditions shall be met:

**2.9.4.1. Character of the Immediate Area:** The proposed change will not weaken nearby permitted uses, endanger property values, strengthen other nearby non-conformities, or in any way result in conflict with the existing character of the immediate area.

**2.9.4.2. Adverse Effects:** The proposed change will not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the general neighborhood.

**2.9.4.3. Traffic Movement:** The proposed change will not impair the movement of through traffic along the adjoining thoroughfares through congestion and/or reduction of street capacities or through storage or backup of vehicles in public rights-of way while awaiting service on the subject site.

**2.9.4.4. Orderly Development:** The proposed change will not result in a fragmentation of the existing development pattern, thereby creating unnecessary additional points of vehicular conflict with the adjoining highway and adversely affecting the orderly development of the surrounding neighborhood.

**2.9.4.5. Property Values and Character:** The proposed change will not tend to depreciate property values or adversely affect the character and extent of development on adjoining properties.

**2.9.4.6. Parking and Loading:** The proposed change will provide adequate off-street parking and loading facilities, as determined by the Commission.

**2.9.4.7. Signs:** The proposed change will not result in any additional non-conforming signs.

**2.9.4.8. Additional Land:** The proposed change shall affect only that lot or parcel on which a non-conformity existed prior to the adoption of these Regulations, or any amendment thereto, which created such non-conformity.

**2.9.4.9. Increase in Number of Dwelling Units:** Except as provided in Sections 5.1.4, 5.2.4, 5.3.4, 5.4.4, and 5.5.4, under no circumstances shall any proposed change applied for under the provisions of this section be permitted which would increase the total number of dwelling units in any building.

**2.9.4.10. Buffering:** The proposed change shall not result in any loss of buffering between the subject non-conforming property and non-conforming adjacent uses. When the proposed change occurs on a lot adjacent to a residential use, a buffer strip consisting of dense foliage or a fence shall be constructed so as to screen commercial uses from adjacent residential uses.

## **2.10. Building on Substandard Lot**

Any lot which was separately described in the latest deed of record immediately prior to the effective date of these Regulations, or which was an approved lot shown on a subdivision map approved by the Commission and on file in the office of the Borough Clerk prior to said date, which does not meet the requirements of these Regulations as to lot area and/or frontage, may be utilized for any use permitted in the district in which such lot is located, provided that all other provisions and requirements of these Regulations are complied with as to such lot, and provided further that all applicable subdivision regulations, and health and building codes of the Borough or Town shall have been complied with as to such lot.

## **2.11. Division of Land**

No parcel of land existing on the effective date of these Regulations shall be divided, nor shall any easement be granted to any person if such division or easement would create a new lot, or alter the dimension of an existing lot in a manner that would violate the existing dimensional or use requirements of these Regulations. Similarly, no division shall be permitted which causes an already non-conforming lot or structure to become more non-conforming in any manner with the exception of subdivisions on unaccepted streets under Section 2.15 of these Regulations.

## **2.12. Restoration of Unsafe Buildings**

Nothing in these Regulations shall prevent the strengthening or restoring to a safe condition any part of any building declared unsafe by the Building Official or where required by lawful order.

## **2.13. Prohibited Uses**

Any use not specifically listed as permitted herein shall be prohibited. In addition, the following activities are expressly prohibited in the Borough of Stonington.

**2.13.1.** Any use which produces unreasonable noise, odor, vibrations, fumes, electrical interference, or other noxious effects deemed objectionable by the Commission, considering the purposes of these Regulations.

**2.13.2.** Manufacture of explosives, poison gasses, or substances, items of germ or biological warfare, the training of wild or vicious animals, and other inherently dangerous activities.

**2.13.3.** Industrial waste disposal or processing, junkyard, dump, or refuse disposal use, other than disposal facilities owned and operated by the Borough or Town of Stonington.

**2.13.4.** Commercial distillation of bones, rendering, reduction, or refining of fat or other animal matter.

**2.13.5.** The use of mobile homes or camper units for any residential purposes, whether permanent or temporary. Mobile (manufactured) homes are not allowed for any use within areas of Special Flood Hazard.

**2.13.6.** The use of any boat, barge, or other vessel for residential purposes for a period exceeding a continuous period of two weeks, or totaling more than two months during any calendar year.

**2.13.7.** A principal use consisting of a massage parlor, not including therapeutic massage accessory to a bona fide health or fitness club, or the office of a trained, licensed professional massage therapist.

**2.13.8.** A principal use consisting of coin-operated amusements.

## **2.14. Limitation on Number of Principal Uses**

In all residential districts, only one principal structure or use shall be placed on a lot. In non-residential districts, the Commission may approve a plan for more than one principal structure or use on a lot if the Commission finds that such structures or uses comply with all other requirements of these Regulations and are compatible with each other and with uses and structures existing or reasonably anticipated on adjoining lots.

## ARTICLE 3. SPECIAL PROVISIONS

### 3.1. Waterfront Vista Protection from Public Ways

#### 3.1.1. Statement of Purpose

The Planning and Zoning Commission has found that the loss of aquatic vistas, blocked by buildings and structures which obstruct views ~~of the sea, or vistas of Stonington Harbor, Long Island Sound, or Little Narragansett Bay~~ destroys the ~~very character~~ unique nature of the Borough as a seaside community. In keeping with the goals of the Plan of Conservation and Development, the Borough wishes to protect and enhance the remaining vistas ~~of the sea of the above-named waters~~, especially at the ends of east-west streets. This Vista Protection regulation is intended to preserve and protect vistas from public ways, defined here as public streets and other publicly owned and maintained spaces open to the public as of right and does not apply to views and vistas from private property.

#### 3.1.2. Views and Scenic Vistas

**3.1.2.1.** Buildings and structures shall be located in such a way as to provide the maximum views of the water from the nearest public street, and minimally, one straight-line uninterrupted, rectangular view lane per property shall be preserved which width is not less than the required side yard width for the district in which the property is located. A view lane may also be designated as a side yard and thus serve a dual purpose.

**3.1.2.2.** At the end of east-west streets, a straight~~-~~line uninterrupted view lane to the water shall be preserved which width is at least seventy-five percent (75%) of the existing street right-of-way.

**3.1.2.3.** There shall be no building or other permanent obstruction in said view lanes. No obstruction by fences, shrubbery, or trees or other landscape features higher than four (4) feet shall be placed in said view lane between the sea and the nearest public street. All major shade trees must have their lowest branches at least six (6) feet above the ground at time of installation. Any fences so placed within said view lanes shall be "see through". Protective fences or railings which are part of a public pedestrian walkway may be built to a height not to exceed four (4) feet. Existing trees and shrubs within view lanes may be maintained and replaced in their present position pursuant to the requirements of this Section.

#### ~~3.1.3. Setbacks from Mean High Tide~~

~~No building or structure shall extend closer than forty feet from the mean high water line, except for direct water related structures as defined by the Connecticut Coastal Management Act, such as, but not limited to docks, marine railways, marine cranes, launching ramps and other marine accessories, except that off-street parking spaces shall be set back at least ten feet from the mean high water line.~~

### 3.2. Landscape Requirements

#### 3.2.1. Statement of Purpose

The following standards are intended to enhance the appearance of the Borough and to protect property values through the preservation of existing vegetation and planting of new

screening and landscaping material. Specifically, these standards are intended to reduce excessive heat, glare and accumulation of dust; to provide privacy from noise and visual intrusion; and to prevent the erosion of the soil, excessive runoff of drainage water, and the pollution of our water bodies.

### **3.2.2. General Requirements for Site Plan Approval**

The following shall apply to all commercial, industrial, or multi-family uses for which a site plan is required:

**3.2.2.1.** Any portion of a developed lot or property which is not used for location of buildings, structures, accessory uses, off-street parking and loading areas, sidewalks or similar purposes shall be landscaped and maintained in such a manner as to minimize storm water runoff, sedimentation and erosion. Maintenance of land in its natural state may be considered to be in conformance with this requirement.

**3.2.2.2.** Landscaping, trees and plants required by these Regulations shall be planted and maintained in a healthy growing condition according to accepted horticultural practices. Any landscaping, trees and plants which are in a condition that does not fulfill the intent of these Regulations shall be replaced by the property owner during the next planting season for the particular plant material.

**3.2.2.3.** A screening fence or wall required by these Regulations shall be maintained by the property owner in good condition throughout the period of the use of the lot.

**3.2.2.4.** All landscaping, trees and planting material adjacent to parking areas, loading areas, or driveways shall be properly protected by barriers, curbs, or other means from damage by vehicles.

**3.2.2.5.** To the maximum extent possible, existing trees, vegetation and unique site features shall be retained and protected. Existing healthy mature plant materials, especially trees, if properly located, shall be fully credited against the requirements of these Regulations.

**3.2.2.6.** For all new landscaping, an ample variety and quantity of ornamental plants should be provided. Local soil, water and climatic conditions should be considered when choosing landscape materials to create optimum conditions for survival of plantings, and to ensure that plantings will survive with a minimum amount of maintenance.

**3.2.2.7.** Landscaping should serve to integrate the proposed development to the site. If the terrain is uneven, the Commission will consider and may approve parking areas at different levels. Preservation of existing landscape materials and landforms is desirable.

**3.2.2.8.** Landscape composition should be complimentary to the scale and style of existing and proposed buildings.

**3.2.2.9.** Plant species that are a public nuisance or invasive species or cause litter shall be avoided. When landscaping is to be installed in areas where the general public will frequent, trees and bushes with sharp needles or thorns shall be avoided.

**3.2.2.10.** All materials installed in conformance with the landscaping requirements of these Regulations shall meet the following minimum standards: all deciduous trees shall

have a minimum caliper of two and one half inches and a minimum height of six (6) feet; all evergreen trees shall have a minimum height of six feet; and all shrubs shall be of a size at least one-third of their mature potential.

### **3.2.3. Front Landscaped Area**

For all commercial, industrial, or multi-family uses where a site plan is required, where appropriate the Commission may require a front landscaped area. Reuse of an existing structure located less than ten feet from the front lot line is exempt from this requirement. The front landscaped area shall extend the full width of the lot along the interior side of the front lot line, except where driveway exits and entrances are located. The width of the front landscaped area shall be no less than ten (10) feet. The front landscaped area shall be covered with grass or other ground cover, and shall include appropriate trees and shrubs. The purpose of the front landscaped area is to enhance the appearance of the use of the site, but not to screen the use from view.

### **3.2.4. Landscaped Perimeter Area**

For all commercial, industrial, or multi-family uses for which a site plan is required, a ten(10)-foot wide landscaped perimeter area shall be provided along all lot lines other than the front lot line. New single and two-family dwellings, reuse of existing buildings and structures which are located less than ten (10) feet from a property line, and the waterfront side of a waterfront site are exempt from this requirement. The landscaped perimeter area shall be covered with grass or other ground cover, and shall include appropriate trees and shrubs. Where screening is required by the Commission as part of a site plan, the landscaped perimeter area may be planted as a screen.

### **3.2.5. Landscaped Parking Areas**

In addition to landscaped front and perimeter area requirements, parking areas shall comply with the following minimum standards:

**3.2.5.1.** All uses required to provide twenty (20) or more off-street parking spaces shall have at least ten (10) square feet of interior landscaping within the paved portion of the parking area for each parking space. Islands shall be required to indicate and assure safe and efficient channelization of both pedestrian and vehicular traffic and to separate the major access ways through the parking area from parking aisles. Each separate landscaped area shall contain a minimum of one hundred (100) square feet, shall have a minimum dimension of at least eight (8) feet, and shall be planted with grass, shrubs, or trees. Interior landscaping should be positioned so as to enhance the visual qualities of the site and to visually break up large expanses of pavement.

**3.2.5.2.** A landscaped area shall be provided along the perimeter of any parking area except where the parking area is functionally integrated with an adjoining parking area on an abutting lot. The landscaped areas shall have a minimum dimension of five (5) feet, shall be planted with grass or shrubs, and shall include at least one (1) deciduous tree for every fifty feet (50) along the perimeter of the parking area. Where appropriately located, the required front landscaped areas and landscaped perimeter areas of the lot may be used to satisfy this requirement.

### 3.2.6. Submission of a Landscape Plan

As part of, or in conjunction with, a required site plan, a landscape plan shall be submitted meeting the informational requirements of Section 9.5.4, and demonstrating that a proposed development is substantially in conformance with the requirements of Section 3.2 and Section 9.6.4 of these Regulations.

#### ~~3.2.7. Waiver of Landscape Requirements~~

~~The Commission may allow the reduction or elimination of a required landscaped area if the Commission finds a better site plan will result.~~

### 3.3. ENVIRONMENTAL PROTECTION

**Note: This section has been relocated to Article 4**

#### ~~3.3.1. Coastal Area Management~~

##### ~~3.3.1.1. Coastal Site Plan Review Required~~

~~All construction, modification, or change in use of buildings, facilities, and property within the coastal boundary shall be subject to the coastal site plan review requirements of Section 22a-105 through 22a-109 of the Connecticut General Statutes, with the exception of those listed in Section 3.3.1.2 below. All property in the Borough of Stonington is within the coastal boundary as defined in the Connecticut General Statutes.~~

##### ~~3.3.1.2. Coastal Site Plan Review Exemptions~~

~~Pursuant to Section 22a-109(b) of the Connecticut General Statutes, the following activities are exempt from coastal site plan review requirements:~~

- ~~a. Gardening, grazing, and the harvesting of crops.~~
- ~~b. Minor additions to or modifications of existing principal buildings or accessory buildings.~~
- ~~c. Construction of new or modification of existing structures incidental to the enjoyment and maintenance of residential property, including but not limited to, walks, terraces, driveways, swimming pools, tennis courts, docks, and detached accessory buildings.~~
- ~~d. Construction of new or modifications of existing on-premises structures including fences, walls, pedestrian walks and terraces, underground utility connections, essential electric, gas, telephone, water and sewer service lines, signs, and such other minor structures as will not substantially alter the natural character of coastal resources as defined by Section 22a-93(7) of the Connecticut General Statutes, or restrict access along the public beach.~~
- ~~e. Construction of a new or modification of an existing single family dwelling, except in or within one hundred feet of the following coastal resource areas, as defined by~~

~~Section 22a-93(7) of the Connecticut General Statutes: tidal wetlands, coastal bluffs and escarpments, beaches and dunes.~~

~~f. Activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife, and other coastal land and water resources.~~

~~g. Interior modifications to buildings.~~

~~h. Minor changes in use of buildings, structures, of property, except those changes occurring on property adjacent to or abutting coastal waters.~~

### ~~3.3.1.3. Application of Exemptions~~

~~The foregoing exemptions from coastal site plan review requirements shall apply to the following site plans, plans, and applications:~~

~~a. Site plans submitted to the Commission in accordance with Section 22a-109 of the Connecticut General Statutes.~~

~~b. Applications for a Special Permit submitted to the Commission in accordance with Section 8-2 of the Connecticut General Statutes.~~

~~c. Applications for a variance submitted to the Zoning Board of Appeals in accordance with Subdivision (3) of Section 8-6 of the Connecticut General Statutes.~~

~~d. A referral of a proposed municipal project in accordance with Section 8-24 of the Connecticut General Statutes.~~

### ~~3.3.1.4. Application Requirements~~

~~The coastal site plan shall include a plan showing the location and spatial relationship of coastal resources on and contiguous to the site; a description of the entire project with appropriate plans indicating project location, design, timing, and methods of construction; an assessment of the suitability of the project for the proposed site; an evaluation of the potential beneficial and adverse impacts of the project and a description of proposed methods to mitigate adverse impacts on coastal resources; and a demonstration that the adverse impacts of the proposed activity are acceptable and that the proposed activity is consistent with the goals and policies of Section 22a-92 of the Connecticut General Statutes.~~

### ~~3.3.1.5. Findings Required for Commission Approval of a Coastal Site Plan~~

~~Before approving a coastal site plan, the Commission must find that the proposed activity, with any conditions or modifications imposed by the Commission is consistent with all applicable goals and policies of Section 22a-92 of the Connecticut General Statutes; and that the plan incorporates as conditions or modifications all reasonable measures which would mitigate the adverse impacts of the proposed activity on both coastal resources and future water dependent development activities.~~

### ~~3.3.1.6. Public Hearing~~

~~The Commission shall hold a public hearing on a coastal site plan if not otherwise required by these Regulations.~~

~~3.3.1.7. Should the Commission fail to render a decision on a coastal site plan within the required time period, the coastal site plan shall be deemed rejected in accordance with Section 22a-105f of the Connecticut Coastal Management Act.~~

### ~~3.3.2. Flood Protection~~

~~**Warning and Disclaimer of Liability.** THE DEGREE OF FLOOD PROTECTION REQUIRED BY THESE REGULATIONS IS CONSIDERED THE MINIMUM REASONABLE FOR REGULATORY PURPOSES AND IS BASED ON SCIENTIFIC AND ENGINEERING CONSIDERATIONS. FLOODS OF GREATER MAGNITUDE CAN AND WILL OCCUR ON RARE OCCASIONS. FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THESE REGULATIONS DO NOT IMPLY THAT LAND OUTSIDE THE SPECIAL FLOOD HAZARD AREAS OR USES PERMITTED WITHIN SUCH AREAS WILL BE FREE FROM FLOODING OR FLOOD DAMAGES. THESE REGULATIONS SHALL NOT CREATE LIABILITY ON THE PART OF THE BOROUGH OF STONINGTON OR ANY OFFICER OR EMPLOYEE THEREOF FOR ANY FLOOD DAMAGES THAT RESULT FROM RELIANCE ON THESE REGULATIONS OR ANY ADMINISTRATIVE DECISION LAWFULLY MADE THEREUNDER.~~

#### ~~**ABROGATION AND GREATER RESTRICTION.**~~

~~THIS REGULATION IS NOT INTENDED TO REPEAL, ABROGATE OR IMPAIR ANY EXISTING EASEMENTS, COVENANTS, OR DEED RESTRICTIONS. HOWEVER, WHERE THIS REGULATION AND ANOTHER ORDINANCE, REGULATION, EASEMENT, COVENANT OR DEED RESTRICTION CONFLICT OR OVERLAP, WHICHEVER IMPOSES THE MORE STRINGENT RESTRICTIONS SHALL PREVAIL.~~

#### ~~3.3.2.1. Purpose of Special Requirements~~

~~Flood hazard areas, as designated on the Federal Flood Insurance Rate Map for the Borough of Stonington, are subject to periodic inundation which may result in loss of life and property, or in health and safety hazards. These special regulations are designed to prevent or minimize loss of life, injuries, property damage, and other losses, both private and public; to promote the health, public safety and general welfare of the people; to help control and minimize the extent of floods, and reduce the depth and violence of flooding.~~

~~3.3.2.2. For purposes of this section the following terms are defined herein:~~

- ~~a. **Area of Special Flood Hazard:** The area within a community subject to a one percent or greater chance of flooding in any given year. Areas of Special Flood Hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, AE, and the Coastal High Hazard Areas shown as Zones V and VE on a FIRM. The Area of Special Flood Hazard is also called the Special Flood Hazard Area (SFHA). These areas are identified on the community's current FIRM, as may be amended from time to time.~~

- ~~b. **Base Flood Elevation (BFE):** The elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.~~
- ~~c. **Breakaway Walls:** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.~~
- ~~d. **Coastal AE Zone** — The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet during the base flood and seaward of the line labeled the “Limit of Moderate Wave Action” (LiMWA) on a Flood Insurance Rate Map (FIRM).~~
- ~~e. **Coastal Boundary** — A continuous line delineated on the landward side by the interior contour elevation of the one hundred year frequency coastal flood zone, as defined and determined by the National Flood Insurance Act as amended, or a one thousand foot linear setback measured from the mean high water mark in coastal waters, or a one thousand foot linear setback measured from the inland boundary of tidal wetlands, *whichever is farthest inland.* (CGS 22a-94) The entire Borough of Stonington lies within the coastal boundary.~~
- ~~f. **Coastal High Hazard Area:** An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are designated as Zones VE and Coastal AE on a Flood Insurance Rate Map (FIRM).~~
- ~~g. **Cost:** As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor’s estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials; building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor’s overhead; contractor’s profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.~~
- ~~h. **Federal Emergency Management Agency (FEMA):** The federal agency that administers the National Flood Insurance Program (NFIP).~~
- ~~i. **Finished Living Space:** As related to fully enclosed areas below the base flood elevation (BFE), a space that is, but is not limited to, heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace.~~

- ~~j. **Flood Insurance Rate Map (FIRM):** An official map of Stonington Borough on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the applicable risk premium zones.~~
- ~~k. **Flood Insurance Study (FIS):** The official report by FEMA which contains flood profiles, the water surface elevation of the base flood, and other flood data.~~
- ~~l. **Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1.0) foot. For the purposes of these regulations, the term "Regulatory Floodway" is synonymous in meaning with the term "Floodway".~~
- ~~m. **Functionally Dependent Use or Facility:** A facility or use which cannot be used for its intended purpose unless it is located in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long term storage, manufacturing, sales or service facilities.~~
- ~~n. **High Tide Lines:** A line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of land with the water's surface at the maximum height reached by a rising tide. The mark may be determined by: (1) a line of oil or scum along shore objects; (2) a more or less contiguous deposit of fine shell or debris on the foreshore or berm; (3) physical markings or characteristics, vegetation lines, tidal gauge; or (4) by any other suitable means delineating the general height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency, but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.~~
- ~~o. **Historic Structure:** Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.~~
- ~~p. **Limit of Moderate Wave Action (LiMWA)**—The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are seaward of the line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM).~~

- ~~q. **Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such an area fully meets the requirements of Section 3.3 of these Regulations.~~
- ~~r. **Manufactured Home:** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.~~
- ~~s. **Market Value:** As related to substantial improvement and substantial damage, the value of the structure as determined by the appraised value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.~~
- ~~t. **Mean Sea Level:** For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.~~
- ~~u. **New Construction:** Structures for which the start of construction commenced on or after September 1, 1979; includes any subsequent improvements to such structures.~~
- ~~v. **Recreational Vehicle:** A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.~~
- ~~w. **Sand Dunes:** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.~~
- ~~x. **Start of Construction:** (For other than new construction or substantial improvements under the Coastal Barrier Resources Act [P.L. 97-347]). Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty days of the permit date. Should the permittee fail to commence work within this time frame, a new permit shall be required. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stages of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as~~

~~dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or any other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

~~**y. Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. “Substantial Damage” also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.~~

~~**z. Substantial Improvements:** Any combination of repairs, reconstruction, alteration or improvements to a building or structure taking place over a one-year period in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual work performed. Applicants for projects in the Special Flood Hazard Area shall submit to the Zoning Official a form which tabulates all the estimated cost components of the project. The market value of the structure shall be: (1) the appraised value of the structure prior to the “start of construction” of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. Absent other evidence, the Town of Stonington appraisal of the structure or building will establish fair market value. However, the landowner or any other person having a legal interest in the property may submit an appraisal or other information to the Commission if such person claims that the fair market value is different than the Town’s appraisal. If provided with such evidence, the Commission shall determine the fair market value based upon its evaluation of the evidence. For the purposes of this definition, “Substantial Improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.~~

~~**aa. Violation:** A failure of a structure or other development to be fully compliant with the community’s floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.~~

~~**bb. Water Surface Elevation:** The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.~~

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### ~~3.3.2.3. Identification of Flood Hazard Areas and Flooding Elevation~~

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~~Flood hazard areas (areas of special flood hazard) and flood elevations shall be those identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for New London County, Connecticut, dated August 5, 2013, and accompanying Flood Insurance Rate Maps (FIRM), dated August 5, 2013, and other supporting data applicable to the Borough of Stonington, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The area of special flood hazard includes any area shown on the FIRM as Zones A, AE, and VE, including areas designated as a floodway on a FIRM. Zone VE is also identified as a Coastal High Hazard Area. Areas of special flood hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on a Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. The FIS and FIRM are on file in the office of the Borough Clerk.~~

~~**3.3.2.4. Zoning Permit Required**~~

~~Before any construction, substantial improvement or development is begun within designated flood hazard areas, a Certificate of Zoning Compliance shall be obtained from the Commission or its designated agent in order to determine whether such activity is consistent with the need to minimize flood damage within the flood prone area and to determine whether the proposed development and building sites will be reasonably safe from flooding. Special consideration shall be given to the placement of public utilities and the provision of adequate drainage to reduce exposure to flood hazards.~~

~~**3.3.2.5. Additional Information Required**~~

~~In addition to information required by other provisions of the Zoning Regulations, applicants for activities within flood hazard areas shall provide the following:~~

- ~~a. In A, AE Coastal AE, and VE zones, a FEMA Elevation Certificate (EC, current edition) prepared by a licensed engineer, architect or surveyor must be submitted indicating the elevation (in relation to mean sea level) of the lowest floor (including basement) and the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor of all new and substantially improved structures; and for floodproofed non-residential buildings the elevation to which the building is floodproofed. The Borough Zoning Official will check the EC for accuracy and completeness. The EC will be returned to the applicant for corrections if errors are found, and the application will not be heard until the EC is correct. Upon completion of construction, and prior to obtaining a CO, the final elevation certificate shall be submitted to and retained by the Town Building Official's Office. A copy of the final EC will be submitted to the Borough Zoning Official. This information will be maintained on file with the permit application.~~
- ~~b. Identity of the flood hazard zone and base flood elevation from the Flood Insurance Rate Map. In Coastal AE and VE zones, a completed V Zone Design Certificate must be submitted with the Zoning Application.~~

- ~~c. Any other such data as the Commission may require in order to determine compliance with the Flood Hazard Area Requirements. At a minimum, such data includes a detailed compilation of estimated project costs on a form prescribed by the Zoning Official.~~
- ~~d. Permits from those government agencies from which approval is required by federal or state law, if applicable.~~
- ~~e. The Commission shall require base flood elevation (BFE) data be provided with any application for new construction, substantial improvement or other development in Zone A without a FEMA published BFE (un-numbered A Zone). When base flood elevation data or floodway data have not been provided, the Commission shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed for subdivision proposals, in order to administer the provisions of this regulation.~~
- ~~f. If a portion of a watercourse is altered or relocated, evidence that the flood carrying capacity is not diminished and maintenance is provided. The Commission shall notify the adjacent communities and the Department of Environmental Protection (DEP), Inland Water Resources Division, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.~~

### **3.3.2.6. Construction Requirements**

- ~~a. All new construction, including prefabricated buildings and manufactured homes, within A, AE, Coastal AE or VE zones shall be anchored to prevent flotation, collapse and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with flood resistant materials and methods that minimize flood damage.~~
- ~~b. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities located so as to prevent water from entering or accumulating within the components during conditions of flooding.~~
- ~~c. All new construction or substantial improvements of residential structures within A and AE zones shall have the lowest floor, including basement, elevated to Base Flood Elevation (BFE) plus 1 (one) foot minimum. In A and AE zones, all new non-residential construction and substantial improvement to non-residential construction shall have the lowest floor, including basement, elevated or flood proofed to or above the base flood elevation. Where flood proofing is used in lieu of elevating, non-residential structures may be dry flood proofed to or above the base flood elevation provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and provided that such structures are composed of structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. The applicant shall present a structural design specification and plan for construction certified by a professional engineer or architect registered in the State of Connecticut showing flood proofing methods are adequate to withstand the~~

~~forces associated with the base flood and are in accordance with acceptable standards of practice for meeting the provisions of this section.~~

- ~~d. All new construction and substantial improvements in VE or Coastal AE zones shall have the lowest floor elevated to Base Flood Elevation (BFE) plus 1 (one) foot minimum, with all space below the lowest horizontal supporting member open and free of obstruction so as not to impede the flow of water. Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated to or above the BFE and cannot be located below the structure. Any service equipment that must be located below the BFE must be floodproofed to prevent water from entering during conditions of flooding. All new construction and substantial improvements shall be securely anchored on pilings or columns. All pilings and columns and the attached structures shall be anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. The anchoring and support system shall be designed with wind and water loading values required by applicable State or local building codes. A registered professional engineer or architect shall develop structural specifications and plans for the construction and shall certify that the design, specifications and plans for construction are in accordance with acceptable standards and are in compliance with the provisions contained in this section. Non-supporting breakaway walls, lattice work or mesh screening shall be allowed below the base flood elevation provided it is not part of the structural support of the structure and is designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the structure on which it is to be used and provided the following design specifications are met: (1) Design safe loading resistance of each wall shall not be less than ten (10) pounds per square foot or more than twenty (20) pounds per square foot; or (2) If more than twenty (20) pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components prior to or during the collapse of such wall. Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by applicable state or local building standards. If breakaway walls, lattice work or screening are utilized, the resulting enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.~~
  
- ~~e. All construction in a V zone shall be landward of the reach of the Connecticut Coastal Jurisdiction Line as defined in CGS 22a-359 as amended by Public Act 12-101.~~
  
- ~~f. Fill shall not be used for structural support of buildings or structures in a VE zone. There shall be no alteration of sand dunes that would increase potential flood damage.~~
  
- ~~g. Recreational vehicles placed on sites within zones A, AE, Coastal AE and VE shall either be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use, or meet the construction, elevation and~~

~~anchoring requirements of section 3.3.2.6 for the applicable flood zone in which the recreational vehicle is located. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.~~

- ~~h. Within all A, AE, Coastal AE and VE zones, all new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. All new and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges.~~
- ~~i. New construction or substantial improvement of residential and non-residential structures in zone A or AE that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall have at least one side at or above surface grade and shall be designed to allow for the automatic entry and exit of flood waters to equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a registered professional engineer or architect or meet the following minimal criteria: (1) provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; (2) the bottom of all openings shall be no higher than one foot above grade and at least one placed on the side of the lowest grade; and (3) openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic flow of flood waters in both directions. Electrical, plumbing, and other utilities are prohibited below the base flood elevation. Use of the enclosed area shall be limited to parking, building access and limited storage, and shall preclude finished living space.~~
- ~~j. Within Zones A and AE, any manufactured home to be newly placed or undergoing a substantial improvement shall be elevated so that the lowest floor is at Base Flood Elevation (BFE) plus 1 (one ) foot minimum. The manufactured home must also meet all the construction standards for Zones A and AE as per Section 3.3.2.6. Within Zone VE and Coastal AE, any manufactured home to be newly placed or undergoing a substantial improvement shall be elevated so that the lowest floor is at Base Flood Elevation (BFE) plus 1 (one) foot. The manufactured home must also meet all the construction standards for Zone VE and Coastal AE as per Section 3.3.2.6. All manufactured homes in Zones A, AE, Coastal AE, and VE shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement and hydrostatic pressures. Anchoring may include, but not be limited to, the use of over the top or frame ties to ground anchors. All manufactured homes shall be installed using methods and practices that minimize flood damage. Adequate access and drainage should be provided. Elevation construction standards include piling foundations placed no more than ten (10) feet apart, and reinforcement is provided for piers more than six (6) feet above ground level. These standards apply to a manufactured home located outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing manufactured home park in which a manufactured home has incurred substantial damage as a result of a flood.~~

- ~~k. Floodways. Located within Areas of Special Flood Hazard Areas are areas designated as floodways on the community's Flood Insurance Rate Maps (FIRM). Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, no encroachments, including fill, new construction, substantial improvements, repairs to substantially damaged structures and other developments shall be permitted unless certification, with supporting technical data, by a Connecticut registered professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that encroachments shall not result in any (0.00 foot) increase in flood levels during occurrence of the base flood discharge published by FEMA. Fences in the floodway must be aligned with the flow and be of an open design. When base flood elevations have been determined within Zone AE on the community's FIRM but a regulatory floodway has not been designated, the Commission must require that no new construction or substantial improvements or other development, including fill, shall be permitted which will increase the water surface elevation of the base flood more than one (1.0) foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development. The Commission may request floodway data of an applicant for watercourses without FEMA published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the municipality's request or not), the community shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1.0) foot at any point within the community.~~
- ~~l. Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 foot) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.~~
- ~~m. Compensatory Storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.~~

~~n. Design Standards for Subdivision Proposals. If a proposed subdivision, including the placement of a manufactured home park or subdivision, is located in a Special Flood Hazard Area (SFHA) the following requirements shall apply:~~

~~All subdivision proposals shall be consistent with the need to minimize flood damage;~~

~~All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;~~

~~All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and~~

~~The Commission shall require the applicant to provide base flood elevation data for all subdivision proposals, including manufactured home parks and subdivisions. In all special flood hazard areas where base flood elevation data is not available, the applicant shall provide a hydrologic and hydraulic engineering analysis performed by a registered professional engineer that generates base flood elevations for all subdivision proposals and other proposed development, including manufactured home parks and subdivisions.~~

~~3.3.2.7. The Zoning Board of Appeals shall review and decide all requests for variances and waivers from the requirements in these flood plain regulations (applicable to Section 3.3.2 only) including Specific Situation Variances:~~

~~**a. Buildings on an Historic Register**~~

~~Variances may be issued, pursuant to Federal Regulations 44 CFR 60.6(A), for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places: “upon a determination that (i) the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.” The consideration of such variances shall be guided by the Borough’s dual objectives of preserving historic structures and enhancing coastal resiliency.~~

~~**b. Pre-Existing Small Lot Location**~~

~~Variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level in conformance with Section 3.3.2.6.~~

~~**c. Functional Dependent Uses**~~

~~Variances may be issued for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use provided the structure or other development is protected by methods that minimize flood damage, create no additional threat to public safety, and meet the requirements of Section 3.3.2.6.~~

~~**3.3.2.8. Considerations for Granting of Variances**~~

~~— In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of these Regulations and:~~

- ~~a. The danger that materials may be swept onto other lands to the injury of others.~~
- ~~b. The danger to life and property due to flooding or erosion damage.~~
- ~~c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.~~
- ~~d. The importance of the services provided by the proposed use.~~
- ~~e. The necessity of the facility to waterfront location in the case of a functionally dependent facility.~~
- ~~f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.~~
- ~~g. The compatibility of the proposed use with existing and anticipated development.~~
- ~~h. The relationship of the proposed use in the plan of development and flood plain management for that area.~~
- ~~i. The safety of access to the property in times of flood for ordinary and emergency vehicles.~~
- ~~j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.~~
- ~~k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewers, gas, electrical and water systems, and streets and bridges.~~

~~— 3.3.2.9. Upon consideration of the factors listed and the purposes of these Regulations, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of these Regulations.~~

~~— 3.3.2.10. **Conditions for Variances** — Variances shall only be issued upon: (1) a showing of good and sufficient cause, (2) a determination that a failure to grant the variance would result in exceptional hardship, and (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, fraud on or victimization of the public, or conflict with existing local laws and ordinances. Variances shall not be issued if any increase in flood levels during the base flood discharge would result. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief and, in the instance of an historic building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.~~

~~— 3.3.2.11. The Borough of Stonington shall provide written notice to any applicant to whom a variance is granted, specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood~~

~~insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as \$25.00 for \$100.00 of insurance coverage. The Zoning Official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) in its biennial report.~~

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### ~~3.3.3. Erosion and Sediment Control Plan~~

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~~In accordance with Section 22a-325 to 22a-329 inclusive of the Connecticut General Statutes, a soil erosion and sediment control plan shall be submitted with any application for development when the disturbed area of such development is cumulatively more than one half acre. Disturbed area is defined as an area where ground cover is destroyed or removed leaving the land subject to accelerated erosion. The soil and erosion control plan shall be mapped and in narrative form, and contain proper measures to be taken to control erosion and sedimentation both during and after construction. The erosion and sediment control plan shall be based on the "Connecticut Guidelines for Soil Erosion and Sediment Control", available from the Council on Soil and Water Conservation of the State of Connecticut.~~

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#### ~~3.3.3.1. Contents of the Plan~~

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~~The erosion and sediment control plan, at a scale of not less than one inch equals twenty feet (1"=20'), shall include the following:~~

- ~~a. Locations and description of proposed development and adjacent properties.~~
- ~~b. Locations of areas to be stripped of vegetation, areas to be re-graded, and contour data indicating existing and proposed grades, and existing wetlands and watercourses.~~
- ~~c. A schedule of operations, including the sequence of major improvement phases such as clearing, grading, paving, installation of drainage features, utilities and the like.~~
- ~~d. Seeding, sodding or re-vegetation plan and specifications for all unprotected or un-vegetated areas.~~
- ~~e. Location, design and timing of sedimentation and erosion control measures such as diversion, waterways, grade stabilization structures, debris basin, storm water management control measures, and the like. The narrative shall indicate design criteria used in the design of the control measures.~~
- ~~f. A description of procedures to be followed to maintain sediment control measures during and after construction.~~
- ~~g. Identity of the developer's representative responsible for monitoring control measures during construction.~~
- ~~h. The plan map shall show the words "Erosion and Sediment Plan" with space for the date and signature of the Commission Chairman or Secretary.~~

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#### ~~3.3.3.2. Commission Vote Required~~

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~~After review of the plan by the Commission or its designated agent, the Commission shall vote to certify, to modify and certify, or deny that the soil erosion and sediment control plan complies with these Regulations. A vote of the Commission to approve a zoning application or Special Permit shall imply approval of the erosion and sediment control plan as well.~~

~~3.3.3.3. Inspection During Construction~~

~~The Commission, through its members, agents, and consultants, shall periodically inspect construction projects for which erosion and sediment control plans have been approved to verify that erosion and sediment controls are consistent with the approved plan.~~

~~3.3.4. Building Grades~~

~~Any building requiring yard space under these Regulations shall be located at such elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building.~~

~~3.3.5. Excavation and Filling of Earth Products~~

~~3.3.5.1. Purpose~~

~~The Commission finds that the Borough of Stonington is characterized by the following conditions: high residential density; a unique number of historic, landmark buildings and sites; generally small lot and parcel sizes; narrow streets and poor access to the Borough; all property is within the coastal boundary; the presence of numerous tidal and inland wetlands, generally shallow soils, and shallow depth to bedrock in most areas; proximity to valuable commercial shellfish beds; and other conditions enumerated in the Plan of Conservation and Development. Therefore, the conduct of excavation and filling operations within the Borough must be severely limited in scope, intensity, and frequency.~~

~~3.3.5.2. Prohibited Excavation and Filling Operations~~

~~Any removal or filling of earth products from or upon any land or water area, other than for the purposes enumerated in Section 3.3.5.3 below, is prohibited. Earth products include, but are not limited to, stone, sand, gravel, loam, topsoil, peat, clay, and the like.~~

~~3.3.5.3. Permitted Excavation and Filling Operations~~

~~Subject to Sections 3.3.5.4 and 3.3.3, the following activities are permitted as accessory uses throughout the Borough of Stonington:~~

~~a. Excavation and fill operations within actual road rights-of-way of public streets of either the Town of Stonington or the State of Connecticut, or within streets shown on an approved subdivision map, Planned Area Development Plan or Special Permit that has been formally filed in the office of the Town Clerk.~~

~~b. Excavation and fill operations upon a lot as directed and approved by the Building Official of the Town of Stonington as a result of a bona fide construction activity, such as a building erection, for which activity a building permit has been issued by the Town of Stonington and approval of the Commission or its designated agent has been obtained. In the case of new structures or additions to existing structures, the highest point of the structure shall be measured from the existing grade prior to such filling or excavating unless otherwise approved by the Commission at its discretion.~~

~~c. Excavation and fill operations upon a lot as a result of a bona fide landscaping or agricultural activity, provided that in no case shall such excavation result in the removal, filling or regrading of more than one hundred cubic yards of earth products for each lot. Filling or excavating more than one hundred cubic yards but not more than three hundred cubic yards may be specifically approved by the Commission provided that the applicant shall provide a site plan for the proposed activity and shall demonstrate that such filling or excavating shall not have an adverse impact on surrounding properties. In no case shall such filling or excavating be conducted as a preliminary step to construction of a structure, except as noted in preceding paragraph.~~

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#### ~~3.3.5.4. Filling or Excavating Within One Hundred Feet of a Designated Wetlands or Watercourse~~

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~~Anything in Section 3.3.5.3 to the contrary notwithstanding, no earth products or any other materials shall be removed from or filled into any portion of any property which is located within one hundred feet of any designated tidal or inland wetland or watercourse, except upon the issuance of a Special Permit in accordance with these Regulations and upon approval of a coastal site plan review as required by Section 3.3.1. Such approval shall assure that appropriate erosion and sediment control measures are used, and the Commission may require the posting of a bond or other security to guarantee compliance.~~

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#### ~~3.3.6. Consideration for Restoration and Protection of Long Island Sound~~

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~~All development established and conducted within Stonington Borough shall include reasonable consideration for restoration and protection of the ecosystem and habitat of Long Island Sound, and shall be designed to reduce hypoxia, pathogens, toxic contaminants and floatable debris in Long Island Sound. The Commission shall consider the environmental impact on Long Island Sound of any proposal for development for which a zoning permit is required.~~

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~~**3.3.6.1.** All applications for which a site plan is required should include a mapped and written description of all measures proposed to reduce hypoxia, pathogens, toxic contaminants and floatable debris. The applicant shall include such measures in accordance with best available management practices as may be recommended by the Connecticut Sea Grant Marine Advisory Program, the Connecticut Department of Environmental Protection Office of Long Island Sound Programs, or other recognized source. This requirement may be waived at the discretion of the Zoning Official for certain minor projects or activities having minimal water quality impacts on Long Island Sound.~~

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~~**3.3.6.2.** For zoning applications which do not require site plan approval, the Zoning Official may require modifications to include reasonable measures to reduce hypoxia, pathogens, toxic contaminants and floatable debris.~~

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#### ~~3.3.7. Above Ground Storage Tanks~~

~~Above ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.~~

### **3.3.8. Portions of Structures in Flood Zone**

~~If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.~~

### **3.3.9. Structures in Two Flood Zones**

~~If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)~~

### **3.3.10. No Structures Entirely or Partially Over Water**

~~New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless it is a functionally dependent use or facility.~~

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## **3.4.3. Residential Accessory Uses and Buildings**

### **3.4.3.1. Accessory Uses in Residential Zoning Districts**

An accessory use, as defined in Section 1.3 of these Regulations, shall not be permitted to be located on any lot unless a principal use or building is located on the same lot, except that a private garage may be located on a separate lot, provided that it can be satisfactorily demonstrated to the Commission that the garage reasonably serves as an accessory use to a principal building located elsewhere within the district. No residential dwelling shall be permitted in any accessory building except as may be permitted elsewhere in the Regulations. In any residential district, the following are permitted as accessory uses:

**3.4.3.1.1.** Private garage for not more than three (3) vehicles or not more than one (1) per family housed in the building to which the vehicle accommodations are an accessory, whichever is greater. Not more than one-third (33.33%) of the total number of vehicles stored in such an accommodation shall be commercial vehicles. Storage space for not more than three (3) vehicles may be rented for vehicles of other than occupants of the building to which such a garage is an accessory.

**3.4.3.1.2.** Open parking places for passenger vehicles belonging to the occupants of the dwelling unit.

**3.4.3.1.3.** Temporary outside storage of a recreational camping unit for a period of not more than three weeks during any six-month period.

**3.4.3.1.4.** Private swimming pools.

**3.4.3.1.5.** Tool sheds, greenhouses, arbors, garden houses.

**3.4.3.1.6.** Boathouses, tennis courts.

**3.4.3.1.7.** Private antennae serving an individual dwelling, provided that any such antennae shall not extend more than fifteen (15) feet above the highest point of the dwelling's roof on which it is located. Satellite dish antennae shall not be located on the roof of a dwelling, but shall be located so as to minimize their visibility from the street.

### **3.4.3.2. Location and Height of Accessory Buildings in Residential Districts**

In all residential districts, accessory buildings shall comply with all front, side and rear yard requirements for the district in which such building is located. No accessory building shall be located in front of the principal building. No accessory building shall exceed twenty (20) feet in height.

### **3.3.3 Accessory Dwelling Units**

In order to address current and future housing needs in the Borough of Stonington, one (1) accessory dwelling unit ("ADU") may be established on a Borough parcel containing a single-family dwelling, in accordance with the requirements of this section. Pursuant to C.G.S. §8-20, the review process for approval of an application for an ADU shall be completed not later than sixty-five (65) days after receipt of a complete application to the Zoning Enforcement Officer. The Applicant may consent to extensions of no more than an additional sixty-five (65) days or may withdraw such application. Any ADU that is proposed to be detached or which necessitates exterior changes or additions to the principal dwelling, shall require site plan review by the Commission.

3.3.3.1 Within / Attached To A Single-Family Dwelling - One (1) accessory dwelling unit may, with a Zoning Permit, be provided within a single-family dwelling or attached to a single-family dwelling provided: a. Only one (1) accessory apartment shall be located on any property. b. Any such accessory dwelling unit shall comply with yard setbacks, lot coverage, building height and other area and dimensional standards applicable to a principal dwelling in the zoning district. c. The accessory unit shall not exceed one-third (33.33%) of the total combined interior finished floor area of the principal dwelling unit and accessory dwelling unit or 1,200 square feet, whichever is less. The Planning and Zoning Commission may, by Special Permit, allow a larger percentage and/or a larger square footage for an accessory dwelling unit within or attached to the principal dwelling due to the room configuration of the existing principal dwelling. d. The principal dwelling and the accessory dwelling unit shall be served by a water supply and a sewage disposal system approved by the Ledge Light Health District. e. The principal dwelling and the accessory dwelling unit shall comply with the applicable Building Code. f. At least one (1) additional off-street parking space shall be provided on the property for the occupant(s) of the accessory unit. g. Neither the principal dwelling unit nor the accessory dwelling unit shall be used for short-term rentals or tourist home.

3.3.3.2 Detached From A Single-Family Dwelling – One (1) accessory dwelling unit may, with a Zoning Permit, be provided in a detached dwelling accessory to a single-family dwelling provided: a. The provisions above for an accessory dwelling unit within or attached to a single-family dwelling shall be complied with, including the yard setbacks for a principal dwelling. b. Any proposed ADU that is detached or requires exterior changes or additions to an existing structure must have site plan approval from the Planning and Zoning Commission.

### **3.5.4. Customary Home Occupations**

A customary home occupation is permitted as an accessory use in a residential district in a dwelling or in another building on the same lot, provided that the requirements of this Section are met, as follows:

- 3.5.4.1.** All home occupations must be authorized by a permit issued by the Zoning Official or such other person as the Commission shall designate.
- 3.5.4.2.** Only members of the family residing on the premises and not more than two non-family persons shall be engaged in such occupation.
- 3.5.4.3.** The occupation shall be clearly secondary to the residential use of the property.
- 3.5.4.4.** No more than twenty-five percent (25%) of the floor area of the dwelling shall be used for the conduct of the occupation.
- 3.5.4.5.** The floor area of an outbuilding used for a home occupation shall not be greater than fifty percent (50%) of the floor area of the dwelling unit.
- 3.5.4.6.** There shall be no retail display on the premises in connection with the occupation.
- 3.5.4.7.** All activity other than parking shall take place within a building.

### **3.6.5. Fences**

Fences are permitted within the Borough under the following conditions only:

- 3.6.5.1.** All new and replacement fences, excluding normal repair and maintenance, must be authorized by a permit from the Zoning Official. An application for approval of a fence shall be submitted to the Zoning Official or other such person as the Commission shall designate. The application shall include the following information: location of the fence, location of the nearest property boundary line to the fence, height of the fence, and the fence's construction materials. A sketch of the proposed fence shall be included with the application. When the property boundary line nearest to the proposed fence is not clearly delineated by property markers located in the field, the Commission may require that the property line be located and marked by a registered land surveyor prior to the approval of a fence permit.
- 3.6.5.2.** Fences up to and including four (4) feet in height and all replacement fences, regardless of height, which match the height, location and materials of the original fence may be authorized by a permit without referral to the Commission, however the Zoning Official shall have the option to refer such fences to the Commission for approval, utilizing the provisions of Sections 3.6.3.1, 3.6.3.2, and 3.6.3.3.
- 3.6.5.3.** Fences over four (4) feet must be authorized by the Commission. Fences in excess of six (6) feet in height may be authorized by Special Permit only. In determining whether a Special Permit may be issued, the Commission shall determine whether the following conditions are met:

**3.6-5.3.1.** The fence will not obstruct existing public views or vistas of Stonington Harbor, Long Island Sound, or Little Narragansett Bay.

**3.6-5.3.2.** The fence will not have an adverse impact on property values of adjacent lot.

**3.6-5.3.3.** The fence is of such height, materials and general appearance as to be compatible with the architectural character of the surrounding area.

**3.6-5.4.** Fence height shall be measured from existing grade in a vertical line to the highest point on the fence. A trellis located on top of a fence shall be included in the measurement of fence height. If a fence is located on top of a retaining wall, the height of the fence shall be measured from the lower grade of the wall.

**3.6-5.5.** A fence under four (4) feet in height may be located within a required front, side, or rear yard area. A fence four (4) feet or higher may be located within the required yard area only if the Commission determines that there is no adverse impact on the character of the area and on the adjacent property. This provision shall supersede any other provision to the contrary concerning yards found elsewhere in these Regulations.

### **3.7-6. Unified Sign Regulation**

#### **3.7-6.1. Statement of Purpose**

An important goal of the Plan of Conservation and Development is the preservation of the character of the Borough of Stonington. The Commission has found that, in other communities, one of the features most destructive of historic areas and their architectural character is the placement of signs that are inappropriate in size, design, color, illumination, location or content. These Unified Sign Regulations are designed to permit signs that are adequate to identify buildings and sites that are of interest to the public, but insure that they are of such design as will meet the objectives of the Plan of Conservation and Development.

#### **3.7-6.2. Definitions**

**3.7-6.2.1. Sign:** Any structure, or any device or part thereof, free standing or attached to a building or structure, or painted or represented thereon, which displays or includes letters, words, symbols, trademarks, or any other graphic representation that is in the nature of any announcement, direction, or advertisement for commercial purposes or otherwise; similarly, any natural object, such as a tree, stone, or the earth itself, that is painted or arranged so as to represent or display any of the aforesaid graphic representations; or any other building feature, that serves to identify the use or occupancy of any building or site through a recognized motif or symbol. The term "sign" shall not include the flag of any recognized nation, state, or other political unit.

**3.7-6.2.2. Sign Face:** The sign face is the plane defined by the perimeter of the surface that encompasses all lettering, words, symbols, trademarks or other graphic representations, as well as any background area. The sign face shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display. In the case of any sign painted on the wall of a structure, the sign face shall be the perimeter of the geometric shape having the smallest area that encompasses all lettering, words, symbols, trademarks or other graphic representations. For the purposes of these Regulations, two-sided signs shall be considered to have one face and three-dimensional signs shall include any void areas.

### **3.7.6.3. Signs Which Are Prohibited in All Districts**

No sign located in the Borough of Stonington shall:

- 3.7.6.3.1.** Include or utilize any blinking, flashing, oscillating, or rotating lights.
- 3.7.6.3.2.** Be comprised of neon signs, or internally illuminated signs, or signs externally illuminated by other than conventional lighting shielded and focused directly upon the sign face.
- 3.7.6.3.3.** Rotate, revolve, or exhibit any mechanical movement whatsoever, excepting clocks and/or barber poles.
- 3.7.6.3.4.** Extend above the lowest point of the roofline of any building.
- 3.7.6.3.5.** Extend across any property line, except the signs in Planned Commercial and Planned Waterfront Districts may project over the sidewalk where permitted by the Commission pursuant to Section 3.7.7 below.
- 3.7.6.3.6.** Be located or erected at a street intersection so as to interfere with the safe sight lines for pedestrians or vehicles.
- 3.7.6.3.7.** Contain any representation of signs or lights customarily associated with public traffic control, such as traffic lights, stop signs, and the like, nor shall any sign contain the words "stop" or "danger" or any other word or words, symbol, or device which might be misconstrued as a public safety or traffic control sign or device.
- 3.7.6.3.8.** Obstruct any door, window, fire escape, or other means of ingress or egress for any building or site.
- 3.7.6.3.9.** Be located on any vacant lot, except those governed by Section 3.7.9.2

### **3.7.6.4. Residential Districts, Maximums**

There shall be a maximum of one (1) property-identification and one (1) historic marker sign for each single-family or two-family dwelling unit, each with a maximum sign face of one (1) square foot. There shall be a maximum of one (1) property-identification and one (1) historic marker sign per street frontage for each multi-family development or complex under one ownership, or identified as a single development to the public, each with a maximum sign face of one (1) square foot. There shall be a maximum of one (1) sign for any customary home occupation with a maximum sign face of one (1) square foot. Legal non-conforming uses in residential districts shall be subject to the sign requirements of the district in which such use would be permitted.

### **3.7.6.5. Non-Residential Districts, Maximums**

There shall be a maximum of one (1) sign per street frontage for each non-residential use, except that a site or building containing more than one (1) use may, in addition, display one (1) sign per frontage for the entire site or building. Each sign in non-residential districts shall have a maximum sign face area of twelve (12) square feet, provided, however, that the total

gross sign face area for all signs on any lot shall not exceed one (1) square foot for each linear foot of building facing the street, or in the absence of any building, one-half square foot for each linear foot of lot frontage on the street, but in no case more than forty-eight (48) square feet of gross sign face area.

### **3.7.6.6. Non-Conforming Signs**

Any sign lawfully existing upon September 15, 1986 which is not in conformity with the provisions of this Section shall be deemed a non-conforming sign, and shall be permitted to continue in use, subject to the provisions of Section 2.9.

### **3.7.6.7. Sign Permit Required**

**3.7.6.7.1.** A sign permit is required for all non-residential signs and for all residential signs associated with any multi-family dwelling other than signs allowed pursuant to Section 3.7.6.4. Every application for a sign permit shall include the following information:

- a. The size and design (including, without limitation, any letters, words, symbols, trademarks or other graphic representation), colors, structural details, method of support, and the method of illumination, if any, for each sign.
- b. The location of the sign on the site or building, and the position of the sign relative to other buildings or structures on the site.
- c. The above information for any signs already existing on the lot or building.

**3.7.6.7.2.** An application for a sign permit shall be submitted to the Zoning Official, or other agent designated by the Commission, and shall be accompanied by a fee as provided by resolution under Section 11.4. The Zoning Official or other agent designated by the Commission is authorized to issue permits for conforming signs.

### **3.7.6.8. Standards for Sign Permits**

In evaluating any application for a sign permit, the Commission, or its agent, shall insure that the size, design, color, illumination, content and placement of signs are consistent with the historic character and appearance of the Borough. The Commission, or its agent, shall also evaluate the construction and means of support of all signs and shall require them to be adequate and secure.

### **3.7.6.9. Exemption from Sign Permit**

The following signs shall be exempt from the requirements of Section 3.7.6.7:

**3.7.6.9.1.** Property identification signs less than one (1) square foot in area.

**3.7.6.9.2.** A real estate sign not over four (4) square feet in area advertising the sale or lease of the premises on which it is displayed. Such signs shall be removed not later than fourteen (14) days after the sale, rental, or lease is consummated.

**3.7.6.9.3.** Historic marker signs, with a maximum sign face of one (1) square foot, provided they are painted or carved in stone, wood or concrete, or made of bronze, brass, or similar material, and permanently affixed to or integrated into the construction of the building to which they apply. Such signs shall contain only the names of the historic buildings, dates of their erection, and related events or other commemorative citations.

**3.7.6.9.4.** Changing of the advertising copy or message on an approved or non-conforming painted or printed sign.

**3.7.6.9.5.** Painting, repainting, cleaning, and other normal maintenance and repair of a sign or a sign structure unless a structural change is made.

**3.7.6.9.6.** Temporary signs, not to exceed twelve (12) square feet in area advertising non-profit or governmental-sponsored events. Such signs shall be displayed not more than one week prior to or three days after the event so advertised.

**3.7.6.9.7.** Temporary business signs advertising the company or individual contractor performing architectural, construction, maintenance or similar contracted work on any property on which the sign is posted. Such signs shall not exceed four (4) square feet in area, and not be self illuminated. Signs can be two faced. Such signs may be erected and maintained on the property only during the period within which the advertised services are being performed on that property. Each sign must be permanently removed from the property no later than the earlier of (1) ninety days after it was first erected, regardless of whether it was continuously maintained on the property during the ninety day period and (2) three days after the completion of the advertised services. No more than two such signs shall be erected or maintained on any lot at any one time.

### **3.8.7. Visibility at Intersection**

No wall, fence, structure, planting or building, or other obstruction to vision shall be erected, placed, or planted on any lot which obstructs or interferes with visibility of drivers of vehicles on a curve or at any street intersection. The minimum vision clearance shall require a height not exceeding two (2) feet above the street or sidewalk grade, whichever is higher, within the triangular area formed by the intersecting street lines, each of which points is fifteen (15) feet from the point of intersection.

### **3.9.8. Towers**

Commercial radio, commercial television and other transmitting or relay antenna towers, and towers designed for wind energy conversion systems, when permitted, shall be set back from all

abutting streets and adjacent properties a distance of not less than one and one-half times the height of the tower.

### **3.40-9. Storage and Display of Goods and Merchandise**

In all districts, there shall be no storage or display of goods and/or merchandise on public walkways, which should remain clear. In addition, any outside storage and/or display of goods and/or merchandise, regardless of its location on the lot, shall be considered a use of land under these Regulations and shall comply with all applicable requirements set forth herein.

### **3.44.10. Fumes, Smoke, Gases, Odors, and Noise**

#### **3.44.10.1. Statement of Purpose**

The following standards are intended to enhance the character of the Borough and to protect property values through prevention of dangerous and objectionable fumes, smoke, gases, odors, and noise from being emitted from lots or properties. Every use and activity shall be conducted in such manner that it is clearly compatible with the health, safety, welfare and property values of the Borough.

#### **3.44.10.2. Standards for Dangerous or Objectionable Elements**

In addition to the performance standards set forth hereinafter, all relevant provisions of any other Federal, State and Borough laws and regulations shall also apply.

**3.44.10.2.1.** No person shall cause to allow any smoke, fly ash and other dusts, gases, noxious odors, fumes and dust-producing substances to be discharged or emitted into the open air, except in accordance with State and Federal statutes and regulations thereunder.

**3.44.10.2.2.** No smoke, fly ash and other dusts, gases, noxious odors, fumes and dust-producing substances shall be emitted into the air from any lot so as to endanger the public health and safety, to impair safety on or the value, enjoyment, and reasonable use of any other lot, or to constitute a critical source of air pollution or to create a nuisance.

#### **3.44.10.3. Standards for Dangerous or Objectionable Noise**

**3.44.10.3.1.** The property, structure, or machinery/equipment, (including heating, air conditioning and ventilating) shall not produce noise therein which is detectable by objective measurement in excess of decibel levels permitted by State law beyond the perimeter of the site.

**3.44.10.3.2.** With the exception of time signals, emergency services, and noise necessarily involved in the construction or demolition of buildings and other structures, no noise shall be transmitted outside the lot where it originates when noise has a decibel level, octave band, intermittence and/or beat frequency which would endanger the public health or safety or impair safety on or the value and reasonable use of any other lot.

**3.44.10.3.3.** No exterior construction or renovation work other than painting shall be permitted at times other than the following:

Monday through Friday      7:00 AM to 6:00 PM

Saturdays  
Sundays and Holidays

8:00 AM to 5:00 PM  
10:00 AM to 5:00 PM<sup>1</sup>

#### 4.1. Coastal Area Management

##### 4.1.1. Coastal Site Plan Review Required

All construction, modification, or change in use of buildings, facilities, and property within the coastal boundary shall be subject to the coastal site plan review requirements of Section 22a-105 through 22a-109 of the Connecticut General Statutes, with the exception of those listed in Section 3.3.1.2 below. All property in the Borough of Stonington is within the coastal boundary as defined in the Connecticut General Statutes. A copy of each coastal site plan submitted for any shoreline flood and erosion control structures and any activity in a FEMA-designated V, VE, A, AE or Limit of Moderate Wave Action (LiMWA) area, or any site that contains tidal wetlands, beaches or dunes shall be referred to the Commissioner of the Department of Energy and Environmental Protection within fifteen (15) days of its receipt by the Zoning Commission or Zoning Boards of Appeals.

##### 4.1.2. Coastal Site Plan Review Exemptions

Pursuant to Section 22a-109(b) of the Connecticut General Statutes, the following activities are exempt from coastal site plan review requirements:

- a. Gardening, grazing, and the harvesting of crops.
- b. Minor additions to or modifications of existing principal buildings or accessory buildings.
- c. Construction of new or modification of existing structures incidental to the enjoyment and maintenance of residential property, including but not limited to, walks, terraces, driveways, swimming pools, tennis courts, docks, and detached accessory buildings.
- d. Construction of new or modifications of existing on-premises structures including fences, walls, pedestrian walks and terraces, underground utility connections, essential electric, gas, telephone, water and sewer service lines, signs, and such other minor structures as will not substantially alter the natural character of coastal resources as defined by Section 22a-93(7) of the Connecticut General Statutes, or restrict access along the public beach.
- e. Construction of a new or modification of an existing single-family dwelling, except in or within one hundred feet of the following coastal resource areas, as defined by Section 22a-93(7) of the Connecticut General Statutes: tidal wetlands, coastal bluffs and escarpments, beaches and dunes.
- f. Activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife, and other coastal land and water resources.
- g. Interior modifications to buildings.
- h. Minor changes in use of buildings, structures, of property, except those changes occurring on property adjacent to or abutting coastal waters.

### **4.1.3. Application of Exemptions**

The foregoing exemptions from coastal site plan review requirements shall apply to the following site plans, plans, and applications:

- a. Site plans submitted to the Commission in accordance with Section 22a-109 of the Connecticut General Statutes.
- b. Applications for a Special Permit submitted to the Commission in accordance with Section 8-2 of the Connecticut General Statutes.
- c. Applications for a variance submitted to the Zoning Board of Appeals in accordance with Subdivision (3) of Section 8-6 of the Connecticut General Statutes.
- d. A referral of a proposed municipal project in accordance with Section 8-24 of the Connecticut General Statutes.

### **4.1.4. Application Requirements**

The coastal site plan shall include a plan showing the location and spatial relationship of coastal resources on and contiguous to the site; a description of the entire project with appropriate plans indicating project location, design, timing, and methods of construction; an assessment of the suitability of the project for the proposed site; an evaluation of the potential beneficial and adverse impacts of the project and a description of proposed methods to mitigate adverse impacts on coastal resources; and a demonstration that the adverse impacts of the proposed activity are acceptable and that the proposed activity is consistent with the goals and policies of Section 22a-92 of the Connecticut General Statutes.

### **4.1.5. Findings Required for Commission Approval of a Coastal Site Plan**

Before approving a coastal site plan, the Commission must find that the proposed activity, with any conditions or modifications imposed by the Commission is consistent with all applicable goals and policies of Section 22a-92 of the Connecticut General Statutes; and that the plan incorporates as conditions or modifications all reasonable measures which would mitigate the adverse impacts of the proposed activity on both coastal resources and future water dependent development activities.

### **4.1.6. Public Hearing**

The Commission shall hold a public hearing on a coastal site plan if not otherwise required by these Regulations.

4.1.7. Should the Commission fail to render a decision on a coastal site plan within the required time period, the coastal site plan shall be deemed rejected in accordance with Section 22a-105f of the Connecticut Coastal Management Act.

### **4.1.8. Setbacks from Mean High Tide**

No building or structure shall extend closer than forty (40) feet from the mean high water line, except for direct water-related structures as defined by the Connecticut Coastal

Management Act, such as, but not limited to docks, marine railways, marine cranes, launching ramps and other marine accessories, except that off-street parking spaces shall be set back at least ten (10) feet from the mean high water line.

## **4.2. Flood Protection**

**Warning and Disclaimer of Liability.** THE DEGREE OF FLOOD PROTECTION REQUIRED BY THESE REGULATIONS IS CONSIDERED THE MINIMUM REASONABLE FOR REGULATORY PURPOSES AND IS BASED ON SCIENTIFIC AND ENGINEERING CONSIDERATIONS. FLOODS OF GREATER MAGNITUDE CAN AND WILL OCCUR ON RARE OCCASIONS. FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THESE REGULATIONS DO NOT IMPLY THAT LAND OUTSIDE THE SPECIAL FLOOD HAZARD AREAS OR USES PERMITTED WITHIN SUCH AREAS WILL BE FREE FROM FLOODING OR FLOOD DAMAGES. THESE REGULATIONS SHALL NOT CREATE LIABILITY ON THE PART OF THE BOROUGH OF STONINGTON OR ANY OFFICER OR EMPLOYEE THEREOF FOR ANY FLOOD DAMAGES THAT RESULT FROM RELIANCE ON THESE REGULATIONS OR ANY ADMINISTRATIVE DECISION LAWFULLY MADE THEREUNDER.

### **ABROGATION AND GREATER RESTRICTION.**

THIS REGULATION IS NOT INTENDED TO REPEAL, ABROGATE OR IMPAIR ANY EXISTING EASEMENTS, COVENANTS, OR DEED RESTRICTIONS. HOWEVER, WHERE THIS REGULATION AND ANOTHER ORDINANCE, REGULATION EASEMENT, COVENANT OR DEED RESTRICTION CONFLICT OR OVERLAP, WHICHEVER IMPOSES THE MORE STRINGENT RESTRICTIONS SHALL PREVAIL.

#### **4.2.1. Purpose of Special Requirements**

Flood hazard areas, as designated on the Federal Flood Insurance Rate Map for the Borough of Stonington, are subject to periodic inundation which may result in loss of life and property, or in health and safety hazards. These special regulations are designed to prevent or minimize loss of life, injuries, property damage, and other losses, both private and public; to promote the health, public safety and general welfare of the people; to help control and minimize the extent of floods, and reduce the depth and violence of flooding.

#### **4.2.2. For purposes of this section the following terms are defined herein:**

- a. Area of Special Flood Hazard:** The area within a community subject to a one percent or greater chance of flooding in any given year. Areas of Special Flood Hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, AE, and the Coastal High Hazard Areas shown as Zones V and VE on a FIRM. The Area of Special Flood Hazard is also called the Special Flood Hazard Area (SFHA). These areas are identified on the community's current FIRM, as may be amended from time to time.

- b. Base Flood Elevation (BFE):** The elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.
- c. Breakaway Walls:** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.
- d. Coastal AE Zone** – The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0 feet during the base flood and seaward of the line labeled the “Limit of Moderate Wave Action” (LiMWA) on a Flood Insurance Rate Map (FIRM).
- e. Coastal Boundary** – A continuous line delineated on the landward side by the interior contour elevation of the one hundred year frequency coastal flood zone, as defined and determined by the National Flood Insurance Act as amended, or a one thousand foot linear setback measured from the mean high water mark in coastal waters, or a one thousand foot linear setback measured from the inland boundary of tidal wetlands, *whichever is farthest inland.* (CGS 22a-94) The entire Borough of Stonington lies within the coastal boundary.
- f. Coastal High Hazard Area:** An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources. Coastal High Hazard Areas are designated as Zones VE and Coastal AE on a Flood Insurance Rate Map (FIRM).
- g. Cost:** As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor’s estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor’s overhead; contractor’s profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.
- h. Federal Emergency Management Agency (FEMA):** The federal agency that administers the National Flood Insurance Program (NFIP).
- i. Finished Living Space:** As related to fully enclosed areas below the base flood elevation (BFE), a space that is, but is not limited to, heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace.

- j. Flood Insurance Rate Map (FIRM):** An official map of Stonington Borough on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the applicable risk premium zones.
- k. Flood Insurance Study (FIS):** The official report by FEMA which contains flood profiles, the water surface elevation of the base flood, and other flood data.
- l. Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1.0) foot. For the purposes of these regulations, the term “Regulatory Floodway” is synonymous in meaning with the term “Floodway”.
- m. Functionally Dependent Use or Facility:** A facility or use which cannot be used for its intended purpose unless it is located in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.
- n. High Tide Lines:** A line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of land with the water’s surface at the maximum height reached by a rising tide. The mark may be determined by: **(1)** a line of oil or scum along shore objects; **(2)** a more or less contiguous deposit of fine shell or debris on the foreshore or berm; **(3)** physical markings or characteristics, vegetation lines, tidal gauge; or **(4)** by any other suitable means delineating the general height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency, but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.
- o. Historic Structure:** Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.
- p. Limit of Moderate Wave Action (LiMWA)** – The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are seaward of the line labeled “Limit of Moderate Wave Action” (LiMWA) on a Flood Insurance Rate Map (FIRM).

- q. Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such an area fully meets the requirements of Section 3.3 of these Regulations.
- r. Manufactured Home:** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.
- s. Market Value:** As related to substantial improvement and substantial damage, the value of the structure as determined by the appraised value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.
- t. Mean Sea Level:** For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- u. New Construction:** Structures for which the start of construction commenced on or after September 1, 1979; includes any subsequent improvements to such structures.
- v. Recreational Vehicle:** A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
- w. Renovation:** Any combination of repairs, reconstruction, alteration or improvements to a building or structure for which a zoning permit is required, which take place over a one year period and for which the cumulative cost is less than fifty percent (50%) of the market value of the building or structure. The market value shall be the fair market value immediately prior to the start of the renovations. Absent other evidence, the Town of Stonington assessment of the structure or building will establish fair market value. However, the landowner or any other person having a legal interest in the property may submit an appraisal or other information to the Commission if such person claims that the fair market value is different than the Town's assessment. If provided with such evidence, the Commission shall determine the fair market value based upon its evaluation of the evidence.
- x. Sand Dunes:** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.
- y. Start of Construction:** (For other than new construction or substantial improvements under the Coastal Barrier Resources Act [P.L. 97-347]). Includes

substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. Should the permittee fail to commence work within this time frame, a new permit shall be required. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stages of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or any other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**z. Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. "Substantial Damage" also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent (25%) of the market value of the structure before the damage occurred.

**aa. Substantial Improvements:** Any combination of repairs, reconstruction, alteration or improvements to a building or structure taking place over a one - year period in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual work performed. Applicants for projects in the Special Flood Hazard Area shall submit to the Zoning Official a form which tabulates all the estimated cost components of the project. The market value of the structure shall be: (1) the appraised value of the structure prior to the "start of construction" of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. Absent other evidence, the Town of Stonington appraisal of the structure or building will establish fair market value. However, the landowner or any other person having a legal interest in the property may submit an appraisal or other information to the Commission if such person claims that the fair market value is different than the Town's appraisal. If provided with such evidence, the Commission shall determine the fair market value based upon its evaluation of the evidence. For the purposes of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

**bb. Violation:** A failure of a structure or other development to be fully compliant with the community's floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

**cc. Water Surface Elevation:** The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

#### **4.2.3. Identification of Flood Hazard Areas and Flooding Elevation**

Flood hazard areas (areas of special flood hazard) and flood elevations shall be those identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for New London County, Connecticut, dated August 5, 2013, and accompanying Flood Insurance Rate Maps (FIRM), dated August 5, 2013, and other supporting data applicable to the Borough of Stonington, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The area of special flood hazard includes any area shown on the FIRM as Zones A, AE, and VE, including areas designated as a floodway on a FIRM. Zone VE is also identified as a Coastal High Hazard Area. Areas of special flood hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on a Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. The FIS and FIRM are on file in the office of the Borough Clerk.

#### **4.2.4. Zoning Permit Required**

Before any construction, substantial improvement or development is begun within designated flood hazard areas, a Certificate of Zoning Compliance shall be obtained from the Commission or its designated agent in order to determine whether such activity is consistent with the need to minimize flood damage within the flood prone area and to determine whether the proposed development and building sites will be reasonably safe from flooding. Special consideration shall be given to the placement of public utilities and the provision of adequate drainage to reduce exposure to flood hazards.

#### **4.2.5. Additional Information Required**

In addition to information required by other provisions of the Zoning Regulations, applicants for activities within flood hazard areas shall provide the following:

- a.** In A, AE Coastal AE, and VE zones, a FEMA Elevation Certificate (EC, current edition) prepared by a licensed engineer, architect or surveyor must be submitted indicating the elevation (in relation to mean sea level) of the lowest floor (including basement) and the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor of all new and substantially improved structures; and for floodproofed non-residential buildings the elevation to which the building is floodproofed. The Borough

Zoning Official will check the EC for accuracy and completeness. The EC will be returned to the applicant for corrections if errors are found, and the application will not be heard until the EC is correct. Upon completion of construction, and prior to obtaining a CO, the final elevation certificate shall be submitted to and retained by the Town Building Official's Office. A copy of the final EC will be submitted to the Borough Zoning Official. This information will be maintained on file with the permit application.

- b. Identity of the flood hazard zone and base flood elevation from the Flood Insurance Rate Map. In Coastal AE and VE zones, a completed V Zone Design Certificate must be submitted with the Zoning Application.
- c. Any other such data as the Commission may require in order to determine compliance with the Flood Hazard Area Requirements. At a minimum, such data includes a detailed compilation of estimated project costs on a form prescribed by the Zoning Official.
- d. Permits from those government agencies from which approval is required by federal or state law, if applicable.
- e. The Commission shall require base flood elevation (BFE) data be provided with any application for new construction, substantial improvement or other development in Zone A without a FEMA-published BFE (un-numbered A Zone). When base flood elevation data or floodway data have not been provided, the Commission shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed for subdivision proposals, in order to administer the provisions of this regulation.
- f. If a portion of a watercourse is altered or relocated, evidence that the flood carrying capacity is not diminished and maintenance is provided. The Commission shall notify the adjacent communities and the Department of Environmental Protection (DEP), Inland Water Resources Division, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

#### **4.2.6. Construction Requirements**

- a. All new construction, including prefabricated buildings and manufactured homes, within A, AE, Coastal AE or VE zones shall be anchored to prevent flotation, collapse and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with flood resistant materials and methods that minimize flood damage.
- b. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- c. All new construction or substantial improvements of residential structures within A and AE zones shall have the lowest floor, including basement, elevated to Base Flood Elevation (BFE) plus 1 (one) foot minimum. In A and AE zones, all new

non-residential construction and substantial improvement to non-residential construction shall have the lowest floor, including basement, elevated or flood proofed to or above the base flood elevation. Where flood proofing is used in lieu of elevating, non-residential structures may be dry flood proofed to or above the base flood elevation provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and provided that such structures are composed of structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. The applicant shall present a structural design specification and plan for construction certified by a professional engineer or architect registered in the State of Connecticut showing flood proofing methods are adequate to withstand the forces associated with the base flood and are in accordance with acceptable standards of practice for meeting the provisions of this section.

- d. All new construction and substantial improvements in VE or Coastal AE zones shall have the lowest floor elevated to Base Flood Elevation (BFE) plus 1 (one) foot minimum, with all space below the lowest horizontal supporting member open and free of obstruction so as not to impede the flow of water. Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated to or above the BFE and cannot be located below the structure. Any service equipment that must be located below the BFE must be floodproofed to prevent water from entering during conditions of flooding. All new construction and substantial improvements shall be securely anchored on pilings or columns. All pilings and columns and the attached structures shall be anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. The anchoring and support system shall be designed with wind and water loading values required by applicable State or local building codes. A registered professional engineer or architect shall develop structural specifications and plans for the construction and shall certify that the design, specifications and plans for construction are in accordance with acceptable standards and are in compliance with the provisions contained in this section. Non-supporting breakaway walls, lattice work or mesh screening shall be allowed below the base flood elevation provided it is not part of the structural support of the structure and is designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the structure on which it is to be used and provided the following design specifications are met: (1) Design safe loading resistance of each wall shall not be less than ten (10) pounds per square foot or more than twenty (20) pounds per square foot; or (2) If more than twenty (20) pounds per square foot, a registered professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components prior to or during the collapse of such wall. Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by applicable state or local building standards. If breakaway walls, lattice work or screening are utilized, the resulting enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

- e. All construction in a V zone shall be landward of the reach of the Connecticut Coastal Jurisdiction Line as defined in CGS 22a-359 as amended by Public Act 12-101.
- f. Fill shall not be used for structural support of buildings or structures in a VE zone. There shall be no alteration of sand dunes that would increase potential flood damage.
- g. Recreational vehicles placed on sites within zones A, AE, Coastal AE and VE shall either be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use, or meet the construction, elevation and anchoring requirements of section 3.3.2.6 for the applicable flood zone in which the recreational vehicle is located. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- h. Within all A, AE, Coastal AE and VE zones, all new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. All new and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges.
- i. New construction or substantial improvement of residential and non-residential structures in zone A or AE that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall have at least one side at or above surface grade and shall be designed to allow for the automatic entry and exit of flood waters to equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a registered professional engineer or architect or meet the following minimal criteria: (1) provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; (2) the bottom of all openings shall be no higher than one foot above grade and at least one placed on the side of the lowest grade; and (3) openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic flow of flood waters in both directions. Electrical, plumbing, and other utilities are prohibited below the base flood elevation. Use of the enclosed area shall be limited to parking, building access and limited storage, and shall preclude finished living space.
- j. Within Zones A and AE, any manufactured home to be newly placed or undergoing a substantial improvement shall be elevated so that the lowest floor is at Base Flood Elevation (BFE) plus 1 (one ) foot minimum. The manufactured home must also meet all the construction standards for Zones A and AE as per Section 3.3.2.6. Within Zone VE and Coastal AE, any manufactured home to be newly placed or undergoing a substantial improvement shall be elevated so that the lowest floor is at Base Flood Elevation (BFE) plus 1 (one) foot. The manufactured home must also meet all the construction standards for Zone VE and Coastal AE as per Section 3.3.2.6. All manufactured homes in Zones A, AE, Coastal AE, and VE shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement and hydrostatic pressures. Anchoring may

include, but not be limited to, the use of over-the-top or frame ties to ground anchors. All manufactured homes shall be installed using methods and practices that minimize flood damage. Adequate access and drainage should be provided. Elevation construction standards include piling foundations placed no more than ten (10) feet apart, and reinforcement is provided for piers more than six (6) feet above ground level. These standards apply to a manufactured home located outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing manufactured home park in which a manufactured home has incurred substantial damage as a result of a flood.

- k. Floodways. Located within Areas of Special Flood Hazard Areas are areas designated as floodways on the community's Flood Insurance Rate Maps (FIRM). Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, no encroachments, including fill, new construction, substantial improvements, repairs to substantially damaged structures and other developments shall be permitted unless certification, with supporting technical data, by a Connecticut registered professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge published by FEMA. Fences in the floodway must be aligned with the flow and be of an open design. When base flood elevations have been determined within Zone AE on the community's FIRM but a regulatory floodway has not been designated, the Commission must require that no new construction or substantial improvements or other development, including fill, shall be permitted which will increase the water surface elevation of the base flood more than one (1.0) foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development. The Commission may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the municipality's request or not), the community shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1.0) foot at any point within the community.
- l. Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

m. Compensatory Storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

n. Design Standards for Subdivision Proposals. If a proposed subdivision, including the placement of a manufactured home park or subdivision, is located in a Special Flood Hazard Area (SFHA) the following requirements shall apply:

All subdivision proposals shall be consistent with the need to minimize flood damage;

All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

The Commission shall require the applicant to provide base flood elevation data for all subdivision proposals, including manufactured home parks and subdivisions. In all special flood hazard areas where base flood elevation data is not available, the applicant shall provide a hydrologic and hydraulic engineering analysis performed by a registered professional engineer that generates base flood elevations for all subdivision proposals and other proposed development, including manufactured home parks and subdivisions.

4.2.7. The Zoning Board of Appeals shall review and decide all requests for variances and waivers from the requirements in these flood plain regulations (applicable to Section 3.3.2 only) including Specific Situation Variances:

**a. Buildings on an Historic Register**

Variances may be issued, pursuant to Federal Regulations 44 CFR 60.6(A), for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places: “upon a determination that (i) the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.” The consideration of such variances shall be guided by the Borough’s dual objectives of preserving historic structures and enhancing coastal resiliency.

#### **b. Pre-Existing Small Lot Location**

Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level in conformance with Section 3.3.2.6.

#### **c. Functional Dependent Uses**

Variances may be issued for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use provided the structure or other development is protected by methods that minimize flood damage, create no additional threat to public safety, and meet the requirements of Section 3.3.2.6.

#### **4.2.8. Considerations for Granting of Variances**

In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of these Regulations and:

- a. The danger that materials may be swept onto other lands to the injury of others.
- b. The danger to life and property due to flooding or erosion damage.
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- d. The importance of the services provided by the proposed use.
- e. The necessity of the facility to waterfront location in the case of a functionally dependent facility.
- f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- g. The compatibility of the proposed use with existing and anticipated development.
- h. The relationship of the proposed use in the plan of development and flood plain management for that area.
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewers, gas, electrical and water systems, and streets and bridges.

4.2.9. Upon consideration of the factors listed and the purposes of these Regulations, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of these Regulations.

4.2.10. **Conditions for Variances** Variances shall only be issued upon: (1) a showing of good and sufficient cause, (2) a determination that a failure to grant the variance would result in exceptional hardship, and (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, fraud on or victimization of the public, or conflict with existing local laws and ordinances. Variances shall not be issued if any increase in flood levels during the base flood discharge would result. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief and, in the instance of an historic building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

4.2.11. The Borough of Stonington shall provide written notice to any applicant to whom a variance is granted, specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as \$25.00 for \$100.00 of insurance coverage. The Zoning Official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) in its biennial report.

### 4.3. Erosion and Sediment Control Plan

In accordance with Section 22a-325 to 22a-329 inclusive of the Connecticut General Statutes, a soil erosion and sediment control plan shall be submitted with any application for development when the disturbed area of such development is cumulatively more than one half acre. Disturbed area is defined as an area where ground cover is destroyed or removed leaving the land subject to accelerated erosion. The soil and erosion control plan shall be mapped and in narrative form, and contain proper measures to be taken to control erosion and sedimentation both during and after construction. The erosion and sediment control plan shall be based on the "Connecticut Guidelines for Soil Erosion and Sediment Control", available from the Council on Soil and Water Conservation of the State of Connecticut.

#### 4.3.1. Contents of the Plan

The erosion and sediment control plan, at a scale of not less than one inch equals twenty feet (1"=20'), shall include the following:

- a. Locations and description of proposed development and adjacent properties.
- b. Locations of areas to be stripped of vegetation, areas to be re-graded, and contour data indicating existing and proposed grades, and existing wetlands and watercourses.
- c. A schedule of operations, including the sequence of major improvement phases such as clearing, grading, paving, installation of drainage features, utilities and the like.

d. Seeding, sodding or re-vegetation plan and specifications for all unprotected or un-vegetated areas.

e. Location, design and timing of sedimentation and erosion control measures such as diversion, waterways, grade stabilization structures, debris basin, storm water management control measures, and the like. The narrative shall indicate design criteria used in the design of the control measures.

f. A description of procedures to be followed to maintain sediment control measures during and after construction.

g. Identity of the developer's representative responsible for monitoring control measures during construction.

h. The plan map shall show the words "Erosion and Sediment Plan" with space for the date and signature of the Commission Chairman or Secretary.

#### **4.3.2. Commission Vote Required**

After review of the plan by the Commission or its designated agent, the Commission shall vote to certify, to modify and certify, or deny that the soil erosion and sediment control plan complies with these Regulations. A vote of the Commission to approve a zoning application or Special Permit shall imply approval of the erosion and sediment control plan as well.

#### **4.3.3. Inspection During Construction**

The Commission, through its members, agents, and consultants, shall periodically inspect construction projects for which erosion and sediment control plans have been approved to verify that erosion and sediment controls are consistent with the approved plan.

#### **4.4. Building Grades**

Any building requiring yard space under these Regulations shall be located at such elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building.

#### **4.5. Excavation and Filling of Earth Products**

##### **4.5.1. Purpose**

The Commission finds that the Borough of Stonington is characterized by the following conditions: high residential density; a unique number of historic, landmark buildings and sites; generally small lot and parcel sizes; narrow streets and poor access to the Borough; all property is within the coastal boundary; the presence of numerous tidal and inland wetlands, generally shallow soils, and shallow depth to bedrock in most areas; proximity to valuable commercial shellfish beds; and other conditions enumerated in the Plan of Conservation and Development. Therefore, the conduct of excavation and filling operations within the Borough must be severely limited in scope, intensity, and frequency.

#### **4.5.2. Prohibited Excavation and Filling Operations**

Any removal or filling of earth products from or upon any land or water area, other than for the purposes enumerated in Section 4.5.3 below, is prohibited. Earth products include, but are not limited to, stone, sand, gravel, loam, topsoil, peat, clay, and the like.

#### **4.5.3. Permitted Excavation and Filling Operations**

Subject to Sections 4.5.4 and 4.3, the following activities are permitted as accessory uses throughout the Borough of Stonington:

a. Excavation and fill operations within actual road rights-of-way of public streets of either the Town of Stonington or the State of Connecticut, or within streets shown on an approved subdivision map, Planned Area Development Plan or Special Permit that has been formally filed in the office of the Town Clerk.

b. Excavation and fill operations upon a lot as directed and approved by the Building Official of the Town of Stonington as a result of a bona fide construction activity, such as a building erection, for which activity a building permit has been issued by the Town of Stonington and approval of the Commission or its designated agent has been obtained. In the case of new structures or additions to existing structures, the highest point of the structure shall be measured from the existing grade prior to such filling or excavating unless otherwise approved by the Commission at its discretion.

c. Excavation and fill operations upon a lot as a result of a bona fide landscaping or agricultural activity, provided that in no case shall such excavation result in the removal, filling or regrading of more than one hundred cubic yards of earth products for each lot. Filling or excavating more than one hundred (100) cubic yards but not more than three hundred (300) cubic yards may be specifically approved by the Commission provided that the applicant shall provide a site plan for the proposed activity and shall demonstrate that such filling or excavating shall not have an adverse impact on surrounding properties. In no case shall such filling or excavating be conducted as a preliminary step to construction of a structure, except as noted in preceding paragraph.

#### **4.5.4. Filling or Excavating Within One Hundred Feet of a Designated Wetlands or Watercourse**

Anything in Section 4.5.3 to the contrary notwithstanding, no earth products or any other materials shall be removed from or filled into any portion of any property which is located within one hundred feet of any designated tidal or inland wetland or watercourse, except upon the issuance of a Special Permit in accordance with these Regulations and upon approval of a coastal site plan review as required by Section 4.3.1. Such approval shall assure that appropriate erosion and sediment control measures are used, and the Commission may require the posting of a bond or other security to guarantee compliance.

#### **4.6. Consideration for Restoration and Protection of Long Island Sound**

All development established and conducted within Stonington Borough shall include reasonable consideration for restoration and protection of the ecosystem and habitat of Long Island Sound, and shall be designed to reduce hypoxia, pathogens, toxic

contaminants and floatable debris in Long Island Sound. The Commission shall consider the environmental impact on Long Island Sound of any proposal for development for which a zoning permit is required.

4.6.1. All applications for which a site plan is required should include a mapped and written description of all measures proposed to reduce hypoxia, pathogens, toxic contaminants and floatable debris. The applicant shall include such measures in accordance with best available management practices as may be recommended by the Connecticut Sea Grant Marine Advisory Program, the Connecticut Department of Energy and Environmental Protection Office of Long Island Sound Programs, or other recognized source. This requirement may be waived at the discretion of the Zoning Official for certain minor projects or activities having minimal water quality impacts on Long Island Sound.

4.6.2. For zoning applications which do not require site plan approval, the Zoning Official may require modifications to include reasonable measures to reduce hypoxia, pathogens, toxic contaminants and floatable debris.

#### **4.7. Above Ground Storage Tanks**

Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.

#### **4.8. Portions of Structures in Flood Zone**

If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.

#### **4.9. Structures in Two Flood Zones**

If a structure lies within two (2) or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)

#### **4.10. No Structures Entirely or Partially Over Water**

New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless it is a functionally dependent use or facility.

## ARTICLE 5. RESIDENTIAL DISTRICTS

### 5.1. RESIDENTIAL DISTRICT ONE (R-1)

#### 5.1.1. Statement of Purpose

The Planning and Zoning Commission of the Borough of Stonington finds that the area included within the Residential District One (R-1), located south of Cannon Square and bordered by water, is characterized by conditions of moderate residential density, dangerously narrow streets, inadequate parking, older frame homes on moderately sized lots, and poor access due to the distance from and length of the Borough's arterial road pattern, all as set forth as the Findings of Fact in the Borough Plan of Conservation and Development.

Therefore, it is the purpose of the Residential District One (R-1) to restrict further residential or other development within the district in order to prevent increased burdens on Borough emergency and other services and to protect the health, safety and welfare of residents within the district from the dangers of increased burdens on already inadequate emergency and other services.

#### 5.1.2. Permitted Uses and Use Categories

##### 5.1.2.1. Permitted Principal Uses

Single-family dwelling

Two and multi-family dwellings existing on September 15, 1986

Publicly-owned buildings, parks and open space

[Family Child Care Home](#)

[Group Child Care Home](#)

##### 5.1.2.2. Permitted Accessory Uses

Home occupation, customary, subject to Section [3-53.4](#)

Accessory uses listed in Section [3-4.43.3.1](#)

[Accessory Dwelling Units, subject to Section 3.3.3](#)

##### 5.1.2.3. Special Permit Uses

Two-family dwelling, subject to Section 5.1.4

#### 5.1.3. Bulk Requirements

Minimum required lot area:	6,000 square feet
Minimum frontage:	50 feet
Maximum lot coverage:	25 percent (25%)
Minimum yard widths:	
Front:	5 feet
Side:	6 feet
Rear:	40 feet
Side yards, total:	both sides 12 feet, one side 6 feet
Floor area ratio:	50 percent (50%)
—Maximum building height:	30 feet

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#### 5.1.4. Conversion to Two-Family Dwelling

No application for a Special Permit to allow a two-family dwelling shall be accepted by the Commission except for the establishment of such use in a building existing on December 1, 1981. No such conversion to two-family dwellings shall be approved by the Commission unless the following requirements are met:

**5.1.4.1.** The proposed conversion is contained entirely within a building which existed on December 1, 1981, and in those portions of such building which so existed on said date, such that the only building square footage which the Commission shall consider for conversion shall be that existing on that date with the exception of stairways, elevator shafts, hallways, and other required accessory spaces not used for dwelling purposes; provided, however, that the sum of such spaces shall not exceed ten (10) percent of the total building square footage as it existed on December 1, 1981.

**5.1.4.2.** The proposed conversion will be in harmony with the architectural character of the building.

**5.1.4.3.** There shall be a minimum lot area of 6,000-12,000 square feet ~~required for each dwelling unit (12,000 minimum for a two family dwelling).~~

#### 5.1.5. Off-Street Parking

Off-street parking will be provided in accordance with Section 2.8 of these Regulations.

#### 5.1.6. Signs

All signs shall be in accordance with Section ~~3-7-3.6~~ of these Regulations.

#### 5.1.7. Environmental Protection

All development is subject to the requirements of ~~Section 3-3- Article 4~~ of these Regulations.

#### 5.1.8. Uses Exempt from Site Plan Review

With the following exceptions, all uses in this district are subject to the site plan review requirements of ~~Section- Article 9; unless such requirements are specifically waived by the Commission under Section 9.2 of these Regulations:~~

- Permitted signs
- Home occupation, customary
- Tool sheds, greenhouses, arbors, garden houses
- Temporary outside storage of a recreational camping unit
- Fences four (4) feet or less
- All other accessory uses and buildings listed in ~~Article- Section 3-43.3~~

### 5.2. RESIDENTIAL DISTRICT TWO (R-2)

#### 5.2.1. Statement of Purpose

The Planning and Zoning Commission of the Borough of Stonington finds that the area included within the Residential District Two (R-2), located generally south of Cannon

Square, is characterized by conditions of very high residential density, dangerously narrow streets, inadequate parking, older frame homes on very small lots, minimal open space and recreation areas, and poor access due to the distance from and length of the Borough's arterial road pattern, all as set forth as the Findings of Fact in the Borough Plan of Conservation and Development.

Therefore, it is the purpose of the Residential District Two (R-2) to restrict further residential or other development within the district in order to prevent increased burdens on Borough emergency and other services and to protect the health, safety and welfare of residents within the district from the dangers of increased burdens on already inadequate emergency and other services.

## **5.2.2. Permitted Uses and Use Categories**

### **5.2.2.1. Permitted Principal Uses**

Single-family dwelling  
Two and multi-family dwellings existing on September 15, 1986  
Publicly-owned buildings, parks and open space  
[Family Child Care Home](#)  
[Group Child Care Home](#)

### **5.2.2.2. Permitted Accessory Uses**

Home occupation, customary, subject to Section [3.53.4](#)  
Accessory uses listed in Section [3.4.13.3.1](#)  
[Accessory Dwelling Units, subject to Section 3.3.3](#)

### **5.2.2.3. Special Permit Uses**

Two-family dwelling subject to Section 5.2.4

## **5.2.3. Bulk Requirements**

Minimum required lot area:	3,500 square feet
Minimum frontage:	40 feet
Maximum lot coverage:	50 percent (50%)
Minimum yard widths:	
Front:	No requirement
Side:	6 feet
Rear:	20 feet or 20 percent of the depth of the lot, whichever is greater
Side yards, total:	both sides 12 feet, one side 6 feet
Floor area ratio:	60 percent (60%)
Maximum building height:	30 feet

#### **5.2.4. Conversion to Two-Family Dwelling**

No application for a Special Permit to allow a two-family dwelling shall be accepted by the Commission except for the establishment of such use in a building existing on December 1, 1981. No such conversion to two-family dwellings shall be approved by the Commission unless the following requirements are met:

**5.2.4.1.** The proposed conversion is contained entirely within a building which existed on December 1, 1981, and in those portions of such building which so existed on said date, such that the only building square footage which the Commission shall consider for conversion shall be that existing on that date with the exception of stairways, elevator shafts, hallways, and other required accessory spaces not used for dwelling purposes; provided, however, that the sum of such spaces shall not exceed ten percent (10%) of the total building square footage as it existed on December 1, 1981.

**5.2.4.2.** The proposed conversion will be in harmony with the architectural character of the building.

**5.2.4.3.** There shall be a minimum lot area of 3,500 square feet required for each dwelling unit (7,000 minimum for a two-family dwelling).

#### **5.2.5. Off-Street Parking**

Off-street parking will be provided in accordance with Section 2.8 of these Regulations.

#### **5.2.6. Signs**

All signs shall be in accordance with Section ~~3.7~~ 3.6 of these Regulations.

#### **5.2.7. Environmental Protection**

All development is subject to the requirements of ~~Section 3.3~~ Article 4 of these Regulations.

#### **5.2.8. Uses Exempt from Site Plan Review**

With the following exceptions, all uses in this district are subject to the site plan review requirements of ~~Section Article 9: unless such requirements are specifically waived by the Commission under Section 9.2 of these Regulations:~~

- Permitted signs
- Home occupations, customary
- Tool sheds, greenhouses, arbors, garden houses
- Temporary outside storage of a recreational camping unit
- Fences four (4) feet or less
- All other accessory uses and buildings listed in ~~Article Section 3-43.3~~

#### **5.2.9. Accessory Uses Exempt**

Tool sheds, greenhouses, arbors, and garden houses are permitted within six (6) feet of the rear lot line provided that all other bulk requirements are conforming.

## 5.3. RESIDENCE PRESERVATION DISTRICT (RP)

### 5.3.1. Statement of Purpose

The Planning and Zoning Commission of the Borough of Stonington finds that those areas included within the Residence Preservation District (RP) are characterized by the presence of many structures of significant historic and aesthetic value, many of which are larger than single-family dwellings of our present time. The Commission also finds that the areas of the Residence Preservation District are served by roads and Borough services to a level which would permit some modest expansion of population densities without substantial adverse impacts on the public health, safety and general welfare. These findings are in accordance with the Findings of Fact contained in the Plan of Conservation and Development.

Therefore, it is the purpose of the Residence Preservation District (RP) to permit additional single-family residences and the conversion of existing buildings to multi-family residential uses so as to serve the needs of property owners and to diversify housing opportunity in the Borough, while retaining the appearance of historic structures and their physical environment as recommended in the Plan of Conservation and Development.

### 5.3.2. Permitted Uses and Use Categories

#### 5.3.2.1. Permitted Principal Uses

Single-family dwelling  
Parks and playgrounds  
Cemetery  
~~Tourist home~~  
Publicly-owned buildings, parks and open space  
Family Child Care Home  
Group Child Care Home

#### 5.3.2.2. Permitted Accessory Uses

Customary home occupations, subject to Section ~~3.53.4~~  
Accessory uses listed in Section ~~3.4.43.3.1~~  
Accessory Dwelling Units, subject to Section 3.3.3  
Short Term Rental/Tourist home

#### 5.3.2.3. Special Permit Uses

Two-family dwelling, subject to Section 5.3.4  
Multi-family dwelling, subject to Section 5.3.4  
Clubs

Places of worship  
Child care center  
Museum  
Convalescent, nursing or rest home

### 5.3.3. Bulk Requirements

Minimum required lot area:	8,000 square feet
Minimum frontage:	50 feet
Maximum lot coverage:	35 percent (35%)
Minimum yard widths:	
Front:	5 feet
Side:	6 feet
Rear:	6 feet
Side yards, total:	both sides 12 feet, one side 6 feet
Floor area ratio:	60 percent (60%)
Maximum building height:	30 feet

#### **5.3.4. Conversion to Two-Family or Multi-Family Dwelling**

No application for a Special Permit to allow a two or multi-family dwelling shall be accepted by the Commission except for the establishment of such use in a building existing on December 1, 1981 (the date of adoption of this provision). No such conversion to two or multi-family dwellings shall be approved by the Commission unless the following requirements are met:

**5.3.4.1.** Requirements of Sections 5.1.4.1, 5.1.4.2, and 5.1.4.3 of these Regulations.

**5.3.4.2.** There shall be a maximum of ten (10) dwelling units per building or per lot, whichever produces the lowest number of dwelling units overall (10,000 sq. ft. minimum lot area for a two-family dwelling).

#### **5.3.5. Off-Street Parking**

Off-street parking will be provided in accordance with Section 2.8 of these Regulations.

#### **5.3.6. Signs**

All signs shall be in accordance with Section ~~3.7~~3.6 of these Regulations.

#### **5.3.7. Environmental Protection**

All development is subject to the requirements of ~~Section 3.3~~ Article 4 of these Regulations.

#### **5.3.8. Uses Exempt from Site Plan Review**

With the following exceptions, all uses in this district are subject to the site plan review requirements of ~~Section Article 9 of these Regulations: unless such requirements are specifically waived by the Commission under Section 9.2 of these Regulations:~~

- Permitted signs
- Customary home occupations
- Tool sheds, greenhouses, arbors, garden houses
- Temporary outside storage of a recreational camping unit
- Fences four (4) feet or less
- All other accessory uses and buildings listed in ~~Article Section 3.4~~ 3.3

### **5.4. RESIDENCE DISTRICT (R)**

#### **5.4.1. Statement of Purpose**

The Planning and Zoning Commission of the Borough of Stonington has found that the portion of the Borough north of the railroad is suitable for limited additional development due to its accessibility to the road pattern outside the Borough which provides superior access to services and amenities beyond the Borough. Such new development can and must be held to the highest design standards in order to protect the quality of life in the area by provision of more adequate parking, open space and recreational opportunities, and other amenities which new development can provide, and under these Regulations, shall provide.

## 5.4.2. Permitted Uses and Use Categories

### 5.4.2.1. Permitted Principal Uses

Single-family dwelling

~~Tourist home~~

Publicly owned buildings, parks and open space

Family Child Care Home

Group Child Care Home

### 5.4.2.2. Permitted Accessory Uses

Customary home occupations, subject to Section ~~3.53.4~~

Accessory uses listed in Section ~~3.4.43.3.1~~

Accessory Dwelling Units, subject to Section 3.3.3

Short Term Rental/Tourist Home

### 5.4.2.3. Special Permit Uses

Two-family dwelling, subject to Section 5.4.4

Multi-family dwelling, subject to Section 5.4.4

Social or Service Clubs

Places of worship

~~Child care center~~

Convalescent, nursing or rest home

## 5.4.3. Bulk Requirements

Minimum required lot area:	10,000 square feet
Minimum frontage:	50 feet
Maximum lot coverage:	35 percent (35%)
Minimum yard widths:	
Front:	10 feet
Side:	6 feet
Rear:	6 feet
Side yards, total:	both sides 20 feet, one side 6 feet
Floor area ratio:	50 percent (50%)
Maximum building height:	30 feet

## 5.4.4. Conversion to Two or Multi-Family Dwellings

No application for a Special Permit to allow a two or multi-family dwelling shall be accepted by the Commission except for the establishment of such use in a building existing on December 1, 1981 (the date of adoption of this provision). No such conversion to two or multi-family dwellings shall be approved by the Commission unless the requirements of Section 5.3.4 of these Regulations are met.

## 5.4.5. Off-Street Parking

Off-street parking will be provided in accordance with Section 2.8 of these Regulations.

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#### **5.4.6. Signs**

| All signs shall be in accordance with Section ~~3.7~~3.6 of these Regulations.

#### **5.4.7. Environmental Protection**

All development is subject to the requirements of ~~Section 3.3~~Article 4 of these Regulations.

#### **5.4.8. Uses Exempt from Site Plan Review**

With the following exceptions, all uses in this district are subject to the site plan review requirements of ~~Section Article 9: unless such requirements are specifically waived by the Commission under Section 9.2 of these Regulations:~~

- Permitted signs
- Customary home occupations
- Tool sheds, greenhouses, arbors, garden houses
- Temporary outside storage of a recreational camping unit
- Fences four (4) feet or less
- All other accessory uses and buildings listed in ~~Article Section 3.43.3~~

#### **5.4.9. PAD Eligibility**

The Residence District shall be eligible for consideration of an application for Planned Area Development, pursuant to ~~Section Article 7~~ of these Regulations.

### **5.5. RURAL RESIDENCE DISTRICT (RR)**

#### **5.5.1. Statement of Purpose**

The Planning and Zoning Commission of the Borough of Stonington finds that those areas included within the Rural Residence District (RR) are largely bordered by coastal wetlands and associated lands along the north shore of Little Narragansett Bay, and are characterized by extensive wetlands and marsh areas, high flood hazard, and virtual isolation from the emergency services of the Borough due to topography and the location of the railroad line. Such findings are as set forth in the Findings of Fact in the plan of Conservation and Development.

Therefore, it is the purpose of the Rural Residence District to restrict further residential or other development within the district to prevent increased burdens on Borough emergency and other services and to protect the health, safety and welfare of residents within the district from the dangers of increased burdens on already inadequate emergency and other services.

#### **5.5.2. Permitted Uses and Use Categories**

##### **5.5.2.1. Permitted Principal Uses**

- Farm
- Single-family dwelling
- Publicly owned buildings, parks and open space
- Nature preserve
- Family Child Care Home
- Group Child Care Home

### 5.5.2.2. Permitted Accessory Uses

Farming accessory uses, buildings and structures  
Customary home occupations, subject to Section 3.5  
Accessory uses listed in Section 3.4.1  
[Accessory Dwelling Units, subject to Section 3.4.3](#)

### 5.5.2.3. Special Permit Uses

Two-family dwelling, subject to Section 5.5.4  
Multi-family dwelling, subject to Section 5.5.4  
[Short Term Rental](#)/Tourist Home  
Social or Service Clubs

### 5.5.3. Bulk Requirements

Minimum required lot area:	20,000 square feet
Minimum frontage:	80 feet
Maximum lot coverage:	15 percent (15%)
Minimum yard widths:	
Front:	10 feet
Side:	10 feet
Rear:	10 feet
Side yards, total:	both sides 30 feet, one side 10 feet
Floor area ratio:	30 percent (30%)
Maximum building height:	30 feet

### 5.5.4. Conversion to Two or Multi-Family Dwellings

No application for a Special Permit to allow a two or multi-family dwelling shall be accepted by the Commission except for the establishment of such use in a building existing on December 1, 1981 (the date of adoption of this provision). No such conversion to two or multi-family dwellings shall be approved by the Commission unless the requirements of Section 5.3.4 of these Regulations are met.

### 5.5.5. Off-Street Parking

Off-street parking will be provided in accordance with Section 2.8 of these Regulations.

### 5.5.6. Signs

All signs shall be in accordance with Section ~~3.7~~[3.6](#) of these Regulations.

### 5.5.7. Environmental Protection

All development is subject to the requirements of ~~Section 3.3~~[Article 4](#) of these Regulations.

### 5.5.8. Uses Exempt from Site Plan Review

With the following exceptions, all uses in this district are subject to the site plan review requirements of Section 9 of these Regulations: ~~unless such requirements are specifically exempted by the Commission under Section 9.2 of these Regulations:~~

Permitted signs

Customary home occupations

Tool sheds, greenhouses, arbors, garden houses

Temporary outside storage of a recreational camping unit

Fences four feet or less

All other accessory uses and buildings listed in ~~Article~~ Section 3.43.3

## **ARTICLE 6. WATERFRONT, COMMERCIAL, INDUSTRIAL DISTRICTS, AND RESERVED LAND**

### **6.1. PLANNED WATERFRONT DISTRICT (PW)**

#### **6.1.1. Statement of Purpose**

The Planning and Zoning Commission of the Borough of Stonington recognizes the central importance of the harbor and other waterfront areas of the Borough, as stated in the Plan of Conservation and Development. Pursuant to the said Plan of Conservation and Development, these Regulations have been designed to: preserve the waterfront, and especially the harbor area for those uses which are dependent upon marine access, and not merely enhanced by it; preserve public access to waterfront areas; preserve waterfront vistas; and permit a flexible mix of compatible marine-oriented uses, subject to strict architectural and site plan review.

#### **6.1.2. Permitted Uses and Use Categories**

##### **6.1.2.1. Permitted Principal Uses**

Single, two, and multi-family dwellings existing on September 15, 1986

Professional offices only for:

- Marine architects
- Marine surveyors
- Yacht brokerages
- Marine insurance brokers
- Marine engineering companies
- Marine contractors

Museums

Schools

Boat storage and sales yards

Marine hardware, equipment and supplies

Sail lofts

##### **6.1.2.2. Permitted Accessory Uses**

Buildings, structures and uses accessory to permitted uses

##### **6.1.2.3. Special Permit Uses**

Two and multi-family dwellings, subject to Section 6.1.4

Marinas

Boat-building yards

Marine repair facilities

Commercial fishing operations

Fish fillet plant

Yacht clubs

Short Term Rental/Tourist homes

Inns

Class II Restaurants

#### 6.1.2.4. Alternate Uses of Existing Buildings

In the Planned Waterfront District, a limited number of existing historic buildings are not generally well suited for water-dependent or water-related uses. Within buildings that existed on August 1, 1976, the date of adoption of the original Zoning Regulations for the Borough of Stonington, the Commission may, by Special Permit, consider and approve any of the following alternate uses, provided that the proposed alternate use will not reduce the potential for future water-dependent or water-related uses for the property:

Museums

Retail trade, as permitted in Section 6.2.2.1 of these Regulations

Professional or business offices, supplies and services

Personal services, as permitted in Section 6.2.2.1 of these Regulations

#### 6.1.2.5. Special Permit Accessory Uses

Short Term Rental/Tourist homes, as accessory to marinas

Retail sale of gasoline and lubricants, as accessory to marinas

Uses accessory to commercial fishing operations

#### 6.1.3. Bulk Requirements

Minimum required lot area: 20,000 square feet

Minimum frontage: 80 feet

Maximum lot coverage: 35 percent (35%)

Minimum yard widths:

Front: 10 feet

Side: There shall be a minimum of two side yards for every principal building with each side yard having a minimum width of 10 feet, except that the Commission may specifically allow side yards having a combined minimum width of 20 feet where the Commission finds that adjacent lots are being developed in accordance with a single comprehensive plan and applicable building codes are met.

Rear: 10 feet

Maximum building height: 20 feet, ~~except that the Commission may, by Special Permit, consider and approve buildings not to exceed a height of 30 feet.~~

#### 6.1.4. Conversion to Two or Multi-Family Dwellings

No application for a Special Permit to allow a two or multi-family dwelling shall be accepted by the Commission except for the establishment of such use in a building existing on December 1, 1981. No such conversion to two or multi-family dwellings shall be approved by the Commission unless the requirements of Section 5.3.4 of these Regulations are met.

### **6.1.5. Additional Requirements for Industrial Uses**

The following shall apply to all industrial uses in the Planned Waterfront District:

All outdoor loading or storage areas shall be screened from adjacent residential districts or uses by either a landscaped hedge no less than eight (8) feet in height and having a planting bed no less than six (6) feet in width, which bed shall be protected from any adjacent parking area or driveway by a steel or substantial wood guardrail, or a brick or stone wall having a height of no less than six (6) feet and a base protected from vehicles in the same manner as the aforementioned hedge.

### **6.1.6. Requirements for Marinas**

The following shall apply to all marina uses in the Planned Waterfront District:

**6.1.6.1** Marinas shall contain no more than one berth or slip for every five hundred (500) square feet of adjacent land area owned by said marina and utilized for permitted accessory marina uses, parking and open space.

**6.1.6.2** Every marina shall provide a pump-out facility for marine sanitary devices, which dump station shall be connected to municipal sewer or to a septic system approved by appropriate health officials, and where required, by the Connecticut Department of Energy and Environmental Protection.

### **6.1.7. Waterfront Public Access**

Public access to properties in the Planned Waterfront District shall be provided as follows:

**6.1.7.1.** No public access shall be required for any existing or proposed single-family or two-family dwelling.

**6.1.7.2.** For marinas, boat storage and sales yards, boat-building yards, boat rental liveries, marine repair facilities, commercial fishing operations, and fish fillet plants, no site plan or Special Permit shall be approved unless the plan therefor shall designate an area for public access. Said public access shall, where required, be as close to the high tide line as is feasible, and shall be of a width suitable to permit public viewing of the water and the marine activities adjacent to it. In applying this requirement, the Commission shall attempt to reconcile the need for public safety and unhindered operation of marine activities with the desire of the public to view a vanishing part of the marine landscape.

**6.1.7.3.** For all other uses permitted with the Planned Waterfront District, no site plan or Special Permit shall be issued unless the plan therefor shall designate an area for public access. Such public access shall be parallel to the high tide line, shall be located not more than forty (40) feet distant from the high tide line, and shall be designed so that it retains an unobstructed view of the subject marine frontage along its entire length. The width of the waterfront public access shall be as wide as is feasible, considering the size and shape of the parcel, but in no case less than five (5) feet width. The public access shall be improved as a pedestrian walkway and otherwise landscaped and improved as the Commission may require pursuant to its review under Section 9 of these Regulations.

Regardless of its location, the public access shall be connected to a public street by a public right-of-way having a minimum width of five (5) feet, which public right-of-way shall be improved as a pedestrian walkway.

Both the public access and the connecting right-of-way shall be monumented in the field prior to the issuance of a Certificate of Occupancy, and shall be made to run with the land by granting a permanent easement to the Borough of Stonington.

#### **6.1.8. PAD Eligibility**

The Planned Waterfront District shall be eligible for consideration of an application for Planned Area Development, pursuant to ~~Section~~ Article 7 of these Regulations.

#### **6.1.9. Requirements for Restaurants**

The following requirements shall apply to all restaurants in the Planned Waterfront District:

**6.1.9.1.** Class II Restaurants permitted, Special Permit required.

**6.1.9.2.** There shall be no drive-in, curb service or take-out window permitted.

**6.1.9.3.** Any restaurant shall be primarily contained within a permanent building, and any outside seating must be approved by the Commission.

**6.1.9.4.** Any restaurant which utilizes an open grill or other exposed heat source for cooking shall provide whatever equipment may be required to minimize the emission of smoke, noxious odor, or grease from the building.

**6.1.9.5.** Vents for emission of smoke, odor, or grease shall only be permitted from the side of the building directly onto a street or above the roofline of the building. In no case shall a vent be permitted within twenty feet of a residential unit.

**6.1.9.6.** There shall be no live or recorded sound played or projected outside the restaurant building unless permitted as a condition of the site plan, the special permit, or a zoning permit.

### **6.2. PLANNED COMMERCIAL DISTRICT (PC)**

#### **6.2.1. Statement of Purpose**

The Planning and Zoning Commission of the Borough of Stonington wishes to protect its central business district along Water Street, and to prevent the sprawl of commercial development in other parts of the Borough because of the deterioration which this would cause to the existing commercial area and the inevitable traffic congestion which scattered commercial development would entail for the Borough's fragile circulation system. In keeping with the goals of the Plan of Conservation and Development, the commercial area of the Borough is to be preserved for primarily local service needs, as opposed to a major tourist orientation, while still preserving the architectural character of the areas most frequented by the public, and which give the Borough its attractiveness both as a place to live and a place to visit.

## 6.2.2. Permitted Uses and Use Categories

### 6.2.2.1. Permitted Principal Uses

Single, two and multi-family dwellings existing on September 15, 1986

Not more than one dwelling unit, on other than the ground floor of any building

#### Class I Restaurants

Retail trade of:

Alcoholic beverages for off-premises consumption

Art and craft goods

Books and paper goods

Clothing, dry goods and accessories

Drugs and sundries

Electrical appliances and housewares

Furniture and antiques

Gifts and general merchandise

Groceries and food

Hardware

Marine supplies

Music and musical instruments

Pharmacy

Other retail uses of similar nature and impact as determined by the Commission

Professional or business offices, supplies and services

Personal services:

     Athletic club

     Barber shop or beauty shop

     Dry-cleaning without on-premises cleaning

     Tailor shop

Appliance and equipment repair

Garage, parking

### 6.2.2.2. Permitted Accessory Uses

Buildings, structures and uses accessory to permitted principal uses

### 6.2.2.3. Special Permit Uses

Two and multi-family dwellings, on other than the ground floor of any building, and further subject to Section 6.2.4 of these Regulations

#### Class I Restaurants

Class II Restaurants

Schools, ~~profit and non-profit~~ private and public

## 6.2.3. Bulk Requirements

Minimum required lot area:

6,000 square feet

Minimum frontage:

65 feet

Maximum lot coverage:

50 percent (50%)

Minimum yard widths:

Front:

no requirement

Side:

6 feet, except that the Commission may specifically allow side yards having a

combined minimum width of twelve feet, where the Commission finds that adjacent lots are being developed in accordance with a single unified and comprehensive plan and the applicable building codes are met.

Rear:	10 feet
Side yards, total:	both sides 12 feet, one side 6 feet
Floor area ratio:	80 percent (80%)
Maximum building height:	30 feet

#### **6.2.4. Conversion to Two or Multi-Family Dwellings**

No application for a Special Permit to allow a two or multi-family dwelling shall be accepted by the Commission except for the establishment of such use in a building existing on December 1, 1981 (the date of adoption of this provision). No such conversion to two or multi-family dwellings shall be approved by the Commission unless the requirements of Section 5.3.4 of these Regulations are met.

#### **6.2.5. Requirements for Restaurants**

The following requirements shall apply to all restaurants in the Planned Commercial District:

**6.2.5.1.** Class I ~~and II~~-Restaurants permitted – Special Permit required

**6.2.5.2.** Class II ~~Restaurant~~ - Site Plan- Special Permit required  
~~Class II Restaurant – Special Permit required~~

**6.2.5.3.** There shall be no drive-in, curb service or take-out window permitted.

**6.2.5.4.** Any restaurant shall be primarily contained in a permanent building, and any outside seating must be approved by the Commission.

**6.2.5.5.** Any restaurant which utilizes an open grill or other exposed heat source for cooking shall provide whatever equipment may be required to minimize the emission of smoke, noxious odor, or grease from the building.

**6.2.5.6.** Vents for emission of smoke, odor, or grease shall only be permitted from the side of the building directly onto a street or above the roofline of the building. In no case shall a vent be permitted within 20 feet of a residential unit.

**6.2.5.7.** There shall be no live or recorded sound played or projected outside the restaurant unless permitted as a condition of the site plan, the special permit, or a zoning permit.

#### **6.2.6. Off-Street Parking**

Off-street parking will be provided in accordance with Section 2.8 of these Regulations.

#### **6.2.7. Signs**

All signs shall be in accordance with Section ~~3-7-3.6~~ of these Regulations.

### **6.2.8. Environmental Protection**

All development is subject to the requirements of ~~Section 3.3~~Article 4 of these Regulations.

### **6.2.9. ~~Uses Exempt from Site Plan Review~~**

All uses in this district are subject to the site plan review requirements of ~~Section Article 9 of these Regulations, unless such requirements are specifically exempted by the Commission under Section 9.2.~~

### **6.2.10. PAD Eligibility**

The Planned Commercial District shall be eligible for consideration of an application for Planned Area Development, pursuant to ~~Section~~Article 7 of these Regulations.

## **6.3. PLANNED INDUSTRIAL DISTRICT (PI)**

### **6.3.1. Statement of Purpose**

The Planning and Zoning Commission of the Borough of Stonington recognizes the historical importance of industrial uses within the Borough and supports the continuation of such uses where it is practical to do so. At the same time, the Commission wishes to prevent the extension of industrial development to other areas of the Borough, due primarily to the traffic congestion that would result from the impact of scattered industrial development on the fragile traffic circulation system and narrow roads within the Borough.

In keeping with the Goals and Objectives of the Plan of Conservation and Development, most specifically those dealing with "Economic Development", the Commission encourages the creative reuse of any industrial properties which have, or may have become vacant or obsolete, while emphasizing the preservation and enhancement of the historic architectural character of existing industrial areas. It is further recognized that any development in industrial areas must be compatible with adjacent uses, and that industrial sites must be made as attractive, quiet and otherwise unobtrusive as their nature allows.

### **6.3.2 Permitted Uses and Use Categories**

#### **6.3.2.1. Permitted Principal Uses**

##### **~~Class I Restaurants~~**

Manufacturing, processing and assembly operations of goods including food items located entirely within a building or buildings, but excluding basic processing and manufacturing of materials or products predominantly from extracted raw materials

Printing and publishing establishments

Research laboratories and related offices

Marine science facilities

Art and craft galleries and studios

Business and professional offices

Warehouse and distribution facilities

Hydroponic and other small scale indoor farming and agricultural production, but excluding the raising of animals of any type.

Public or private events (including but not limited to: fund raisers, weddings, parties, farmer's markets, craft markets and similar functions) provided that such events are contained completely within the building with no exterior use permitted other than parking, temporary signage, or access to the event. There shall be no live or recorded sound or music projected outside of the building.

#### **6.3.2.2. Permitted Accessory Uses**

Retail sale of products or goods manufactured, produced or warehoused on the premises, provided that the sale and display of such products or goods shall be located wholly within the same space in which those items have been manufactured, produced or warehoused, and provided that said retail sale is subordinate and incidental to the principal use. If more than one principal use is being conducted on the premises, the term "same space," as used in this section, shall refer only to the portion of the premises occupied by the specific principal use in which the products or goods to be sold were manufactured, produced or warehoused.

#### **6.3.2.3. Special Permit Uses**

##### Class I Restaurants

##### Class II Restaurants

Yard for building, storing, repairing, selling, renting or servicing boats, which may include offices for the sale of marine equipment or products, and other facilities normally found as a part of a boatyard.

Retail trade uses that are listed in Section 6.2.2.1 (Permitted Principal Uses in Planned Commercial District) and that are not generally permitted pursuant to Section 6.3.2.1.

#### **6.3.2.4. Special Permitted Accessory Uses**

Sales of goods from warehouses located on the same lot, subject to the following restrictions and limitations:

**Aa.** Sales shall be allowed only in periodic events of short duration. No sales event shall exceed three consecutive calendar days in duration. For example, a sale begun at any time on a Friday must be concluded no later than the following Sunday. No more than four sales events may occur on any lot in any calendar year, regardless of the number of tenants or principal uses on the lot. No sales shall occur on the lot except as provided in this section or in Section 6.3.2.2.

**Bb.** Such sales must occur entirely within the building in which the principal use is conducted.

**Cc.** The sales area of the building shall be clearly identified by the owner on a building plan and shall be a maximum of five thousand (5,000) square feet exclusive of the halls and public access area. The sales area must be within the warehousing area.

**Dd.** The parking area proposed for use during the sales event shall be clearly delineated on the site plan.

**Ee.** The entity conducting the sales event shall provide, at its own cost, such traffic and safety control measures, including but not limited to traffic patrolmen and traffic signs, as the Zoning Official may find to be necessary to avoid undue traffic congestion and hazards.

**Ff.** No sales event may be commenced unless the eCommission has received written notice of the event at least fourteen (14) days before the beginning of the event. The mailing of a notice to the Commission shall not be deemed to satisfy this requirement if the Zoning Official does not actually receive the notice. It shall be the applicant's responsibility to assure that the Zoning Official has actually received the notice at least fourteen (14) days before the beginning of the proposed sales event.

### **6.3.3. Bulk Requirements**

Minimum required lot area:	20,000 square feet
Minimum frontage:	80 feet
Maximum lot coverage:	50 percent (50%) of total lot area
Maximum floor area:	100 percent (100%) of total lot area
Minimum yard widths:	
Front:	10 feet
Side:	10 feet
Rear:	20 feet
Side yards, total:	both sides 30 feet, one side 10 feet
Floor area ratio:	80 percent (80%)
Maximum building height:	30 feet

### **6.3.4. Additional Use Requirements**

In addition to requirements elsewhere in these Regulations, the following requirements shall apply to all uses in the Planned Industrial District:

**6.3.4.1.** To the greatest extent practicable, redevelopment of existing industrial sites shall include creative re-use of existing industrial buildings of significant historic and architectural interest.

**6.3.4.2.** All new construction shall be designed to complement the character of existing development on site and within the surrounding area, and should relate to the surrounding area with regard to texture, scale, mass, proportion and color.

**6.3.4.3.** For all new uses or changes of use requiring a total of fifty (50) or more parking spaces, the applicant shall provide a written traffic impact analysis, prepared by a recognized traffic engineer, indicating the expected average daily vehicular trips, peak hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, and the effect upon the level of service on the street or streets giving access to the site.

### **6.3.5. Off-Street Parking**

Off-street parking will be provided in accordance with Section 2.8 of these Regulations.

### **6.3.6. Signs**

All signs shall be in accordance with Section ~~3-7-3.6~~ of these Regulations.

### **6.3.7. Environmental Protection**

All development is subject to the requirements of ~~Section 3-3- Article 4~~ of these Regulations.

### **6.3.8. ~~Uses Exempt from Site Plan Review~~**

All uses in this district are subject to the site plan review requirements of ~~Section Article 9 of these Regulations, unless such requirements are specifically exempted by the Commission under Section 9.2.~~

## **6.4. RESERVED LAND (RL)**

### **6.4.1. Statement of Purpose**

The Planning and Zoning Commission of the Borough of Stonington recognizes that land which is owned by public and quasi-public agencies must be used for public purposes in ways which do not fit into normal land use patterns of the Borough. The purpose of the Reserved Land District is to provide such agencies with the flexibility which they require in order to serve the public welfare within the limits of their respective functions and yet to insure that the Borough will have full control over activities which are outside the normal operational activities of said public or quasi-public agencies, or which may have an impact on the character or public welfare of the Borough.

### **6.4.2. Permitted Uses and Use Categories**

#### **6.4.2.1. Permitted Principal Uses**

Libraries

Public parks and playgrounds

Utilities, including underground pipes or conduits for the transmission of gas, electricity, water, sewerage, cable television, and the like.

Transportation facilities including railroad tracks, commercial fishing docks/piers, and yards for the maintenance thereof, and any above-ground buildings associated therewith

### **6.4.3. Bulk Requirements**

Minimum required lot area:	no requirement
Minimum frontage:	no requirement
Maximum lot coverage:	60 percent (60%)
Minimum yard widths:	
Front:	no requirement
Side:	6 feet per side
Rear:	6 feet
Side yards, total:	both sides 20 feet, one side 10 feet
Floor area ratio:	none
Maximum building height:	20 feet

### **6.4.4. Other Requirements**

All development is subject to the requirements of Section 3.3 of these Regulations and other applicable provisions elsewhere in these Regulations, including the site plan review requirements of ~~Section Article 9.~~

## **ARTICLE 7. PLANNED AREA DEVELOPMENT (PAD)**

### **7.1. Statement of Purpose**

The goals of the Plan of Conservation and Development, which Planned Area Development is designed to achieve, include but are not limited to the following: the enhancement for diversity of residential opportunity; flexibility in the development of properties which are unusual in their location and/or physical character; the mixing of land uses in a manner which is innovative and yet compatible and harmonious, especially in the area of the Borough waterfront; the protection of coastal resources as defined by Connecticut General Statutes Section 221-93; and the maintenance of the Borough's historic character and beauty, its aquatic vistas and waterfront public access, its village-scale streetscape, and similar amenities of the Borough as a seaside community of the nineteenth century.

### **7.2. Planned Area Development District (PAD)**

The Planned Area Development District shall be a floating zone which may, upon application and approval in accordance with these Regulations, be approved by the Borough Planning and Zoning Commission. An application for PAD shall only be permitted for the following underlying districts: Residence, Planned Commercial, Planned Waterfront, and those Planned Industrial Districts located adjacent to Stonington Harbor. Regardless of its underlying zone, no application shall be considered for any property indicated on the Plan of Conservation and Development as being at its full residential density capacity or as being proposed for preservation of its general density and character.

### **7.3. Minimum Parcel Size**

No application for PAD shall be permitted for any lot or lots having a total land area of less ~~then~~ than twenty thousand (20,000) square feet. Any number of lots may be combined for purposes of a PAD application, provided, however, that all owners of record shall sign the application form and shall submit partnership, incorporation, or other documents binding the owners to act as one person, and in addition, all applicants and property owners shall be jointly and severally liable for any obligations created by approval of a PAD under these Regulations.

### **7.4. Permitted Uses in the PAD District**

Any use permitted in any district under these Regulations may be permitted in a PAD, subject to review and approval by the Commission, and further subject to the following conditions and restrictions:

**7.4.1.** Any applicant under this PAD regulation shall have the burden of establishing that any proposed use or uses are compatible with each other and with land use patterns on adjoining properties. Such proof must entail more than a mere assertion, but must include expert testimony as to anticipated noise levels, hours of operation, peak times of activity and traffic, visual and noise screening measures, and the like.

**7.4.2.** No PAD proposed for the Residence District shall use more than twenty percent (20%) of the floor space of all building sites combined, nor more than twenty percent (20%) of the land area of the site, for non-residential purposes.

**7.4.3.** No PAD proposed for the Planned Commercial District shall use less than fifty percent (50%) of the floor space of all proposed buildings combined, nor less than fifty

percent (50%) of the land area of the site for commercial purposes. Likewise, no PAD proposed for the PC District shall use more than twenty percent (20%) of the floor space of all proposed buildings combined, nor more than twenty percent (20%) of the land area of the site for residential purposes.

**7.4.4.** No PAD proposed for the Planned Waterfront District shall use more than twenty percent (20%) of the floor space of all proposed buildings combined, nor more than twenty percent (20%) of the land area of the site, for uses which are not directly water-related, as set forth in Section 6.1.2. All PAD proposals in the PW District shall comply with the waterfront public access requirements of Section 6.1.

**7.4.5.** A PAD proposed for the Planned Industrial District shall comply with the following:

**7.4.5.1. Mix of Uses, Overall:** No less than twenty percent (20%) of the total square footage of all buildings shall be used for uses permitted in the Planned Industrial District (Section 6.3) or the Planned Commercial District (~~6.36.2~~). While these uses include Special Permit and Permitted Accessory Uses, including two-family and multi-family dwellings above the ground floor (lowest habitable floor) (Section 6.2.2.3), the application should include, to the extent feasible, non-residential uses to satisfy the above 20% requirement. Two-family and multi-family dwellings will be reviewed under the criteria of this ~~Section~~ Article 7, not Section 6.2.4 or the Sections referenced there.

**7.4.5.2 Mix of Uses, New Construction:** Except as provided hereafter, the total residential square footage in new construction (new buildings and additions to existing buildings) shall not exceed twenty percent (20%) of the approved, total square footage of existing and proposed buildings on the site. If the Commission finds, on the basis of adequate information provided by the applicant or on the Commission's or its agents own inspection, that the physical deterioration of a pre-existing building makes it impractical to adapt it for residential uses, the Commission may, but shall not be obliged, to allow the replacement of all or a portion of the building. If the Commission allows such replacement, the square footage in the replacement building or portion shall not be considered new construction, for the purposes of this ~~s~~Section, to the extent that it does not exceed the replaced square footage of the pre-existing building.

**7.4.5.3. Adaptive Reuse Permitted:** The Commission may permit adaptive re-use for residential purposes of buildings existing on August 1, 2000.

The Commission may, upon request of the applicant, modify the minimum or maximum percentage requirements of subsection 7.4.5.1 and 7.4.5.2 by up to five (5%) percentage points. The Commission may also allow residential dwelling units on the ground floor (lowest habitable floor) of an existing building. The Commission may approve such requests by the applicant where such modification will facilitate a PAD plan which:

- a. Incorporates the preservation and adaptive reuse of buildings existing on August 1, 2000.
- b. Provides public open space and/or community use of land or building areas
- c. Furthers the policies of the Coastal Management Act; and
- d. Implements the policies of the Borough Plan of Conservation and Development.

## 7.5. Bulk Requirements

Minimum required lot area:	No PAD will be considered for less than 20,000 square feet, as per Section 7.3.
Minimum frontage:	Not specified; adequate access must be provided for proposed use or uses.
Maximum lot coverage:	35 percent (35%)
Minimum yard widths:	No requirement
Maximum building height:	30 feet, except as provided below:

Where the PAD proposal includes public open space and/or community use of land or building areas, the Commission may allow building height in excess of that set forth above where:

**7.5.1.** An addition to an existing structure is not to exceed in height the highest point of that existing building; or

**7.5.2.** A new building is being constructed:

**7.5.2.1.** Which reflects the architectural style of an existing building on the site, or in the immediate area of the site; and

**7.5.2.2.** For which the first habitable floor level must be increased in elevation over existing grade in order to comply with the current requirements of the Federal Emergency Management Agency; and

**7.5.2.3.** Which is located entirely within an area between Stonington Harbor and an existing building on the same site having an equal or greater height than the proposed new building;

In such new building, the maximum height shall be measured from the lowest habitable floor level or elevation permitted by the Federal Emergency Management Agency, plus thirty (30) feet. Any such height increase shall be subject to the criteria of Sections 7.9 and Sections 2.6.4 through 2.6.10 of these Regulations, or:

**7.5.3.** The additional height would accommodate, on an existing building, an ornamental architectural feature (such as a clock tower or bell tower) that is harmonious in design and scale to a feature that existed on a building constructed prior to the original adoption of the Zoning Regulations in the Borough of Stonington."

## 7.6. Maximum Residential Density

No proposal for a PAD shall include residential densities in excess of eight (8) units per acre for each acre of the property dedicated to residential use. In determining the acreage dedicated to residential use in PAD applications for mixed uses, the area of the site shall be multiplied by the ratio of residential building square footage to non-residential building square footage.

### **7.6.1. ~~Waiver to~~ Increase in Density to Encourage Adaptive Reuse**

The Commission may modify the requirements of the preceding paragraph so as to allow higher residential densities up to twelve (12) residential units per acre for the gross acreage of the entire site. The Commission will only grant such modification where:

**7.6.1.1.** It will facilitate the preservation and adaptive reuse of existing buildings; and

**7.6.1.2.** Where there is to be no increase in the total building coverage, nor the total floor area, as compared to that of buildings existing on August 1, 2000.

### **7.7. Preliminary Review of PAD Applications**

Any applicant for a PAD may make a written request for a preliminary, non-binding opinion from the Commission to the effect that the proposed PAD concept, including the mix and density of uses, is appropriate for the location proposed and that the other findings required by these Regulations for PAD approval could, in a final plan of sufficient detail, be made. Any such applicant shall, upon making such request, submit to the Commission no fewer than ten sets of preliminary site and building plans. In order to provide a sufficient basis for discussion, these preliminary plans should include at least the following information:

**7.7.1.** Boundary survey of the property proposed for the PAD District, certified by a Connecticut licensed land surveyor to the standards of A-2 accuracy.

**7.7.2.** Site plan showing building coverage and floor area, parking areas, landscaped and public open spaces, vehicular and pedestrian circulation patterns, and the same information for all properties within two hundred (200) feet of the proposed property, including the names and addresses of the record owners for such properties.

**7.7.3.** Preliminary building plans, including renderings of the proposed architectural style, height, materials, and bulk of all buildings, and sample floor plans and a model of the proposal at a suitable scale.

**7.7.4.** A listing of all proposed land and building uses, including the square feet of land or building proposed for each, and the number and approximate size, character, and ownership pattern of residential units, if any; use designations must be specific, and categorical designations such as "commercial" or "industrial" will not suffice.

**7.7.5.** Information on the location, availability, capacity, and feasibility of service for proposed utilities.

**7.7.6.** A traffic study prepared by a Connecticut registered professional engineer specializing in such studies, which study shall evaluate the proposed preliminary site plan for internal pedestrian and vehicular circulation, site lines for access driveways, and the capacity of adjacent and feeder streets to safely accept the additional traffic anticipated both from the proposed development at the time of the application, and at full development in accordance with the Plan of Conservation and Development as adopted and hereafter amended.

## 7.8. Procedure for PAD Applications: Receipt and Referral

Whether or not the applicant has requested and received a preliminary opinion on the proposed PAD concept, the applicant may at any time submit a formal application for a zoning district change to PAD and for PAD plan approval under these Regulations. The application shall be accompanied by a fee as provided in Section 11.4. The materials submitted for preliminary review in Section 7.7 above may be used as part of the formal submission. In addition, the applicant shall submit all information required for a site plan and Special Permit in accordance with Articles 9 and 10 of these Regulations.

Where construction is to occur in phases, or where certain buildings or spaces remain otherwise undesigned at the time of the application (such as for single-family dwellings to be constructed for future occupants), the Commission may approve or disapprove preliminary plans and designs for those future phases. The preliminary plans shall designate the bulk requirements to be applied to all buildings (footprint, height, maximum floor area), and the phasing of any demolition. No demolition shall occur in advance of that specified in the preliminary plan. The commencement of construction in a future phase shall be subject to the submission and approval of final designs and specific use designations. Any such subsequent submission shall be deemed to constitute a part of the original PAD application and shall be evaluated as a legislative decision under the criteria of this Section. It shall not constitute a Special Permit or Site Plan application.

The Commission may require bonding of amenities or improvements which will serve a future phase, and may also require bonding of the restoration (grading, stabilization, loaming, and seeding) of the land beneath any building to be demolished.

Where a PAD application is sought to be approved in phases, the applicant shall indicate all areas of the site expected or proposed to be used for open space, community use spaces, public access, or other public or community resources upon full development of the parcel in accordance with the PAD. All such areas shall be referred to hereafter collectively as "Common Area." Each phase of the proposed PAD shall include, at a minimum, a percentage of the proposed Common Areas that will be sufficient to make the cumulative percentage of all Common Areas presently or previously provided equal to the cumulative percentage of the total proposed building floor area to be occupied as of the completion of that phase.

Both the initial phase(s) and future phases of any PAD application shall be evaluated under the criteria of this ~~Section Article~~ 7 and of Sections 2.6.4 through 2.6.10 of these Regulations. Provided the final plans make no significant or substantial change to the future phase, approval of final plans for a future phase of a PAD shall not be construed as a "Major Amendment" per Section 7.14 of these Regulations. Nevertheless, approval of final plans for a future phase shall require a public hearing.

Upon receipt of an application for formal approval, the Commission shall, at its next regular meeting following such submission, determine if the application is complete in accordance with these Regulations, and if so, the Commission shall hold a public hearing on the application within sixty-five (65) days in accordance with the requirements of Section 8-3 of the Connecticut General Statutes pertaining to changing zoning districts.

**7.8.1.** ~~Where appropriate~~ As required by CGS 8-3b, plans for the proposed PAD shall be referred to the Southeastern Connecticut ~~Regional Planning Agency~~ Council of Governments for its review and comment not later than thirty (30) days before the public hearing to be held in relation thereto.

**7.8.2.** The Commission shall refer said plans for comments and reports to Borough and Town staff and agencies, including but not limited to, the following: Borough Fire Chief, Town Fire Marshal, Town Police Traffic Division, Town Building Official, and Town Director of Public Works.

**7.8.3.** The applicant shall notify record owners of all property within three hundred (300) feet of the perimeter of the proposed PAD of the public hearing, in the manner set forth in Section 10.3 of these Regulations.

### **7.9. PAD Applications: Evaluation**

Following the public hearing on the PAD application, the Commission shall make a determination whether all the following conditions are satisfied:

**7.9.1.** The location of the proposed uses of the PAD are in conformance with the adopted Plan of Conservation and Development;

**7.9.2.** The PAD is superior to any development which might be permitted in accordance with the underlying district designation, said superiority to be measured by the criteria contained in these Regulations and in the goals and objectives for the Plan of Conservation and Development, including, but not limited to, the goal of expanding the scope and diversity of residential opportunity;

**7.9.3.** The proposed PAD affirmatively contributes to the public health, safety, and welfare and the purposes of these Regulations;

**7.9.4.** The PAD conforms to all requirements of these Regulations, including the criteria for approval of site plans and Special Permits.

**7.9.5.** Compliance with the criteria of Sections 2.6.4 through 2.6.10 of these Regulations.

**7.9.6.** All utilities shall be underground.

**7.9.7.** Any private streets, sidewalks, drainage, or other similar improvements shall comply with the applicable specifications required for public improvements in the Borough of Stonington.

In that the approval of a PAD constitutes a change of zone, it calls for the Commission to act in its legislative capacity, and to exercise legislative discretion. By filing an application for a PAD, the applicant acknowledges and accepts the nature of such application, and the level of discretion which the Commission possesses in such applications.

### **7.10. PAD Applications: Commission Decision**

Following the public hearing and evaluation of the proposed PAD, the Commission may approve, modify and approve, or deny said application. Modifications by the Commission may include conditions of approval to be met prior to endorsement and filing as set forth in Section 7.11, and may also include phasing requirements for construction, completion of public improvements prior to completion of certain construction phases, bonding of public improvements or project amenities by cash or insurance bond, and any other conditions or

requirements which may be required to insure compliance with the objectives of the PAD Regulations, and to protect the public health, safety, and welfare.

### **7.11. Endorsement and Filing of Final Plans**

Within thirty (30) days of the vote of approval of the Commission, the applicant shall submit a complete set of final development plans to the Commission, accompanied by written and signed statements by the applicant's architect, land surveyor, and professional engineer to the effect that the plans submitted are in conformance with all relevant provisions of the Zoning Regulations and that they include all information and amendments required by the Commission for its final approval. The Chairman and/or Secretary of the Commission shall endorse said plans at the next regularly scheduled meeting of the Commission, provided that the Commission finds that the plans are, in fact, conforming with the Regulations and to the final approval. Thereafter, it shall be the applicant's responsibility to file said plans in the Office of the Town Clerk within thirty (30) days for their endorsement and any plan not so filed shall be automatically null and void.

### **7.12. Construction and Completion**

Construction shall commence on any PAD approved in accordance with the final plans within one (1) year of the filing in the Office of the Town Clerk in accordance with Section 7.11, and any plan not completed with a Certificate of Occupancy issued in accordance with Section 7.13 below, within five (5) years of the date of filing, shall likewise be null and void, and no Certificate of Occupancy shall thereafter be issued except by the amendment procedure as set forth in Section 7.14.

### **7.13. Certificates of Zoning Compliance and Occupancy**

Prior to the issuance of a Certificate of Zoning Compliance by the Zoning Official and subsequent Certificate of Occupancy by the Building Official, the Commission shall, at a regularly scheduled meeting, receive signed, sworn statements from the project architect, engineer, and land surveyor to the effect that the project is complete in accordance with the approved final plan, as it may have been amended in accordance with Sections 7.14 and 7.15 below, or, in the alternative, that said project is incomplete, the specific items remaining to be completed, and the estimated cost of such work at market prices. The Commission shall consider said signed sworn statements along with inspection by Commission members and/or staff reports and, if the Commission finds the PAD to be complete, it shall authorize the issuance of a Certificate of Zoning Compliance and Certificate of Occupancy.

If the Commission finds the PAD to be incomplete, it shall authorize the issuance of a Conditional Certificate of Zoning Compliance and Conditional Certificate of Occupancy ~~or, in the alternative, authorize said issuance~~ upon the posting of a cash or passbook bond in the amount of the value of the items to be completed plus ten percent administrative overhead. Said bond shall be released by the Commission and final Certificates issued when further signed, sworn statements by the relevant professional are received, and the Commission finds that the remaining items are completed.

### **7.14. Major Amendments to Approved Final Plan**

Any major amendment shall be processed by the Commission as a new application in accordance with these Regulations. A major amendment shall be defined as including, but not limited to: alteration for the height, coverage, square footage, external appearance, or use of

any building or structure; any significant or substantial rearrangements of such buildings or structures; any change in the residential units' density, number of bedrooms in a significant portion of the dwelling units, ownership pattern, or significant changes in the floor plan of any building or buildings; any significant alteration of landscaped areas, public access spaces, waterfront vistas, recreation area, or other amenities; any change in phasing or timing; any alteration to the utilities to be provided to the PAD. The Commission shall, in cases of question, determine whether a change shall be designated as major or minor.

#### **7.15. Minor Amendments to Approved Final Plan**

Any minor amendment to an approved final plan may be approved by the Commission at its discretion, if it finds that the change will in no way diminish the affirmative benefit which the Borough derives from the subject PAD, and will not alter any basic, substantive, or significant aspect or feature of it which was considered by the Commission and the public in their review of and comment on the original proposal. No minor amendment may be approved without completely revised plans in accordance with Section 7.10 and endorsement and filing pursuant to Section 7.11.

## ARTICLE 8. Planned Multi Family Housing District (PMFH)

### 8.1. Statement of Purpose

The Planning and Zoning Commission of the Borough of Stonington recognizes the need to provide a variety of housing opportunities to meet the needs of a diverse population. This zone is designed to allow single family, two-family, and multi-family dwellings in such a way that is compatible with, and enhances the village character of the Borough. This zone is designed to accommodate larger sites, which, due to their shape, access, and former use, may not be appropriate for uniform ~~single family~~single-family development.

### 8.2. Permitted Uses and Use Categories

#### 8.2.1. Permitted Principal Uses

Single-family dwellings (no more than one dwelling may be permitted as of right on any one lot pursuant to this section)

Two-family and multi-family dwellings existing on September 15, 1986, provided that no additional dwelling units may be added pursuant to this section

Publicly owned buildings, parks, and open space

Family Child Care Home

Group Child Care Home

#### 8.2.2. Permitted Accessory Uses

Customary home occupations, subject to Section ~~3.53.4~~

Accessory uses listed in Section ~~3.4.13.3.1~~

Accessory Dwelling Units, subject to Section 3.3.3

#### 8.2.3. Special Permit Uses

Two-family dwellings subject to Section 8.9

Multi-family dwellings

Professional or business offices, supplies, and services

The following personal services: athletic club, barber shop, beauty shop, dry-cleaning without on-premises cleaning, and tailor shop

### 8.3 Bulk Requirements

Minimum required lot area:	40,000 square feet
Minimum frontage:	100 feet
Maximum lot coverage:	35 percent (35%)
Minimum yard widths:	
Front:	10 feet
Side:	10 feet
Rear:	10 feet

Maximum building height: 30 feet, except the Commission may, by special permit, approve buildings not to exceed 30 feet above base flood plain elevation or 30 feet above finished grade in accordance with section 3.3.5.3, whichever is higher.

Maximum floor area for single-family dwellings: 6,000 square feet

#### **8.4. Off-Street Parking**

Off-street parking will be provided in accordance with Section 2.8 of these Regulations.

#### **8.5. Signs**

All signs shall be in accordance with Section ~~3.67~~ of these Regulations.

#### **8.6. Environmental Protection**

All development is subject to the requirements of ~~Section 3.3 Article 4~~ of these Regulations.

#### **8.7. Site Plan Review**

All development is subject to the site plan review requirements of ~~Section Article~~ 9 of these Regulations.

#### **8.8. Additional Requirements**

**8.8.1.** Density: No proposal for multi-family housing shall include residential densities in excess of 18 units per acre, and no single development shall include more than 30 units total.

**8.8.2** There shall be no more than 12 dwelling units per building, and no building shall exceed 160 feet in its greatest horizontal dimension.

**8.8.3** The minimum floor area of a dwelling unit in a multi-family dwelling shall not be less than 750 square feet.

**8.8.4.** All multi-family dwellings shall be separated from existing residential buildings not included in the multi-family housing district by at least 30 feet.

**8.8.5.** No outside storage will be provided unless it is completely screened from view from any adjoining residential property or street. Refuse containers shall be screened from view and provided in sufficient numbers to accommodate refuse from all residents in a sanitary and odorless manner.

**8.8.6.** All driveways, access roads, interior circulation roads, and parking areas shall be paved, curbed, and storm drained, except where otherwise required by the Commission for purposes of conservation or environmental protection. Driveway points of intersection with public streets shall be designed to provide adequate visibility along such public streets. All driveways, access roads, parking areas, and interior circulation roads shall be privately owned and maintained, except that the Commission may require the provision of public

access to waters of the State in accordance with coastal area management goals and policies. Parking areas shall be set back a minimum of ten (10) feet from any residential structure.

- 8.8.7.** Sidewalks shall be required on any street, driveway, access road, or interior circulation road on which the development is located, unless the Commission finds that sidewalks would not be of significant value or that they would detract from the character of the proposed development. All sidewalks, outside the public right-of-way, shall be privately owned and maintained.
- 8.8.8** The Commission may require a maximum of fifteen percent (15%) of the total lot area to be set aside for permanent open space and recreation areas. Active recreation areas shall be located, prepared, and equipped, as determined by the Commission so as to adequately meet the needs of the occupants of the development. Required yard areas may not be counted as open space. All open space shall be useable for passive or active recreation, and the Commission may require the exclusion of land unsuitable for such purposes, such as wetlands and floodplains, from the total lot area set aside for such purposes. Unless otherwise required for public access to the waters of the State or unless the developer proposes otherwise, such open space shall be for the private benefit of the residents of the development.
- 8.8.9.** Utilities shall be placed underground.
- 8.8.10.** Fire hydrants shall be installed, as required by the Fire Marshal.
- 8.8.11.** Suitable landscaping, as determined by the Commission, shall be provided on all lots on which a multi-family dwelling is located, and shall at a minimum meet the requirements of Section 3.2 of these Regulations as applicable. The Commission may require the installation of a buffer strip to provide an effective barrier between a multi-family development and single-family residences on adjacent properties and/or environmentally sensitive areas, such as tidal wetlands, inland wetlands, and coastal waters.
- 8.8.12.** The applicant shall submit an architectural rendering of each typical unit type.
- 8.8.13.** Lighting fixtures shall be directed downward and shall be shielded to prevent artificial light from projecting onto adjacent properties. The Commission may require submission of a lighting plan indicating the placement and design of the lighting fixtures and their anticipated projections.
- 8.8.14.** All development in the PMFH ~~zone-district~~ shall conform to the requirements of **§ Section 2.6** of these regulations.
- 8.8.15.** The application shall include a report detailing how the proposed development, including, but not limited to, any mechanical units, will conform to the Connecticut noise control regulations, Regs. Conn. State Agencies §22a-69-1 et seq., as the same may be amended from time to time. The report shall indicate the approach to be adopted by the applicant in minimizing the noise impact of the project on neighbors.

| **8.8.16.** Private roads and parking areas shall not be gated, barricaded or otherwise physically obstructed except as may be specifically permitted by the Commission.

| **8.8.17.** Notwithstanding the provisions of Section 2.14 of these Regulations, multi-family housing may include multiple principal structures on the same lot.

## **8.9. Conversion to Two-Family Dwelling**

No application for a Special Permit to allow a two-family dwelling shall be accepted by the Commission except for the establishment of such use in a building existing on December 1, 1981. No such conversion to two-family dwellings shall be approved by the Commission unless the following requirements are met:

- 8.9.1.** The proposed conversion is contained entirely within a building which existed on December 1, 1981, and in those portions of such building which so existed on said date, such that the only building square footage which the Commission shall consider for conversion shall be that existing on the effective date of these Regulations, with the exception of stairways, elevator shafts, hallways, and other required accessory spaces not used for dwelling purposes; provided, however, that the sum of such spaces shall not exceed ten percent of the total building square footage as it existed on December 1, 1981.
- 8.9.2.** The proposed conversion will be in harmony with the architectural character of the building.
- 8.9.3.** There shall be a minimum lot area of 3,500 square feet required for each dwelling unit (7,000 minimum for a two-family dwelling).

## ARTICLE 9. SITE PLANS

### 9.1. Purpose

Each use for which a site plan is required has a potentially significant impact upon the unique character of the Borough. The Commission recognizes that many uses of land may be rendered acceptable or unacceptable for particular locations by numerous factors, including appearance and arrangement of structures, compatibility with adjoining uses, capacity of adjoining streets, availability of parking, and other considerations enumerated in the Regulations. It is intended that the site plan for each use be prepared with due consideration for the purpose and intent of these Regulations; coordination with and improvement of vehicular and pedestrian access, drainage and utilities, lighting and landscaping, natural resources, historic buildings, and other features that support the neighborhood; and protection of the public health, safety, welfare, property values, and the environment.

### 9.2. Requirement for Site Plan

No property shall be used, or uses altered in space, time or intensity, nor buildings or structures erected, altered or enlarged, except those uses and activities exempted elsewhere in these Regulations, and as described below, until a site plan meeting all applicable requirements of Section- Article 9 herein has been approved by the Commission. Site Plan approval from the Planning and Zoning Commission is required for construction of all new residential, commercial and industrial buildings.

~~Site plan approval from the Commission is not required if: the proposed uses, alterations or construction will not result in an increase in the need for parking, there is no significant exterior change to the building or site visible from the frontage road or the waters surrounding Stonington Borough (including Stonington Harbor, Little Narragansett Bay and Fisher's Island Sound), there is no increase in the gross floor area of a non-conforming building or structure, any increase in the gross floor area of a conforming building or structure is itself conforming, and any change of use is to another permitted principal use allowed in that district. A Zoning Compliance Permit may be required to be obtained from the Zoning Official as per Section 11.2. Site plan approval from the Planning and Zoning Commission is required for construction of all new residential, commercial and industrial buildings.~~

#### 9.2.1. ~~Exceptions to Site Plan Requirements~~ Administrative Site Plan

~~Certain uses and activities are specifically exempted elsewhere in these Regulations, from the requirements of obtaining site plan approval under Article 9. In addition, site plan approval shall not be required if the Commission determines that a proposed activity will not result in an increase in the need for parking, nor shall it entail any significant exterior change to the building or site, nor shall such new activity have any impact different from the existing use from which the change is requested. This exception, however, shall not apply to coastal site plans.~~

An application for Administrative Site Plan approval may be submitted to the Zoning Official for uses, alterations or construction that will not result in an increase in the need for parking; there is no significant change to the building or site visible from the fronting street or the waters surrounding Stonington Borough (including Stonington Harbor, Little Narragansett Bay and Fishers Island Sound); there is no increase in the gross floor area of a non-conforming building or structure; any change of use is to another permitted use allowed in this district; and the proposed use is not subject to coastal site plan review.

The Zoning Official shall report all Administrative Site Plan reviews conducted to the Commission monthly on a form that details the reasons for the action taken.

### **9.2.2. ~~Partial Exemption of Site Plan Requirements~~**

~~In order to avoid unnecessary delay and expense for the applicant whose proposed activity is minor in nature and in its impact on the unique character of the Borough, the Commission may, by resolution, at its discretion, exempt any application from specifically designated portions of the requirement for contents of a site plan as set forth in Section 9.5. Such exemption may be approved only if the Commission determines that such information would in no way aid the Commission in its determination of the application's compliance with these Zoning Regulations.~~

~~9.2.3. Applicants requesting a full or partial exemption of site plan requirements shall submit an application for a Zoning Compliance Permit as specified in Section 11.2 to the Zoning Official at least fifteen days prior to the next regular meeting of the Commission and shall state the nature of the exemption being requested.~~

### **9.3. Informal Discussion of Site Plan**

Any applicant for a use requiring site plan approval may request the opportunity to place such proposal in the agenda of a regular or special meeting of the Commission for the purpose of presenting preliminary plans or concepts, and receiving preliminary comments, observations, questions, or areas of concern. Neither the applicant nor the Commission shall be in any way bound by statements made in such informal discussions, their purpose being only to minimize delay, expense, and inconvenience to the public, the applicant and the Commission upon the future receipt, if any, of a formal submission of the site plan. At this informal discussion, the applicant may request ~~a full or partial exemption~~ use of the administrative site plan requirements approval process under Section 9.2.1, ~~or 9.2.2.~~ Following any informal discussion, the Commission may suggest that the proposal, or certain aspects thereof, be referred to other municipal, state, or federal agencies for review and comment, or may suggest that additional information is or will be required prior to action on a formal application for site plan approval.

### **9.4. Application for Site Plan Approval**

Each application for site plan approval shall be submitted to the Zoning Official, or other designated agent, at least fifteen (15) days prior to the next regular meeting of the Commission, on a form provided by the Commission, and accompanied by twelve (12) copies of the proposed site drawing and applicable architectural or design drawings, which shall meet all requirements of Section Article 9 herein, ~~except those specifically exempted by the Commission under Section 9.2.~~ The application shall be accompanied by a fee as specified in Section 11.4. The Commission shall determine when an application is complete.

Such applications, except those accompanying a Special Permit request, shall be acted upon by the Commission in its capacity as Zoning Commission under the provision of Section 8-3(g) of the Connecticut General Statutes. In the case of site plans accompanying a Special Permit application, such plans shall be considered as part of a Special Permit application and final action on such plan shall be taken in accordance with the provisions of Section 8-7d of the Connecticut General Statutes.

## 9.5. Contents of a Site Plan

A site plan on a sheet no larger than twenty-four (24) inches by thirty-six (36) inches at a scale of one inch equals twenty feet (1"=20'), or other such scale as may be approved by the Commission, shall be prepared that will include and show, where applicable as determined by the Commission, the following information, and shall be accompanied by all written reports and documentation as required herein. Such plan shall be prepared and sealed by a professional engineer, land surveyor, or architect licensed to practice in the State of Connecticut.

### 9.5.1. Boundary Survey Plan

All boundary and survey information contained on the site plan shall meet the requirements for accuracy to A-2 standards which were in effect prior to 1993, unless reference can be made to a previous A-2 survey on file in the office of the Stonington Town Clerk.

### 9.5.2. Statement of Use

A written statement, signed by the applicant, and by the owner if different from the applicant, describing the following in sufficient detail to determine compliance with these Regulations:

9.5.2.1. The nature and extent of the proposed use or occupancy;

9.5.2.2. The number of persons to occupy or visit the premises on a daily basis, including parking and loading requirements for the proposed use;

9.5.2.3. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.

### 9.5.3. Reports

Written reports concerning the following:

9.5.3.1. Evidence from the Stonington Water Pollution Control Authority, or its agent, that the site can be adequately served by sanitary sewers;

9.5.3.2. Evidence from the Connecticut American Water Company that community water is available to the site;

9.5.3.3. All plans and reports required in ~~Section 3.3 Article 4~~, including, but not limited to, the following:

a. Application and coastal site plan, as required in Section ~~3.3.14.1~~;

b. Special requirements in flood hazard areas, as required in Section ~~3.3.24.2~~;

c. An erosion and sediment control plan for development when the disturbed area of development is cumulatively more than one-half acre, as required in Section ~~3.3.34.3~~;

d. ~~€~~ Compliance with waterfront vista protection requirements of Section 3.1;

- e. ~~a~~-A description of measures included to reduce hypoxia, pathogens, toxic contaminants, and floatable debris, in accordance with Section ~~3.3.64.6~~.

#### 9.5.4. Site Plan Specifications

The following information shall be included on all site plans submitted to the Commission for approval:

**9.5.4.1.** A location map at a scale of one inch equals one hundred feet (1"=100'), depicting the subject property and all abutting properties, public ways, and lands reserved for public use, in such a way as to show the relationship of the site to the surrounding neighborhood and to the street pattern;

**9.5.4.2.** Property boundaries and names of all abutting property owners, including across the street, if applicable;

**9.5.4.3.** All existing and proposed grades at five (5)-foot intervals or less and the existing grades every twenty-five (25) feet along abutting streets. Grades and contours shall be referenced to an existing or established public benchmark;

**9.5.4.4.** The delineation of all wetlands and watercourses, coastal resources, and flood hazard areas;

**9.5.4.5.** Location and size of all existing and proposed buildings and uses on the subject site, and approximate location and size of all existing buildings and structures on the abutting property which are within twenty (20) feet of the common lot line;

**9.5.4.6.** Existing groins, jetties, bulkheads, docks, piers, and wharves; specimen trees, shrubs, and tree or shrub areas; special site features, such as ledge outcroppings, scenic or marine vistas; landmark structures and sites; location of utilities, underground cables and pipes; existing driveways, walkways, parking areas, including walkways within the adjacent street right-of-way, easements or covenants running with the land;

**9.5.4.7. Proposed Buildings and Structures:** location and square foot coverage; buildings proposed for demolition; accessory buildings and structures, including piers, docks, jetties, walls, fences, and signs; use of all buildings and square footage of each use; total number of dwelling units, including square footage of each unit; floor plans showing existing and proposed rooms, partitions, and uses; where an exterior elevation of the building is to be altered, or in the case of new construction, the building elevations, including front, side, and rear, depicting all building details, including door and window location and type, building materials, location of all roof or ground-mounted heating or air-conditioning units, and the screening thereof, and any building-mounted signs or lighting;

**9.5.4.8. Proposed Site Features:** proposed excavation, grading, and filling and volumes of material to be moved; uses of land, including outside display or storage areas and the square footage of each; percent of building coverage, percent of open space; alterations in boundaries; required yards; any proposed future division of land among owners; phasing schedule of development; proposed easements or covenants running with the land, and text of all easement or covenant documents;

**9.5.4.9. Proposed Off-Street Parking:** location of parking areas, number of spaces in each, dimensions of spaces and aisles; direction of traffic flow; pedestrian circulation patterns; wheel stops and curbs; required number of parking spaces per proposed use, according to Section 2.8 of these Regulations, and total number of spaces provided on the site; location of all pedestrian and vehicular easements to permit access to adjoining sites;

**9.5.4.10. Proposed Landscaping and Open Space:** location of all landscaped areas and their total square footage, the location of trees and shrubs, and a table or key indicating their type and number, their size at planting, and their mature size; materials of walkways and parking areas, and samples where required; location, height, and construction of all fences, walls, and retaining walls; location, number, and design of all street furniture, including benches, planters, trash receptacles, tree grates, and the like;

**9.5.4.11. Proposed Lighting:** number, height, and location of all lighting fixtures, including building-mounted fixtures; mean, peak, and minimum light levels produced; wattage and type of all luminaries; illustrations of the poles and luminaries to be used;

**9.5.4.12. Proposed Utilities:** location of all proposed utilities to serve the site; design of all storm water drainage structures, calculations of increased peak flow, location and design of detention and/or siltation ponds, and evidence of the adequacy of public storm water systems to receive flow.

## 9.6. Specific Recommendations and Requirements for Sites and Buildings

The following recommendations and requirements are provided to assist the applicant in determining the specific items which the Commission will examine in evaluating any site plan, and the preferred or required features, as the case may be:

**9.6.1. Building Materials:** Preferred building material shall be brick, stone, or narrow width siding, or the like. Not preferred are metal, unfinished concrete block, and asphalt shingle siding. Roofing materials should, where visible, be cedar shake, slate, copper, or reasonable equivalents (e.g. architectural asphalt shingles). ~~Tar paper, metal, or plastic roofing surfaces are strongly discouraged.~~ Building-mounted lighting shall utilize shielded light sources, and shall be of a style and character which is in harmony with the character of the Borough. Building-mounted floodlights, and ornamental building lighting are discouraged. All roof-mounted ventilation, heating, and air-conditioning equipment, including solar collectors panels, should, where possible, be recessed or otherwise incorporated into the roof design, ~~so that they are not visible from any adjacent property at the height of the proposed building.~~

**9.6.2. Lighting:** All commercial, industrial, and multi-family residential parking lots shall be illuminated to an average level of one-half foot candle per square foot. Lighting standards in parking areas shall not exceed twelve feet in height. Luminaries shall have shielded light sources to prevent glare. Pedestrian ways shall be illuminated by light bollards or other low-level lighting standards which shield light sources. All loading areas shall be illuminated to the level of parking areas.

**9.6.3. Walkways:** All site plans shall provide for pedestrian walkways and circulation in commercial, industrial, and multi-family residential parking areas and around buildings. Walkways along public streets are required and should be constructed of slate, brick, or

concrete and at a minimum width of five feet. Interior walkways should be constructed of slate, brick, or suitable paving blocks, but in no case shall they be gravel or earth.

**9.6.4. Landscaping:** All building foundations should be landscaped with suitable trees and shrubs. All parking areas should be screened from adjoining properties and streets by landscaping, and landscaped islands should be incorporated into parking lots to direct vehicular and pedestrian circulation and to reduce the visual impact of large paved areas. All deciduous trees shall have a minimum caliper of two and one-half inches, all evergreen trees shall have a minimum height of six feet, and all shrubs shall be of a size at least one-third of their mature potential. All artificial trees, shrubs, or grass are prohibited, except for seasonal, festive, or other temporary decorations.

## **9.7. Findings Required for Approval of a Site Plan**

**9.7.1.** That the application is complete and includes all materials and information required by the Commission in order to reach the findings contained herein.

**9.7.2.** That the application conforms to all relevant provisions of these Regulations.

**9.7.3.** That the application is not significantly adverse to any recommendation or objective of the Plan of Conservation and Development.

**9.7.4.** The proposed use is appropriate for the designated location with regard to: the size and intensity of the proposed use, and its relation to existing land uses; the capacity of adjacent and feeder streets to accommodate peak and average traffic volumes, and special traffic characteristics of the proposed use; the obstruction of light or air, or the emission of noise, light, smoke, odor, gas, dust, and/or other offensive emissions without adequate buffering or controls; the overall impact on neighborhood property values, and any limitation of the existing or future use of adjacent properties; special problems of fire or police protection inherent in the proposed use; the preservation of the character of the neighborhood; the availability of adequate sewer, water, storm water, and other utilities which the use may require.

**9.7.5.** That the site and building plans are designed so as to minimize the delay, inconvenience, and expense of providing for the public health, safety, and welfare, including but not limited to the following: adequate year-round access for emergency vehicles and equipment; adequate utility capacity; flood-proofing measures which may be desirable, even if over and above the minimum requirements of these Regulations; provision for the control of erosion and sedimentation; provisions for the protection of the physical environment; avoidance of glare visible from public streets or adjacent properties.

**9.7.6.** That the proposed activity, with any conditions or modifications imposed by the Commission, is consistent with all applicable policies of Section 22a-92 of the Connecticut General Statutes and incorporates any conditions or modifications and all reasonable measures which mitigate the adverse impacts of the proposed activity on both coastal resources and future water-dependent uses.

**9.7.7.** That the overall architectural character of the site and building designs are not detrimental to property values in the Borough, and will preserve its existing historic character in terms of scale of buildings, the preservation of aquatic vistas and public access, materials used, roof lines, door and window details, site and building lighting, paving materials, landscaping, signs, colors, and all other features of the site and buildings which are visible from the exterior of any building on the site or from adjoining properties or streets, or which may impact the character or quality of life on adjoining properties or throughout the Borough.

## **9.8. Approval of Site Plan**

The decision to approve, modify, or deny a site plan application shall be made within the time periods specified by state statute. A decision to deny or modify shall set forth the reasons for such denial. Once approval has been granted by the Commission, one (1) mylar and four (4) copies of the approved plan, on which all of the conditions imposed by the Commission as part of its approval have been clearly indicated, shall be forwarded to the Commission for its endorsement.

## 9.9. Amendments to Approved Site Plan

Minor amendments to an approved site plan may be approved by the Commission provided said amendments do not alter the overall character, quality, density or intensity, bulk, uses, amenities, parking or other major features of the site plan as approved. Major amendments shall be treated as new applications for site plan approval in accordance with the procedure set forth in these Regulations. The Commission shall decide, on cases in question, whether a change shall be designated major or minor. Regardless of the decision of the Commission, the applicant may still have to submit the amendment for approval under the provisions of Section 2.6, Design Overlay Zone.

## 9.10. Building Permit Required

A building permit shall be obtained for any site plan in accordance with the final approved plans within ~~one (1) year~~ five (5) years as required by State Statute of the Commission's approval thereof. ~~An extension of up to one year may be granted for good cause by the Zoning Official, who may defer the decision to the Commission. The Commission may grant one or more extensions of the time to complete all or part of the work in connection with the site plan, provided the total extension(s) does not exceed ten (10) years from the original date of approval. The Commission may condition an extension on a determination of the adequacy of a bond or other surety.~~ Any plan not commenced within ~~one~~ five (5) years or the extension, if granted, shall be null and void. No building permit shall be issued until a new site plan has been approved by the Borough Planning & Zoning Commission.

## 9.11. Certificate of Occupancy

No Certificate of Occupancy shall be issued by the Building Official until the Commission, or its agent, has determined that the site has been completed in accordance with the approved site plan and has issued a Final Certificate of Zoning Compliance. No Final Certificate of Zoning Compliance shall be issued until the Commission, or its designated agent, has received written certification from the project architect, engineer, or land surveyor, if one has participated in the preparation of application materials, to the effect that the project has been completed in accordance with the approved plan. If amendments have been approved, "as built" drawings shall be submitted as well. The Commission, or its agent, shall consider said written certification and "as built" drawings, along with any inspections of the site. ~~If the Commission, or its agent, finds that the project is complete in accordance with the approved plan, issuance of a Certificate of Occupancy shall be authorized. If the Commission, or its agent, finds that the project is incomplete, a Certificate of Occupancy shall not be issued.~~

When the site work cannot be completed because of weather or other pertinent reason, a Conditional Certificate of Zoning Compliance and a Conditional Certificate of Occupancy may be issued for a period not to exceed one hundred eighty (180) days, provided that the site, in its unfinished condition, poses no threat to public health, safety, and welfare; and provided that a surety bond, or other acceptable surety, in an amount sufficient to cover the cost of improvements remaining to be completed, is posted with the Commission. The Commission shall determine the amount of the surety. Such surety shall be in a form acceptable to the Commission, payable to the Borough of Stonington, and shall be accepted with the express condition that all work covered by the surety shall be completed within the period specified by the Commission, or such surety shall be forfeited to the Borough of Stonington.

**9.12. Optional Public Hearing**

The Commission may hold a public hearing on a proposed site plan, subject to the time requirements of Section 8-7d of the Connecticut General Statutes.

**9.13. Public Postings**

The applicant for a site plan shall comply with the public posting requirements of Section 11.6.

## **ARTICLE 10. SPECIAL PERMITS**

### **10.1. Purpose**

It is recognized that there are certain uses which, because of their nature, cannot be distinctly classified or regulated so as to be uniformly permitted in a particular zoning district, without careful consideration in each case of the impact of such uses upon neighboring uses and the surrounding area, and without careful evaluation of the public need for such uses in the particular locations proposed. Such uses, therefore, shall be treated individually through the use of Special Permits. Special Permits shall be used to evaluate other uses or development as indicated elsewhere in these Regulations.

### **10.2. Application for Special Permits**

Each application for the approval of a Special Permit shall be filed with the Zoning Official on a form provided by the Commission at least five (5) calendar days prior to the Commission's next regularly scheduled meeting and shall be accompanied by a fee as specified in Section 11.4 of these Regulations. The Commission shall not take action on any Special Permit application until after a public hearing has been held in accordance with the requirements of Section 8-3c of the Connecticut General Statutes.

Each Special Permit application shall include a site plan prepared in accordance with the requirements of ~~Section~~ Article 9 of these Regulations. Informal discussion of the site plan is especially encouraged for Special Permit applications (see Section 9.3). The Commission may take action simultaneously on both the Special Permit application and the site plan prepared for the subject property; however, approval of the Special Permit application shall not constitute approval of the site plan for the subject site unless specifically stated by the Commission.

### **10.3. Notification of Adjacent Property Owners**

Each application for a Special Permit shall include a list, prepared by the applicant, of the names and addresses of the owners of all land included within the application and of all properties 150 feet or less distant therefrom, all as shown on the most recent records on file in the Town of Stonington Tax Assessor's Office. The application shall mail notification of said pending application to at least one owner of each such property not more than twenty (20) days, and not less than ten (10) days before the date set for the public hearing, by transmitting the text of the public hearing notice as provided by the Commission. Evidence of such mailing, in the form of United States Post Office Certificates of Mailing, shall be submitted to the Zoning Official along with said list of property owners, not less than five (5) calendar days prior to the hearing date. Failure to comply with the procedures required herein shall be deemed a valid basis for denial of a Special Permit application. Each applicant for a Special Permit shall comply with the public posting requirements of Section 11.6.

### **10.4 Notification to Contiguous Municipalities**

Whenever the Commission has before it for consideration an application any project on any site in which: a. any portion of the property affected by a decision is within 500 feet of the boundary of the adjoining municipality, b. a significant portion of the traffic to the completed project shall use streets within the adjoining municipality to enter or exit the site, c. a significant portion of the sewer or water drainage from the project shall flow through and significantly impact the drainage or sewerage system within the adjoining municipality, or d. water runoff from the improved site shall impact streets or other municipal or private property within the adjoining municipality, the

Commission shall, within seven (7) days of receipt of application, notify the clerk of such municipality, in writing, of the fact of such application and of the date fixed by it for such hearing. No hearing shall be conducted on any application, petition, request or plan unless the adjoining municipality has received the notice required under this Section. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, request or plan.

#### **10.4-5 Findings**

A Special Permit shall not be granted until the Commission has determined that all of the following conditions have been satisfied:

#### **10.4.5.1. Compliance With the Plan of Conservation and Development and the Zoning Regulations**

The proposed use of the subject site is consistent with the purpose and intent of the Plan of Conservation and Development, and the proposed use is one which is permitted to be established within the district in which the subject site is located, subject to the approval of a Special Permit.

#### **10.4.5.2. Orderly Development**

The location, type, character, and size of the use, and of any building or other structure in connection therewith, is in harmony with the appropriate and orderly development of the Borough and the neighborhood, and will not hinder or discourage the appropriate development and use of adjacent property.

#### **10.4.5.3. Property Values and Character of the Neighborhood**

The proposed use will not depreciate adjacent property values, and the size and height of all proposed buildings and the extent of all proposed site improvements shall be in harmony with the existing character of the neighborhood in which such use is to be established.

#### **10.4.5.4. Public Safety**

The nature and location of the proposed use, and of any building or other structure in connection therewith, is such that there is adequate access to it for the purpose of fire protection, police protection, and other emergency equipment.

#### **10.4.5.5. Traffic Considerations**

The streets serving the proposed use are adequate to carry all prospective traffic; adequate provision is made for entering and leaving the subject site in such a manner that no undue hazard to traffic or undue traffic congestion shall be created; and adequate off-street parking and loading facilities are provided as required by Section 2.8 of these Regulations.

#### **10.4.5.6. Landscaping and Buffers**

The site on which the proposed use is to be located will be suitably landscaped to protect the neighborhood and adjacent property, and the proposed use of the property will not result in the loss of any existing buffering. When adequate buffering is not found to exist, sufficient buffers between the proposed use and adjacent property shall be provided.

#### **10.4.5.7. Relationship to Utility Systems, Drainage Systems, and Impact on Community Facilities**

The subject site has adequate water and sewer service for the proposed use, adequate provisions for storm water drainage can be provided without adversely affecting neighboring properties or adjacent public drainage systems, and the proposed use will not adversely affect existing community facilities.

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#### **10.4-5.8. Compliance with Zoning Regulations**

In addition to meeting the other conditions described herein, the proposed use and the arrangement of all proposed buildings, structures, facilities, and other site improvements shall comply with all applicable provisions of these Regulations.

#### **10.5-6 Stipulations With Special Permits**

The Commission, in approving a Special Permit, may stipulate such restrictions as appear to the Commission to be reasonable to protect or promote the rights of individuals, property values, and the environment in the area as a whole, the public health, safety, or welfare, sound planning and zoning principles, improved land use, site planning and land development, or better overall neighborhood compatibility. Such restrictions may concern, without limitation, the components of the site plan: building location, size and layout, distribution of and relationship between uses and structures, vehicular and pedestrian circulation, parking, open space, landscaping and screening, signs and lighting, and the design and architectural treatment of all structures.

#### **10.6-7 Time Period/Revocation of Special Permits**

If no substantial construction has begun on a building or structure, or no use authorized by the Special Permit has been established on a lot for which a Special Permit was approved by the Commission, within one (1) year of the date of approval of the Special Permit, the Permit shall become null and void upon the vote of the Commission at a meeting where the applicant has been afforded the opportunity to show cause as to why the Permit should remain in effect. Substantial construction shall include the erection of all foundation structures and at grade slabs. At its discretion and for good cause, the Commission, at the request of the applicant, may grant an extension for a period of one (1) additional year for the beginning of substantial construction or establishment of a use, provided such an extension shall be granted only once for any particular Special Permit.

Whenever the Commission shall find, in the case of any Special Permit granted under the provisions of this Section, that any of the terms, conditions, or restrictions upon which such approval was granted are not being complied with, the Commission may rescind and revoke such approval after giving due notice to the owner of record of the property involved and the applicant for the Special Permit.

Whenever a use permitted by Special Permit is abandoned, as defined in Section 2.9 of these Regulations, the approval of such Permit shall be rescinded and revoked. Continuation of a use for which a Special Permit approval has been rescinded shall constitute a violation of these Regulations.

#### **10.7-8. Changes to Approved Special Permits**

Once a Special Permit has been granted to use a lot under the provisions of these Regulations, and a site plan regarding such use has been approved under the provisions of Section 9, no subsequent change to the approved building or structure, parking lot, or outdoor use of land shall be permitted unless a new site plan is submitted to and approved by the Commission regarding the change. If any such modification involves a change in the use of the property or buildings thereon, from that which was originally approved, a new Special Permit application delineating the change in use shall be submitted to and considered by the Commission.

## **ARTICLE 11. ADMINISTRATION AND PROCEDURES**

### **11.1. Enforcement**

These Regulations shall be enforced by the Zoning Official, or other agent of the Commission as the Commission may, by resolution, designate. The Zoning Official, or other designated agent, is hereby authorized to inspect or cause to be inspected any building, place, or use, and to order in writing the remedying of any condition found to exist in violation of these Regulations. ~~When the Zoning Official is unavailable, t~~The Commission Chair may issue cease and desist orders in the absence of the Zoning Official due to vacancy or other reason.

#### **11.1.1. Violation and Penalty**

The owner or agent of a building, structure, or property where a violation shall have been committed or shall exist, or the lessee or tenant of an entire building or an entire lot where such violation shall have been committed or shall exist, or the agent, architect, builder, contractor, or any other person who shall maintain any building or premises in which such violations exist shall be guilty of a misdemeanor punishable as provided in Chapter 124 of the Connecticut General Statutes. Furthermore, the Commission may, at its sole discretion, direct the Borough counsel to commence criminal or civil action in state or federal court for the purpose of enforcing the provisions of these Regulations.

### **11.2. Zoning Compliance Permit Required**

Before an individual may receive a building permit, he or she must first make application to the Zoning Official, or other designated agent, for a Zoning Compliance Permit. Such application shall be made on the form provided by the Zoning Official and shall be accompanied by a plan, drawn to scale, showing the actual shape and dimensions of the lot to be built on, the size, area, and location on the lot of the principal and accessory structures, the lines within which the building or structure is to be erected, renovated, or altered, the existing and intended use of each building or part of a building, the number of dwelling units the building is designed to accommodate, and other such information as may be necessary to determine and provide for the enforcement of these Regulations.

It shall be unlawful to commence construction, demolition, renovation, or alteration of any building or excavation for any building or structure or use, until the application and plans herein required shall have been approved by the Zoning Official, or other designated agent, and a zoning permit indicating such approval has been issued.

In addition to the requirements stated above, when a site plan approval is required under the provisions of ~~Section- Article~~ 9 of these Regulations, no Zoning Compliance Permit shall be issued for such construction or renovations until such site plan has been approved by the Commission and endorsed by its Chair, Zoning Official or agent.

### **11.3. Final Certificate of Zoning Compliance and Certificate of Occupancy**

It shall be unlawful for any newly erected structure, or addition for which a building permit has been issued, to be occupied or used, or for any building or premises or part thereof to be converted or changed from one type of occupancy to another until a Certificate of Occupancy has been issued by the Building Official. No such Certificate of Occupancy shall be issued unless the building or premises complies with all provisions of these Regulations. Upon request of the applicant, the Zoning Official shall inspect the building or premises for which a Certificate

of Occupancy is requested and shall determine whether the building or premises complies with these Regulations, or if such building or premise does not comply, the manner in which compliance is lacking. If the building or premises is in conformance, the Zoning Official shall issue a Final Certificate of Zoning Compliance, a copy of which shall be received by the Building Official prior to the issuance of a Certificate of Occupancy.

Whenever a site plan is required under ~~Section-~~ Article 9 of these Regulations, Section 9.11 shall govern the issuance of a Certificate of Occupancy.

#### **11.4. Fees**

Fees have been set in “An Ordinance Establishing Individual Cost Based Fees for Municipal Land Use Applications - Borough of Stonington, CT”. Such fees shall be paid by check or money order payable to the Borough of Stonington, and shall be used to defray the costs of processing the application, including publication costs of required legal notices, professional review, and other costs arising out of a particular application. Such fees shall be non-refundable.

#### **11.5. Public Hearings**

A public hearing shall be held where required by these Regulations or by the Connecticut General Statutes. In addition, a public hearing may be held on other matters that the Commission deems of significant public interest to require a public hearing. The notification of dates for, and conduct of all public hearings shall be in accordance with the appropriate provisions of the Connecticut General Statutes.

#### **11.6. Posting of Property**

The applicant for any zoning permit, site plan, Special Permit, zone change for a particular property or variance, requiring action by the Planning and Zoning Commission or the Zoning Board of Appeals under these Regulations shall erect, or cause to have erected, a sign on the premises affected by the proposed application at least fifteen (15) days prior to the issuance of a zoning permit, Commission review of the site plan, or the public hearing regarding a Special Permit, zone change, or variance. Said sign shall be provided by the Zoning Official upon request of the applicant. Said sign shall be installed by the applicant, securely fastened or staked, be clearly visible from the street closest to the affected property, and shall be maintained as such until fifteen (15) days following the public notice of Commission action on the application.

## **ARTICLE 12. AMENDMENTS TO ZONING REGULATIONS AND ZONING MAP**

### **12.1. Amendments**

The Planning and Zoning Commission of the Borough of Stonington, on its motion or on petition, may amend, change, modify, or repeal these Regulations or the Zoning Map, after public notice and public hearing, in accordance with the General Statutes of the State of Connecticut.

### **12.2. Applications**

Any person, firm, or corporation desiring an amendment or change in the Zoning Regulations and/or Zoning Map may submit an application proposing such amendment or change to the Commission. Before the Commission shall consider any such application, the following requirements shall be met and information submitted by the applicant:

#### **12.2.1. Zoning Map Changes**

All proceedings to change the boundaries or classification of a zoning district shall be instituted by application in writing to the Commission. Applications shall be signed by the person, firm, or corporation proposing such a change. The application shall give the present zoning district, the proposed designation, and an accurate metes and bounds description of the land to be included in the amendment. The application shall include a statement of the reasons why such a change is sought. The applicant shall also include two (2) copies of a map at a scale of one inch equals one hundred feet (1"=100') showing all existing lots, dimensions, property lines, streets, existing zoning, proposed zoning, and name of applicant. The application shall also include a list of the names and address of the owners of all land within one hundred fifty (150) feet or less of the proposed map change, as shown on the most recent records on file with the Tax Assessor of the Town of Stonington.

#### **12.2.2. Zoning Regulations Changes**

All proceedings to change the provisions of these Regulations shall be instituted by application in writing to the Commission, in which the specific provisions to be substituted, deleted, or added shall be precisely set forth. Ten (10) copies of the existing and proposed texts shall be submitted. Applications shall be signed by the person, firm, or corporation proposing such change. The application shall include a statement of the reasons why such a change is sought.

#### **12.2.3.3. Fee**

The Commission shall require an application fee to defray administrative costs of processing the application, including the cost of required legal notices, as per Section 11.4 of these Regulations.

#### **12.2.4.4 Notification of Adjacent Property Owners**

When the application is for a change in zoning district boundaries, the applicant shall mail a notification of said pending application to at least one owner of each property within the area subject to the zone map amendment and within one hundred fifty (150) feet of the location of the proposed change, not more than twenty (20) days and not less than ten (10) days before the date set for the public hearing, by transmitting the text of the public hearing notice as provided by the Commission.

Evidence of such mailing, in the form of United States Post Office Certificates of Mailing, shall be submitted to the Zoning Official at least five days prior to the hearing date.

Each application for a zone change for a particular property or properties shall comply with the public posting requirements of Section 11.6.

The provisions of this subsection shall not apply in cases where the change is initiated by the Commission.

#### **12.5 Notification to Contiguous Municipalities**

Whenever the Commission has before it for consideration an application for Zoning Map change where any portion of which lies within five hundred (500) feet of a contiguous municipality, the Board shall, at least seven (7) days within receipt of the application, notify the clerk of such municipality, in writing, of the fact of such application and of the date fixed by it for such hearing

#### **12.6 Notification to Regional Council of Governments**

Applications for a change of zone or any regulation affecting the use of a zone any portion of which is within five hundred feet of the boundary of another municipality, the Commission shall give written notice of its proposal to the Southeastern Connecticut Council of Governments (SECOG). Such notice shall be made by certified mail, return receipt requested, or by electronic mail, not later than thirty days before the public hearing to be held in relation thereto. If such notice is sent by electronic mail and the Commission does not receive an electronic mail message from SECOG confirming receipt of such notice, then not later than twenty-five days before the public hearing, the Commission shall also send such notice by certified mail, return receipt requested, to SECOG. SECOG shall study such proposal and shall report its findings and recommendations thereon to the Commission at or before the hearing, and such report shall be made a part of the record of such hearing. If such report of the SECOG is not submitted at or before the hearing, it shall be presumed that such council does not disapprove of the proposal. The report of said council shall be purely advisory.

## **ARTICLE 13. ZONING BOARD OF APPEALS**

### **13.1. Powers and Duties**

The Zoning Board of Appeals has been duly established by Borough Ordinance in accordance with the provisions of Chapter 124 of the General Statutes of the State of Connecticut. The Board shall have the following powers and duties:

**13.1.1.** To hear and decide appeals where it is alleged that there is an error in any order, requirement, or decision made by the Zoning Official, or any other official charged with the enforcement of these Regulations.

**13.1.2.** To determine and vary the application of provisions of these Regulations, in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare, and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel, but not generally affecting the district in which it is situated, a literal enforcement of these Regulations would result in exceptional difficulty or unusual hardship, so that substantial justice will be done and the public safety and welfare secured.

**13.1.3.** To hear and decide other such matters as may be required under provisions of the Connecticut General Statutes.

### **13.2. Appeals**

Any appeals to a decision of the Zoning Official, or other official charged with enforcement of these Regulations, or any applications for a variance of these Regulations, shall be made according to the procedures established by the Zoning Board of Appeals and the provisions of Section 8-7 of the Connecticut General Statutes.

### **13.3. Special Treatment of Use Variances**

It is recognized that variances of the use provisions of these Regulations present special problems not occurring in the case of variances of other types, and as such, Section 8-6 of the Connecticut General Statutes provides that these Regulations may specify the extent to which use variances may be granted. Therefore, the following provisions shall control with regard to any application made hereafter for a use variance:

**13.3.1.** No application for a variance from the use provisions of these Regulations (as distinguished from the area, frontage, yard coverage, height, or other geometric provisions hereof) shall be voted upon until a report with recommendations thereon has been received from the Planning and Zoning Commission; or, if no such report has been received, until ten (10) days after a copy of such application has been sent to the Planning and Zoning Commission for its recommendations.

**13.3.2.** The Board shall not grant any use variance unless each of the following findings can be substantiated by the Board, and written basis for such determination by the Board shall be entered into the minutes of the meeting at which such variance request is acted upon:

**13.3.2.1.** The subject parcel of land cannot be used for any permitted use allowed within the district in which it is located because of reasons particular to the parcel in question and not applicable to the area as a whole.

**13.3.2.2.** The use proposed is the minimum variance necessary in order to allow a reasonable use of the property and,

**13.3.2.3.** This use will not impair the existing character of the area or conflict with the general purpose and intent of these Zoning Regulations.

**13.3.3.** In granting any variance under Section 13.3, the Board may attach such additional conditions and safeguards as are deemed necessary to protect the neighborhood, such as, but not limited to, the following:

**13.3.3.1.** Requirement of front, side, or rear yard, greater than the minimum required by these Regulations.

**13.3.3.2.** Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting, or other devices, as specified by the Board.

**13.3.3.3.** Modification of the exterior features or appearance of any structure, where necessary, to preserve property values.

**13.3.3.4.** Limitations of size, number of occupants, method or time of operation, or extent of facilities.

**13.3.3.5.** Regulation of number, design, and location of access drives or other traffic features.

**13.3.3.6.** Requirements of off-street parking or other special features beyond the minimum required by these Regulations or other applicable codes or regulations.

**13.3.3.7.** Failure to comply with any conditions or modification required by the Board shall constitute a violation of these Regulations.

#### **13.4. Notification of Adjacent Property Owners**

Each application for a variance or appeal shall include a list, prepared by the applicant, of the names and addresses of the owners of all land included within the application and of all properties one hundred fifty (150) feet or less distant therefrom, all as shown on the most recent records on file in the Town of Stonington Tax Assessor's Office. The applicant shall mail notification of said pending application to at least one owner of each such property not more than twenty (20) days and not less than ten (10) days before the date set for the public hearing, by transmitting the text of the public hearing notice as provided by the Board.

Evidence of such mailing, in the form of United States Post Office Certificates of Mailing, shall be submitted to the Zoning Official along with said list of property owners, not less than five (5) calendar days prior to the hearing date. Failure to comply with the procedures required herein shall be deemed a valid basis for denial of a variance and appeal.

Any applicant for a variance shall comply with the public posting requirements of Section 11.6.

### **13.5 Notification to Contiguous Municipalities**

Whenever the Board has before it for consideration an application for a variance in the use of property any portion of which lies within five hundred (500) feet of a contiguous municipality, the Board shall, at least seven (7) days within receipt of the application, notify the clerk of such municipality, in writing, of the fact of such application and of the date fixed by it for such hearing.