

<b>Topic:</b>	Zoning; Natural Resource Protection & Conservation; Farmland Protection & Preservation; Agriculture
<b>Resource Type:</b>	Regulations
<b>State:</b>	Connecticut
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	Town of Newtown
<b>Year (adopted, written, etc.):</b>	1987-2003
<b>Community Type - applicable to:</b>	Suburban; Rural
<b>Title:</b>	Town of Newtown Zoning Ordinance
<b>Document Last Updated in Database:</b>	May 8, 2017

### ***Abstract***

The town of Newtown created a conservation and agriculture zone, which, in part, is focused on the retention of agriculture as a beneficial industry within the town. No land or structure within the zone may be altered except for the purposes of natural resource conservation or farming.

### ***Resource***

Chapter 490: Zoning

ARTICLE I Purpose (§ 490-1 - § 490-1)

§ 490-1 Purposes enumerated.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

These Newtown Zoning Regulations are promulgated to secure to the Town of Newtown the protections and benefits provided by Chapter 124 of the General Statutes of Connecticut, as amended, and are designed to lessen the congestion in the streets, and 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, to facilitate adequate provision for transportation, water, sewage, schools, parks and other public requirements, to conserve the value of the buildings and land, to encourage the most appropriate use of land throughout the Town of Newtown consistent with soil types, terrain and infrastructure capacity and to further such other purposes as may be authorized by statute. These regulations and the Zone Map constitute the Comprehensive Plan for zoning in the Town of Newtown.

ARTICLE II Definition of Terms (§ 490-2 - § 490-2)

§ 490-2 Definitions.

As used in these regulations the following terms shall have the following meanings:

#### ACCESSORY APARTMENT

A dwelling unit accessory and subordinate to a one-family detached dwelling. The accessory apartment shall not provide housing for more than three people. {2.01.1}

#### ACCESSORY USE

A use incidental and subordinate to the principal use being made of the lot, but not including any use specifically prohibited by § 490-9 of these regulations. {2.01.2}

#### ADULT CONGREGATE LIVING FACILITY

An institution, building or buildings whose primary purpose is to furnish housing and support services, if required, for persons 62 years of age or older. {2.01.25}

[Amended effective 7-23-1993]

#### ADULT DAY-CARE CENTER

A facility which provides a program of supplementary care for adults outside their homes on a regular basis for part of the 24 hours in a day for one or more days in the week. {2.01.26}

[Amended effective 4-17-2000]

#### ALCOHOLIC BEVERAGE

Any beverage the sale or dispensing of which requires a permit from the Connecticut Liquor Control Commission. {2.01.3}

#### ALCOHOLIC BEVERAGE OUTLET

Any package store, restaurant, tavern, grill or other place where alcoholic beverages are sold, whether for consumption on or off the premises, except wholesale distributors, stores selling canned or bottled beer only, or drugstores dispensing liquor on prescription only. {2.01.4}

#### ANTENNA

A device used to receive or transmit electromagnetic waves. Examples include, but are not limited to, whip, panel, and dish antennas. {2.01.4.05}

[Amended effective 11-29-1999]

#### AQUIFER

A geologic formation, group of formations or a part of a formation that contains sufficient saturated, permeable materials to yield significant quantities of water to wells and springs. {2.01.5}

[Amended effective 6-21-1999]

#### AVERAGE FINISHED GROUND LEVEL

The average of the ground level points at the completion of the building. {2.01.6}

[Amended effective 4-21-1990]

#### BED-AND-BREAKFAST

An owner-occupied private home in which up to four bedrooms are used to provide overnight accommodations, which may include breakfast, for transient guests for compensation. {2.02.01}

[Amended effective 10-2-1995]

#### BOROUGH

The Borough of Newtown. {2.02.1}

#### BUFFER

See "natural buffer" and "planted buffer." {2.02.2}

#### BUILDING

Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or personal property. {2.02.3}

#### BUILDING BULK

The gross cubic feet above average ground level of all buildings, structures, and includes personal property stored outdoors on the lot. {2.02.4}

#### CHILD DAY-CARE CENTER

A program of supplementary care for more than 12 related or unrelated children outside their own homes on a regular basis for part of the 24 hours in one or more days in the week as licensed and regulated by the State of Connecticut. {2.03.01}

[Amended effective 2-2-1995]

#### CLUB

A group of persons organized solely for a recreational, social, patriotic, political, benevolent or athletic purpose or purposes, including, without limitation, country clubs and fraternal organizations, but not including such a group of persons if the facilities operated by them are open to the general public, whether or not upon payment of a fee. {2.03.1}

#### COLLOCATION

Locating commercial wireless communications facilities of more than one provider on a single site. {2.03.1.05}

[Amended effective 11-29-1999]

#### COMMISSION

The Newtown Planning and Zoning Commission. {2.03.2}

#### COMMUNITY RESIDENCE

A dwelling which houses six or fewer mentally retarded persons and two staff persons and which is licensed under the provisions of § 17a-227 of the Connecticut General Statutes, as amended. {2.03.3}

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

#### CONVENTIONAL SUBDIVISION

A pattern of subdivision development that permits the division of land in the standard form provided by the Town for the district in which the land is located. {2.03.4}

[Added effective 8-30-2004]

#### CORNER LOT

See "lot, corner." {2.03.5}

#### DETACHED DWELLING

A dwelling surrounded on all sides by yards. {2.04.1}

#### DWELLING

A building capable of providing complete living quarters, including complete kitchen and bathroom facilities. {2.04.2}

#### DWELLING UNIT

Each part of a building of a multiple-family development capable of providing separate quarters, including complete kitchen and bathroom facilities for one family. {2.04.3}

#### EXCAVATION

The severance from the earth's surface or removal from the ground or any wetland or watercourse of soil, loam, sand, gravel, clay, rock, topsoil or any other earth material. {2.05.01}

[Amended effective 4-11-1997]

#### EXTERNALLY ILLUMINATED SIGN

See "sign, externally illuminated." {2.05.1}

#### FAMILY

One or more persons related by blood, marriage or adoption living together as a single housekeeping unit, including foster children and/or domestic help, but not including paying guests, boarders or roomers. A group of not more than four unrelated persons keeping house together shall be considered a family. {2.06.1}

#### FARMER'S MARKET

A seasonal outdoor event where vendors offer for sale to the general public such goods as fruits, vegetables, herbs, plants, flowers, eggs, honey, maple syrup, dairy products, jams, jellies and baked or prepared foods and seasonal items, including Christmas trees, cemetery baskets, etc. {2.06.2}

[Added effective 4-28-2003]

#### FINDING OF NO SIGNIFICANT IMPACT (FONSI)

A written document concerning the environmental impacts of a proposed use or activity in the aquifer protection district which would not have a significant adverse impact on the aquifer. {2.06.3}

[Amended effective 6-21-1999]

#### FRONT YARD

See "yard, front." {2.06.4}

[Amended effective 6-21-1999]

#### FRONTAGE

See "lot frontage." {2.06.5}

[Amended effective 6-21-1999]

#### GARAGE

See "public garage." {2.07.1}

#### GREENHOUSE

A structure with roof and sides made principally of glass, plastic or other transparent or translucent material containing a heating system, which is used or intended to be used for the cultivation of nonhardy or out-of-season plants. {2.07.2}

#### GROSS FLOOR AREA

That floor area in which the principal uses of the premises are conducted, not including attics or cellars not open to the public or business invitees. {2.07.3}

#### GROUND-LEVEL POINT

The lowest point on the line between a point at the ground level of the building perimeter and the point six feet away from said building perimeter. {2.07.4}

[Amended effective 4-21-1990]

#### GROUNDWATER

Water below the land surface, in the subsurface area beneath the water table in which all spaces are filled or saturated with water. {2.07.5}

[Amended effective 6-21-1999]

#### GUESTHOUSE

An accessory building without kitchen facilities used solely for the accommodation of guests of the family occupying the principal dwelling on the lot and for which no rental or other charge is made or received, either directly or indirectly, in cash, kind or services. The maximum area of a guesthouse shall not exceed 15% of the floor area of the principal dwelling. {2.07.6}

[Amended effective 6-21-1999]

#### HAZARDOUS MATERIAL

Any hazardous substance as defined in 40 CFR 302.4 and listed therein at Table 302.4, or any hazardous waste as defined in § 22a-115 of the Connecticut General Statutes. "CFR" means "Code of Federal Regulations." {2.08.1}

[Amended effective 6-21-1999]

## HEIGHT, BUILDING

The vertical distance from the average finished ground level to the top of the highest roof beam of a flat roof or to the mean level of the highest gable or slope of a hip roof. When a building faces on more than one street, the height shall be measured from the average finished ground level on each street front. {2.08.2}

[Amended effective 6-21-1999]

## HOSPITAL

A place for the diagnosis, treatment or care of human ailments, including, without limitation, a sanitarium, rest home, home for the aged, nursing home and convalescent home, but not including correctional institutions or places to which persons may be involuntarily committed. {2.08.3}

[Amended effective 6-21-1999]

## HOTEL and MOTEL

Shall have the same meaning and shall mean a building or buildings in which rooms, each with private bath facilities, provide temporary lodgings to transients for a consideration and which may or may not provide a private outside entrance to each room or suite of rooms, rooms for public assembly or rooms for the serving of food. {2.08.4}

[Amended effective 6-21-1999]

## ILLUMINATED SIGN

See "sign, externally illuminated" and "sign, internally illuminated." {2.09.1}

## INN

A building or buildings in which rooms provide temporary lodgings to more than five but fewer than 16 transient guests for compensation, and which may provide rooms for the serving of food and alcoholic beverages for guests and/or the general public. {2.09.2}

[Amended effective 10-2-1995]

## JUNKYARD

An area in excess of 200 square feet not completely enclosed in a permitted structure or building which is used for the accumulation, storage, or disposal of waste, abandoned materials or used materials of any kind not being stored for immediate use on the lot. {2.10.1}

## KENNEL

See "operating a kennel." {2.11.1}

## LOT

A parcel of land, of any size or shape, occupied by one principal building or devoted to one principal use and containing the permitted accessory buildings and uses customarily incidental to such principal building or use, and including such open spaces as are required under the provisions of these regulations. Where land is undeveloped, "lot" shall mean all contiguous land owned by the same owner or owners; except for subdivision lots owned by a person not required to obtain reapproval of the subdivision pursuant to Chapter 460,

Subdivision of Land, § 460-34 (effective October, 1967). The mere recording or filing of a map in the Town Clerk's office shall not constitute the creation of a lot. {2.12.1}

#### LOT, CORNER

A lot bounded on two or more sides by intersecting streets, the street lines of which intersect with each other at less than 150°. {2.12.2}

#### LOT COVERAGE

The area of a lot covered by buildings, storage, loading, impervious surfaces, driveways, sidewalks and parking areas. {2.12.3}

[Added effective 8-30-2004]

#### LOT FRONTAGE

The distance between the sidelines of a lot measured along the street line, or, in the case of a corner lot, measured between the side line on one side and the street line on the other. For purposes of this definition, the street line of a temporary turnaround shall be the street line which would exist if the street were extended and the temporary portion of the turnaround eliminated. {2.12.3}

#### MAJOR COLLECTOR STREET

See "street, major collector." {2.13.1}

#### MINIMUM SQUARE

A square each side of which is the length prescribed for the zone in which the lot is situated and which is capable of being drawn entirely within the boundaries and behind the minimum front setback line of a lot in said zone. See chart, § 490-33. No more than 20% of the minimum square shall be classified as inland wetlands as determined by field survey. Nothing herein shall apply to an application for subdivision approval which has been filed with the Planning and Zoning Commission on or before September 30, 1987, provided that such subdivision application is subsequently approved by the Planning and Zoning Commission; or, in the case of a lot which does not require subdivision approval, if a building permit is obtained on or before September 30, 1987. {2.13.2}

[Amended effective 8-10-1987]

#### MOBILE HOME

A dwelling which is designed to be capable of being moved in one or more units from place to place on wheels whether or not such wheels are permanently attached, but excluding pre-built and modular housing which is placed on a foundation and which is not intended to be removed. {2.13.4}

#### MOBILE HOME PARK

Privately owned land upon which two or more mobile homes are intended to be parked and occupied as residences. {2.13.4}

#### MOTEL

See "hotel." {2.13.5}

#### NATURAL BUFFER

A space between the buildings, parking areas and uses on a lot and the lot line in which numerous trees exist, which is cleared of all rubbish and waste material, and which is sufficiently dense so as to obstruct the direct observation of the buildings, parking areas or uses on the lot by a person standing on the adjacent lot not closer than 25 feet to the lot line. {2.14.1}

#### NURSERY

Land devoted to raising trees, shrubs and other plants capable of living outdoors at maturity in the climate of Newtown, Connecticut, whether or not said trees, shrubs and other outdoor plants are rooted in the ground or in containers, and may include the incidental use of greenhouses and temporary structures for propagation, growing and protection of said trees, shrubs and other outdoor plants. {2.14.2}

#### NURSERY SCHOOL

A place providing daytime care or instruction for not more than 15 children, five years of age or younger, inclusive, but not more than four of whom shall be less than two years of age. Places other than public schools providing instruction or day care for more than 15 children or for children six years of age or older shall be considered private schools. {2.14.3}

#### OFFICE

A place within a building in which clerical, professional, administrative and nonpersonal services are carried out. It shall not be applicable to store, shop, bank, residential, restaurant or personal service uses. {2.15.01}

[Amended effective 10-2-1995]

#### OPEN SPACE

Land or water areas which include but are not limited to: areas left in their existing natural state; agricultural land for which development rights have been assigned or otherwise alienated in perpetuity; areas and facilities for noncommercial, nonprofit passive and active recreation, areas for wildlife habitat, groundwater recharge, scenic preservation, and other lands accomplishing the purposes set forth in § 490-58A of these regulations. {2.15.02}

[Added effective 8-30-2004]

#### OPEN SPACE CONSERVATION SUBDIVISION (OSCS)

A pattern of subdivision development that permits the division of land in a manner that results in a reduction in lot area and yard requirements, with the remaining land devoted to open space. {2.15.03}

[Added effective 8-30-2004]

#### OPERATING A KENNEL

The keeping or raising of dogs for a profit or the keeping of more than 10 dogs over the age of six months without regard to profit. {2.15.04}



## PARKING SPACE

Any area used or designated for the parking of a motor vehicle. {2.16.1}

## PERSONAL COMMUNICATION SERVICES

Wireless communication voice and data services. These services may include, but are not limited to, portable phones, pagers and fax transmission. {2.16.1.01}

[Amended effective 11-29-1999]

## PERSONAL SERVICE ESTABLISHMENT

An establishment engaged in providing a service involving the care of a person, his or her apparel or his or her pet, including a barber shop, beauty parlor, day spa, health club, fitness center, gymnastics, shoe repair, tailoring or dressmaking, photographic studio, rental services, counseling, funeral home and pet grooming, provided that pets are not kept overnight, but excluding a dry cleaner or laundromat. {2.16.1.02}

[Amended effective 4-17-2000]

## PERSONAL WIRELESS SERVICES

Commercial mobile services, unlicensed wireless services, and common-carrier wireless exchange access services. {2.16.1.03}

[Amended effective 11-29-1999]

## PERSONAL WIRELESS SERVICES FACILITIES

Facilities for the provision of personal wireless services. {2.16.1.04}

[Amended effective 11-29-1999]

## PLANTED BUFFER

A strip of land dividing buildings, parking lots and uses on one lot from the boundary with an adjacent lot in which is planted two or more parallel rows of evergreen trees or shrubs of not less than 10 feet in height above the ground with their lowest branches not more than three feet above the ground. Said rows shall be at least 10 and not more than 20 feet apart and substantially parallel with the lot line, with the row closest to the lot line to be within 10 feet but not closer than five feet to the lot line. Said trees shall be spaced 12 feet apart in said rows, alternating so that each tree is placed on a point in its row which is midway between the trees on either side of it in the adjacent row. {2.16.2}

## POND

Any body of water of any size created by excavation or impounded by the action of man and not existing as a natural condition in the Town. {2.16.3}

## PRIMARY RECHARGE AREA

That land area immediately overlying the aquifer. The boundary of the primary recharge area is the contact between the stratified drift and adjacent till or bedrock. {2.16.5}

## PRINTING ESTABLISHMENT

A business engaged in the use of printing presses for mass production of printed materials. As used in this section, "printing" shall exclude photocopying, photo developing and photo printing. {2.16.4}

#### PRIVATE ROAD

See "street, private." {2.16.6}

#### PRIVATE SCHOOL

- A. Any boarding, day or night school or college, except one conducted by the Town or state, in which full-time academic instruction is offered for one or more grades; or
- B. A place offering instruction or care for more than 15 children ages two to five and therefore does not meet the definition of a nursery school. {2.16.7}

#### PROFESSIONAL PERSON

A certified public accountant, registered architect, dentist, lawyer, professional engineer, registered land surveyor or medical doctor, including, without limitation, a physician, surgeon, optometrist, psychologist, psychiatrist, podiatrist, chiropractor or osteopath. {2.16.8}

#### PUBLIC GARAGE

A building, or a part thereof, used for the storage, care or repair of motor vehicles for remuneration, including, without limitation, the keeping of motor vehicles for hire, but excluding car washes and sales rooms for the sale of new automobiles, farm equipment, trucks and motorcycles. {2.16.9}

[Amended effective 10-26-1992]

#### PUBLISHING ESTABLISHMENT

A business that prepares and/or issues printed material for distribution or sale. {2.16.10}

[Amended effective 10-2-1995]

#### REAR YARD

See "yard, rear." {2.18.1}

#### RECREATIONAL VEHICLE

A portable, primarily temporary living accommodation towed on wheels, transported on a truck or having its own motive power, which may or may not contain running water, bath facilities, a flush toilet, appropriate sanitary connections or cooking facilities. {2.18.2}

#### RESTAURANT

An establishment preparing and serving food for consumption by patrons at tables or counters enclosed within the building where the food is served. {2.18.3}

#### SECONDARY RECHARGE AREA

That area adjacent to the primary recharge area for which rainfall that infiltrates the ground must move laterally to enter the aquifer. {2.19.0}

#### SELF-SERVICE STORAGE FACILITY

A lot or lots containing one or more buildings designed and used for the purpose of renting or leasing individual storage spaces to tenants who are to have access to said space for the purpose of storing and removing personal property stored therein. Such renting or leasing shall not include renting or leasing of space for outside storage. Outside storage is prohibited. {2.19.01}

[Amended effective 7-1-1990]

#### SHOPPING CENTER

A lot containing one or more buildings integrated architecturally and in placement on the lot, devoted to various business enterprises, which use the parking and other facilities on the lot in common. {2.19.1}

#### SIDE YARD

See "yard, side." {2.19.2}

#### SIGN

Any device involving the visual sense, whether ordinarily defined as a sign or not, which is intended to bring attention to the subject thereof, including, without limitation, illuminated structural features, decorated building walls or surfaces, and extraordinarily bright lights placed or designed to attract attention, and excluding the flag or insignia of any nation, state, town, village, governmental or religious organization. {2.19.3}

#### SIGN, EXTERNALLY ILLUMINATED

A sign which is artificially illuminated in any manner from sources not contained within the sign. {2.19.4}

#### SIGN, INTERNALLY ILLUMINATED

A sign which is illuminated to any degree from sources of illumination contained within the sign itself and may include, without limitation, distinctively shaped lights even though no writing or other designs appear thereon. {2.19.5}

#### SIGN, WALL

A sign which is built into or supported by a wall of a building or structure, but not merely painted on the surface of the wall. {2.19.6}

#### STATE

The State of Connecticut. {2.19.7}

#### STORY

That part of a building between a floor and the ceiling next above. An attic shall be considered a half story, unless the roof plate is more than five feet above the attic floor, or unless more than 60% of the attic floor space is finished for habitable purposes, in which

case it shall be considered a full story. A story which is not entirely above the average ground level at the foundation shall be figured as that fraction of a story which its height above average ground level bears to the total height of the story; provided, however, any such space which is contained in a cellar that is no more than 1/2 above the finished lot grade averaged along the exterior walls of the building shall not be considered a story. {2.19.8}

#### STREET

Any public highway over which the public has the right to pass and re-pass or is owned and maintained by either the Town or the state. {2.19.9}

#### STREET, ARTERIAL

A street, whether presently existing or proposed on a subdivision plan, which is officially classified as such by the Commission in the Newtown Plan of Development. {2.19.10}

#### STREET LINE

The line marking the boundary of the street right-of-way. {2.19.11}

#### STREET, LOCAL RESIDENTIAL

A street, whether presently existing or proposed on a subdivision plan, which is officially classified as such by the Commission in the Newtown Plan of Development. {2.19.12}

#### STREET, MAJOR COLLECTOR

A street, whether presently existing or proposed on a subdivision plan, which is officially classified as such by the Commission in the Newtown Plan of Development. {2.19.13}

#### STREET, MINOR COLLECTOR

A street, whether presently existing or proposed on a subdivision plan, which is officially classified as such by the Commission in the Newtown Plan of Development. {2.19.14}

#### STREET, PRIVATE

Any highway where the fee or right-of-way is not owned by the Town or the state or the public does not have the right to pass and re-pass. {2.19.15}

#### STRUCTURAL ALTERATION

Any change in a building or structure requiring a building permit under the State Building Code. {2.19.17}

#### STRUCTURE

Anything constructed, whether or not the resulting structure is raised above ground. It may be constructed of natural or artificial material. Structures shall include, without limitation, swimming pools, tennis courts, garages, parking lots and paved driveways. {2.19.16}

#### SUPPORT SERVICE

Services provided to residents of an adult congregate living facility which may include, but are not limited to: food service; personal assistance with bathing, dressing, ambulation, housekeeping and eating; call-for-aid emergency system; restorative therapy; supervision of self-administered medication; and assistance with securing health care from appropriate sources. {2.19.18}

[Amended effective 7-23-1993]

#### TOPSOIL

Earth materials, including loam, which are arable and which constitute the surface layer of earth material. {2.20.1}

#### TOWER

A structure intended to support equipment used to receive or transmit electromagnetic waves. Examples of towers include self-supporting lattice, guyed, and monopole. {2.20.1.05}

[Amended effective 11-29-1999]

#### TOWN

The Town of Newtown. {2.20.2}

#### TRAILER

A detached vehicle or object with wheels having no motive power of its own, but drawn by or used in connection with a motor vehicle which is or can be used for hauling, storage, or temporary working quarters. Mobile homes shall not be considered trailers. {2.20.3}

#### UNLICENSED WIRELESS SERVICES

The offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services. {2.21.1}

[Amended effective 11-29-1999]

#### VETERINARY HOSPITAL

A facility for the diagnosis, treatment, care and confinement of animals. {2.22.1}

[Amended effective 11-16-1998]

#### WALL SIGN

See "sign, wall." {2.23.1}

#### WATERCOURSE

See § 22a-38(16) of the Connecticut General Statutes, as amended, and as defined in the Inland Wetlands and Watercourses Regulations of the Town of Newtown.

Editor's Note: See Ch. 528, Inland Wetlands and Watercourses.

{2.23.2}

#### WETLANDS

See § 22a-38(15) of the Connecticut General Statutes, as amended, and as defined in the Inland Wetlands and Watercourses Regulations of the Town of Newtown.

Editor's Note: See Ch. 528, Inland Wetlands and Watercourses.

{2.23.3}

#### WHOLESALE BUSINESS

The sale of merchandise or other commodities solely to retailers, dealers or tradesmen. Wholesale business does not include the sale of merchandise or commodities directly to members of the general public by the wholesaler. {2.23.4}

#### WIRELESS TELECOMMUNICATIONS FACILITY

The equipment and structures involved in receiving or transmitting electromagnetic waves associated with wireless telecommunications services. {2.23.5}

[Amended effective 11-29-1999]

#### WIRELESS TELECOMMUNICATIONS SERVICES

Services associated with the transmission and/or reception of wireless telecommunications. These services may include, but are not limited to, cellular, personal communication services, specialized mobilized radio and paging. {2.23.6}

[Amended effective 11-29-1999]

#### YARD, FRONT

Space across the width of the lot between the building or structure (other than driveways) nearest a street and the street line. {2.25.1}

#### YARD, REAR

Space across the full width of the lot between the rear most building or structure (other than driveways) and the rear lot line. {2.25.2}

#### YARD, SIDE

Space extending from front yard to rear yard between the side lot line in question and the nearest building or structure other than driveways. {2.25.3}

#### ZONE

The same meaning as the word "district" or "zoning district" as such terms are employed in Chapter 124 of the General Statutes of Connecticut, as amended. {2.26.1}

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

#### ARTICLE III Designation of Zones (§ 490-3 - § 490-6)

§ 490-3 List of districts. {3.01}

The Town of Newtown is hereby divided into the following zones:

Farming and Residential {3.01.100} R-1/2

Farming and Residential {3.01.101} R-1

Farming and Residential {3.01.102} R-2

Farming and Residential {3.01.103} R-3

Professional {3.01.104} P-1

Retail Business {3.01.105} B-1

Sandy Hook Design District {3.01.106} SHDD  
[Amended effective 10-2-1995]]

General Business {3.01.107} B-2

Office Business {3.01.108} B-3

Neighborhood Shopping Center {3.01.109} NSC-1

Industrial {3.01.110} M-1

Industrial {3.01.111} M-2

Planned Commercial Development {3.01.112} M-2A  
[Amended effective 4-17-2000]

Industrial {3.01.113} M-3

Industrial {3.01.114} M-4

Industrial {3.01.115} M-5

Industrial {3.01.116} M-6

Multiple Family for Elderly Housing {3.01.117} EH-10

Aquifer Protection District. {3.01.118} APD

Fairfield Hills Adaptive Reuse {3.01.119} FHAR

Conservation and Agriculture {3.01.120} CA  
[Amended effective 5-18-1998]

Hawleyville Center Design District - East {3.01.121} HCDD-E  
[Amended effective 8-9-1999]]

Public School {3.01.212} PS

[Amended effective 8-14-2000]

§ 490-4 Zone Map. {3.02}

Said zones and Aquifer Protection District are bounded and defined on a map entitled "Newtown, Connecticut Zone Map" dated July 1, 1969, as amended, filed with the Newtown Town Clerk and which, with all explanatory matter thereon, is hereby made a part of these regulations.

§ 490-5 Prior zone maps. {3.03}

All official zone maps of the Town of Newtown approved prior to the adoption of these regulations shall remain on file in the office of the Town Clerk but shall be considered merged into the Zone Map referred to in § 490-4. Said maps shall have validity only to the extent that a court of competent jurisdiction finds them necessary to determine the location of a zoning boundary which it finds not determinable from the map referred to in § 490-4 hereof.

§ 490-6 Determination of district boundaries. {3.04}

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

- A. Boundaries indicated as following streets, railroads, brooks or rivers shall be considered to follow the center lines of such streets, railroads, brooks or rivers. {3.04.100}
- B. Where a boundary line is shown parallel to a street, railroad, brook or river, the distance given shall be considered measured to the center line of such street, railroad, brook or river. {3.04.200}
- C. In the event that zone boundaries are indicated as following identifiable lot lines or as being parallel or perpendicular thereto or extensions thereof, and such lot lines are not drawn accurately or to scale on the Zone Map, then the zone boundary shall be construed with reference to lot lines as shown on an approved subdivision map or other maps prepared in accordance with the standards of accuracy of a Class A-2 survey as defined in the Code of Practice for the Standards of Accuracy and Maps, as amended by the Connecticut Association of Land Surveyors, Inc. {3.04.300.}
- D. Boundaries not indicated as following streets, railroads, brooks, rivers, lot lines or other natural features shall be determined by the scale of said Zone Map. {3.04.400}



- E. If the boundary of a zone cannot be determined by any of the above means, a landowner may apply to the Commission and the Commission shall determine the location of the boundary. {3.04.500}

#### ARTICLE IV Permitted Uses (§ 490-7 - § 490-32)

##### § 490-7 Permitted uses established; compliance with sanitary and health codes. {4.01}

- A. The principal and accessory uses permitted in the zones and Aquifer Protection District indicated are set forth below. Only those uses are permitted and all others are hereby expressly prohibited.
- B. All principal and accessory uses permitted in all of the zones shall meet the provision for drinking water and sanitary waste disposal as required by the Newtown Sanitary Code

Editor's Note: See Chs. 278, Sanitation, and 661, Sanitary Code and the Public Health Code of the State of Connecticut.

##### § 490-8 Prohibited conditions. {4.02}

No use shall be permitted, even if otherwise permitted as a principal or accessory use, which causes or results in:

- A. Dissemination of smoke, dust, observable gas or fumes, noise, odor, vibration, or light beyond the lot on which the use is being conducted. Violation of the specific performance standards established by § 490-26 of these regulations for the industrial zones in which they apply shall automatically be considered a violation of this section. This section may also be found to be violated in any zone where the Zoning Enforcement Officer finds the existence of the items listed in the first sentence of this section without regard to said performance standards. {4.02.100}
- B. Menace by reason of fire, explosion or other potential hazard to person or property. {4.02.200}
- C. Any discharge into the atmosphere, the ground or any watercourse or other body of water of any substance which, in the form and quantity discharged, will damage the fauna and flora of the lot in question, or which will be harmful to persons breathing the atmosphere or drinking or bathing in the water on or off the lot. {4.02.300}
- D. Disorderly accumulation of waste, abandoned or used materials, where visible from adjacent streets or lots. {4.02.400}

§ 490-9 Prohibited uses. {4.03}

The following uses, buildings or structures are specifically prohibited throughout all zones even though only an accessory use:

- A. Automobile junkyards, junkyards, the processing of junk materials, or motor vehicle body shops. {4.03.100}
- B. Amusement parks, drive-in theaters and race tracks. {4.03.200}
- C. Manufacture of poison, toxic chemicals or explosives. {4.03.300}
- D. Mobile home parks, trailer parks and individually occupied mobile homes or trailers, except as set forth in § 490-27D and E hereof. {4.03.400}
- E. Rock or stone crushers, processing of sand, sand and gravel, or concrete batch plants; rock crushing except as set forth in Chapter 450, Sand and Gravel, § 450-8D. {4.03.500}

[Amended effective 2-17-2003]

- F. Signs which rotate, vibrate, move or swing or which have rotating, vibrating, moving or swinging parts. {4.03.600}
- G. Storage outdoors of any unregistered motor vehicle or obsolete and/or unused contractors' machinery or equipment. This subsection shall not prohibit outdoor storage of unregistered operable motor vehicles used on farms. {4.03.700}Storage outdoors of any unregistered motor vehicle or obsolete and/or unused contractors' machinery or equipment. This subsection shall not prohibit outdoor storage of unregistered operable motor vehicles used on farms. {4.03.700}
- H. A slaughterhouse, rendering plant or refinery. {4.03.800}
- I. A tank farm or individual aboveground storage tanks over 5,000 gallons' capacity, except that the five-thousand-gallon limitation shall not apply to aboveground tanks located in industrial zones. {4.03.900}

[Amended effective 2-18-2002]

- J. Used car sales lots, except where conducted on the same premises as a new car sales lot and clearly incidental thereto. {4.03.1000}

§ 490-10 Aquifer Protection District (APD). {4.04}

- A. Intent and purpose.
  - (1) It is the intent of this section to promote the health and general welfare of the community by preventing the contamination of ground resources and to

protect groundwater quality within the Town of Newtown and in particular the Pootatuck Aquifer to ensure a present and future supply of safe and healthy drinking water. The Aquifer Protection District is designated as an overlay zone.

- (2) The purpose of this section is to facilitate the adequate provision of clean water by prohibiting, within the Aquifer Protection District, land uses which can contaminate groundwater resources and by regulating other land uses which may have the potential to contaminate or downgrade existing and potential groundwater supplies.
  - (3) The stratified drift deposits of the Pootatuck Aquifer are composed predominately of interbedded layers of sand and gravel with lesser amounts of silt and clay. These deposits are underlain by crystalline bedrock, mostly gneiss and schist. The Pootatuck Aquifer is capable of supplying large quantities of drinking water in Newtown and its protection is critical.
  - (4) The Pootatuck Aquifer (a federally protected sole-source aquifer) is highly susceptible to contamination because of its relatively high permeability and shallow water table which is recharged mainly from precipitation that percolates from the land surfaces within the watershed.
- B. Applicability. These regulations shall be in addition to the requirements for the underlying zoning districts as designated on the Zone Map. Both the requirements of the Zoning Regulations as set forth in other sections and the requirements contained herein for the Aquifer Protection District shall apply within such zone. In the event of a conflict, the more restrictive requirements shall apply. {4.04.100}
- C. Aquifer Protection District maps. The Aquifer Protection District (ADP) is hereby established on those lands serving as the primary and secondary recharge areas and those lands within the preliminary (Level B) aquifer protection areas of the Pootatuck Aquifer. The Aquifer Protection District is delineated on two maps. The first map is entitled "Aquifer Protection Districts" and is overlaid on the Newtown Connecticut Zone Map dated effective June 27, 1959, amended to July 1, 1969, and July 1976, at a scale of one inch equals 1,200 feet, prepared for the Housatonic Valley Council of Elected Officials by Cahn Engineer, Inc. - Wallingford, Connecticut (adopted March 13, 1981). The second map is entitled "Preliminary (Level B) Aquifer Protection Areas, United Water Connecticut (formerly Newtown Water Co.) Map B-059," approved July 18, 1991, Fairfield Hills Hospital Map B-071, approved April 24, 1992, Newtown, Connecticut at a scale of 1:12,000, printed November 30, 1998, by the State of Connecticut Department of Environmental Protection. {4.04.110}
- D. Permitted uses and activities. Uses permitted in an Aquifer Protection District are the following principal uses where permitted in the underlying zone. No use

variance shall be granted to allow any use in the district which is not expressly permitted in this section. {4.04.200}

- (1) One-family dwellings having two or more acres of land per dwelling. {1.}
- (2) Open space and passive recreation. {2.}
- (3) Managed forest land. {3.}
- (4) Wells and accessory equipment for the purpose of providing the public water supply. {4.}

E. Prohibited uses. The following uses and activities are prohibited in an Aquifer Protection District: {4.04.300}

- (1) Sanitary landfills, septage lagoons, wastewater treatment facilities, transfer stations. {1.}
- (2) Printing and publishing establishments which involve the use of acid/bases, heavy metal wastes, solvents, toxic wastes, or solvent-based inks. {2.}
- (3) Public garages. {3.}
- (4) Filling stations. {4.}
- (5) Car wash facilities. {5.}
- (6) Multiple-family housing and adult congregate living facilities with a density of more than one unit per two acres, except when connected to public sewers. {6.}
- (7) Road salt storage. {7.}
- (8) Kennels, except when connected to public sewers and water. {8.}
- (9) The manufacture, storage, transport, processing or disposal of hazardous materials or waste. {9.}
- (10) The mining or removal of sand and gravel. {10.}
- (11) Underground storage of hazardous materials, including but not limited to fuel oil or petroleum. {11.}
- (12) Dry-cleaning establishments with on-site cleaning operations. {12.}

- (13) Hotels and motels, except when connected to public sewers and public water. {13.}
- (14) Outdoor storage of any commercial vehicles or construction equipment. {14.}
- (15) Maintenance of any commercial vehicles or construction equipment. {15.}
- (16) Maintenance of public utility service vehicles or outdoor storage of public utility vehicles. {16.}
- (17) Classification and smelting of nonferrous metals. {17.}
- (18) Medical or dental offices, veterinary hospitals, beauty and nail salons, funeral parlors, and research or medical laboratories, except when connected to public sewers and water. {18.}
- (19) One-family dwellings having less than two acres of land per dwelling, except when connected to public sewers. {19.}

F. Uses and activities requiring a special exception. Except as provided in Subsections D and G herein, any principal or accessory uses permitted in the underlying zoning districts as provided for in Article IV, Permitted Uses, and when such principal or accessory use or activity is not prohibited pursuant to Subsection E herein, then such use or activity shall be subject to obtaining a special exception in accordance with the standards, criteria, conditions, and procedures as set forth in Article VIII, § 490-52 hereof and the additional standards, criteria, conditions and procedures set forth herein. {4.04.400}

G. Uses and activities requiring a zoning permit and aquifer impact review.

- (1) When all of the following criteria are met, an application for a zoning permit and an aquifer impact review shall be filed with the Zoning Enforcement Officer: {4.04.410}
  - (a) A principal or accessory use is permitted by right in the underlying zoning district as provided for in Article IV, Permitted Uses; and {1.}
  - (b) Such use or activity is not prohibited pursuant to in Subsection E; and {2.}
  - (c) Such use or activity is a change in use proposed to occupy or locate within an existing building or other structure; and {3.}
  - (d) There will be no erection, enlargement or structural alteration of any structure; and {4.}

- (e) There will be no exterior site work for such proposed occupancy. {5.}
- (2) The application for a zoning permit pursuant to § 490-79A of these regulations and an aquifer impact review shall be filed with the Zoning Enforcement Officer for purposes of determining zoning compliance, aquifer impact assessment and review of the standards set forth beginning at Subsection I herein. The Zoning Enforcement Officer shall refer all requests for an aquifer impact review to the Conservation Commission and Newtown Health District for their review and approval prior to issuing a zoning permit. Should the Conservation Commission or Health District determine that the activity will impact the aquifer in a negative manner, the Zoning Enforcement Officer shall disapprove the application.

H. Procedure. {4.04.500}

- (1) The granting of a special exception by the Planning and Zoning Commission will be subject to the Planning and Zoning Commission's finding that a proposed activity will not have a significant environmental impact on the Pootatuck Aquifer (FONSI). This finding will be determined following an evaluation of the proposed activity and its impact on the groundwater resources. Should the Planning and Zoning Commission find that the proposed use has the potential to cause substantial adverse impact on the groundwater resources or the application does not meet the standards set forth in these regulations, the application shall be disapproved.
- (2) Upon receipt of an application, the Planning and Zoning Commission shall refer such application to the Newtown Conservation Commission, which will evaluate the proposed activity and review the impact on the groundwater resources as an agent for the Planning and Zoning Commission. The Conservation Commission will perform an assessment of the proposed activity by reviewing the applicant's written evaluation concerning the impact a proposed activity may or may not have on the Pootatuck Aquifer. The aquifer impact assessment requirements and standards set forth beginning at Subsection I shall be the basis for determining the impacts of a proposed activity.
- (3) The Conservation Commission shall render a recommendation to the Planning and Zoning Commission within 35 days of its receipt of the referral. Failure by the Conservation Commission to respond in writing within 35 days shall be taken as no comment on the proposal. Any applicant may request an aquifer impact assessment from the Conservation Commission prior to applying for a special exception approval.
- (4) If the Conservation Commission finds that a proposed activity would not have a significant aquifer impact, it shall recommend that a finding of no

significant impact (FONSI) be rendered by the Planning and Zoning Commission.

- (5) If the Conservation Commission finds that the proposed activity will have a substantial adverse impact on the aquifer, it shall include information in reasonable detail to support its findings and will issue a recommendation against the FONSI.
  - (6) If the Conservation Commission finds that the proposed activity will have a substantial adverse impact on the aquifer, the Planning and Zoning Commission will be required to have four positive votes to approve a special exception. Failing four positive votes, the special exception shall be denied.
- I. Aquifer impact assessment. Every land use located within the Aquifer Protection District which requires the filing of an application for approval by the Planning and Zoning Commission or the Zoning Enforcement Officer pursuant to Subsection G shall be subjected to an aquifer impact assessment. All information pursuant to Subsection J shall be submitted to the Planning and Zoning Commission or the Zoning Enforcement Officer upon application. Such information shall be referred to the Conservation Commission and the Newtown Health District for their review and approval. {4.04.600}
- J. Aquifer impact assessment requirements. An application for an aquifer impact review shall include, in addition to any other application requirements, a written aquifer impact assessment prepared by a professional with special expertise who is familiar with groundwater mottling. The purpose of the assessment is to evaluate the impact on the proposed activities upon the aquifer. The aquifer impact assessment shall include, in so far as is pertinent to the application, the information listed below. The Planning and Zoning Commission may waive the requirements for some of the following information if it determines that it is not relevant to the specific application: {4.04.610}
- (1) A detailed written document concerning the environmental assessment and impacts of the proposed activity. The environmental assessment shall address direct and indirect effects, both short-term and in the long term, which would result from the implementation of a proposed action and shall contain sufficient detail for the purposes of determining environmental significance of the activity on the environment in general and the aquifer in particular. {1.}
  - (2) The amount and composition of any hazardous materials that will be used, handled, stored, generated, treated, or disposed of on the property. {2.}
  - (3) Provisions for treatment, temporary storage, and/or disposal of any hazardous materials. {3.}

- (4) Locations of adjacent (within 500 feet of the property line) private drinking water supply wells; location of public water supply wells within 1,000 feet of property line; distance to AA streams (tributary to public drinking water supply). {4.}
- (5) Site and building plans showing all information required pursuant to § 490-52A hereof. {5.}
- (6) Whether public sanitary sewers and water supply are approved to service the use. {6.}
- (7) Septic system location, size, and capacity. {7.}
- (8) Details of the hydrologic budget, including natural and man-induced sources of recharge and withdrawal. {8.}
- (9) Potential impacts resulting from the planned discharges or withdrawals, including impacts to other users of the aquifer (sells, surface expressions of groundwater, etc.) in terms of levels, quantity of water available and induced quality changes; impacts resulting from induced infiltration, including quantity implications to both the groundwater and surface water systems. {9.}
- (10) Provisions for stormwater management and pretreatment. {10.}
- (11) An emergency plan to protect and control hazardous material leaks and spills, including but not limited to inspections, notification of officials, containment, and cleanup procedures. {11.}

K. Aquifer protection standards. The following minimum standards shall be met for all uses within an Aquifer Protection District: {4.04.700}

- (1) Stormwater management. {1.}
  - (a) No wastewater discharges shall be connected to the stormwater system. {1.}
  - (b) Stormwater from developed site areas shall require pretreatment of runoff prior to discharge. The design shall provide detention ponds, basins, swales, oil separators, or other measures designed to treat runoff, contain pollution, control peak flow, and/or allow for clean water infiltration into the ground. {2.}
  - (c) Stormwater contact with sources of pollution (such as dumpsters and waste receptacles) shall be prevented with roofs, covers, berms, or by directing runoff away from sources. {3.}



- (d) Parking, storage, loading and other areas where vehicular activity occurs shall be an impervious surface. {4.}
- (2) Floor drains. Floor drains are prohibited except where connected to public sanitary sewers in accordance with DEP (or local authorized agent) approval. {2.}
- (3) Pesticide and fertilizer use. Any use which includes more than two acres of land used for crop, lawn, garden, or landscaping shall be accompanied by a management plan. The management plan shall indicate types of materials, application schedule, if any, chemical pesticides or fertilizers and conformance with applicable best management practices. {3.}
- (4) Manufacture and storage of hazardous materials. At all areas and facilities where hazardous materials are already manufactured, stored, transported, processed or disposed of prior to June 21, 1999, any change to the existing use or improvements at the facility shall be designed for the control of inadvertent or accidental spills, leaks, or other discharges. The following standards shall apply: {4.}
  - (a) Manufacturing, processing, or other activities using hazardous materials shall only be conducted on flooring impervious to the material being used and within a building or structure. {1.}
  - (b) Underground storage tanks and distribution lines for hazardous materials are prohibited. {2.}
  - (c) Aboveground storage tanks, containers or drums shall be within a building or structure meeting the following requirements: {3.}
    - [1] Have an impervious floor and containment area or dike of adequate size to contain 30% of the total storage capacity or 110% of the largest tank, whichever is larger. {a}
    - [2] The area shall be protected by a roof and adequate sides to prevent exposure to precipitation. {b}
    - [3] Tank overfill protection devices shall be designed to prevent release of overfill outside the storage area. {c}
    - [4] Storage areas shall be located outside of flood zones or shall be floodproofed. {d}
    - [5] Have no floor drains. {e}

- (d) Venting systems for evaporation or distillation of hazardous materials shall be designed with a recovery system to prevent the discharge of contaminated condensate or drippage. {4.}
- (e) Loading or transfer activities shall be conducted on impervious surfaces, roofed, and diked to capture and control any spills or leaks. {5.}
- (f) Best management practices shall be followed for all usage, storage, or handling of hazardous materials. {6.}

[Amended effective 6-21-1999]

§ 490-11 Permitted uses in farming and residential zones (R-1/2, R-1, R-2, and R-3). {4.05}

In farming and residential zones (R-1/2, R-1, R-2 and R-3), no land, building or other structure shall be used and no building or other structure shall be erected, altered or added to which is arranged, designed, intended to be or is capable of being used except for one of the following principal uses, provided that site development plan approval has been granted in accordance with Article IX hereof, if so required:

- A. One-family dwelling, one per lot. {4.05.100}
- B. Farming, including dairying, horse raising, sheep raising, and poultry raising, but excluding operating a kennel, operating a piggery or pig farm, or the raising of fur-bearing animals. {4.05.200}
- C. Schools operated by the Town. {4.05.300}
- D. Parks and playgrounds operated by the Town. {4.05.400}
- E. Horticulture and wildlife reservations not operated for profit. {4.05.500}
- F. Government buildings and uses, public libraries, public museums, but not including dumps, incinerators and other garbage disposal areas, municipal garages, public works storage yards or commercial-type recreation facilities. {4.05.600}
- G. Nurseries and greenhouses, provided that no plants or produce is sold at retail or displayed to retail customers. {4.05.700}
- H. Community residence, one per lot. {4.05.800}
- I. Vineyards and wineries, provided that no products are sold at retail or displayed to retail customers; and provided that no tours or tasting of free samples is offered to the general public. {4.05.900}

[Amended effective 2-15-1993]

- J. If, prior to December 28, 1986, the caring for, boarding and keeping of horses for trade or sale and/or the training of boarded horses and owners of said horses occurred upon a property, then such use of property may be continued, provided that such operations or buildings shall not be expanded or intensified above the level at which such activity existed on December 28, 1986, provided that the owners of such existing properties shall register with the Newtown Land Use Office no later than August 13, 2002. {4.05.1000}

[Amended effective 8-18-2001]

§ 490-12 Permitted uses by special exception in farming/residential zones (R-1/2, R-1, R-2, R-3). {4.06}

In farming/residential zones (R-1/2, R-1, R-2, R-3), the following uses are permitted as principal uses subject to the granting of a special exception by the Commission in accordance with the standards, criteria, conditions and procedures which are set forth in § 490-52 hereof. The minimum lot area for such uses shall be computed as the greater of (1) four times the usable gross floor area of all buildings on the lot; (2) two times the area of the lot devoted to the proposed use, including without limitation the gross floor area of all buildings and the area of all other structures, parking areas, loading areas and driveways, but not including the area used for any in-ground planting whether permanent or for purposes of transplanting; or (3) the minimum lot area of the highest-acre zone in which any part of the lot lies.

- A. Clubs. {4.06.100}
- B. Places of religious worship. {4.06.200}
- C. Private schools and seasonal camps. Camps shall be conducted by a nonprofit corporation, association or religious society and may be either a boarding or day camp, provided that they do not admit campers over 18 years of age. {4.06.300}
- D. Public utilities buildings having no material or motor vehicle service or storage yards and which primarily serve residents of the Town. {4.06.400}
- E. Hospitals. {4.06.500}
- F. Public utility water tanks and pump stations. {4.06.600}
- G. Sanitary landfills, except within the Aquifer Protection District, incinerators, public works, garages and public storage areas operated by or on behalf of the Town. {4.06.700}

- H. Nurseries, greenhouses and truck gardening with sales at retail on lots of at least 20 acres. The sale of any items not grown or raised on the premises for at least one growing season, fertilizer and garden tools is prohibited. {4.06.800}
- I. The boarding and keeping of horses for trade or sale; boarding of horses, training of boarded horses, and owners of said horses, and keeping of horses for trade or sale on lots having at least 15 acres, provided that the following minimum standards are met: {4.06.900}

[Amended effective 2-18-2002]

- (1) There shall be no more than two horses per acre on any lot. {a.}
- (2) Manure which is stacked or composted on site must meet the following minimum setbacks: {b.}
  - (a) Manure must be located at least 100 feet from any well, stream or other watercourse. {1.}
  - (b) Manure must be located at least 100 feet from any property line. {2.}
- (3) There shall be a minimum of 2,500 square feet of turnout area for each horse. "Turnout area" shall be defined as enclosed open space suitable for the exercise of horses. Separate enclosures for each horse are not required. {c.}
- (4) The boundary of any riding ring shall be located a minimum of 100 feet from any property line. {d.}
- (5) The nature and extent of training activities shall be specifically set forth in the special exception application (§ 490-52). {e.}
- (6) Additional lands under common ownership with the lot containing the barns, and separated by no more than a road, right-of-way from said lot, may be used for turnout or horseback riding. {f.}
- (7) Parking shall be provided pursuant to Article VII. Horseback lesson programs and horse day camps shall meet the parking requirements in § 490-45T of these regulations. {g.}

- J. One apartment accessory to a one-family detached dwelling located in a separate building, provided the following criteria can be met: {4.06.1000}

[Amended effective 5-17-1993]

- (1) The subject accessory structure proposed for the apartment shall qualify under these regulations, provided such accessory structure was constructed and assessed as an accessory structure by the Town Assessor seven years prior to application. {4.06.1010}

- (2) The one-family detached dwelling to which the apartment is accessory shall be: {4.06.1020}
  - (a) Located on a lot zoned Residential one acre or more and such lot shall have a minimum lot size equal to 1.5 times the requirement of its respective zone designation; {1}
  - (b) The main dwelling shall have a minimum floor area of 1,500 square feet; and {2}
  - (c) Either such dwelling or the apartment shall be occupied by the owner of the premises. {3}
- (3) The apartment shall be provided with not more than one bedroom, a living room, a kitchen and complete bathroom, as well as with two means of egress, including a separate outside door. The apartment shall have a maximum floor area of not more than 800 square feet or 35% of the main dwelling floor area, whichever is less. {4.06.1030}
- (4) The single detached dwelling and accessory apartment combination shall have a design that maintains the appearance of the premises as a single detached dwelling use. The apartment shall be provided with two off-street parking spaces. {4.06.1040}
- (5) Any request for an accessory apartment under these regulations shall be accompanied by the following: {4.06.1050}
  - (a) A statement from the Newtown Fire Marshal or Deputy Fire Marshal that he has reviewed the proposed accessory apartment from a safety point of view and has no objection to same. {1.}
  - (b) A statement from the Town Sanitarian of the adequacy of the water supply and waste disposal system for the existing dwelling and the proposed accessory apartment. {2.}
  - (c) An affidavit of ownership signed by the owner of the premises and affirming intent that the owner will occupy the premises as the principal place of residence. {3.}

K. Vineyards and wineries with sales at retail on lots of at least 20 acres. Sales shall be limited to sealed bottles or other sealed containers of wine manufactured in such winery, but for consumption off the premises. Tours and the offering and tasting of free samples of wine to visitors and prospective retail customers for consumption on the premises shall be permitted, provided that a manufacturer permit for a farm winery has been issued by the State of Connecticut in accordance with § 30-16 of the

Connecticut General Statutes, as amended, and such permit is currently in effect at the premises. {4.06.1100}  
[Amended effective 2-15-1993]

- L. Commercial dairy farms with sales at retail on lots of at least 20 acres. Sales shall be limited to frozen desserts and soft drinks to be consumed on- or off-premises and other products directly related to the products produced by such farm or other area commercial farms, including seasonal items and specialty foods. Sales may be offered in a detached building for such purposes. The detached building may not exceed 1,000 square feet. {4.06.1200}  
[Added effective 9-1-2003]

§ 490-13 Accessory uses in farming and residential zones. {4.07}

The following are permitted accessory uses in farming and residential zones so long as they remain clearly accessory to the principal use on a lot and are limited as set forth below:

- A. "Customary home occupation," which shall mean any use customarily conducted entirely within a dwelling and carried on by the residents thereof using only customary home appliances, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, such as dressmaking, woodworking, preserving and the like. Uses such as, but not limited to, the operation of a dancing or music studio, tourist home, kennel, animal hospital, or any business enterprise or activity which shall require a license or permit from the Town or from any bureau or department of the county or state, shall not be deemed a home occupation. The use shall conform to the following: {4.07.100}
- (1) There shall be no retail display and sale of the items produced on or off the premises. {4.07.110}
  - (2) The use shall be conducted entirely within the building in which the dwelling exists. {4.07.120}
  - (3) The use does not change the residential character of the dwelling in any visible manner, nor shall there be any external evidence of the accessory use. {4.07.130}
  - (4) The total floor area occupied by the accessory use does not exceed 25% of the floor area of the dwelling, excluding the basement and the attic. {4.07.140}
  - (5) The use does not create interference with radio and television reception in the vicinity and does not create any noise, odor, vibrations, light or unsightly conditions outside the dwelling in which said uses are conducted. {4.07.150}

- (6) There are no more than three persons employed on the premises, no more than one of whom may reside off the premises. {4.07.160}
- B. Antique shops, and offices of professional persons, provided that: {4.07.200}
- (1) The use is conducted entirely within the building in which the dwelling exists. {4.07.210}
  - (2) The use does not change the residential character of the dwelling in any visible manner, nor shall there be any external evidence of the accessory use except a sign permitted by these regulations. {4.07.220}
  - (3) The total floor area occupied by the accessory use does not exceed 25% of the floor area of the dwelling, excluding the basement and the attic. {4.07.230}
  - (4) The use does not create interference with radio and television reception in the vicinity and does not create any noise, odor, vibrations, light or unsightly conditions outside the dwelling in which said uses are conducted. {4.07.240}
  - (5) There are no more than three persons employed on the premises, no more than one of whom may reside off the premises. {4.07.250}
- C. Nursery school. {4.07.300}
- D. Keeping not more than two roomers or boarders by a resident family in the dwelling, exclusive of domestic employees. {4.07.400}
- E. Storage of not more than one unoccupied recreational vehicle bearing a current registration. {4.07.500}
- F. Docks and boathouses. {4.07.600}
- G. One guesthouse (only on lots of four acres or more). There shall be no permanent occupancy of a guesthouse, and guesthouses may only be constructed on the same lot as the principal dwelling. Said lot may not be reduced below four acres in size subsequent to the erection of said guesthouse, and no zoning permit or certificate of zoning compliance shall be issued for any building or structure subsequently sought to be erected on a lot, all or a portion of which was originally a part of the four-acre lot on which said guesthouse was erected and which thereby reduces the lot on which said guesthouse stands to less than four acres. The application for the construction of a guesthouse shall show all existing and proposed structures and septic systems. Where the person seeking to construct a guesthouse is required to use all or a portion of two or more otherwise valid subdivision lots, said person shall take action to merge the two or more lots into one lot so as to eliminate their

identity as separate lots, prior to the application for the zoning permit for said guesthouse. {4.07.700}

H. The keeping of dogs over the age of six months not for profit as follows: {4.07.800}

Number of Dogs	Minimum Lot Size (acres)
3 or fewer	Any lot
4 to 5	2
6 to 10	4

I. One apartment accessory to a one-family detached dwelling, provided such apartment shall conform to the following standards: {4.07.900}

[Amended effective 5-17-1993]

- (1) The single detached dwelling to which the apartment is accessory shall be located on a lot zoned residential one-acre or more, and either such dwelling or the apartment shall be occupied by the owner of the premises. {4.07.910}
- (2) The apartment shall be located within the single detached dwelling and shall be provided with not more than one bedroom, a living room, a kitchen, and complete bathroom, all of which shall be separate from such dwelling, as well as with two means of egress, including a separate outside door. The apartment shall be provided with two off-street parking spaces. {4.07.920}
- (3) Any one-family dwelling containing an accessory apartment shall have a minimum floor area of 1,500 square feet. The accessory apartment shall have a maximum floor area of 800 square feet or 35% of the total floor area of the structure, whichever is less. No accessory apartment shall be located in a basement or cellar unless such basement or cellar constitutes a story as defined in § 490-2. {4.07.930}
- (4) The single detached dwelling and accessory apartment combination shall have a design that maintains the appearance of the premises as a single detached dwelling use. The entrance must be from other than the front unless there are two existing doors in the front of the house, in which case one of them may be used for the accessory apartment. {4.07.940}
- (5) Any request for zoning approval of an accessory apartment shall be accompanied by the following: {4.07.950}
  - (a) A statement from the Newtown Fire Marshal or Deputy Fire Marshal that he has reviewed the proposed accessory apartment from a safety point of view and has no objection to same. {1.}



- (b) A statement from the Town Sanitarian of the adequacy of the water supply and waste disposal system for the existing dwelling and the proposed accessory apartment. {2.}
  - (c) An affidavit of ownership signed by the owner of the premises and affirming intent that the owner will occupy the premises as the principal place of residence. {3.}
- (6) If all of the above criteria are met and the proposed accessory apartment meets the standards set forth in these regulations, the Zoning Enforcement Officer shall issue a certificate of zoning compliance for the proposed accessory apartment; provided, however, that the aforesaid certificate shall terminate when the owner of the premises (whether present or future) no longer resides thereon pursuant to Subsection I(1). {4.07.960}
- J. The boarding of horses on lots having four acres or more, provided that the following standards are met: {4.07.1000}
- [Added effective 2-18-2002]
- (1) No more than 1 1/2 horses, six months old or older, per acre, with a maximum of 15 horses kept on any lot. {a.}
  - (2) Manure, which is stacked or composted on site, must meet the following minimum setbacks: {b.}
    - (a) Manure must be located at least 100 feet from any well, stream or other watercourse. {1.}
    - (b) Manure must be located at least 100 feet from any property line {2.}
  - (3) There shall be a minimum of 2,500 square feet of turnout area for each horse. "Turnout area" shall be defined as enclosed open space suitable for the exercise of horses. Separate enclosures for each horse are not required. {c.}
  - (4) The boundary of any riding ring shall be located a minimum of 100 feet from any property line. {d.}
  - (5) Parking shall be provided pursuant to Article VII of these regulations. {e.}
  - (6) Indoor rings and lighted outdoor rings shall be by special exception pursuant to § 490-52 of these regulations. {f.}
  - (7) No shows are allowed. {g.}

K. Horse boarding stables and not-for-profit horse riding clubs located on lots having 10 acres or more, provided that the following standards are met: {4.07.1100}  
[Added effective 2-18-2002]

- (1) No more than 1 1/2 horses, six months old or older, per acre, with a maximum of 15 horses kept on any lot. {a.}
- (2) Manure, which is stacked or composted on site, must meet the following minimum setbacks: {b.}
  - (a) Manure must be located at least 100 feet from any well, stream or other watercourse. {1.}
  - (b) Manure must be located at least 100 feet from any property line. {2.}
- (3) There shall be a minimum of 2,500 square feet of turnout area for each horse. "Turnout area" shall be defined as enclosed open space suitable for the exercise of horses. Separate enclosures for each horse are not required. {c.}
- (4) The boundary of any riding ring shall be located a minimum of 100 feet from any property line. {d.}
- (5) Parking shall be provided pursuant to Article VII of these regulations. {e.}
- (6) Indoor rings and lighted outdoor rings shall be by special exception pursuant to § 490-52 of these regulations. {f.}

§ 490-14 Farms and farm residences. {4.08}

An active farm and the residence by the owner thereof on the farm shall be considered only one principal use. Two farm employees may be lodged within the principal dwelling. Where housing is provided for more than two farm employees, or for the families of any farm employee, it shall be considered accessory to use of the property as a farm, provided that each family is housed in a detached dwelling meeting the requirements for a one-family dwelling in such zone and so situated that a lot meeting the area and size, frontage (not necessarily on an existing street) and minimum square requirements of the zone in which the farm lies can be drawn and shown on the zoning permit or the application for certificate of zoning compliance for each such dwelling.

§ 490-15 Permitted uses in Professional Zone (P-1). {4.09}

In the Professional Zone (P-1), no land, building or other structure shall be used and no building or other structure shall be erected, altered or added to which is arranged, designed, intended to be or is capable of being used except for one of the following

principal uses, provided that site development plan approval has been granted in accordance with Article IX hereof, if so required:

- A. One-family dwelling, one per lot. {4.09.100}
- B. An office building used solely by professional persons, real estate agent, insurance agent or for a medical or dental laboratory, where said building contains five or fewer offices and less than 10,000 square feet of gross floor area. {4.09.200}
- C. Larger professional office buildings by special exception only. If more than five such offices are to be created on a single lot, or if a building or buildings having more than 10,000 square feet of gross floor area is/are proposed for a single lot, said building(s) may only be erected and/or used after obtaining a special exception subject to the standards, criteria, conditions, and procedures which are set forth in § 490-52. The maximum gross floor area permitted shall be computed at a ratio of 9,000 square feet for each 43,560 square feet of lot area. Lot frontage shall be equal to at least the average depth of the lot, but not less than 150 feet. Sufficient parking spaces shall be provided to accommodate all persons reasonably expected to patronize said business building at any one time, which shall not be more than twice the number of spaces required under § 490-45G. The requirements of Article V hereof shall otherwise be met, except that the Commission may require wider buffers, wider side or rear yards and a deeper building setback than are otherwise required where needed to screen adequately residential zones, or to meet the standards set forth in § 490-52, provided that structural coverage, including parking and loading areas, is not required to be reduced to less than 40% of lot area. The wall of the building(s) facing the street shall not be longer than 200 feet or twice the distance which it is set back from the street line, whichever is greater. {4.09.300}
- D. A one-family dwelling plus the office of a professional person. (The limitations contained in § 490-13A hereof do not apply to the professional office within such a one-family dwelling.) {4.09.400}
- E. Community residence, one per lot. {4.09.500}
- F. A community residence plus the office of a professional person. (The limitations contained in § 490-13A hereof do not apply to the professional office within such a community residence.) {4.09.600}

§ 490-16 Elderly Housing Zone (EH-10). {4.10}

- A. Intent and purpose. The intent of this zone is to allow for housing explicitly suited for the elderly, including housing for those now well and able-bodied, those who are frail, and those in need of medical care, so that housing is available in Newtown for senior citizens to age in place. Elderly housing may be designed with one principal use or a mixture of principal uses within the development, as permitted herein. It is

the purpose of this zone to encourage the provision of multiple-family housing for the elderly consistent with the soil types, terrain and infrastructure capacity of the land. The design for elderly housing shall be sensitive to maintaining the rural character of the community in general and the neighborhood surrounding the development in particular. {4.10.100}

- B. Definitions. As used in this section, the following terms shall have the meanings indicated: {4.10.110}

#### CONGREGATE HOUSING FOR ELDERLY FAMILY

A building or group of buildings containing individual residential units. One or more daily meals are to be provided for the residents in a community dining room, and support services may be available on site. {A.}

#### DWELLING UNIT FOR ELDERLY FAMILY

A building or group of buildings composed of dwelling units wherein each dwelling unit provides all primary living areas, including but not limited to a full kitchen, master bedroom, bathroom, living/family room, storage, laundry room and parking on the same level as the main entrance, except that areas for additional storage may be set aside on a level other than the dwelling unit level. However, parking may be set aside on a level other than the dwelling unit level so long as an elevator is conveniently available from such parking level to the dwelling unit level. Wherever an elevator is present for such housing, a generator shall be installed to cause the elevator to function in the event of a power outage. {C.}

#### EFFICIENCY KITCHEN

A combined food preparation, kitchen appliance, and food/utensils storage area no larger than eight feet by nine feet. {B.}

#### ELDERLY FAMILY

A family in which all persons composing the family are 62 years of age or more, except that such family may also include (1) direct descendants not minors; (2) single persons employed as domestic help; and (3) in the case of married couples, only one of the spouses need be 62 years of age or older when there are no minor children. Whenever "62 years of age" appears in this definition of "elderly family," "55 years of age" may be substituted or "physically disabled" may be substituted, provided that the use at the lower age or for the disabled complies with the provisions of 42 USC 3607 and 24 CFR 100-340 as amended from time to time. The burden of complying with the US Code and the Code of Federal Regulations shall be on the owner(s) of the EH-10 lot. {D.}

#### INDIVIDUAL RESIDENTIAL UNIT

Each part of a building of congregate housing, excluding hospitals, providing sleeping quarters for one elderly family, but containing no laundry facility and no more than an efficiency kitchen. {E}

- C. Only elderly families may occupy elderly housing. {4.10.120}

D. Principal uses. The following principal uses are permitted in an EH-10 Zone subject to the granting of a special exception by the Commission in accordance with the standards, criteria, conditions and procedures set forth in § 490-52. No use variance shall be granted to allow any principal or accessory use in this zone which is not expressly permitted. The principal uses shall be known hereinafter jointly and severally as "elderly housing": {4.10.200}

- (1) Dwelling units for elderly families. {A.}
- (2) Congregate housing for elderly families. {B.}
- (3) Hospital for elderly families. {C.}

E. Accessory uses. The following are permitted accessory uses so long as they remain clearly accessory to the principal use on the lot and are to be utilized solely by the persons residing or working on the lot and their guests: {4.10.210}

- (1) Clubhouse/community center. {A.}
- (2) Community kitchen and dining room. {B.}
- (3) Computer/communications lab. {C.}
- (4) Lecture hall/theater/audiovisual room. {D.}
- (5) Indoor or outdoor exercise facility. {E.}
- (6) Indoor swimming pool. {F.}
- (7) Whirlpool/sauna for exercise or therapy. {G.}
- (8) Art studio. {H.}
- (9) Customary home occupation, as set forth in § 490-13A(1) through (6). {I.}
- (10) Administrative offices. {J.}

F. Additional accessory uses permitted only as accessory to congregate housing for elderly families. The following are permitted accessory uses only where congregate housing for elderly families forms more than 50% of the principal use on the lot. These additional accessory uses shall remain clearly accessory to the principal uses on the lot and shall be designed to be utilized primarily by the persons residing or working on the lot and secondarily by the general public: {4.10.220}

- (1) Medical care facility. {A.}

- (2) Dental care facility. {B.}
- (3) Physical therapy facility. {C.}
- (4) Indoor swimming pool. {D.}
- (5) Whirlpool/sauna for exercise or therapy. {E.}
- (6) Child day-care center. {F.}
- (7) Personal care or beauty care facility. {G.}

G. Area, height and yard requirements. Article V, Area, Height and Yard Requirements, and all other applicable sections of these regulations apply, and in addition: {4.10.300}

- (1) Minimum lot area. The lot containing elderly housing shall be at least 10 acres. The lot shall be deemed to include all contiguous land zoned EH-10 and owned or controlled, directly or indirectly, whether in the form of corporations, partnerships, or individuals, by the applicant or the developer. {4.10.310}
- (2) Setbacks. A minimum setback of 100 feet shall be provided from all property boundaries except for two cases as follows: {4.10.320}
  - (a) When a side or rear yard is adjacent to an EH-10 Zone, the setback shall be 25 feet along such boundary. {A.}
  - (b) When a side or rear yard is adjacent to a business or industrial zone, the setback shall be 50 feet along such property boundary. No private street, driveway, parking area, sidewalk, patio, structure or overhang shall be within the minimum setback area, other than that portion of a private street the sole purpose being for entrance or egress from the property to the street. {B.}
- (3) Maximum structural coverage. The maximum coverage for buildings, parking, private streets, driveways, sidewalks, patios, recreational areas with impervious surfaces, and all other structures shall be no more than 25% of the entire lot. {4.10.330}
- (4) Density calculation. Land having wetlands, watercourses and ponds shall be deducted from the total lot area before the density calculation is made. {4.10.340}

- (5) Preexisting hospital. When the lot on which elderly housing is to be located already contains a hospital operating under a previously approved special exception, the limitations established in § 490-16G(6) and (7) shall not apply to the hospital portion of the lot, except that the area containing existing hospital structures plus two acres shall be excluded from the calculation of lot acreage. {4.10.350}
- (6) Density for dwelling units for elderly families. Except as set forth in § 490-10E concerning the Aquifer Protection District, the number of dwelling units permitted for dwelling units for elderly families shall not exceed 3.5 times the lot acreage as calculated pursuant to Subsection G(4) or 150 units, whichever is less. {4.10.360}
- (7) Density for congregates housing. Except as set forth in § 490-10E concerning the Aquifer Protection District, the number of individual residential units permitted for congregate housing shall not exceed six times the lot acreage as calculated pursuant to Subsection G(4) or 300 units, whichever is less. {4.10.370}
- (8) Preexisting government-subsidized affordable elderly housing. When a lot already contains a government-subsidized affordable elderly housing operating under a previously approved special exception, the limitations established in § 490-16G(2) shall not apply to any additions, provided that such additions will provide additional affordable elderly housing. In such cases, the setback requirements that were in effect under the previously approved special exception shall supersede the requirements of § 490-16G(2). {4.10.380}

H. Building design standards and infrastructure. {4.10.400}

- (1) Exterior walls. No building shall exceed 200 feet in a single dimension. No exterior wall shall exceed 50 feet in length in an unbroken plane without an offset of at least 10 feet. {4.10.410}
- (2) Minimum distance between buildings. A minimum of one foot of separation for every 3.5 feet of building length, as measured at the front of the building, shall be provided. In no case shall the distance between buildings be less than 30 feet. {4.10.420}
- (3) Ramps and elevators. Where the main entrance to a dwelling unit or individual residential unit is at a level different from ground level, an elevator that rises to the level of each unit or a ramp, suitable for use by a wheelchair, shall be provided to the main entrance of each dwelling unit. Such ramp or elevator may be common to more than one unit. {4.10.430}

- (4) Bedrooms. No dwelling unit or individual residential unit shall contain more than two bedrooms. {4.10.440}
- (5) Units per building. No building shall contain more than eight individual dwelling units for elderly families. {4.10.450}
- (6) Wastewater discharge. If a portion of the lot is approved for connection to a sanitary sewer in accordance with policies, procedures or regulations established by the Newtown Water and Sewer Authority, then all wastewater discharge from that portion of the lot shall be directed to the sanitary sewer. For that portion of the lot where there is no such sanitary sewer available, the site plan application must provide the Commission with an on-site subsurface sewage disposal system suitable for approval by the applicable state and/or local agencies in accordance with local and state statutes and regulations. Any subsurface sewage disposal system shall rely solely on the land for hydraulic and renovation capability to treat the discharge from the proposed development. An association of property owners, or other mechanism satisfactory to the Commission, shall be established with the authority and financial capability to operate and maintain any community sewage disposal system within the development. {4.10.460}

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (7) Utilities. All utilities on the lot shall be underground. {4.10.470}
  - (8) Fire suppression. Fire suppression systems shall be provided in conformance with § 490-56 of these regulations. {4.10.480}
- I. Accessways, private streets, driveways, sidewalks and parking. {4.10.500}
- (1) Accessways. Each lot shall be served by a strip of land having a width of not less than 100 feet throughout its length from a public highway through which vehicular access is provided. This shall contain a private street as the primary accessway for ingress and egress. This primary accessway shall be constructed with a planted median strip separating the ingress and egress lanes of the accessway. Each lot containing 40 or more units of elderly housing shall have a secondary accessway suitable for use by emergency vehicles. The secondary accessway shall be not less than 20 feet wide throughout its length. It may be located within the same strip of land as the primary accessway or in a separate location, but may not encroach upon the private street, which is the primary accessway. The secondary accessway need not be paved with an impervious surface; however, it shall be hard surfaced and accessible by fire apparatus. The secondary accessway shall be clear and maintained at all times so that there are no impediments to emergency vehicle use. {4.10.510}



- (2) Private streets. The streets within the lot shall remain in private ownership and shall be designed for safe and easy circulation of traffic within the lot. The private streets shall be laid out with attention to the natural contours of the land and natural features on the lot. Such private streets shall conform to the design, materials, drainage and construction standards for a local residential street as set forth in Chapter 271, Road Construction, Articles I, II, III, IV, V, VIII and IX, except that no easement, right-of-way or dedication of land to the Town shall be required for the private street. Street lines at intersections of private streets shall be connected by a curve having a minimum radius of 25 feet. {4.10.520}
- (3) Intersection with public highway. Private streets shall enter a public highway only in locations where the sight distances in each direction meet or exceed the requirements of Chapter 271, Road Construction, and any applicable state regulations. No private street in an elderly housing development shall enter a public highway less than 75 feet from the center line of the nearest intersecting highway or private street on the same side of the public highway. Proposed private streets shall intersect existing and other proposed streets at right angles for a distance of at least 100 feet from the intersecting street lines unless otherwise approved by the Commission. Such approval shall not be granted where the intersection is at an angle less than 60°. {4.10.530}
- (4) Driveway and parking. Article VII, Parking, Loading and Landscaping Requirements, shall apply to the Elderly Housing Zone with the following exceptions, which shall supersede the requirements of Article VII: {4.10.540}
  - (a) Driveways. Each driveway serving structures, dwelling units for elderly families, congregate housing, hospitals for elderly families or accessory uses shall meet the following criteria: {A.}
    - [1] Travel width. The travel width of the driveway shall at no point be less than 10 feet. Driveways serving more than one dwelling unit shall be no less than 16 feet wide. {1.}
    - [2] Grading. Driveways within the lot shall not contain grades greater than 5%. {2.}
    - [3] All driveways upon the site shall intersect with the private street in the development. No driveway shall intersect directly with a public highway. {3.}
  - (b) Sidewalks. Sidewalks shall connect the main entrance of each building and each dwelling unit that has an individual entrance to the outside to a convenient parking area. Where dwelling units have common first-floor entrances or are at a second or third floor level, sidewalks

shall connect an entrance to the building near an elevator to a convenient parking area. Sidewalks may connect each building with each other building on the lot. Sidewalks shall not be pitched at a slope greater than one to 20. The use of steps on a sidewalk is prohibited. Sidewalks shall be at least three feet wide. {B.}

- (c) Parking location and space size. All parking spaces shall be provided off the private street, but on the same lot as the elderly housing. Each parking space shall contain a rectangle no less than nine feet in width and 20 feet in length. Parking spaces may be provided by use of a garage, a carport, or a paved surface dedicated to parking. In addition, a driveway in front of a garage serving a single dwelling unit for an elderly family may be considered a parking space, provided that the length of the driveway is no less than 22 feet and no part of the 22 feet encroaches upon a sidewalk. All parking for a dwelling unit shall be located within 150 feet of its associated dwelling unit. All parking for an accessory use shall be located within 150 feet of the entrance to the accessory use. {C.}
- {D.} (d) Parking grade. No parking space shall have a grade greater than 5%.
- (e) Number of parking spaces. The minimum number of parking spaces is set forth in the following schedule and shall be cumulative: {E.}

Use	Minimum Number of Parking Spaces
Dwelling units for elderly families {1.}	2 per dwelling unit, plus one visitor space for every 5 dwelling units (rounded to the next higher number)
Individual residential units {2.}	1 for every 2 units
Hospitals for elderly families {3.}	1 for 6 patient beds
Employees/On-site workers {4.}	1 for each employee or on-site worker on the largest shift
Accessory uses {5.}	
Clubhouse/Community center {a}	10
Community kitchen and dining room {b}	No additional spaces
Computer/communications lab {c}	No additional spaces
Lecture hall/theater/audio visual room {d}	10
Indoor or outdoor exercise facility {e}	2
Indoor swimming pool {f}	4
Whirlpool/sauna for exercise or therapy {g}	4

Art studio {h}	No additional spaces
Customary home occupation {i}	No additional spaces
Administrative offices {j}	No additional spaces
Medical care facility {k}	2
Dental care facility {l}	2
Physical therapy facility {m}	2
Preschool {n}	4
Personal care or beauty care facility {o}	2

(f) Sufficient parking spaces shall be provided to accommodate all persons reasonably expected to be on site at any one time. Where the applicant sufficiently demonstrates that the minimum parking requirements set forth herein exceed the number of spaces that are necessary, the Commission may waive the immediate construction of such excessive parking spaces up to the extent of 50%, provided the following criteria are met: {F.}

[1] The site plan shall be designed with the minimum number of spaces as required herein and shall clearly indicate those spaces for which an immediate construction waiver is requested. {1.}

[2] No structures or other improvements, except parking, driveways and underground utilities, may be constructed within the unimproved parking area, and said area shall be suitably landscaped. {2.}

(g) The Commission may require that the area for which a parking waiver has been granted be properly improved if, after public hearing, the Commission determines that the improvement of such parking area is necessary to meet the parking needs of the elderly housing development. A bond in an amount equal to 100% of the cost of construction of the parking area shall be submitted to guarantee that the parking area, or a portion thereof, is properly improved. The bond shall be in force for a period not to exceed two years from the date of issuance of a final certificate of zoning compliance for the elderly housing development. {G.}

J. Lighting and signs. {4.10.600}

(1) Lighting. All private streets, parking areas, and sidewalks shall be artificially illuminated. Such lighting shall be residential in character and shall be coordinated with the landscaping plan, so that no direct rays from such lighting shall fall off the lot or shine into the windows of the elderly housing within the lot. {4.10.610}

(2) Signs. All applicable general provisions of the sign regulations, Article VI, §§ 490-36 and 490-37, shall apply to the Elderly Housing Zone and in addition: {4.10.620}

(a) One double-facing sign not to exceed eight square feet, and no part of it more than six feet above the public highway level, may be placed near the primary accessway. Additional signs are permitted as set forth in § 490-38E. {A.}

(b) All signs may be externally illuminated. Internal illumination is prohibited. {B.}

(c) The location and design of signs shall be part of the special exception application. {C.}

(d) Parking spaces, which are not associated with a single dwelling unit, shall be clearly marked for parking. {D.}

K. Landscaping, terrain and buffers. {4.10.700}

(1) Landscaping. Natural topography and existing vegetation shall be maintained to the greatest extent possible in the site design. Except for the footprints of structures on the lot, private roads, driveways, sidewalks, parking areas, recreational facilities and other approved site amenities, all areas where natural plant growth has been removed or disturbed shall be restored to grass, shrubs, trees or ground-covering plants in the next available planting season and shall be so maintained. {4.10.710}

(2) Steep slopes. Site layout should be designed to minimize development upon and recontouring of slopes having twenty-five-percent or more grades. Disturbance of steep slopes and the creation of steep slopes shall be avoided to the greatest extent possible. {4.10.7200}

(3) Buffers. Natural or planted buffers, or a combination of the two, shall be provided in the setbacks on all sides of the lot to provide a visual barrier from all neighboring properties. The buffers shall extend a minimum of 50 feet on all sides within the lot. Where strips of land serving as accessways are not wide enough to allow for fifty-foot buffers on each side; the buffers shall be as wide as possible. {4.10.730}

L. Performance bond. To assure proper installation, the applicant shall post a bond equal to 100% of the cost of private streets, secondary accessway, drainage, landscaping, buffers, and fire suppression facilities. Following the proper installation of all site improvements, and upon the certification by the applicant's/developer's professional engineer that the improvements have been installed according to the requirements of the Town, the applicant may request that the Commission release the performance bond. Upon the Commission's final

approval of the bond release, a maintenance bond shall be posted with the Commission for a period of 18 months to insure that site landscaping and buffers are maintained in good health. {4.10.800}

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 490-17 Permitted uses in Retail Business Zone (B-1). {4.11}

In the Retail Business Zone (B-1), no land, building or other structure shall be used and no building or other structure shall be erected, altered or added to which is arranged, designed, intended to be or is capable of being used except for one of the following principal uses, provided that site development plan approval has been granted in accordance with Article IX hereof, if so required:

- A. A store or shop for the conduct of retail business, including, without limitation, a liquor package store. The permanent sales areas of all such stores or shops shall be wholly enclosed, and there shall be no permanent outdoor storage of merchandise. {4.11.100}
  - B. A shop where personal services are offered, including, without limitation, a beauty parlor, barber shop and funeral home. {4.11.200}
  - C. A bank. {4.11.300}
  - D. A building having one office for professional or business persons, partnerships or corporations, including, without limitation, real estate and insurance agents. {4.11.400}
  - E. A telephone exchange, electric substation or other public utility use, except for towers and antennas and other structures exceeding height limitations of Article V. {4.11.500}
  - F. Industrial uses permitted under the terms of § 490-C(1) through (3). {4.11.600}
  - G. Square footage less than 4,500 square feet: a single building housing (1) not more than two permitted uses, whether shops, stores, banks, or offices; (2) one restaurant or one child day-care center and one other permitted use on the first floor; or (3) one permitted use on the first floor and one on the second floor, provided that the gross floor area of said building shall not exceed 4,500 square feet. {4.11.700}
- [Amended effective 5-12-2003]
- H. Square footage greater than 4,500 and less than 10,000 square feet: a single building having a gross floor area in excess of 4,500 square feet and less than 10,000 square feet housing not more than two permitted uses, whether shops, stores, banks or offices or one restaurant or one child day-care center, provided that said lot

contains at least 43,560 square feet and 150 feet frontage at the street line.  
{4.11.800}

[Amended effective 5-12-2003]

- I. Larger business building permitted by special exception. Where a single building is arranged, designed or intended to house or is capable of housing more than two such shops, stores, banks, offices or one restaurant or one child day-care center or any combination thereof, whether or not containing a second story, or when a store housing one or two businesses exceeds 10,000 square feet, said building may be erected only after obtaining a special exception subject to the standards, criteria, conditions, and procedures which are set forth in § 490-52. In addition, the following standards shall be satisfied: {4.11.900}

[Amended effective 5-12-2003]

- (1) The minimum lot area shall be computed proportionally as follows: for each 9,000 square feet of gross floor area the lot shall contain 43,560 square feet. {a}
- (2) Lot frontage shall be equal to at least the average depth of the lot, but not less than 150 feet. {b}
- (3) Sufficient parking spaces shall be provided to accommodate all persons reasonably expected to patronize said business building at any one time, and shall not be more than twice the number of spaces required under § 490-45G. {c}
- (4) The requirements of Article V hereof shall otherwise be met, except that the Commission may require wider buffers, wider side or rear yards and a deeper building setback than are otherwise required where needed to screen adequately adjacent residential zones, or to meet the standards set forth in § 490-52, provided that structural coverage, including parking and loading areas, is not required to be reduced to less than 60% of lot area. {d}
- (5) The wall of the business building facing the street shall not be longer than 200 feet or twice the distance which it is set back from the street line, whichever is greater. {e}
- (6) Lot area shall not exceed 10 acres unless all portions of the lot in excess of 10 acres are excluded in determining maximum structural coverage permitted. (See § 490-21E hereof for shopping centers.) {f}
- (7) The maximum gross floor area allowed for any single retail store or shop shall be limited to 40,000 square feet. {g}

- J. All uses permitted in the Neighborhood Shopping Center NSC-1 Zone. {4.11.1000}

- K. A restaurant, whether or not selling alcoholic beverages (see § 490-49 for restrictions on the sale of alcoholic beverages). {4.11.1100}
  - L. A child day-care center, by special exception pursuant to § 490-52. A special exception must be obtained pursuant to § 490-52 before a child day-care center may occupy a building or business building permitted by Subsections G, H and I. {4.11.1200}
- [Added effective 5-12-2003]

§ 490-18 Sandy Hook Design District (SHDD). {4.12}  
[Amended effective 10-2-1995]

- A. Purpose and intent. The purpose of the Sandy Hook Design District is to encourage a diversity of compatible uses that will enforce the district as an historic, mixed-use hamlet. Land uses which are oriented to the surrounding neighborhood and to visitors to the area are encouraged and are vital to continuing the district's place in Newtown's history and its future as a viable neighborhood commercial hub. Future development should emphasize the pedestrian scale, historic quality and natural resources found here. It is intended that the district will have infrastructure of sufficient capacity to support efficient use of land and mixed-use developments which places housing convenient to employment, shopping services and related activities. Due to the unique characteristics of the general area and the desire to create an attractive environment, these regulations are intended to be flexible to maximize the benefits to the Town and will improve the human environment by encouraging public walkways, bike paths, shared off-street parking facilities and landscaped public space.
- B. General regulations. The land and buildings shall be used for the principal uses listed below. Uses that are not listed as permitted by right or by special exception shall not be permitted by variance. {4.12.100}
- C. One or more of the following principal uses are permitted within a single structure in the SHDD, subject to obtaining site development plan approval, if required, in accordance with Article IX: {4.12.200}
  - (1) Retail-permanent sales shall be enclosed; and there shall be no permanent outdoor storage of merchandise. {1.}
  - (2) Personal service establishments. {2.}
  - (3) Banks. {C.}
  - (4) Offices. {4.}

- (5) Restaurants, including outside service but excluding drive-through facilities and outside entertainment. {5.}
- (6) Museums, galleries and meeting halls. {F.}
- (7) Places of religious worship. {G.}
- (8) Two residential dwellings per lot located within a commercial building, and above any permitted commercial use subject to § 490-18E(3). {H.}
- (9) One-family residence. {1.}
- (10) Bed-and-breakfast. {10.}
- (11) Publishing establishment. {11.}

D. The following principal uses and structures are permitted in the SHDD subject to obtaining a special exception permit in accordance with the standards, criteria, conditions, and procedures set forth in Article VIII, § 490-52: {4.12.300}  
[Amended effective 6-21-1999]

- (1) Two or more commercial buildings upon a lot containing one or more principal uses as listed in Subsection C. {A.}
- (2) Three or more residential dwellings per lot located within a commercial building and above any permitted commercial use subject to Subsection E. {C.}
- (3) Inn. {D.}
- (4) Any building containing one or more principal uses which has more than 10,000 square feet of floor area. {E.}
- (5) Laundromats and dry cleaners. {F.}

E. Area, height and yard requirements. Article V, Area Height and Yard Requirements, and all other applicable sections of these regulations apply, and in addition: {4.12.400}

- (1) All lots which are adjacent to a residential zone shall maintain a twenty-five-foot-wide planted buffer along such boundary. {A.}
- (2) Rear and side yard requirements and the buffer as required in Subsection D(1) above and § 490-33, Chart Number V-I (Editor's Note: Chart V-I is included at the end of this chapter.) may be waived or modified by the Commission subject to the following conditions: {B.}



- (a) The overall design of the project is appropriate to the site and contributes to the improvement of Sandy Hook Design District. {1.}
  - (b) The design will enhance or maximize public enjoyment of the property or such a modification will enhance traffic or pedestrian circulation patterns in the SHDD. {2.}
  - (c) The waiver is considered to be consistent with the purpose and intent of the SHDD. {3.}
  - (d) A public accessway may be located within the buffer area, provided a planted area of approximately 10 feet is maintained and/or an appropriate screen is installed along the boundary. Such public accessways shall be in the form of landscaped walks, esplanades, boardwalks or other suitable design to encourage active use by the public and shall be dedicated as such in the deed to the property. {4.}
- (3) Residential density for any lot which proposes dwellings above a commercial use shall calculate the residential density at no greater than one unit per 10,890 square feet of lot area. Such dwellings shall be permitted only upon lots that are connected to the public sewer system. {C.}
- F. Signs. All applicable general provisions of the sign regulations, Article VI, §§ 490-36 and 490-37, shall apply with the following exceptions: {4.12.500}
- (1) Section 490-37A(1) shall not prohibit the placement of wall signs attached flush against or hanging perpendicular to the front building wall which is closer than 25 feet to a street line. {1.}
  - (2) Section 490-37A(2) shall not prohibit a wall sign attached perpendicular to the front building wall to be limited to a twelve-inch projection but such signs shall be limited to a thirty-inch projection. {2.}
  - (3) All signs in the Sandy Hook Design District shall conform to those permitted by § 490-38C. {3.}
  - (4) No sign shall advertise the availability of alcoholic beverages, by product name or otherwise, within 300 feet of the nearest property line of land occupied by any school or church. {4.}
- G. Parking and landscaping. Article VII, Parking, Loading, and Landscaping Requirements, and all applicable sections of these regulations shall apply to the Sandy Hook Design District with the following exceptions: {4.12.600}

- (1) Parking shall be located to the rear or to the side of buildings which are along the street frontage so as to maintain the street wall and character of the SHDD. {1.}
- (2) Parking may be located on a different lot from the principal use, provided that the following criteria are met: {2.}
  - (a) The off-site parking facility is located on a lot which is within the SHDD. {a.}
  - (b) The off-site parking facility is within 300 feet of the building containing the use being served. {b.}
  - (c) A long-term instrument acceptable to the Commission will assure that the use of such off-site parking remains available to the user. Such instrument shall be filed on the land records. {c.}
- (3) Wherever possible, vehicle access to parking lots should be shared with adjacent properties and shall utilize a minimum of curb cuts. {3.}
- (4) All parking lots shall be arranged to promote orderly circulation of vehicles and pedestrians. {4.}

H. Accessory uses permitted in Sandy Hook Design District. In addition to the accessory uses permitted in business zones pursuant to § 490-23, the following accessory use will be permitted so long as it remains clearly accessory to the principal use on the lot: {4.12.700}

[Added effective 4-28-2003]

- (1) A farmer's market on lots in off-street areas during weekend days and holidays during daylight hours. No permanent structures shall be permitted. {4.12.710}

#### § 490-19 Permitted uses in Neighborhood Shopping Center Zone (NSC-1). {4.13}

In the Neighborhood Shopping Center Zone (NSC-1), no land, building or other structure shall be used and no building or other structure shall be erected, altered or added to which is arranged, designed, intended to be, or is capable of being used except for one of the following principal uses:

- A. "Neighborhood shopping centers" shall mean retail complexes designed and maintained to provide convenience goods and services for neighborhood residential areas and to serve the immediate needs of neighboring residential areas. The commercial uses contained therein shall be those which provide for the daily needs

of neighboring residents and which do not depend on market areas substantially larger than the neighborhood meant to be served. {4.13.100}

- B. Permitted uses: stores or shops for the conduct of retail business as provided for in § 490-17A, shops where personal services are offered as provided for in § 490-17B and offices only on the second floor. {4.13.200}
- C. Area, yard and density requirements. {4.13.300}
  - (1) The area of a lot containing a neighborhood shopping center shall be a minimum of one acre and a maximum of three acres. {4.13.310}
  - (2) Such lot need not have street frontage, provided that it is served by a strip of land 50 feet wide. {4.13.320}
  - (3) The minimum setback from any property line of any structure within said lot shall be 25 feet {4.13.330}.
  - (4) The requirements of Article V hereof shall otherwise be met, except that the Commission may require wider buffers, wider side or rear yards and a deeper building setback than are otherwise required where needed to screen adequately adjacent residential zones, or meet the standards set forth in § 490-52. {4.13.340}
- D. Building design standards. {4.13.400}
  - (1) Each separate building shall not exceed 5,000 square feet of usable floor space. {4.13.410}
  - (2) Each separate building shall not exceed 70 feet for the total length and must not exceed 50 feet without a minimum offset of five feet for the entire elevation. {4.13.420}
  - (3) No building or other structure shall exceed 30 feet in height above average ground level. {4.13.430}
- E. Driveway, parking, sidewalks and landscaping. {4.13.500}
  - (1) Parking spaces shall be provided at a ratio of one space per 150 square feet of usable first floor area, plus one space per 250 square feet of usable second floor area. {4.13.510}
  - (2) Parking spaces shall conform to the requirements of §§ 490-42, 490-44 and 490-44A. {4.13.520}
  - (3) Driveways used for one-way travel shall be at least 10 feet wide {4.13.530}.

- (4) Driveways used for two-way travel shall be at least 20 feet wide. {4.13.540}
  - (5) The maximum structural coverage, including parking and loading areas, shall not exceed 50% of lot area. {4.13.550}
  - (6) All buildings shall be connected by a sidewalk, and the sidewalk shall be designed for easy and safe pedestrian circulation within the lot. {4.13.560}
  - (7) All parking areas and sidewalks shall be artificially illuminated. {4.13.570}
  - (8) In M-4 Zones, more than one of those principal uses within the same structure or building specified in § 490-24A may be permitted subject to the conditions set forth in § 490-24F. {4.13.580}
- F. The neighborhood shopping center use is permitted subject to obtaining a special exception from the Commission in accordance with the standards, criteria, conditions and procedures which are set forth in § 490-52 hereof. {4.13.600}

§ 490-20 Permitted uses in General Business Zone (B-2). {4.14}

In the General Business Zone (B-2), no land, building or other structure shall be used and no building or other structure shall be erected, altered or added to which is arranged, designed, intended to be or is capable of being used except for one of the following principal uses, provided that site development plan approval has been granted in accordance with Article IX hereof, if so required:

- A. All uses permitted in the Retail Business B-1 Zone except a neighborhood shopping center § 490-19A and restaurant uses as authorized in § 490-17G, H and I and § 490-20F. If a special exception is required in said B-1 Zone, it is also required for the B-2 Zone. {4.14.100}
- B. Printing establishments. {4.14.200}  
[Amended effective 6-21-1999]
- C. A publishing establishment. {4.14.300}
- D. A hotel or motel. {4.14.400}
- E. A public passenger terminal (other than airline). {4.14.500}
- F. A restaurant, whether or not selling alcoholic beverages. (See § 490-49 for restrictions on the sale of alcoholic beverages.) {4.14.600}

- G. A salesroom for the display and sale of new automobiles, farm equipment, trucks and motorcycles. {4.14.700}
- H. A store or shop for the conduct of wholesale business. The maximum gross floor area shall be limited to 40,000 square feet. {4.14.800}  
[Amended effective 8-12-1996]
- I. Storage in bulk of, or warehouse for, building materials, clothing, cotton, drugs, dry goods, feed, food, furniture, hardware, ice, machinery, paint, paint supplies, pipe, rubber, shop supplies, tobacco or wood. If storage is to be provided outdoors, a planted or natural buffer shall be provided between the items stored and the front and side lot lines and between the items stored and the rear lot line if adjacent to a residential zone. {4.14.900}
- J. Operating a kennel. {4.14.1000}
- K. See § 490-50C for industrial use permitted in certain circumstances. {4.14.1100}
- L. Places of religious worship. {4.14.1200}  
[Amended effective 9-7-1991]

§ 490-21 Permitted uses by special exception in General Business Zone (B-2). {4.15}

The following principal uses are permitted in a General Business B-2 Zone subject to obtaining a special exception from the Commission in accordance with the standards, criteria, conditions and procedures which are set forth in § 490-52 hereof.

- A. A public garage or filling station, or car wash except within the Aquifer Protection District. {4.15.100}
  - (1) Except for a car wash, any special exception granted hereunder shall be conditioned upon the applicant subsequently obtaining a certificate of approval of location from the Zoning Board of Appeals pursuant to the relevant motor vehicle laws of the State of Connecticut. {4.15.110}
  - (2) Any special exception granted hereunder for a car wash shall be conditioned on the applicant obtaining and maintaining in force a discharge permit if required from the Connecticut Department of Environmental Protection. {4.15.111}
  - (3) No gasoline filling station or public garage shall have any entrance or exit from or to a street within a distance of 300 feet of any public park, playground, school, church, library, theater, hospital or other public garage or filling station located on either side of said street or on an intersecting street within 300 feet measured along the street lines from said entrance or

exit. No car wash shall have any entrance or exit from or to a street within a distance of 300 feet of any public park, playground, school, church, library, theater, or hospital. {4.15.120}

[Amended effective 10-26-1992]

- (4) No existing filling station or public garage, or car wash, or one which subsequently becomes permitted pursuant to this section, shall be deemed to become nonconforming through the subsequent erection of one of the buildings listed in Subsection A(3) above within less than 300 feet of said entrance or exit. {4.15.130}

[Amended effective 10-26-1992]

- (5) No gasoline pump or other device used for the dispensing of flammable liquids shall be located within 20 feet of a street line or within 25 feet of an adjacent property line. {4.15.140}

- (6) Any existing filling station in a B-2 Zone, whether or not operated in conjunction with a public garage, or any such filling station which becomes permitted pursuant to this section, may be used as a combination filling station and grocery store, provided: {4.15.150}

- (a) The square footage of the building or other structure devoted to the grocery store does not exceed 1,500 square feet. {4.15.151}

- (b) Adequate parking is provided for the store in accordance with Article VII hereof in addition to parking provided for the filling station. {4.15.152}

- (c) Groceries and edible products are sold for use or consumption only off the lot, no space is provided on the lot or in the building for tables, counters or other facilities designed to be used for eating, and no food is cooked on the premises. {4.15.153}

- (d) No door providing public access to the grocery store shall enter upon a yard in which gas pumps are located unless the distance between the wall containing said door and the edge of the gas pump island facing said wall is not less than 20 feet at the nearest point. {4.15.154}

- (e) No person operating the gas pumps, repairing or servicing motor vehicles or otherwise working in the service station area of the structure shall sell or dispense any products in the grocery store portion of the structure. {4.15.155}

- (7) No special exception for a car wash shall be approved unless all discharges are connected to a municipal sanitary sewer line or the car wash system is designed so that the water used in all of the wash and rinse functions is recyclable and there shall be no discharge from the car washing equipment.

Any solids or wastewaters which cannot be recycled shall be held and removed from the premises by a waste hauler licensed in Connecticut for this purpose. {4.15.160}

[Amended effective 10-26-1992]

- (8) In addition to the requirements of § 490-52, any applicant for a car wash shall submit details of the facility, including, but not limited to, specifications for its water usage, water discharge or recycling capability, waste containment and drainage. The applicant shall also submit a certified statement from a licensed professional engineer regarding the system's compliance with Subsection A(7). {4.15.170}

[Amended effective 10-26-1992]

B. A bowling alley. {4.15.200}

C. An indoor theater. {4.15.300}

D. A hand laundry, laundromat or dry-cleaning establishment. {4.15.400}

E. A shopping center. {4.15.500}

- (1) The minimum area of a lot containing a shopping center shall be 10 acres. {4.15.510}

- (2) Such lot need not have street frontage, provided that it is served by a strip of land 100 feet wide, the lot line closest to the street is at least twice the distance from the street line as the required minimum lot width in the zone in which the land fronting on the street is located, and a buffer is provided along the strip of land and between the shopping center lot and the rear yards of the land having street frontage, where required by the Commission. {4.15.520}

- (3) Parking shall be provided to accommodate all persons reasonably expected to patronize the stores, shops, etc. in the shopping center at any one time. Parking shall be at least one space for every 150 square feet of gross floor area for shopping centers having up to 50,000 square feet of gross floor area. Parking shall be at least one space for every 200 square feet of gross floor area for shopping centers of 50,000 square feet or more of gross floor area. {4.15.530}

[Amended effective 10-12-1998]

- (4) More than one detached building may be placed on the lot. Buildings and parking areas shall be arranged in such a way as to promote the orderly and safe flow of traffic within the shopping center and promote the convenience and safety of pedestrians therein. {4.15.540}

(5) All buildings within a shopping center shall be in harmony with each other as to architectural design and exterior surface. {4.15.550}

(6) The maximum gross floor area allowed for any single retail store or shop located within a shopping center shall be limited to 40,000 square feet. {4.15.555}

[Amended effective 8-12-1996]

(7) In addition to the uses which are permitted in a business building per § 490-17I, a shopping center may contain the uses permitted by § 490-20B, C, D, E and F, and § 490-21B, C, D and F. {4.15.560}

[Amended 5-12-2003]

(8) The requirements of Article V hereof shall otherwise be met, except that the Commission may require wider buffers, wider side or rear yards and a deeper building setback than are otherwise required where needed to screen adequately adjacent residential zones, or meet the standards set forth in § 490-52, provided that structural coverage, including parking and loading areas, is not required to be reduced to less than 60% of lot area. {4.15.570}

(9) If the proposed shopping center has frontage on a street, the wall of any building running in the same general direction as the street shall not be longer than 200 feet or twice the distance which it is set back from the street line, whichever is greater. {4.15.580}

F. A child day-care center. {4.15.600}

[Added effective 5-12-2003]

#### § 490-22 Permitted uses in Office Business Zone (B-3). {4.16}

In the Office Business Zone (B-3), no land, building, or other structure shall be used and no building or structure shall be erected, altered or added to which is arranged, designed, intended to be or is capable of being used except for one of the following principal uses:

A. A single building of less than 10,000 square feet housing not more than five first-floor offices, including banks or other financial institutions, plus five second-floor offices. {4.16.100}

B. A single building which is arranged, designed, intended to house or is capable of housing more than five such offices, banks or financial institutions on the first floor or any combination thereof whether or not containing a second story or which exceeds 10,000 square feet, or in which all or some of the space is devoted to a child day-care center regardless of the size of the building or the number of offices or units therein, provided that said building may only be erected after obtaining a special exception subject to the standards, criteria, conditions, and procedures



which are set forth in § 490-52. In addition, the following standards shall be satisfied: {4.16.200}

[Amended 5-13-2002]

- (1) The minimum lot area shall be computed at a ratio of 43,560 square feet for each 9,000 square feet of usable gross floor area (or fraction thereof). {a}
- (2) Lot frontage shall be equal to at least 1/2 the average depth of the lot, but not less than 150 feet. {b}
- (3) Sufficient parking spaces shall be provided to accommodate all persons reasonably expected to patronize said business building at any one time, which shall not be more than twice the number of spaces required under § 490-45G. {c}
- (4) The requirements of Article V hereof shall otherwise be met, except that the Commission may require wider buffers, wider side or rear yards and a deeper building setback than are otherwise required where needed to screen adequately residential zones, or to meet the standards set forth in § 490-52, provided that structural coverage, including parking and loading areas, is not required to be reduced to less than 50% of lot area. {d}
- (5) The wall of the business building facing the street shall not be longer than 200 feet or twice the distance which is set back from the street line, whichever is greater. {e}
- (6) No child day-care center shall be added to any existing building unless a special exception has been granted for such use. {f}

- C. A personal service establishment may be added to an existing building subject to obtaining a special exception from the Commission in accordance with the standards, criteria, conditions and procedures which are set forth in § 490-52. {4.16.300}

[Added effective 7-18-2005]

§ 490-23 Accessory uses permitted in business zones. {4.17}

The following uses will be permitted in all business zones so long as they remain clearly accessory to the principal use on each lot:

- A. Outdoor electrical apparatus the sole function of which is to provide electrical service to the buildings on the lot. {4.17.100}

- B. Adequately screened containers for the disposal of refuse which are emptied periodically, at least weekly. Storage of other machinery, equipment, merchandise or similar items outdoors is prohibited, except as provided in § 490-20I. {4.17.200}
  - C. Exterior lighting, including, without limitation, lighting for gasoline service station pumps and outdoor sales areas and storage, where permitted, except that all such lighting shall be so arranged that no direct rays therefrom fall off the lot on which it is located. {4.17.300}
  - D. Ice-dispensing machines having dimensions not exceeding seven feet wide by seven feet high by three feet deep. {4.17.400}
  - E. Point-of-sale terminals (POS) and point-of-sale terminals connected to automated cash-dispensing mechanisms (ATMs) primarily offered and maintained for the benefit of the customers of the site. {4.17.500}
- [Amended effective 4-16-2001]

§ 490-24 Permitted uses in industrial zones (M-1, M-2, M-2A, M-3, M-4, M-5, M-6). {4.18}

In industrial zones (M-1, M-2, M-2A, M-3, M-4, M-5, M-6), no land, building or other structure shall be used and no building or other structure shall be erected, altered or added to which is arranged, designed, intended to be or is capable of being used except for one of the following principal uses, provided that site development plan approval has been granted in accordance with Article IX hereof, if so required:

- A. In all industrial zones except Zone M-2A, the following uses are permitted: {4.18.100}
  - (1) Laboratories devoted to research, design and experimentation. {4.18.110}
  - (2) Operation of a public utility authorized to furnish service to residents of the Town or to the region, including among such operations a utility service center at which may be conducted general office use, customer services, maintenance of utility service operations, vehicle maintenance, and accessory uses, outdoor storage of materials for utility service and outdoor parking of service vehicles; public works garage and public storage areas operated by the Town. {4.18.120}
- (3) Buildings containing executive offices for a single corporation or related corporations, but excluding offices devoted to the sale of real or personal property to the general public on the lot in question. {4.18.130}
- (4) Printing establishments. {4.18.140}

[Amended effective 6-21-1999]

- (5) Publishing establishments. {4.18.150}
- (6) Light industrial uses, including manufacturing, fabricating, processing, converting, altering, packaging, bottling or assembling of products, the operations of which are conducted solely within an enclosed building or group of buildings. {4.18.160}
- (7) Wholesale businesses. {4.18.170}
- (8) Storage in bulk of, and warehouses for, such materials as building material, clothing, cotton, drugs, dry goods, feed, food, furniture, hardware, ice machinery, paint and paint supplies, pipe, rubber, shop supplies, tobacco, or wood. If storage is to be provided outdoors, a planted or natural buffer shall be provided between the items stored and the front and side lot lines and between the items stored and the rear lot line if adjacent to a residential zone. {4.18.180}

B. In addition to the uses specified in Subsection A above, the following principal uses are permitted in the respective zones as stated below: {4.18.200}

[Amended effective 11-16-1998; 5-31-2004]

- (1) M-1: veterinary hospital. {4.18.240}
- (2) M-5: uses permitted by § 490-17A, B, C and D hereof. {4.18.220}

C. Planned Commercial Development M-2A Zone intent and purpose. The Planned Commercial Development Zone (M-2A) is intended to encourage a large-tract commercial development that will result in a stronger economic base for Newtown. It is intended that the land in the district will be developed as a cohesive unit where the development of any parcel will complement the district as a whole. The land use mix features a variety of principal uses, including office buildings, a hotel/conference center, light industrial and research and development facilities. Limited retail and service establishments are permitted as accessory uses and are intended to support the principal uses permitted. A pedestrian-friendly environment and transit access must be considered in the design of all site. The purpose of the M-2A Zone is to provide for significant economic development activities without adversely impacting the basic character of the surrounding neighborhoods or overburdening the natural or built environment. {4.18.300}

[Amended effective 4-17-2000]

- (1) One or more of the following principal uses are permitted in the M-2A Zone, subject to obtaining site development plan approval, if required, in accordance with Article IX. Uses that are not listed as permitted shall not be permitted by variance. {4.18.310}

- (a) Laboratories devoted to research, design, development and experimentation. {a.}
  - (b) Office buildings. {b.}
  - (c) Light industrial uses, including manufacturing, fabricating, processing, converting, altering, packaging, bottling or assembling of products, where the operations are conducted solely within an enclosed building or group of buildings. {c.}
  - (d) Hotel and conference centers having no more than 250 guest rooms. {d.}
- (2) The following standards shall apply to all M-2A Zones: {4.18.320}
- (a) Retail sales as set forth in § 490-25F and G may not be conducted. {4.18.321}
  - (b) Parking for each use shall be provided pursuant to Article VII, Parking, Loading and Landscaping Requirements. {4.18.322}
  - (c) Notwithstanding Article VI, one directory-type sign not to exceed 20 square feet shall be allowed at the main entrance to the property. {4.18.323}
  - (d) Notwithstanding Article VI, each separate use may have one wall sign not exceeding four square feet at each individual entrance. {4.18.324}
  - (e) All signs shall otherwise meet the applicable requirements of Article VI, with the exception that § 490-39 shall not apply to the M-2A Zone. Only externally illuminated signs will be permitted. {4.18.325}
  - (f) For each property having more than one principal use, each principal use shall have a minimum gross floor area of 10,000 square feet. {4.18.326}
- (3) Light industrial uses, including manufacturing, fabricating, processing, converting, altering, packaging, bottling or assembling of products, where the operations are conducted solely within an enclosed building or group of buildings, are permitted in the M-2A Zone. {4.18.330}

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (4) Site and building design standards. {4.18.340}
- (a) Site development shall promote the overall physical development of the M-2A Zone. Exterior building surface materials and bulk, the

screening of mechanical equipment both on the roof and the ground and landscaping within the parking lots and yard areas shall be emphasized. The requirements of § 490-48 shall be utilized as a minimum standard for landscaping; however, all parking areas shall be landscaped to have a visually impenetrable screen year round. {4.18.341}

- (b) More than one detached building may be placed on the lot. Buildings shall be in harmony with each other and the specific layout shall be appropriate to the site. Improvements shall contribute to the architectural design to uphold a harmonious and appropriate part of the physical development of the neighborhood. {4.18.342}
  - (c) Buildings and parking areas shall be arranged in such a way as to promote the orderly and safe flow of traffic within the property and safe flow of traffic between properties and into the surrounding area. Development shall promote the convenience and safety of pedestrians. {4.18.343}
  - (d) Loading areas shall be located to the rear or side of any building. {4.18.344}
  - (e) All parking and loading areas shall be located behind the minimum building setbacks. {4.18.345}
  - (f) All lots which are adjacent to a residential zone or a one-family dwelling that is existing on April 17, 2000, shall maintain a seventy-five-foot-wide planted buffer along such boundary. {4.18.346}
  - (g) All utilities shall be installed underground. {4.18.347}
- (5) The following uses will be permitted in the M-2A Zone so long as they remain clearly accessory and incidental to the principal use on each lot. Such accessory uses shall not exceed 5% of the total building area occupied by the principal use on each lot: {4.18.360}
- (a) Retail sales shall be enclosed, no outdoor storage of merchandise shall be permitted, and the maximum gross floor area for any single retail tenant shall be 5,000 square feet. {a.}
  - (b) Personal service establishments. {b.}
  - (c) Banks or financial institutions. {c.}
  - (d) Restaurants, including outside service, but excluding drive-through facilities and outside entertainment. {d.}

(e) Child day-care centers. {e.}

(f) Adult day-care centers. {f.}

D. The following principal uses are permitted in the industrial zones indicated, subject to obtaining a special exception in accordance with criteria, standards, and conditions set forth in § 490-52. {4.18.400}

(1) Hotels and motels in M-1, M-2, M-4, M-5 and M-6 Zones. {4.18.410}

[Amended effective 4-17-2000]

(2) Business buildings as set forth in § 490-17I, self-service storage facilities and child day-care centers in M-5 only. {4.18.420}

[Amended effective 2-13-1995]

(3) Shopping centers as set forth in § 490-21E in M-1, M-2, M-4 and M-6 Zones only. {4.18.430}

(4) Garages to shelter commercial vehicles and construction equipment used off the lot. All vehicles and equipment stored on said lot shall be stored wholly within said garage. Maintenance on vehicles, if any, shall be conducted wholly within said garage and only on those vehicles stored therein on a permanent basis. {4.18.440}

(5) Sanitary landfills and incinerators operated by the Town. {4.18.450}

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(6) Commercial tennis, paddle tennis/platform tennis, racquet ball, hand ball and squash and/or swimming recreational facilities in M-5 and M-6 Zones only. {4.18.460}

(7) Commercial golf courses in the M-6 Zone only. {4.18.465}

[Amended effective 1-15-1996]

(8) Buildings containing offices occupied by one or more business or professional entities, but excluding offices devoted to the sale of real or personal property to the general public in all zones except the M-1 and M-2A Zones. {4.18.470}

(9) In M-4 Zones, more than one of those principal uses within the same structure or building specified in Subsection A may be permitted, subject to conditions set forth in Subsection F. {4.18.480}

(10) Indoor ice skating facilities. {4.18.490}

[Amended effective 7-17-1995]

(11) Private schools in M-2 Zones only. {4.18.495}  
[Amended effective 7-26-1999]

E. Certain structures permitted after issuance of special permit by Zoning Board of Appeals: {4.18.500}

(1) Wireless telecommunications facilities. {4.18.510}  
[Amended effective 11-29-1999]

- (a) Purpose and intent. The purpose of this subsection is to accommodate the communication needs of residents and businesses by providing for the location of commercial wireless telecommunications towers, antennas and facilities while protecting public health, safety, convenience and property values. The intent of this regulation is to encourage the location of commercial wireless telecommunications towers and antennas away from residential neighborhoods; to protect natural and scenic vistas within the community; to encourage the placement of commercial wireless telecommunications towers, antennas and facilities upon nonresidential buildings or structures; to encourage joint use of new or existing towers and facilities; to minimize adverse visual and operational effects through careful design, siting and screening; to protect historic factors from potential adverse impacts; to reduce the number of towers and/or antennas needed in the future; and to accommodate the need for wireless telecommunications towers and antennas while regulating their location and number. The regulations are consistent with the provisions of the Federal Telecommunications Act of 1996. The regulations do not discriminate among providers of functionally equivalent services, prohibit or have the effect of prohibiting the provision of personal wireless services, or regulate the placement, construction, and modification of personal wireless services on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions. {4.18.510.100}
- Purpose and intent. The purpose of this subsection is to accommodate the communication needs of residents and businesses by providing for the location of commercial wireless telecommunications towers, antennas and facilities while protecting public health, safety, convenience and property values. The intent of this regulation is to encourage the location of commercial wireless telecommunications towers and antennas away from residential neighborhoods; to protect natural and scenic vistas within the community; to encourage the placement of commercial wireless telecommunications towers, antennas and facilities upon nonresidential buildings or structures; to encourage joint use of new

or existing towers and facilities; to minimize adverse visual and operational effects through careful design, siting and screening; to protect historic factors from potential adverse impacts; to reduce the number of towers and/or antennas needed in the future; and to accommodate the need for wireless telecommunications towers and antennas while regulating their location and number. The regulations are consistent with the provisions of the Federal Telecommunications Act of 1996. The regulations do not discriminate among providers of functionally equivalent services, prohibit or have the effect of prohibiting the provision of personal wireless services, or regulate the placement, construction, and modification of personal wireless services on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions. {4.18.510.100}

- (b) General regulations. The following guidelines, standards, application requirements and procedures and considerations for approval shall apply to wireless telecommunications or antenna towers and antennas. The placement of any commercial wireless telecommunications facility shall be a permitted use in all zoning districts, subject to obtaining a special permit from the Zoning Board of Appeals. If the placement of a commercial wireless communications facility is a collocation request, it shall be considered as an amendment to a special permit. Wireless communications facilities used by a federally licensed amateur radio operator and facilities owned and operated for municipal emergency purposes are hereby declared as a permitted accessory use subject to zoning setback and height requirements as set forth in Article V, provided that the facility is not used or licensed for any commercial purpose. {4.18.510.200}
- (c) Location preference guidelines. The general order of preference for the location of any wireless telecommunications facility is listed below. The most preferred is number 1 and the least preferred is number 7. {4.18.510.300}
  - [1] Camouflaged facility located on an existing nonresidential building or structure located in an industrial, business, adaptive reuse or design district zone. {1}
  - [2] On towers existing as of November 29, 1999. {2}
  - [3] On existing structures such as nonresidential buildings located in an industrial, business, adaptive reuse or design district zone; water tower/tanks; utility poles; billboards; and bridges. {3}



- [4] Camouflaged facility located on an existing nonresidential building or structure located in any zone. {4}
  - [5] On new towers located on property occupied by one or more existing towers. {5}
  - [6] On new towers located in an industrial, commercial, adaptive reuse or design district zone. {6}
  - [7] On new towers located in residential or conservation and agriculture zones. {7}
- (d) General standards. Any property on which a wireless telecommunications facility is proposed shall meet the following minimum standards: {4.18.510.400}
- [1] The tower and/or antenna shall be erected to the minimum height necessary to satisfy the technical requirements of the telecommunications facility and shall be designed with particular design characteristics that have the effect of reducing or eliminating visual obtrusiveness. {1}
  - [2] A tower must comply with the setback requirements of the zone in which it is located, or a distance equal to the height of the tower plus 25 feet, whichever is greater. {2}
  - [3] Proposed towers shall be located a minimum of 500 feet from any existing residential dwelling, any public playground or park or any public school. {3}
  - [4] A wireless telecommunications facility may be considered as either a principal or accessory use. The minimum lot area for the construction of a new tower shall be that of the zone in which it is located. More than one tower on a lot may be permitted if all setbacks, design, and landscape requirements are met for each tower. A telecommunications facility may be located on leased land as long as there is adequate ingress and egress to the site for service vehicles, and such access is documented in a deed easement presented to the Zoning Board of Appeals. {4}
  - [5] Towers in residential zones shall be monopole design unless such tower is a camouflaged facility designed to locate on an existing nonresidential building or structure or as otherwise modified and approved by the Zoning Board of Appeals. The

Zoning Board of Appeals may require that a monopole be designed and treated with architectural materials so that it is camouflaged to resemble a woody tree with a single trunk and branches on its upper part, or other suitable art form/sculpture as determined by the Zoning Board of Appeals. {5}

[6] A ten-foot, chain link galvanized steel security fence with barbed wire shall be required around the antenna tower and other equipment. {6}

[7] Landscaping shall be required around the security fence(s) which shall consist of no less than two rows of evergreen trees planted not less than 10 feet on center. The rows of evergreen trees shall be staggered to ensure adequate screening. The evergreen plantings shall be a minimum height of six feet at planting and shall be maintained by the owner of the property to ensure its effectiveness. {7}

[8] Any ancillary buildings or structures associated with wireless telecommunications facilities shall comply with the following: {8}

[a] Each building shall not contain more than 150 square feet of gross floor area or be more than eight feet in height. {1}

[b] Each building shall comply with the setback requirements for accessory buildings for the zoning district in which it is located. {2}

[c] If located on the roof of a building, it shall be designed to blend with the color and design of the building to the extent possible. {3}

[d] All ground-level buildings, boxes, or cabinets shall be surrounded by a security fence and be landscaped according to the landscaping requirements of Subsection E(1)(d)[7] of these regulations. {4}

[9] Towers which protrude above the tree coverage on any property that may be located within a view corridor of any vista that has been identified by the Planning and Zoning Commission pursuant to the Plan of Development are prohibited. The corridors for all vistas are identified in a

certain document entitled "the Views of Newtown," dated December 1998 as adopted effective March 15, 1999. {9}

[10] Illumination shall not be permitted on the tower unless required by the Federal Communications Commission, the Federal Aviation Agency or the Connecticut Siting Council. {10}

[11] Accessory buildings, where permitted, shall be designed to be in harmony with the surrounding neighborhood properties and with due consideration for the impact that the tower will have on these properties, i.e., buildings in residential districts must have characteristics such as roof lines, siding, fenestration, etc. that are compatible with residential structures in the immediate area. The Zoning Board of Appeals may impose conditions that foster a compatible design of the antenna tower with the site and the surrounding environment. {11}

[12] Structure- or rooftop-mounted antennas shall not be attached to a residential dwelling or to an accessory building which serves a residential dwelling. {12}

[13] Noise and heat emissions of a wireless telecommunications facility, including the power source and cooling facility, shall operate at all times within the limits of Article IV, § 490-8A. {13}

[14] The wireless telecommunications facility owner shall make provisions for monitoring of ongoing compliance with regulations, including provisions for regular testing of radiation emissions by a licensed consultant. {14}

(e) Application procedures. Any special permit application for the siting of a commercial wireless telecommunications facility filed pursuant to these regulations shall be accompanied by the materials and information listed below. The Zoning Board of Appeals may waive some of the requirements if it determines that it is not relevant to the specific application for the sharing of existing structures and facilities. The sharing of existing facilities and structures will cause a streamlined process. {4.18.510.500}

[1] An application fee of \$1,000 together with a description of the proposed tower and associated equipment, including height, design features, access roads, utilities, fencing, landscaping and any additional information necessary to describe the facility. {1}

- [2] An A-2 site survey of the property that indicates the site location by address and Assessor's Map, block and lot, the name and address of the property owner, the applicant, if different, scale, North arrow, date, perimeter of property, property area, foliage limits, wetlands, watercourses, underground utilities, easements, septic system, wells, isolated trees over eight inches in diameter, stone walls, driveways, paths or trails, ledge outcroppings, existing buildings, and required setbacks. {2}
- [3] A site plan showing the location of all proposed equipment, easement areas, areas of construction, distances from property lines to proposed structures, landscaping with a list of plant materials and access to the site at a scale of one inch equals 20 feet. {3}
- [4] A plan showing where and how the proposed antenna will be affixed to a particular building or structure, if applicable. {4}
- [5] Details of all proposed antenna and mounting equipment, including size and color. {5}
- [6] Elevations of all proposed antenna and mounting equipment, including size and color. {6}
- [7] An elevation of all proposed equipment buildings, boxes or cabinets; details of all proposed fencing, including color. {7}
- [8] Tower base elevation and height of tower. {8}
- [9] A design drawing, including cross section and elevation, of all proposed towers. A description of the tower's capacity, including the number and type of antennas it can accommodate as well as the proposed location of all mounting positions for collocated antennas and the minimum separating distances between antennas. The design shall indicate how the tower will collapse without encroaching upon any adjoining property if failure occurs. {9}
- [10] A viewshed analysis showing all areas from which the tower would be visible and, if requested by the Zoning Board of Appeals, a simulation of the proposed site in order to help the Board determine the visual impacts associated with the proposal. Such simulation shall include the raising of a balloon at the location and to the maximum height of the proposed

tower for at least three consecutive hours during each of the seven days preceding the public hearing. The balloon should be at least three feet in diameter and brightly colored to permit an analysis of its visibility from well beyond the proposed site. A written notice of the dates, times and location of the balloon test shall be delivered to the office of the Town Clerk and the office of the Zoning Board of Appeals by the applicant at least two weeks prior to the raising of the balloon. {10}

- [11] A description of the nature of uses on adjacent and nearby properties within 1,000 feet. {11}
- [12] A map of surrounding topography within 1,000 feet at contour intervals not exceeding 10 feet. {12}
- [13] Propagation modeling of minimum height, location, review of alternatives, and signal strength prepared by a licensed telecommunications system engineer. {13}
- [14] A map indicating the service area of the proposed wireless telecommunications facility site; the extent of the provider's existing and planned coverage within the Town of Newtown; and a map indicating the search radius for the proposed site, including the location of tall structures within one-quarter mile of the proposed site. {14}
- [15] A report from a licensed telecommunications systems engineer indicating why the proposed site location is necessary to satisfy its function in the applicant's proposed wireless telecommunications system. {15}
- [16] A description of alternative sites that were explored; relate back to location preference guidelines and describe attempts made to address and locate alternative sites that are higher on the locational preference list than the selected site, if applicable. {16}
- [17] A report from a licensed telecommunications systems engineer indicating that the proposed wireless telecommunications facility will comply with FCC radio frequency emission standards and that the installation will not interfere with public safety communications. {17}
- [18] Documentation prepared by a licensed telecommunications systems engineer that no existing or planned tower or other structure can accommodate the applicant's antenna. For tall

structures located within a one-quarter-mile radius of the proposed site, documentation that the owners of these locations have been contacted and have denied permission to install the antenna on these structures for other than economic reasons. {18}

(f) Abandonment. The following shall apply to the removal of abandoned towers and related appurtenances: {4.18.510.600}

[1] The owner of the wireless telecommunications facility shall submit an annual report to the Zoning Enforcement Officer that the facility is still in use. A wireless telecommunications facility not in use for 12 consecutive months shall be removed by the facility owner at his expense. This removal shall occur within 90 days of the end of such twelve-month period. If there are two or more users of a single tower, this provision shall not become effective until all users cease utilizing the tower. {1}

[2] The Zoning Board of Appeals may require the posting of a bond to ensure the timely and proper removal of a wireless telecommunications facility. {2}

(g) The Zoning Board of Appeals, in reviewing applications for wireless telecommunications facilities, shall consider: {4.18.510.700}

[1] Detailed analysis of alternative sites, structures, access, and antennas as provided by the applicant. Particular emphasis will be placed upon the siting preference found in § 490-24E(1)(c) of these regulations. {1}

[2] Detailed propagation and antenna separation analysis. {2}

[3] Tower sharing or collocation to facilitate the telecommunications needs of municipalities and other entities in order to reduce the need to construct additional towers. The Zoning Board of Appeals reserves the right to require the applicant to utilize the provisions of § 16-50aa of the Connecticut General Statutes to achieve tower sharing. {3}

[4] Assessment of tower structure type. {4}

[5] Assessment of design characteristics/architectural treatments that mitigate, reduce or eliminate visual impacts on adjacent areas. {5}

[6] If located on a property listed on the National Register of Historic Places, preservation of the historic and/or architectural character of the landscape or any structure. {6}

[7] Consideration of future use or re-use of the site, with provisions for facility removal and site restoration. {7}

[8] Compliance with the minimum standards as set forth in Subsection E(1)(d). {8}

(2) Detached above groundwater towers or tanks, other than public utility water tanks and pump stations, whether principal or accessory, are permitted in all industrial zones, subject to obtaining a special permit from the Zoning Board of Appeals. {4.18.511}

[Amended effective 11-29-1999]

(3) Before granting any such special permit, the Board of Appeals shall find that the following standards have been or will be met: {4.18.520}

(a) The proposed structure will not substantially impair property values in the neighborhood. {4.18.521}

(b) The proposed structure is consistent with the purpose and intent of these regulations and will not be otherwise detrimental to public health and safety. {4.18.522}

[Amended effective 11-29-1999]

(c) The proposed structure will not cause interference with radio or TV reception in the vicinity. {4.18.523}

(d) The proposed structure will not create a health or safety hazard to persons or property on or off the lot on which the structure is proposed. {4.18.524}

[Amended effective 11-29-1999]

(4) The Zoning Board of Appeals may impose conditions on the granting of such special permit which are designed to ensure that said standards are met. Section 490-52D, E, F and G shall apply to the granting of any such special permit by the Zoning Board of Appeals. References in said subsections to the "Commission" shall be deemed to be to the Board of Appeals. {4.18.530}

(5) The Zoning Board of Appeals may make such regulations and establish such requirements as it deems fit in order to carry out its duties under this section. {4.18.540}

F. In M-5 and M-6 Zones, more than one of those principal uses within the same structure or building specified in this section may be permitted, subject to the following: {4.18.600}

- (1) Retail sales as set forth in § 490-25F and G may not be conducted. {4.18.610}
- (2) Parking for each such use shall meet the requirements of § 490-45. {4.18.620}
- (3) One directory-type sign not to exceed 20 square feet shall be allowed at the entrance to the property. {4.18.630}
- (4) Each separate use may have one wall sign not exceeding four square feet at each individual entrance. {4.18.640}
- (5) All signs shall otherwise meet the applicable requirements of §§ 490-37 and 490-39. {4.18.650}
- (6) All such uses shall have a minimum of 2,000 square feet of gross floor area. {4.18.660}
- (7) A maximum of five tenants shall be allowed. {4.18.670}
- (8) Loading areas shall be located to the rear or side of the building. {4.18.680}

G. In the M-2 Zone, more than one of those principal uses within the same structure or building specified as allowable in the M-2 Zone in this section may be permitted, subject to the following: {4.18.700}

- (1) Parking for each such use shall meet the requirements of § 490-45. {4.18.710}
- (2) One directory-type sign not to exceed 20 square feet shall be allowed at the entrance to the property. {4.18.720}
- (3) Each separate use may have one wall sign not exceeding four square feet at each individual entrance. {4.18.730}
- (4) All signs shall otherwise meet the applicable requirements of Article VI. {4.18.740}
- (5) The minimum usable gross floor area of each such use shall be computed as either (a) 2,000 square feet or (b) 5% of the total usable gross floor area of the structure of building, whichever is greater. {4.18.750}



- (6) The maximum number of tenants allowed shall be either (a) six or (b) the number of minimum usable gross floor areas allowed in the structure or building by Subsection G(5) above, whichever is less. {4.18.760}
- (7) Loading areas shall be located to the rear or side of the building. {4.18.770}

§ 490-25 Permitted accessory uses in industrial zones. {4.19}

The following uses are examples of types of uses considered accessory and will be permitted in all industrial zones so long as they remain clearly accessory to the principal use on each lot:

- A. Eating facilities for the accommodation of persons employed on the premises and for visitors but not open to the general public. {4.19.100}
- B. A facility to shelter vehicles owned by the person, business or industry occupying the lot and his or its agents and employees. {4.19.200}
- C. Outdoor electrical apparatus the sole function of which is to provide electrical service for the operations conducted on the lot. {4.19.300}
- D. One outdoor aboveground tank not to exceed a capacity of 3,500 cubic feet for the storage of material used or consumed in the manufacturing process taking place within the building(s) on the lot, provided that said material is not hazardous or toxic. {4.19.350}

[Added 3-18-2002]

- E. Exterior lighting. The illumination of all or a portion of the exterior of any building constructed in an industrial zone is permitted without regard to Article VI, provided that said light is white, the source of said light is not visible from any adjacent residential zone nor from any street, and provided further that the intensity of such lighting is not so great that the light reflected from the buildings is capable of illuminating objects in any adjacent residential zone nor sufficient to constitute a hazard to motorists using any street. {4.19.400}
- F. Sales at retail accessory to the principal uses of wholesale business, warehousing and/or manufacturing of consumer products only, and only when conducted by the person, partnership or corporation conducting the principal use. Said sales shall include items wholesaled, warehoused or manufactured, but need not be limited thereto. The area devoted to such sales shall be located wholly within the building in which the principal use is conducted and shall be limited to 2,500 square feet or 10% of the gross floor area devoted to the principal use, whichever is less. Parking facilities for the area devoted to retail sales shall be provided pursuant to Article VII in addition to the facilities required for the principal uses. The area devoted to retail sales shall be clearly identified, and no items shall be sold or displayed in any part of

the building or lot outside the area devoted to retail sales, even on an occasional and temporary (such as a "warehouse" sale) basis, except as provided under the provisions of Subsection H. {4.19.500}

G. Golf range, when located on a golf course. {4.19.510}  
[Amended effective 11-15-1996]

- (1) Exterior lighting of golf range. The illumination of all or a portion of the golf range constructed in an industrial zone is permitted, provided that said light is white, the height of the source of light is not greater than 30 feet, and the source of said light is not sufficient to constitute a hazard to motorists using any street, or a nuisance to adjacent residential properties. {4.19.511}
- (2) Sales at retail, repair and assembly of golf equipment accessory to the use of the golf range, or golf course. {4.19.512}
- (3) Golf instruction on the golf range or golf course as accessory to the principal use of a golf course. {4.19.513}

H. Temporary retail sales accessory to the principal uses of wholesale business, warehouse and/or manufacturing of consumer products only. The person, partnership or corporation conducting a wholesale business, warehouse or manufacturing of consumer products shall be permitted to conduct a temporary retail sale of those goods wholesaled, warehoused or manufactured in connection with the principal use only after obtaining a permit from the Zoning Enforcement Officer and subject to the following regulations: {4.19.600}

- (1) An application for a permit must be filed with the Zoning Enforcement Officer, who shall grant or deny said application within 30 days of the date of the application. {4.19.610}
- (2) The permit shall be effective for not more than nine consecutive days commencing with the first day of the sale, but shall not be effective on Sundays; provided, however, that said Sunday shall not be counted in computing the nine days. {4.19.620}
- (3) A fee of \$400 shall be submitted with the application together with a security deposit of \$500 in the form of a certified check. Such security deposit shall be returned to the permittee if, and only if, all the regulations set forth herein are complied with. {4.19.630}
- (4) The area devoted to the retail sale shall be clearly identified and shall be limited to 7,000 square feet. The amount of floor area in square feet to be devoted to the retail sale shall be indicated on the application. {4.19.640}

- (5) The area devoted to the retail sale shall be located wholly within the building in which the principal use is conducted, and no item shall be sold or displayed in any part of the building or lot outside the area devoted to the retail sale. Only items which are physically located within the area devoted to the retail sale shall be sold. {4.19.650}
- (6) The permittee shall be permitted to erect within the limits of the permittee's property two single-faced signs not in excess of three square feet while the permit is effective, which shall be removed immediately when the permit expires. {4.19.660}
- (7) In addition to the parking facilities provided for the principal use pursuant to Article VII the permittee shall provide temporary parking space on the basis of one parking space for every 100 square feet of the area devoted to the retail sale. Said parking spaces shall comply in all respects with the provisions of Section 7.03. {4.19.670}
- (8) The permittee shall provide at its own cost such adequate traffic and safety control measures, including, but not limited to, traffic patrolmen and traffic signs, as may be deemed necessary by the Zoning Enforcement Officer to avoid undue traffic congestion and/or traffic hazards. Said traffic and safety control measures shall be specifically set forth in the permit. The permittee shall obtain a statement from the Fire Department stating that all facilities to be used in connection with the proposed retail sale comply with all the provisions and regulations of the Fire Safety Code. {4.19.680}
- (9) A second permit for the wholesale business or warehouse or manufacturer shall not be issued until the expiration of six months from the first effective date of the preceding permit. {4.19.690}

§ 490-26 Performance standards in industrial zones. {4.20}

No use permitted in an industrial zone shall be carried on in such a way as to violate any of the following performance standards. The charts and documents referred to below establishing the performance standards are on file with the Town Clerk of the Town of Newtown and constitute a part of these regulations as if set forth in full herein.

- A. Smoke, dust or other air contaminant. smoke, dust or other air contaminant shall not be discharged into the atmosphere for a period or periods aggregating more than three minutes in any hour, which is as dark or darker in shade than that designated as No. 2 on the Ringelman Chart, as published by the United States Bureau of Mines, or which is of such capacity as to obscure an observer's view to a degree equal to or greater than does smoke, designated as No. 2 on the Ringelman Chart. {4.20.100}

- B. Noise. No sound pressure level shall exceed the decibel levels in the designated octave bands shown below. Sound levels shall be measured at the lot lines within which the subject use is located, and with a sound level meter and associated octave band filter, manufactured in accordance with the American Standard Association. Measurements shall be made using the flat network of the sound level meter. {4.20.200}

Center Frequencies of Octave-Bands Lot Lines (cycles per second)	Maximum Permitted Sound Pressure at (decibels)
31.5	72
63	71
125	65
250	57
500	51
1,000	45
2,000	39
4,000	34
8,000	32

- C. Odors. Offensive odors noticeable off the lot but within the industrial zone where the use is located shall not exceed the standards established as a guide by Table III (Odor Thresholds) in Chapter 5, "Air Pollution Abatement Manual," copyrighted 1951 by the Manufacturing Chemists Association, Inc., Washington, D.C. {4.20.300}

- D. Vibration. Vibration noticeable off the lot but within the industrial zone shall not exceed the standards developed by the U.S. Bureau of Mines, Bulletin No. 442, or any revision thereof. {4.20.400}

§ 490-27 Temporary permitted uses. {4.21}

The uses set forth below are permitted in the designated zone only after obtaining a permit thereof from the Zoning Enforcement Officer. The specified permit fee and security deposit for each use shall be paid to and deposited with the Zoning Enforcement Officer before a permit is issued, and each such permit shall be effective only for the period of time indicated below. Each permit shall be posted in a conspicuous place at the site of the

temporary use. Said security deposit shall be certified check or money order payable to the "Town of Newtown," shall secure to the Town the termination of the use and the removal of any temporary structures or signs incidental thereto at the expiration of the permit, and shall be returned to the permittee when the use is discontinued and the permit surrendered. Subject to obtaining said permit and the regulations stated below, the following uses are permitted in the designated zone on a temporary basis:

- A. In all zones, roadside stands for the sale of farm produce grown on the farms on which they are located, together with one dual-faced or two single-faced advertising signs of no more than six square feet per face located within 200 feet of the roadside stand. The roadside stand and the signs shall be removed at the expiration of the permit. Said sign shall meet the setback requirements set forth in § 490-37, and the roadside stand, where a permanent structure, shall meet the setback requirements as specified for the district in which it is located, except that if said stand is located in an industrial district with greater setback requirements, the minimum setback shall be 50 feet from the street line or 75 feet from the center line, whichever is greater. Where said roadside stand is a permanent structure, said permit will not be issued until provisions have been made for at least 10 off-street parking spaces. Where said roadside stand is not a permanent structure, there shall be a place available for at least three cars to park completely off the paved portion of the street or, if said street is not paved or the traveled portion thereof is wider than the paved portion, then said parking must be completely off the traveled portion. Although said parking spaces need not be paved, they must be capable of being used during the weather conditions ordinarily expected during the life of the permit. The permit shall be effective for six months, and no more than one such permit may be issued within any calendar year. Permit fee: \$50; security deposit: \$50. {4.21.100}
  - B. In all farming and residential zones, on lots devoted to one-family dwellings in a professional zone and on any lot in any zone on which a one-family dwelling presently exists as a nonconforming use, auction sales, tag sales and similar occasional sales of personal property conducted on a lot not ordinarily devoted to the sale of personal property. The owners of any of the personal property to be sold shall be included as permittees on the permit. The permit shall be effective for not more than nine consecutive days, and no permittee shall be issued or included on a second permit until the expiration of six months from the date on which the preceding permit was issued. Said permit shall not be issued until provisions have been made for at least 10 off-street parking spaces, although such parking spaces need not be paved. One double-faced or two single-faced signs not in excess of three square feet per face may be erected while the permit is effective but shall be removed when said permit expires. Permit fee: \$50; security deposit: \$25. {4.21.200}
- [Amended 11-6-2005]
- C. In all zones, a circus, carnival or similar type of entertainment only when sponsored by a service club, veterans' group, volunteer fire company, church, or fraternal organization having a permanent organization within the Town. Said permit will not

be issued until the applicant has made provision for adequate off-street parking as determined by the Zoning Enforcement Officer, nor will such permit be issued until the approval of such Town boards or agencies as is required by other Town ordinances or regulations is obtained. In determining the adequate number of spaces required, the Zoning Enforcement Officer may consider the greatest number of persons likely to arrive per car. Said parking spaces may be provided by the applicant on a lot off the lot on which the permitted activity is to be conducted, provided that the owner thereof joins the applicant in applying for the special permit to use the premises in question for parking. Said permit shall be effective for a period of not more than 10 days. Permit fee: \$50; security deposit: \$50. {4.21.300}

- D. In all zones, recreational vehicles owned and occupied by visitors or guests for a period of one but not more than four weeks in any one calendar year. The recreational vehicle shall be parked in a side or rear yard. No permit fee or security deposit shall be required, and no permit is required when the trailer is to be occupied for less than one week. {4.21.400}
- E. In all zones, trailers, temporary trailer in case of fire or natural destruction for a period of six months, office vans and mobile homes located on a lot on which a building is being constructed, used incidentally to the construction of said building, and not as a place to live. The applicant shall state the estimated construction time of said building, and the permit shall be issued for that period of time. Permit fee: \$50; security deposit: \$50. {4.21.500}

#### § 490-28 Affordable housing development. {4.22}

- A. Purpose and intent. It is the purpose of the affordable housing development regulations to encourage flexibility in site design and housing construction, thereby promoting housing choice, economic diversity and open space preservation. Variety in housing types, including one-family cluster development, two-family dwellings, multifamily dwellings or a combination thereof, will help meet community needs now and in the future, including the need for affordable residential housing. The provisions of these regulations are intended to ensure that affordable housing developments are constructed in full compliance with all of the requirements of this section as well as other applicable Town ordinances and regulations. An affordable housing development shall be permitted in suitable locations which must be consistent with soil types, terrain and infrastructure capacity and shall be sensitive to maintaining the rural character of the community and of the neighborhood in which they are located. {4.22.100}
  - B. Definitions. As used in this section, the following terms shall have the meanings indicated: {4.22.101}
- [Amended effective 12-18-2000]

#### AFFORDABLE HOUSING DEVELOPMENT

A housing development in which not less than 30% of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least 40 years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay 30% or less of their annual income, where such income is less than or equal to 80% of the median income. In an affordable housing development, of the dwelling units conveyed by deeds containing covenants or restrictions, a number of dwelling units equal to not less than 15% of all dwelling units in the development shall be sold or rented to persons and families whose income is less than or equal to 60% of the median income, and the remainder of the dwelling units conveyed by deeds containing covenants or restrictions shall be sold or rented to persons and families whose income is less than or equal to 80% of the median income. {1.}

#### MAXIMUM MONTHLY HOUSING COST

The costs that are to be included when calculating maximum allowed rents and sale prices for the affordable dwelling units. For any affordable unit offered for sale, the maximum monthly housing cost shall include the costs for mortgage principal and interest, real property taxes and insurance but does not include amounts paid as a down payment, for utilities, optional unit features provided by the developer, or fees to a unit owners' association. The maximum monthly housing cost for rental units shall include the amount paid by a tenant for a dwelling unit, inclusive of utilities, but exclusive of optional services offered by the landlord. For any affordable dwelling unit that is rented, if the maximum monthly housing cost, as calculated in accordance with the definition of "affordable housing development" above, would exceed 100% of the Section 8 fair market rent as determined by HUD, in the case of units set aside for persons and families whose income is less than or equal to 60% of median income, then such maximum monthly housing cost shall not exceed 100% of said Section 8 fair market rent. If the maximum monthly housing cost, as calculated in accordance with the definition of "affordable housing development" above, would exceed 120% of the Section 8 fair market rent, as determined by HUD, in the case of units set aside for persons and families whose income is less than or equal to 80% of median income, then such maximum monthly housing cost shall not exceed 120% of such Section 8 fair market rent. For any affordable dwelling unit that is offered for rent, no person shall impose on a prospective tenant who is receiving governmental rental assistance a maximum percentage-of-income-for-housing requirement that is more restrictive than the requirement, if any, imposed by such governmental assistance program. {3.}

#### MEDIAN INCOME

After adjustments for family size, the lesser of the state median income or the area median income of the Town of Newtown, as determined by the United States Department of Housing and Urban Development (HUD). {2.}

- C. Procedure. An affordable housing development possesses special characteristics and shall be permitted as a principal use subject to the granting of a special exception by the Commission. Such special exception shall meet the standards,

criteria, conditions and procedures which are set forth in § 490-52 hereof, and the additional standards and criteria set forth below: {4.22.200}

- (1) An affordable housing development shall be located in Farming and Residential Zones R-1/2, R-1, R-2 and R-3 and no other. {1.}
- (2) An affordable housing development shall be located on parcels of land having direct access to and frontage on an arterial or major collector roadway as such roadways are identified in the Newtown Plan of Development, as amended, so as to provide traffic access to such affordable housing developments without generating excessive traffic on minor or local streets in residential areas. {2.}

[Amended effective 10-7-1996]

- (3) There shall be a minimum common open space requirement of 30% of the total gross acreage of the site. Such common open space shall include, as a minimum, the same proportion of "usable site area," as defined in Subsection D(5) as exists on the total gross acreage. Common open space area(s) shall be provided in aggregate areas suitable for active and passive recreational activities. Roadways, driveways, parking areas, and planting islands within parking areas shall not be counted toward the thirty-percent common open space requirement. Any application for an affordable housing development shall describe the proposed location, size, and design of the common open space areas, including any facilities associated with them. All land designated for common open space shall remain under the ownership of the property owner(s) and shall be maintained by such owner(s). {3.}
- (4) Affordability plan. In conjunction with the submission of an application for approval of an affordable housing development the applicant shall submit an affordability plan, which shall describe in detail how the development will comply with the regulations regarding affordable housing and how the affordability covenants and restrictions will be administered as set forth in Subsection I. Such affordability plan shall be consistent with both the regulations set forth herein and any subsequent regulations that may be adopted by the Commissioner of the Connecticut Department of Economic and Community Development pursuant to § 8-30g of the General Statutes. An affordability plan shall include at least the following: {4.}

[Amended effective 12-18-2000]

- (a) Designation of the person, entity or agency that will be responsible for the duration of any affordability restrictions, for the administration of the affordability plan and its compliance with the income limits and sale price or rental restrictions set forth herein. {1}
- (b) An affirmative fair housing marketing plan governing the sale or rental for all dwelling units. {2}



- (c) A sample calculation of the maximum sales price or rents of the intended affordable dwelling units. {3}
- (d) A description of the projected sequence in which the affordable dwelling units will be built and offered for occupancy and the specific location of such units within the proposed development. {4}
- (e) Conditions of approvals, deeds, restrictive covenants or lease provisions that will govern the affordable dwelling units. {5}
- (f) The mechanism for maintaining common recreational facilities and open space areas within the development. {6}

D. Area, yard and density requirements. {4.22.300}

- (1) Minimum lot area. The lot containing an affordable housing development shall be at least six acres of contiguous land owned or controlled by the applicant. {4.22.310}
- (2) Street frontage. Each lot shall have a minimum frontage of 300 feet. However, a rear lot served by an accessway having a width of no less than 100 feet throughout its length shall also be eligible for an AHD. {4.22.311}
- (3) Front yard setback. Where the lot has the required minimum street frontage, the minimum setback from the street shall be 75 feet from the street line or 100 feet from the center line of the street, whichever is greater. In establishing front, side and rear yards for any lot without the required minimum street frontage, the front yard of any such lot shall be located on that portion of the rear lot nearest to the street to which access is provided. {4.22.312}
- (4) Side and rear setbacks. The minimum side and rear yards shall be 35 feet for one-story structures and 50 feet for structures of two or more stories. {4.22.313}
- (5) Density. The number of dwelling units permitted shall be four units per usable acre based upon deduction of area as applicable. Such density shall be calculated as usable using the total site acreage. Acreage having slopes of 25% or more shall be calculated using 50% of such area. Acreage having wetlands, watercourses or area within the base flood elevation as determined by the Federal Emergency Management Agency shall be calculated as usable using 25% of such areas. All other acreage is considered usable site area and density shall be calculated at 100%. In no case, regardless of acreage, shall an AHD project exceed 100 units. {4.22.314}

[Amended effective 12-16-1996]

(6) Building height. Building height shall comply with § 490-33 of these regulations pertaining to residential structures. {4.22.315}

E. Site utilities. {4.22.320}

(1) Any affordable housing development shall be served by and all units in an AHD shall be connected to a public water supply, or, if no such public water supply is available at the site, to: (i) a private water company approved in accordance with § 16-262m of the General Statutes, or (ii) for detached units only, individual wells in compliance with all applicable public health codes, provided that any AHD serviced by individual wells shall have 20 or fewer units. {4.22.321}

(2) If the lot is approved for connection to sanitary sewers in accordance with the policies, procedures or regulations established by the Newtown Water and Sewer Authority, all wastewater discharges shall be directed thereto. If there is no such sanitary sewer available, the site plan application must provide the Commission with an on-site subsurface sewage disposal system approved by the applicable state and/or local agencies in accordance with local and state statutes and regulations. Any individual or community subsurface disposal system shall rely solely on the land for hydraulic and renovation capability to treat the discharge from the proposed development. An association of property owners, or other mechanism satisfactory to the Commission, shall be established with the authority and financial capability to operate and maintain any private community sewage system within the development. {4.22.322}

[Amended effective 7-31-1995

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).]

(3) Adequate provision for storm drainage shall be made as determined by the Town Engineer in accordance with Town standards. {4.22.323}

(4) All utilities in the development shall be underground. {4.22.324}

(5) Fire protection facilities shall be provided, and the water storage and rates of flow available to such shall be adequate to fight any fire which could occur on the property. {4.22.325}

F. Building design standards. {4.22.330}

(1) All multifamily dwellings included in affordable housing development shall be designed in a townhouse or garden apartment type construction. There shall be no more than one dwelling unit or portion thereof located above another dwelling unit. {4.22.331}

- (2) Each dwelling unit shall have an entrance providing direct access to the exterior, which access shall not be shared in common with any other dwelling unit. {4.22.332}
- (3) No building shall contain more than four dwelling units. No building shall exceed 120 feet in a single dimension. No exterior wall shall exceed 60 feet in length in an unbroken plane without an offset of at least 10 feet. {4.22.333}

[Amended effective 12-16-1996]

- (4) The minimum distance between buildings shall not be less than 40 feet, unless the dwelling unit in the building offers an attached garage. In the latter case, the distance shall not be less than 20 feet. {4.22.334}
- (5) Dwelling units shall contain no less than one bedroom and no more than three bedrooms. {4.22.335}
- (6) Affordable units shall be of a construction quality that is comparable to market-rate units within the development, and shall be dispersed throughout the development. The units set aside as affordable shall contain at least 30% of the total bedrooms proposed for the project. Such affordable units shall be equally distributed in conformance with the definition of "affordable housing" in Subsection B above. {4.22.336}

[Amended effective 12-18-2000]

- (7) If the development is to be built in phases, the affordable units will be built on a pro-rata basis as construction proceeds. {4.22.337}

G. Private roadways, parking, sidewalks and landscaping. {4.22.340}

- (1) Private roadways within the development shall be at least 22 feet wide with a surface of bituminous concrete or equivalent in accordance with Town standards. Private roadways shall be designed for easy circulation within the development and safe intersections with public highways, which intersections shall not be less than 75 feet from the center line of the nearest intersecting street on the same side of the street as the access roadway. {4.22.341}
- (2) Parking shall conform to the requirements of §§ 490-40, 490-41, 490-42 and 490-44A and C. Off-street parking spaces shall be provided at a ratio of two spaces per dwelling unit. Two additional parking spaces for visitors shall be provided for every five units and shall be located with resident parking areas. Parking areas and garages shall be located adjacent to the dwelling units they will serve and shall not be located greater than 150 feet from unit entrances. {4.22.342}

- (3) Sidewalks shall connect the front entrance of each dwelling unit with a parking area and each multiple-dwelling building with a contiguous multiple-dwelling building. Sidewalks shall not be pitched at a greater than one to 20 slope, and the use of steps shall be avoided where feasible. {4.22.343}
  - (4) If parking areas and sidewalks are proposed to be artificially illuminated, then such lighting shall be arranged so that no direct rays from such lighting fall off the lot or shine into the windows of any dwelling unit within the development. All parking areas shall be suitably landscaped, using such techniques as planted islands and preservation of existing large trees and natural buffers. Adequate screening of such parking areas from adjacent properties shall be provided utilizing natural contours and vegetation to the greatest extent possible. {4.22.344}
  - (5) Parking areas shall not be permitted within front, side or rear setbacks or within accessway areas. Such setback areas shall be landscaped so as to maintain a residential character and so as to provide a natural buffer from adjoining properties. {4.22.345}
  - (6) Landscaping. Existing vegetation and natural changes in topography shall be maintained to the greatest extent possible in designing site development. Screening from adjacent properties shall be enhanced by maintaining existing vegetation and topography and shall be supplemented with fences, walls, berms and dense landscaping which will adequately screen an affordable housing development from adjacent properties the year round. {4.22.346}
- H. Accessory buildings. A detached accessory building for use by residents of the development and their guests for dining, recreation, amusement and as a meeting place shall be permitted. Such building shall not be available for use by other groups or members of the general public, even where limited by an admission charge. Parking meeting the requirements of § 490-45B shall be provided for such building in addition to the parking required by Subsection G(2). {4.22.350}
- I. Regulations for affordable housing units. {4.22.400}
- (1) The maximum monthly housing cost for the affordable units shall be established as an amount that is affordable as defined in Subsection B herein. {4.22.411}
- [Amended effective 12-18-2000]
- (2) Any affordable unit which is sold shall be conveyed only by a deed which restricts the maximum price upon resale to an amount that will maintain the unit as affordable in accordance with the definition of "affordable housing" in Subsection B above. {4.22.412}

- (3) An affordable unit shall be occupied only as the purchaser's or tenant's primary residence. Subletting shall be strictly and specifically prohibited in the lease for each affordable unit. {4.22.413}
- (4) The forty-year period during which 30% of the units shall remain affordable shall begin, as to a rental unit, as of the date of the commencement of the initial tenancy, and as to a sale of a unit, as to the date of initial conveyance of title. During the forty-year affordable period, the designated units within the development shall be maintained as affordable so as to maintain the minimum thirty-percent set aside, and the development as a whole shall continue to comply with all requirements of this section. {4.22.414}

[Amended effective 12-18-2000]

- (5) The affordable housing units shall be offered for sale or rent as set forth herein: {4.22.415}
  - (a) Employees of the Town of Newtown shall be given first preference in both the rental and sale of affordable units. "Employee of the Town of Newtown" shall mean a full-time employee of the Town or of the Newtown Board of Education. {1.}

#### § 490-29 Fairfield Hills Adaptive Reuse District (FHAR). {4.23}

##### A. Purpose and intent. {4.23.100}

- (1) The purpose of this zone is to permit the conversion and reuse of the former Fairfield Hills Hospital campus in a manner that is in harmony with the character of the existing campus and surrounding neighborhood. The zone is designed to allow the economic reuse of the site so as to contribute to the well-being of the community while at the same time encourage the conservation of the overall site design and cohesive layout of the main campus. The zone encourages the maintenance of the historic integrity of the campus and existing structures located there.
- (2) The intent of the FHAR Zone is to focus on a campus setting and encourage use of the property, existing buildings and new structures that will reinforce and contribute to the overall cohesiveness of the area. A campus setting is typically characterized by an integrated site design with complementary land uses that work together as a whole. The property has a unique central location in the community, and Fairfield Hills Hospital played a major role in Newtown's overall development and history. The property is environmentally sensitive and has areas located within the Aquifer Protection District. The reuse of the property should be planned, new structures should blend in with existing historic structures, and the environmental integrity of the site should be maintained.

B. Procedure. An adaptive reuse of the Fairfield Hills site possesses unique circumstances. The principal uses shall be permitted subject to the granting of a special exception by the Commission. Such special exception shall meet the standards, criteria, conditions and procedures which are set forth in § 490-52 hereof, and such application shall include the additional information and studies as set forth below: {4.23.200}

- (1) Submission of a master planned development proposal which shall provide the Commission with an overall development scenario and shall include a description of the project's phasing, potential impact on historic factors and natural resources and the existing infrastructure. {1}
- (2) An environmental impact study concerning the development plan's expected effect upon the environment in general, the aquifer, and the campus character. {2}
- (3) A plan for vehicular and pedestrian circulation patterns and parking areas, which plan shall demonstrate a harmonious integration of traffic and parking with the site design and the area immediately surrounding the campus. {3}
- (4) A landscaping plan consistent with the intent and purpose of the zone. {4}

C. Permitted uses. Subject to the obtaining of a special exception from the Commission, the following uses are permitted. Uses that are not listed as permitted shall not be permitted by variance. {4.23.300}

- (1) Retail sales, limited to no more than 40,000 square feet per tenant. {1}
- (2) Shopping center, with no more than 40,000 square feet per tenant. {2}
- {3} (3) Wholesale business, limited to no more than 40,000 square feet per tenant.
- (4) Educational facility, including accessory housing facilities. {4}
- (5) Light manufacturing that involves one or more operations, including the fabricating, processing, converting, altering, packaging, bottling or assembling of products, provided the operations are conducted solely within an enclosed building or group of buildings and provided that such operations are not precluded by § 490-9 of these regulations. {5}
- (6) Bulk storage and warehousing of materials, as set forth in § 490-24A(8) of these regulations. {6}
- (7) Office space. {7}

- (8) Medical or dental office. {8}
  - (9) Laboratory devoted to research and development or testing of specimens or products. {9}
  - (10) Corporate headquarters for one or more corporations. {10}
  - (11) Printing establishments. {11}  
[Amended effective 6-21-1999]
  - (12) Laundry service, including on-site or off-site laundering and dry-cleaning services that do not conduct on-site cleaning. {12}  
[Amended effective 6-21-1999]
  - (13) Publishing establishment. {13}
  - (14) Restaurant, including outside service, but excluding drive-through facilities and outside entertainment. {14}
  - (15) Commercial or public recreational facility, indoor or outdoor, fitness center. {15}
  - (16) Museum. {16}
  - (17) Library. {17}
  - (18) Theater, movie theater/complex. {18}
  - (19) Place of religious worship. {19}
  - (20) Bank, financial institution. {20}
  - (21) Hospital. {21}
  - (22) Multiple-family dwellings, provided that at least 25% are affordable housing units as defined at § 490-28B and further that the density shall be calculated pursuant to § 490-28D(5) of these regulations. {22}
  - (23) Adult congregate living facility, as set forth beginning at Section 4.10.250 of these regulations. {23}
- Editor's Note: So in original.
- (24) Assisted living facility for the elderly. {24}

- (25) Multiple-family for elderly housing, as set forth beginning at § 490-16A of these regulations. {25}
- (26) Structured parking, providing that such parking is clearly incidental to a permitted use. {26}
- (27) Hotel, motel, conference center. {27}
- (28) Nursery, greenhouse. {28}
- (29) Golf course. {29}
- (30) Outdoor sport field. {30}

D. Area, height and yard requirements. {4.23.400}

- (1) Minimum lot area. The minimum lot area shall be at least 150 acres of contiguous land owned or controlled by the applicant. {4.23.410}
- (2) Minimum setbacks. Any structure shall be set back 100 feet from any street line or 125 feet from the center line of the street, whichever is greater. All structures shall be set back 100 feet from the nearest property line. {4.23.420}
- (3) Number of stories. All structures shall be limited to three stories. {4.23.430}
- (4) Building height. Building height shall comply with §§ 490-33 and 490-34 of these regulations. The conversion of existing structures shall be encouraged. If any existing structures in the zone now exceed or breach the requirements of §§ 490-33 and 490-34, the nonconformity shall not be expanded but may be altered to facilitate the reuse of existing buildings. {4.23.440}
- (5) Maximum structural coverage. The maximum building coverage shall be 7% of the entire lot. The maximum building, storage loading, paved areas, parking, roadways, driveways and sidewalk coverage shall be 17% of the entire lot. {4.23.450}

E. Parking and pedestrian walkways. Sections 490-44, 490-45, 490-46 and 490-47 of these regulations concerning parking shall apply. The placement of parking areas and pedestrian walkways shall allow convenient passage for motor vehicles and pedestrians upon the campus. Parking areas, whether structured parking areas or not, shall be landscaped to buffer the parking from the sight of neighboring properties. Parking areas shall be located so as to maintain the main campus character but to allow for expansive lawn and planted areas to be incorporated into the design. {4.23.500}



F. Signs. {4.23.600}

- (1) Sections 490-9F, 490-36, 490-37 and 490-38E of these regulations concerning signs shall apply. Notwithstanding the provisions of § 490-39 of these regulations, no internally illuminated sign, including without limitation all neon signs even if inside windows, may be erected, whether by special permit or otherwise.
- (2) Permitted signs.
  - (a) Only the following signs shall be permitted. The size is the maximum area. {4.23.610}
    - [1] One double-facing sign or single-facing sign or wall sign per building. Size: nine square feet. {1}
    - [2] Two directory-type signs up to 20 square feet for the name and address of the entire FHAR zoned area. {2}
    - [3] Pedestrian walkway signs to facilitate the flow of pedestrian traffic. {3}
  - (b) All signs shall be shown as part of the application for special exception and no other signs shall be erected or maintained, except as permitted in § 490-38E. {4}

§ 490-30 Conservation and Agriculture Zone (CA). {4.24}

- A. Purpose and intent. The purpose of this zone is to provide for the long-term maintenance of land in an undeveloped state by limiting its use to wildlife habitats, the growing of agricultural crops, foresting, and passive recreation. The intent is to preserve and protect existing and potential drinking water supplies, preserve and protect plant and animal wildlife and unique natural features, preserve and protect watersheds and stream feeders to promote healthy aquatic life, maintain vistas, protect sensitive archaeological sites, provide recreational opportunities for the general public, and retain agriculture as a beneficial industry within the Town of Newtown. The following lands shall be eligible for designation as a CA Zone: municipally owned land, state- and federally owned land, and privately owned forest land, nature preserves, fish or game preserves, undeveloped land, land currently used for any kind of farming, land immediately over a sole-source aquifer and any land immediately adjacent to any land previously listed in this subsection and any land immediately adjacent to land zoned CA. {4.24.100}
- Purpose and intent. The purpose of this zone is to provide for the long-term maintenance of land in an undeveloped state by limiting its use to wildlife habitats, the growing of agricultural crops, foresting, and passive recreation. The intent is to preserve and protect

existing and potential drinking water supplies, preserve and protect plant and animal wildlife and unique natural features, preserve and protect watersheds and stream feeders to promote healthy aquatic life, maintain vistas, protect sensitive archaeological sites, provide recreational opportunities for the general public, and retain agriculture as a beneficial industry within the Town of Newtown. The following lands shall be eligible for designation as a CA Zone: municipally owned land, state- and federally owned land, and privately owned forest land, nature preserves, fish or game preserves, undeveloped land, land currently used for any kind of farming, land immediately over a sole-source aquifer and any land immediately adjacent to any land previously listed in this subsection and any land immediately adjacent to land zoned CA. {4.24.100}

B. Permitted uses. No land, building or other structure shall be used, altered or added to which is arranged, designed, intended to be used or capable of being used except for one of the following principal uses. Uses that are not listed as permitted shall not be permitted by variance. {4.24.200}

(1) Forestry, including without limitation the harvesting of lumber. {1}

(2) Pedestrian hiking trails. {2}

(3) Natural wildlife habitat. {3}

(4) Nature preserve. {4}

(5) Open space. {5}

C. Notwithstanding the provisions of Subsection B, the following principal uses are permitted in the CA Zone, subject to obtaining a special exception from the Commission in accordance with the standards, criteria, conditions and procedures set forth in § 490-52 hereof, and the additional standards and criteria set forth herein below. No land, building or other structure shall be used, altered or added to which is arranged, designed, intended to be used or capable of being used except for one of the following principal uses. Uses that are not listed as permitted shall not be permitted by variance. {4.24.300}

(1) Crop farming. {1}

(2) Bicycle trail. {2}

(3) Equestrian trail. {3}

(4) Playground for children's outdoor games and recreation. {4}

(5) Outdoor sport field. {5}

- D. No new building, structure, or parking shall be permitted in the CA Zone in expansion of those buildings, structures and parking already extant as of May 21, 1998. {4.24.310}
- E. Any playground, outdoor sport field, or crop farming within a CA Zone shall be controlled through the utilization of management practices which minimize the use of chemicals to control weeds and pests and which minimize the use of fertilizers. As part of the special exception application, the applicant shall submit to the Commission a turf management and environmental management plan detailing methods to be employed to avert harmful effects to the environmental health of the property and adjacent properties. The plan shall include any potential use of pesticides, fungicides, weed killers, and fertilizers. {4.24.320}
- F. Any playground or outdoor sport field within a CA Zone shall not be paved nor served by grandstands or bleachers for spectators. {4.24.330}
- G. Notwithstanding the provisions of Subsections C, D and E, the following uses are permitted in the CA Zone as long as they remain clearly accessory to the principal use: {4.24.340}
  - (1) Greenhouses. {1}
  - (2) Surface parking, including without limitation paved parking areas. The provisions of § 490-44 shall apply. {2}
  - (3) Playground structures intended for use by children only. {3}
- H. Area, height, and yard requirements. Sections 490-33 and 490-34 of these regulations concerning height limitations shall apply to the CA Zone. The conversion of existing structures shall be encouraged. If any existing structure in the zone now exceeds or breaches the requirements of §§ 490-33 and 490-34, the nonconformity shall not be expanded, but may be altered to facilitate the reuse of the existing building. {4.24.400}

§ 490-31 Hawleyville Center Design District (HCDD). {4.25}  
[Added effective 8-9-1999; amended effective 7-26-2004]

- A. Purpose and intent. The purpose of the Hawleyville Center Design District (HCDD) is to encourage and promote the creation of a neighborhood business district that will include mixed-use activities, improvements and development typical of a village center. The intent is to promote business activities within the district that will serve the surrounding neighborhoods and, to a lesser degree, accommodate services that are compatible with the district's proximity to Exit 9 of Interstate 84. Development in the district will be expected to achieve the highest quality of design that will blend the pedestrian scale of a village center with the functions of Route 25, I-84

and the railroad line as regional transportation linkages. Development is expected to respect the environmental conditions and history in the area and will help to achieve an integrated, cohesive New England village center. On-site public amenities will be required in order to tie the district together and to provide circulation patterns typical of a business center. Overall, it is envisioned that the Hawleyville Center Design District will result in the development of a mixture of uses, including 30,000 square feet of retail space, 30,000 square feet of office and personal services space and a total of 24 housing units. {4.25.100}

- B. General use regulations and design guidelines. The land and buildings shall be used for the principal and accessory uses listed herein. Uses that are not listed shall not be permitted by variance. In order to achieve the highest quality of design, the Commission created and adopted the Hawleyville Center Design Guidelines. The guidelines describe the elements of context, scale, site design and amenities that are necessary to achieve a cohesive district consistent with and which reflects the character of a New England village. It is anticipated that all development within the district will be planned to help achieve the purpose and intent of the district. The Hawleyville Center Design Guidelines provide examples of specific design elements that have been found to be important and necessary for ensuring a cohesive and functional district. Proposals for development should incorporate the site design elements described in the guidelines into the project. {4.25.200}
- C. Permitted uses. One or more of the following principal uses are permitted within a single structure subject to obtaining site development plan approval, if required, in accordance with Article IX: {4.25.300}
- (1) Retail-permanent sales shall be enclosed, and there shall be no permanent outdoor storage of merchandise. No single retailer may occupy more than 15,000 square feet.
  - (2) Personal service establishments.
  - (3) Banks.
  - (4) Offices.
  - (5) Restaurants, including outside service but excluding drive-through facilities and outside entertainment.
  - (6) Museums, galleries and meeting halls.
  - (7) Places of religious worship.
  - (8) Government buildings and uses, including fire stations, post offices, libraries, commuter parking, and transportation terminal areas, but excluding dumps, incinerators and other garbage disposal, transfer and recycling areas,

municipal garages, public works storage yards or commercial-type recreation facilities.

- (9) Residential dwellings located above commercial uses at a density no greater than one dwelling per 1/2 acre of land as calculated pursuant to Subsection F.

D. Uses permitted by special exception. The following principal uses and structures are permitted subject to obtaining a special exception approval in accordance with the standards, criteria, conditions, and procedures set forth in Article VII, § 490-52. {4.25.400}

- (1) Two or more commercial buildings upon a lot containing one or more principal uses as listed in Subsection C.

- (2) Any building which has more than 10,000 square feet of floor area.

[Added 9-8-1999; amended 7-26-2004]

- (3) Residential dwellings located within a commercial building when not located above a commercial use or when designed as part of a commercial complex where the units are not located above a commercial use at a density no greater than one dwelling per 1/2 acre of land as calculated pursuant to Subsection F.

[Added 8-9-1999; amended 7-26-2004]

E. Accessory uses. Accessory uses permitted in business zones are set forth in § 490-23 of these regulations. {4.25.500}

F. Area, height and yard requirements. Article V, Area, Height and Yard Requirements, and all other applicable sections of these regulations apply, and in addition: {4.25.600}

- (1) The maximum number of residential dwellings that may be located upon any single lot shall be computed by deducting the following areas from the total lot area: wetlands, watercourses and areas located within the FEMA flood hazard area.

- (2) All lots which are adjacent to a residential zone or an existing one-family dwelling shall maintain a twenty-five-foot-wide natural or planted buffer along such boundary.

- (3) Rear and side yard requirements and the buffer as required above may be waived or modified by the Commission, provided the Commission finds that the following conditions are or will be met:

- (a) The overall design of the project is appropriate to the site and contributes to the improvement of Hawleyville Center.
- (b) The overall design of the project is consistent with the Hawleyville Center Design Guidelines.
- (c) The project design will enhance or maximize public enjoyment of the property or such a modification will enhance traffic or pedestrian circulation patterns in Hawleyville Center.
- (d) The project design and land use is consistent with the Hawleyville Center Design District.
- (e) A public accessway may be located within the buffer area, provided a planted area no less than 10 feet wide and/or an appropriate screen is installed along the boundary. Such public accessways shall be in the form of landscaped walks, esplanades or other suitable design to encourage active use by the public and shall be dedicated as such in the deed to the property.

G. Signs. The Hawleyville Center Design Guidelines and all applicable general provisions of the sign regulations, Article VI, §§ 490-36 and 490-37, shall apply with the following exceptions: All signs in the HCDD shall be subject to § 490-38C. Any wall sign attached perpendicular to the front building wall shall be limited to a thirty-inch projection. No exterior sign shall be internally lit. No sign shall advertise the availability of alcoholic beverages or tobacco, by product name or otherwise, within 300 feet of the nearest property line of land occupied by any school or church. {4.25.700}

[Added effective 8-9-1999; amended effective 7-26-2004]

H. Parking and landscaping. Article VII, Parking, Loading, and Landscaping Requirements, and all applicable sections of these regulations shall apply, and in addition: {4.25.800}

[Added effective 8-9-1999; amended effective 7-26-2004]

- (1) Parking shall be located to the rear or to the side of buildings which are positioned along the street frontage so as to maintain the street wall and character of the Hawleyville Center.
- (2) Notwithstanding § 490-41, the Commission may approve required parking on a different lot from the principal use, provided the following criteria are met:
  - (a) The off-site parking facility is located on a lot which is within the Hawleyville Center Design District.

- (b) The off-site parking facility is within a reasonable walking distance of the building containing the use being served and there is a sidewalk or accessway between the properties.
- (c) The off-site parking facility is clearly marked as parking for the commercial use being served.
- (d) A long-term instrument acceptable to the Commission will assure that the use of such off-site parking remains available to the user. Such instrument shall be filed on the land records.
- (e) The site design for the principal use and the parking facility shall be consistent with the Hawleyville Center Design Guidelines.
- (f) In no case shall parking be a principal use on any lot.
- (g) Whenever possible, vehicle access to parking lots shall be shared with adjacent properties, and a minimum of curb cuts shall be utilized.
- (h) All parking lots shall be arranged to promote easy circulation of vehicles and pedestrians.

§ 490-32 Public School Zone (PS). {4.26}  
[Amended effective 8-14-2000]

- A. Purpose and intent. The purpose of the Public School Zone is to provide for the placement of public school facilities that will contribute to the well-being of our community by integrating the various functions of education with the proper siting criteria. The intent of the Public School Zone is to provide support for public educational activities within the community. {4.26.100}
- B. Permitted uses. The following principal uses are permitted within a single building or group of buildings, provided that site development plan approval has been granted in accordance with Article IX hereof. Uses that are not listed shall not be permitted by variance. {4.26.200}
  - (1) Schools operated by the Town. {1.}
  - (2) Parks and playgrounds operated by the Town. {2.}
  - (3) Municipal shop operated by the Town. {3.}
- C. Area, height and yard requirements. Article V, Area, Height and Yard Requirements, and all other applicable sections of these regulations apply and in addition: {4.26.300}

(1) All lot boundaries which are adjacent to a residential zone or an existing one-family dwelling shall maintain a twenty-five-foot buffer along any such boundary. {1.}

D. Signs. The general provisions of the sign regulations, Article VI, §§ 490-36, 490-37 and 490-38A(3), shall apply to all uses in the Public School Zone. {4.26.400}

E. Parking and landscaping. Article VII, Parking, Loading, and Landscaping Requirements, and all applicable sections of these regulations shall apply and in addition: {4.26.500}

(1) No parking space shall be permitted within 20 feet of any street line or property line. {1.}

#### ARTICLE V Area, Height, and Yard Requirements (§ 490-33 - § 490-35)

§ 490-33 Minimum requirements. {5.01}  
[Amended effective 5-18-1998]

A. The regulations concerning the minimum lot area, number of stories, yard dimensions, setbacks and similar requirements for each zone are set forth in Chart Numbers V-I and V-II.

Editor's Note: Charts V-I and V-II are included at the end of this chapter.

Unless otherwise explicitly provided in these regulations, no structure shall be erected, altered or added to except in conformity with the requirements of said charts or §§ 490-34 and 490-35 of these regulations.

B. Any new lot created after September 16, 2002, shall contain an area of land at least equal to the minimum lot area in acres for the zone in which it is located, exclusive of wetlands, watercourses, FEMA 100-year floodplains, and natural slopes of 25% or greater. If the lot is a rear lot, then the area of the access strip of land intended for the driveway must also be excluded from the calculation of the minimum lot size. {5.01.100}

[Added 9-16-2002]

§ 490-34 Height limitations. {5.02}

A. No dwelling, building or other structure may exceed 30 feet in height above the average finished ground level at the front of the building, irrespective of the number of stories, and no portion of the structure shall be more than 10 feet below the average finished ground level at the front of the building; however, no dwelling,



building or other structure may exceed 42 feet to the highest point of the building from any ground level point on any side of the building. {5.02.100}

B. The height limitations of these regulations shall not apply to spires, towers or belfries of churches; flagpoles; residential radio or television antennas; electric utility transmission towers and cables; or buildings or structures used in farming and not inhabited by humans. {5.02.200}

C. Air-conditioning units, elevator shafts and mechanical devices used in connection with manufacturing which cannot be placed at a height of less than 30 feet for engineering or technological reasons may be installed above the roof line of a building within the perimeter of the roof in an industrial zone, provided: {5.02.300}

(1) The height of such device or equipment is not more than the lesser of: {5.02.310}

(a) Forty feet above the average finished ground level around the building; or {i}

(b) Fifty percent greater than the height of the building. {ii}

(2) The total square foot area of all such structures measured at their widest point shall not exceed 10% of the total square foot roof area. {5.02.320}

(3) The bulk of said structures, computed using the maximum dimensions for height and square foot area for each such structure, shall be included in computing the bulk limitation required by § 490-33 of these regulations. {5.02.330}

D. Public schools may be erected to exceed 30 feet in height above the average finished ground level at the front of the building, provided that the front, rear and side yards shall be increased by two feet for each one foot by which such buildings exceed 30 feet. For any such structure which exceeds the 30 feet in height, such structure shall not exceed 60 feet to the highest point of the building from any ground level point on any side of the building. {5.02.400}

[Amended effective 1-15-2001]

E. Hospitals in the EH-10 Zone. {5.02.500}

(1) Elevator shaft enclosures for elevators used in hospital buildings in the EH-10 Zone may exceed the building height limitations established by Section 5.02.100, provided they do not extend more than four feet above the roof. {5.02.510}

- (2) A parapet wall around the roof of a hospital building in an EH-10 Zone may exceed the height limitations established by Subsection A, provided the parapet wall is no more than four feet higher than the roof. {5.02.520}

[Amended effective 1-27-1997]

- F. Outdoor aboveground tanks located in industrial zones for the storage of material used or consumed in the manufacturing processes taking place within a building may extend to a height not to exceed 40 feet above average finished ground level. All such tanks shall be included in determining the structural coverage and bulk limitations required by § 490-33 of these regulations. {5.02.600}

[Added effective 3-18-2002]

#### § 490-35 Special yard regulations. {5.03}

- A. Corner lots. All yards bounding on a street shall meet the minimum requirements for front yards whether or not said street is presently maintained by the Town. {5.03.100}
- B. Any building housing horses, cattle, sheep or poultry, or any other such animal, whether as a principal or accessory use of the premises, shall be located at least 100 feet from any property line. {5.03.200}
- C. There shall be no side or rear yard required in any industrial zone adjacent to a railroad right-of-way actually containing track. {5.03.300}
- D. ADA structural exemptions. Structural alteration to one-family residences, including but not limited to handrails or wheelchair ramps, which are necessary to provide access to individuals with a physical disability shall be exempt from the applicable minimum yard setback and maximum lot coverage requirements, provided that the proposed structure meets the following criteria: {5.03.400}
  - (1) The proposed structural alteration must comply with applicable guidelines for the American with Disabilities Act (ADA); and {1}
  - (2) A certificate of occupancy has been issued for the residence or the residence has been in existence prior to October 1, 1997. An A-2 survey shall not be required, provided that the applicant can illustrate, to the satisfaction of the Zoning Enforcement Officer, that the proposed structure is located wholly within the subject property boundary and access will not affect adjoining property or the public right-of-way. {2}

[Amended effective 6-22-1996]

- E. Area, yard and height requirements in the FHAR, PS, EH-10 and OSCS Zones shall be as follows:

	FHAR	PS	EH-10	OSCS	Minimum lot area
	150 acres	20 acres	10 acres	10 times lot coverage	Minimum lot width at street line
	N/A	275 feet	100 feet, subject to § 490-16I(1)	50 feet, subject to § 490-58K	Minimum setback, front yard
a. From Street Line	100 feet	100 feet	100 feet	N/A	
b. From center line of street	125 feet	115 feet	125 feet	35 feet, subject to § 490-58K	
c. From nearest property line	100 feet	N/A	100 feet	N/A	
d. Average setback	N/A	N/A	N/A	N/A	Side and rear yards
	50 feet	100 feet	§ 490-16G(2)	10 feet	Minimum side and rear yard adjacent to limited access highways

ARTICLE VI Signs (§ 490-36 - § 490-39)

§ 490-36 Purpose. {6.01}

The purpose of these sign regulations is to establish criteria based both on the zone in which the sign is located and the use to which the lot on which it is located is put.

§ 490-37 General provisions. {6.02}

(See § 490-9F for other restrictions.)

A. Relationship to streets. {6.02.100}

- (1) Except as allowed in § 490-18F of these regulations, no sign shall be located closer than 25 feet to a street line in any zone, except names and addresses attached to mailboxes or signs placed flush against the front wall of a building in existence prior to August 25, 1958, the front wall of which has not been moved closer to the street since said date. {6.02.110}

[Amended effective 10-2-1995]

- (2) Notwithstanding Subsection A(1), no sign shall be located so close to a street line as to obstruct to any extent the lines of sight indicated below. Said lines of sight shall be measured within the paved or traveled portion of the street, including the area normally used by pedestrians, whichever is wider. Where the paved or traveled portion of such street is widened, then any sign obstructing the new lines of sight shall be set further back to conform to these requirements. The required lines of sight are: {6.02.120}

- (a) Local residential streets and unclassified streets: 150 feet. {6.02.121}

- (b) Arterial streets: 250 feet. {6.02.122}

- (3) Notwithstanding Subsection A(1) and (2) above, no sign shall be placed within a triangle having a base of 50 feet on each of two intersecting streets or one street and a driveway. The length of said bases shall be measured from the point which the street lines or the streetwise and driveway line would intersect if extended in a straight line beyond the points of curvature. The base of such a triangle on any street other than a local residential street or an unclassified street shall be 100 feet. {6.02.130}

- B. Except as allowed in § 490-18F of these regulations, a wall sign supported by a wall shall not be set out more than 12 inches from said wall, and shall not project above the roof line or beyond the side of said wall. {6.02.200}

[Amended effective 10-2-1995]

- C. If a sign is supported independently of the building or other structure on the premises, the top of said sign or its support shall not be higher than 10 feet from average ground level in the area of the lot where the sign is located. {6.02.300}

- D. Where a double-facing sign is allowed, the permitted area shall apply to each face. A single-facing sign having the area of one face of a double-facing sign may be erected and maintained in lieu of a double-facing sign. All framing shall be included in computing the area of the sign, and where the sign not contained within the outer dimensions of a frame, then the area of the sign shall be computed as the area of the smallest quadrilateral capable of including all lettering or other items comprising the sign. {6.02.400}

- E. Unless otherwise specified by § 490-38F, all permitted signs must be located on the same lot as the building or use to which said signs must apply, and the wording on the sign shall be limited to the name, trade name, address and profession of the persons, organization, building, business or industry using the lot or building, words descriptive of said organization, business or industry, and words descriptive of the items grown, produced, manufactured, sold or stored thereon or the services rendered thereon. {6.02.500}
- F. All signs shall be constructed of strong material which will not warp or distort with weather or age, shall be firmly supported so as to withstand wind conditions normally expected throughout the year in the Town, and shall be kept freshly painted and otherwise maintained in good condition and repair. {6.02.600}
- G. Names and addresses required to be placed on mailboxes by the United States Post Office may be in addition to the signs permitted in § 490-38 below. {6.02.700}
- H. Where directory-type signs are permitted, the spaces for individual listings shall be located beneath the part of the sign, if any, generally describing the building, shopping center, etc., and such spaces shall be uniform as to size, shape, color and materials used, and no part of a directory-type sign shall exceed 15 feet above ground level. {6.02.800}

§ 490-38 Permitted signs. {6.03}

The following signs and only the following signs are permitted for the uses indicated. Sizes indicated are the maximum area.

- A. Farming and residential zones. The signs permitted by Subsection A(2), (3), (4), (5) and (6) below may be externally illuminated signs. If a use could be considered as falling within one or more of the categories established by Subsection A(1) through (6), the category permitting the larger sign shall apply. {6.03.100}
  - (1) Residential use only or residential use plus an accessory use other than that permitted by § 490-13A: one double-facing sign containing name and address only; size: one square foot. {6.03.110}
  - (2) Residential use plus an actively conducted accessory use permitted by § 490-13A or an actively conducted nonconforming accessory business use: one double-facing sign; size: two square feet. {6.03.120}
  - (3) Town buildings or uses and the uses permitted by special exception pursuant to § 490-13A through F hereof: one double-facing sign; size: 15 square feet. The location, size and contents of any proposed sign shall be included in the application for the special exception. {6.03.130}

- (4) Active farming, as permitted by § 490-11B: one double-facing sign or two single-facing signs; size: 20 square feet each. If two single-facing signs are used, each one shall be located within 200 feet of the principal driveway or largest building on the farm. {6.03.140}
  - (5) Actively operated nonconforming industrial use: one double-facing sign; size: 20 square feet. {6.03.150}
  - (6) Nursery, greenhouse or an actively conducted nonconforming business conducted as a principal use: one double-facing sign; size: eight square feet. {6.03.160}
- B. Professional Zone: the signs permitted to be illuminated in a farming and residential zone, and the signs permitted by Subsection A(2) hereof may be externally illuminated signs. {6.03.200}
- (1) Where the use is a use permitted in the farming and residential zones, then the signs permitted for said use, if being conducted in the Professional Zone, are as set forth in Subsection A hereof. {6.03.210}
  - (2) Professional office building permitted by § 490-15B hereof: a directory-type sign indicating only the name and address of the building and the names and professions of the professional persons practicing therein; size: six square feet plus an additional one square foot for each professional person or firm in excess of four practicing in the professional building. {6.03.220}
- C. Business and Sandy Hook Design District Zones. All signs permitted below may be externally illuminated. {6.03.300}  
[Amended effective 10-2-1995]
- (1) Where the use is a use permitted in the Farming and Residential Zone, or the Professional Zone, then the signs permitted for said use, if being conducted in the business zones, are as set forth in Subsections A and B hereof. {6.03.310}
  - (2) All business uses and buildings except shopping centers: {6.03.320}
    - (a) One wall sign per store, shop, office or business, provided that the total area of all such signs shall not exceed 15% of the area of the first-floor wall facing the street, including doors and windows, but excluding facades or false fronts extending above the actual roof of said premises, plus one double-facing sign per lot; size: 10 square feet; or
    - (b) One directory-type sign per lot; size: eight square feet for name and address of building plus two square feet for each store, shop, office or business located therein.

- (3) Shopping centers: same as Subsection C(3) above, except that the directory-type sign may be 20 square feet for the name and address of the shopping center plus four square feet for each store, shop, office or business in the shopping center. {6.03.330}
- (4) Where a building or use is permitted only upon the obtaining of a special exception or permit, all signs for such building or use shall be part of the application for said special exception or permit, and no other signs shall be erected or maintained. If any such signs are proposed to be internally illuminated signs, then the Commission shall have the same powers and duties with regard to such internally illuminated signs as the Zoning Board of Appeals would have under § 490-39 hereof. {6.03.340}
- (5) Where a lot in a business zone has vehicular access to more than one street, the permitted double-facing or directory-type sign may be put in the yard adjacent to whichever street the owner chooses, and an additional double-facing sign not to exceed eight square feet may be placed in each yard adjacent to the other streets providing such vehicular access. {6.03.350}

D. Industrial zones. All signs permitted below may be externally illuminated. {6.03.400}

- (1) Where the use is a use permitted in the farming and residential zones, the Professional Zone or the business zones, then the signs permitted for said use, if being conducted in the industrial zones, are as set forth in Subsections A, B and C hereof. {6.03.410}
- (2) Uses permitted by § 490-24A(1), (4), (5), (6), (7), (8), and C(1): a wall sign not to exceed 10% of the area of the wall supporting it, excluding any facades or false fronts extending above the actual roof of the building, plus a double-facing sign not to exceed 20 square feet in area to be erected in the front yard. {6.03.420}

[Amended effective 4-17-2000]

- (3) Uses permitted by § 490-24A(2), (3), and C(5): same requirements as Subsection D(2) above, except that the maximum size of the wall sign shall be 5% of the wall area rather than 10%. {6.03.430}

[Amended effective 4-17-2000]

- (4) A single-facing sign may be erected and maintained in any yard in lieu of the wall signs permitted by Subsection D(2) and (3) hereof, provided that it is no less than 50 feet from a lot line and provided further that the size of said sign is no greater than half the size of the sign that would be permitted on the wall of said building. The bottom of said sign shall not be more than one foot and the top not more than 10 feet above average ground level of the lot where the

sign is located. Any landscaping surrounding the sign shall not be included in computing the area of the sign. {6.03.440}

- (5) In lieu of the wall for yard signs permitted by Subsections B, C and D hereof, signs consisting of living plants and the spaces between them may be planted and maintained without regard to size. Plants forming part of such signs shall be rooted in the ground and not in earth which is supported above the level of the ground by structures or buildings. {6.03.450}

E. The following signs are permitted in all zones: {6.03.500}

- (1) One double-facing sign, including any flag, badge or insignia, identifying any civic, charitable, religious, patriotic, fraternal or similar organization and their meeting hours, located on the lot where regular meetings are held; size: six square feet. {6.03.510}
- (2) Traffic or other direction signs erected by the state, Town or Borough, including without limitation direction signs to schools, libraries, parks or governmental buildings. Said signs may include the flag, badge or insignia of any government agency. {6.03.520}
- (3) One single- or double-faced temporary sign advertising the sale or lease of the premises upon which it is located; size: eight square feet. One additional sign may be erected for each 200 feet of lot frontage on the street on which said signs are located, provided said 200 feet of frontage is in addition to the minimum frontages required in the zone in which the premises lies. The number of signs for a single premises shall not exceed four. Such a sign or signs shall be removed as soon as the sale or lease of said property is completed. Notwithstanding § 490-37A(1), if the temporary signs can not be seen as set back, the temporary sign may be placed closer than 25 feet to a street line; provided, however, said temporary sign shall not be located so close to a street line as to obstruct to any extent the lines of sight indicated in § 490-37A(2) and (3). {6.03.530}
- (4) On any farm, nursery, greenhouse, church, school, governmental building, professional office and any use permitted in a business or industrial zone, signs, no one of which shall exceed one square foot in area, may be erected solely for the control of traffic and parking upon the premises. Such signs shall only be erected at the intersection of driveways with streets, other driveways and parking areas or, where the parking area is not served by a driveway, at the entrances and exits of any parking area. In addition to any other signs, driveways and parking areas may be painted with directional arrows to control the flow of traffic, and with lines or words to define the parking spaces, crosswalks, stop lines and areas where no parking is to take place. {6.03.540}



(5) Single-facing signs prohibiting trespassing, hunting or fishing are permitted on all land actually being or likely to be used for hunting, trapping, fishing, picnicking or as a passageway by unauthorized persons. As many such signs may be erected as desired, provided that no single sign exceeds one square foot in area. Such signs may also be posted on lots with unoccupied dwellings at the rate of not more than four per acre. Said signs need not conform to § 490-37, provided that they are placed within the boundaries of the lot. {6.03.550}

F. Signs off the lot. {6.03.600}

(1) Where the primary vehicular access to a lot is through a strip of land, whether or not said lot has frontage on a street, then the signs permitted by these regulations may be placed within said strip of land or on a lot adjacent to said strip of land, provided that the provisions of § 490-37A are met. {6.03.610}

(2) Where a street has been constructed to serve an industrial subdivision, a directory-type sign may be maintained on a corner lot formed by the intersection of said street with a highway maintained by the state or with a minor collector street, a major collector street or an arterial street. Said sign shall serve all actively conducted businesses or industries in said subdivision; size: six square feet for the name of said subdivision and two square feet for the name of each actively conducted business or industry, not to exceed a total of 60 square feet. {6.03.620}

(3) The application for a zoning permit for a sign off the lot to which the sign applied shall be made by the owner of the lot on which the sign is to be located. {6.03.630}

§ 490-39 Internally illuminated signs. {6.04}

A. No internally illuminated sign, including without limitation all neon signs even if inside windows, may be erected in any zone except upon the granting of a special permit by the Zoning Board of Appeals. Special permits for this type of sign shall only be available in business and industrial zones. Such signs shall meet the following standards and criteria, and no special permit for such a sign shall be granted unless the Board of Appeals affirmatively finds and requires as a condition of approval that: {6.04.100}

(1) The proposed sign shall be stationary and shall be firmly affixed to the ground or some other solid object and will contain no visible moving parts. {6.04.110}

- (2) The illumination shall not be intermittent nor shall the colors of said sign change. {6.04.120}
- (3) No radio or television interference shall be caused by said sign. {6.04.130}
- (4) Except for neon signs, the source of illumination shall be white. {6.04.140}
- (5) The area of the sign shall not exceed the area permitted for the use in the zone in question. In computing the area, the Zoning Board of Appeals shall include any portion of a building which is constructed with internally illuminated substances and designed to draw attention to the building or use on the premises. {6.04.150}
- (6) The light from the proposed sign shall not interfere with the conduct of any use permitted to be maintained on any lot from which such illuminated sign may be visible. If the sign produces sufficient light to cause opaque objects located at a minimum setback line in any adjacent farming and residential or professional zone to cast a shadow on a white background visible to persons of normal vision on any night then interference with the uses permitted in said zones shall be presumed. {6.04.160}
- (7) The proposed internally illuminated signs shall be in harmony with the general purpose and intent of these regulations. {6.04.170}
- (8) The proposed internally illuminated sign shall not substantially impair property values in the neighborhood. {6.04.180}

B. The Zoning Board of Appeals may make such regulations and requirements as it deems fit in order to carry out its duties under this section. {6.04.200}

## ARTICLE VII Parking, Loading, and Landscaping Requirements (§ 490-40 - § 490-48)

### § 490-40 Applicability; purpose. {7.01}

A. These regulations shall apply to

- (1) All new buildings erected;
- (2) All existing buildings which are enlarged to an extent cumulatively exceeding 20% of the floor area existing on June 15, 1972;
- (3) All buildings erected after said date and subsequently enlarged; and
- (4) All premises where the use is changed.

- B. These regulations are designed to assure that parking facilities shall be sufficient to accommodate the motor vehicles of all occupants, employees, customers, and others normally visiting the premises at any one time.

§ 490-41 Location of parking facilities. {7.02}

Parking facilities shall be provided off the street right-of-way on the same lot with the use used to compute the requirements for the number of off-street parking spaces; except that in business and industrial zones, the required off-street parking facilities may be provided on a different lot, provided that:

- A. The nearest boundary of the paved portion of the parking facility is within 300 feet of the building containing the use being served; and {a}
- B. Said lot is under the same ownership as the use served. {b}

§ 490-42 Size and location of parking spaces. {7.03}

Except for small-car parking spaces, each parking space shall be capable of containing a rectangle nine feet in width and 20 feet in length. Small-car parking spaces, where permitted, shall be capable of containing a rectangle eight feet in width and 16 feet in length. All parking spaces shall be contiguous to a driveway permitting access to a street.

§ 490-43 Driveways.

- A. Driveways (other than driveways serving a one-family residence without an accessory use requiring parking) contiguous to parking spaces and designed to be used for one-way travel shall not be less than the following widths, whether or not the parking spaces are on one or both sides of the driveway: {7.04}
  - (1) For parallel and thirty-degree angle parking: 12 feet. {7.04.100}
  - (2) For forty-five-degree angle parking: 15 feet. {7.04.200}
  - (3) For sixty-degree angle parking: 18 feet. {7.04.300}
  - (4) For ninety-degree angle parking: 20 feet. {7.04.400}
- B. Driveways (other than driveways serving a one-family residence without an accessory use requiring parking) contiguous to parking spaces and designed to be used for two-way travel shall not be less than 20 feet wide no matter what the angle of parking. {7.05}

C. Except as set forth in § 490-50E(2) of these regulations, a common driveway may be used for two adjoining businesses and/or professional uses, providing there is a one-way travel lane at least 12 feet wide on each side of the proposed driveway and the lanes are divided by a median not less than three feet wide for at least the distance of the parking setback. {7.05.100}

[Amended effective 1-9-1988]

D. Driveways shall meet the following standards: {7.05.200}

(1) Driveways shall be designed to accommodate essential service and emergency vehicles with minimum disturbance or alteration of the natural terrain and the indigenous character of the land and shall be designed and constructed so as not to cast water on the surface of any existing or proposed street and in compliance with Article IX of Chapter 271, Road Construction. Areas adjacent to the driveway must be graded to avoid erosion on or off the driveway. {7.05.210}

[Added effective 5-14-2001; amended effective 8-16-2004]

(2) Driveway intersection. All driveways shall intersect the street in a location having the sight distance required by Article IX of Chapter 271, Road Construction, and shall intersect the street at right angles when possible. At no time shall any driveway intersect the street at an angle of less than 75°. {7.05.220}

[Added 5-14-2001; amended 8-16-2004]

(3) Travel width. The minimum travel width of the driveway shall be 10 feet. Driveways serving more than one dwelling shall at no point be less than 16 feet wide. {7.05.230}

(4) Loading rates. All culverts and bridges located under a driveway shall be designed to carry H20 live loads. {7.05.240}

(5) Grading. The driveway grade shall be 5% or less running from the center line of the street for a distance of no less than 45 feet. Driveways within the lot shall not contain grades greater than 15%, nor average more than 12%. Driveway sections having grades of 12% or more shall be paved with bituminous concrete or other equal all-weather surface, including 10 feet preceding and following the twelve-percent-or-more grades. {7.05.250}

(6) Parking area. An area for parking shall be provided in the driveway within 30 feet of a dwelling. Such parking area shall have a minimum length of 35 feet and a grade of not more than 5%. {7.05.260}

(7) Turning radius. The minimum center turning radius on driveway curves shall be not less than 37 feet. Based on driveway configuration, the Town Engineer

may determine that a turning radius greater than 37 feet is required for proper accessibility and safety. {7.05.270}

[Added effective 5-14-2001; amended effective 4-14-2003]

(8) Pull-off areas. Driveways longer than 250 feet shall include a pull-off area to accommodate emergency vehicles. The minimum driveway width at pull-off areas shall be 16 feet wide and a minimum of 25 feet long. The maximum distance between pull-off areas shall be 250 feet. A common driveway of 16 feet in width shall be deemed to have met the requirements of this section. {7.05.280}

(9) Aprons. The entrance of the driveway at the street intersection shall be constructed in accordance with Article IX of Chapter 271, Road Construction. {7.05.290}

[Added effective 5-14-2001; amended effective 8-16-2004]

§ 490-44 Parking areas. {7.06}

[Amended effective 4-17-2000; 5-14-2001; 8-11-2003]

No parking space or driveway shall be permitted within the front yard setback in any business, professional, industrial or design district or closer than 20 feet to the street line if serving a one-family residence in a residential zone and without an accessory use requiring parking.

A. Except for the parking required for a one-family residence or community residence without an accessory use requiring parking, all parking spaces and areas shall have concrete, bituminous concrete or equivalent surfacing, shall be adequately drained so that water does not collect or stand on the surface, shall have each parking space clearly marked, and driveways shall be marked to indicate the direction of travel. {7.06.100}

B. Driveways (other than driveways serving a one-family residence without an accessory use requiring parking) providing access to a parking area from the street shall be at least 10 feet wide if one-way and 20 feet wide if two-way, and if providing access to a parking area of more than 10 parking spaces shall not enter a public highway less than 75 feet from the center line of the nearest intersecting street on the same side of the street as the driveway. {7.06.200}

C. All artificial lighting used to illuminate any parking space or area shall be so arranged that no direct rays from such lighting fall off the lot containing such parking space or area. {7.06.300}

§ 490-45 Minimum parking requirements. {7.07}

[Amended 7-23-1993; 2-13-1995; 10-12-1998; 2-18-2002; 7-26-2004]

The number of parking spaces set forth in the following schedule of requirements will be considered as the minimum required for each such use to meet the standards set by § 490-40 hereof, subject to the exception provided by § 490-46 below. The schedule is intended to be representative and not inclusive, and the minimum parking required by § 490-40 hereof for permitted uses not specified herein shall be determined by reference to the most similar use for which a requirement is given. More parking spaces may be required where the Commission reasonably determines that the nature of the use is such that more vehicles than the minimum number of spaces specified herein are probably going to be parked in connection with such use at one time.

- A. Places of assembly with fixed seats, such as a theater, church, auditorium, or funeral parlor: one space per six seats. Where pews or benches are used as fixed seats, one space will be required per nine linear feet. {7.07.101}
- B. Places of assembly without fixed seats such as banquet halls and club houses, including volunteer fire departments: one space per 200 square feet of gross floor area (limited in the case of volunteer fire departments to the area of the firehouse used for meetings or banquets), subject to the exceptions of § 490-46. {7.07.102}
- C. Bowling alleys: five spaces per alley. {7.07.103}
- D. Hospitals: one space for four patient beds, except that where the hospital is a rest house, home for the aged, nursing home, convalescent home or other extended-care facility, there need be only one parking space for every six patient beds. In addition, there shall be one space for each two employees on the shift with the largest number of employees. {7.07.104}
- E. Hotels or motels: one space for each bedroom, plus one for each two employees on the largest shift. {7.07.105}
- F. Restaurant or tavern: one space per two seats (or per four linear feet of bench), plus one for each two employees on the shift with the largest number of employees. {7.07.106}
- G. Retail businesses, personal service establishments, medical offices, any single building permitted by § 490-17G and any use permitted as an accessory use pursuant to § 490-13A wherein articles are sold on the premises: one space per 200 square feet of gross floor area or part thereof (limited in the case of residences to the area of the residence actually devoted to the accessory use). {7.07.107}
- H. Professional and general offices, banks, motor vehicle salesrooms, wholesale businesses, kennels, and professional offices carried on as an accessory use pursuant to § 490-13B: one space per 350 square feet of gross floor area (limited in the case of residences to the areas of the residence actually devoted to the accessory use permitted by § 490-13B). {7.07.108}

- I. All industrial uses and the uses permitted by §§ 490-17E and 490-20B and I: one space per employee on the largest shift plus one per industry or business vehicle usually kept on the premises. {7.07.109}
- J. Roadside stands for sale of agricultural produce or nursery stock: one space per linear foot measured on the longest dimension of the stand; not fewer than 10 spaces. {7.07.110}
- K. One-family residential dwellings: two spaces (which may be provided by the use of an enclosed garage or breezeway). {7.07.111}
- L. Dwellings carrying on an accessory use pursuant to § 490-13A which is not a professional office nor any portion of which is devoted to retail sales: dwelling requirements. plus one space for each employee not residing on the premises. {7.07.112}
- M. Nursery school as an accessory use pursuant to § 490-13C: dwelling requirements, plus one space for each employee or other supervising parent. {7.07.113}
- N. Where roomers or boarders are kept by a family pursuant to § 490-13D: dwelling requirements, plus one space for each roomer or boarder. {7.07.114}
- O. Commercial tennis, paddle tennis/platform tennis, racquet ball, handball and squash and/or swimming recreational facility: The number of parking spaces shall equal at least 40% of the maximum number of members of such facility. {7.07.115}
- P. Community residence: two spaces (which may be provided by the use of an enclosed garage or carport). {7.07.116}
- Q. Adult congregate living facility: one space for each living unit containing not more than one bedroom and 1.25 spaces for each two-bedroom living unit. Parking spaces for living units may be provided by use of a garage or carport. In addition, there shall be one parking space for each six assisted living units and health care units, plus one parking space for each employee on the largest shift. {7.07.117}
- R. Child day-care centers shall include one space for each employee in the largest shift, reserve parking for visitors, and adequate space for the pick-up and drop-off of children. {7.07.118}
- S. Shopping centers up to 50,000 square feet of gross floor area: one parking space for every 150 square feet of gross floor area; shopping centers of 50,000 square feet or more of gross floor area: one parking space for every 200 square feet of gross floor area. Any parking lot to which this section applies shall contain curbed islands distributed throughout the parking lot. Such islands shall, at a minimum, equal in area 225 square feet per 10 parking spaces. Such islands shall contain grass, flowers,

shrubby, trees and similar plant life in the entire island, which shall be maintained in a healthy and growing condition. The area of the islands shall be considered structural area for purposes of applying the structural coverage ratio required for the zone in which the shopping center lies. {7.07.119}

- T. Horse farms and riding academies providing horse lesson programs or horse day camps: one space for each employee and one space for every three horse lesson students or horse day campers who will be utilizing the parking facilities during peak hours of operation. {7.07.120}
- U. Residential dwellings within a commercial structure located in a commercial, professional or design district: one space per dwelling in addition to the commercial spaces. {7.07.121}

#### § 490-46 Shared parking. {7.08}

Churches, theaters, banquet halls, bowling alleys and other similar uses, the parking requirements for which are likely to occur during hours other than ordinary business hours, may provide not more than 50% of the required parking space through the use of parking spaces provided by adjacent buildings and uses which do carry on the major portion of their activities during ordinary business hours, provided the boundary of said parking area is within 500 feet of the church or other facility and further provided, that the owners of said adjacent parking space notifies the Zoning Enforcement Officer in writing prior to the granting of any building permit to said church, theater, bowling alley, banquet hall or other business that may use said adjacent parking lot during other than ordinary business hours. Upon revocation of such permission, or refusal of a certificate of occupancy, and if a certificate of occupancy has already been issued when such permission is revoked, said church, theater, bowling alley, banquet hall or other business shall immediately conform to the requirements of § 490-40 hereof or be subject to the penalty provided by the violation of the Zoning Regulations.

#### § 490-47 Parking and storage restrictions for certain vehicles. {7.09}

Vehicles for which registration are required to be obtained from the State of Connecticut before using the public highways, including, without limitation, cars, trucks and trailers and recreational vehicles, which do not have a currently valid registration permitting them to travel on the public highways, except operable motor vehicles used on farms, shall not be parked or stored on any lot unless completely enclosed within a building.

- A. Boats, boat trailers and unoccupied recreational vehicles having a current registration to use the public highways may be parked or stored outdoors only if parked or stored in a rear or side yard as far from the lot line as possible. {7.09.100}



- B. Plumbers, electricians and similar artisans and tradesmen using panel, pickup or similar trucks in their trade or business may park said trucks on the same lot as the dwelling they occupy in any zone, provided that no more than one such truck is so parked or stored on the lot per occupant engaged in such a trade. Parking of light pickup and panel trucks not in excess of one tons' capacity used for transportation by occupants of the lot, whether or not artisans, is also permitted. {7.09.110}
- C. The parking or storage of any piece of construction equipment, dump truck, garbage truck or other heavy truck of a type not ordinarily used as a means of transportation for people is prohibited in all farming and residential and professional zones whether or not used or owned by an occupant of the lot. Where parked or stored in other zones, and all operable motor vehicles used on farms which are stored outdoors, shall be screened from the street and adjacent residentially and professionally zoned property. {7.09.120}

§ 490-48 Landscape requirements. {7.10}

- A. Except for that portion of a front yard traversed by driveways, pedestrian walks and permitted parking spaces, all areas of the front yard of all lots in all zones, including, without limitation, the minimum twenty-foot area between the street line and the parking area required by § 490-44, shall be landscaped with grass, plants or other groundcover, including, without limitation, evergreens and shrubs, or similar plant life. No portion of any yard or unimproved area, the natural plant growth of which has been disturbed or removed, shall be left in said disturbed state, and whenever the natural plant life has been disturbed, said area shall be reseeded with grass or recovered with an appropriate cover crop, shrubs or trees by the next available planting season. {7.10.100}
- B. Where the side or rear yard of any lot which is devoted to the use permitted in business and industrial zones adjoins a residential zone, a planted buffer shall be planted in the yards which adjoin the residential zone if a natural buffer does not exist. (See the definitions of "natural buffer" and "planted buffer" in § 490-2.) Where a professional office building is erected or any special exception is granted pursuant to § 490-12 hereof, a planted buffer shall be planted in the side and rear yards which have no natural buffer and which adjoin conforming lots and unimproved land in any farming and residential zone. This section is not intended to be a limitation upon the power of the Commission to require more extensive screening or buffer areas when setting conditions for the grant of a special exception. {7.10.200}
- C. Landscape treatments. {7.10.300}  
[Added effective 7-26-2004]

- (1) A detailed landscaping plan at a scale of not less than 20 feet to the inch, prepared by a landscape architect licensed to practice in the State of

Connecticut, shall be submitted with any application for site development, including special exceptions. {7.10.310}

- (2) A streetscape plan (sidewalks, lighting, signs, landscaping) is required for properties located in all business and design districts. {7.10.320}
- (3) The landscaping plan shall indicate the type, size, location and amount of all proposed plantings. Nonnative invasive and potentially invasive plant species listed and updated annually by the Center for Conservation and Biodiversity at the University of Connecticut shall not be allowed. {7.10.330}
- (4) Minimum landscaping requirements are set forth below: {7.10.340}
  - (a) Shade trees; for purpose of summer shade for roads, parking, buildings and activity areas. Requirements: hardy deciduous trees, minimum two-inch caliper 12 inches above ground, with deep soil and shade-tolerant ground cover (ground cover plants, low shrubbery, grass, stones or chips) in adjacent ground area.
  - (b) Slope plantings; for purpose of stabilizing cut banks and controlling erosion. Requirements: hardy shrubs, erosion-resistant plants and vines, terracing, stabilized rock cuts or retaining walls wherever slope would exceed 1.0:1.5 (vertical: horizontal), rip-rap or stabilizing planting along created drainage channels.
  - (c) Open landscaping; for purpose of site aesthetics, building enhancement, recreation. Requirements: perennial grass or ground cover, suitable shrubs, trees or ornamental plantings, regularly maintained for attractive appearance.
  - (d) Screening; for purpose of visual concealment of specific areas (such as parking and commercial areas). Requirements: dense evergreen hedge in double offset rows, of hardy type with full growth at ground level and at least eight feet in height; may also require supplementary fences or masonry walls, or both, as determined necessary by the Commission.
  - (e) Natural buffer; for purpose of interrupting light, sound and visibility between incompatible uses through retention of natural woods and dense undergrowth. Requirements: sufficient depth and density of natural growth for effective buffer, and may require supplemental planting as determined necessary by Commission.
- (5) Required landscaped areas: minimum type required. {7.10.350}

Location	Type
Surrounding parking lots and nonresidential uses (including buildings, storage and all activity areas) in residential zones	Screening, planted buffer, or effective natural buffer
Parking lot islands and adjacent to paved parking in all zones	Shade trees at average spacing of 30 to 40 feet plus landscaping or natural buffer
Bank slopes within and adjacent to developed areas in all zones	Slope plantings
Roadsides, in all nonresidential zones	Shade trees at average spacing of 30 to 40 feet plus appropriate open landscaping or natural buffer
Adjacent to residential zone boundary lines, in all nonresidential zones	Screening or effective natural buffer, or planted buffer or combination
Front, side and rear yards, wherever roadways or available for planting, in all zones	Open landscaping, natural buffer, or visible combination of both

- (6) Suitability of plantings. Plantings chosen must be well suited to environmental conditions, properly installed and located to serve intended purposes. Placement of plantings shall not interfere with safe visibility at road intersections or exit driveways, nor cast dense winter shadows on potentially icy roadways. {7.10.360}
- (7) Maintenance. The owner of the site shall be responsible for proper maintenance of all plantings and other installed landscaped features as shown on the approved site plan, and for replacement of such in event of its failure to thrive, demise or destruction. {7.10.370}
- (8) Maintenance bond. The Commission may require a performance bond, to remain in effect at least three years, to assure the proper survival or replacement of plantings and landscaping shown on the approved site plan. {7.10.380}

ARTICLE VIII Supplementary Regulations (§ 490-49 - § 490-58)

§ 490-49 Sale of liquor; alcoholic beverage outlets. {8.01}

- A. The provisions of this section shall not apply to wholesale establishments, to stores selling canned or bottled beer only, or to drugstores dispensing liquor as a prescription only. {8.01.100}

B. Notwithstanding §§ 490-18B and 490-20D and F, no building or premises or portion thereof shall be used as an alcoholic beverage outlet unless: {8.01.200}

(1) No portion of the building or portion thereof to be used as an alcoholic beverage outlet is less than 300 feet from the nearest property line of land occupied by any school or church, provided that no existing premises used as an alcoholic beverage outlet shall be deemed in violation of these regulations through the subsequent erection of a school or church. The three-hundred-foot separation contained herein shall not apply to full-service restaurants serving alcoholic beverages for consumption on the premises in conjunction with food service which are located within the Sandy Hook Design District. {8.01.210}

[Amended effective 10-2-1995]

(2) No portion of any alcoholic beverage outlet is located less than 1,500 feet in any direction from another existing alcoholic beverage outlet. {8.01.220}

C. The fifteen-hundred-foot limitation contained in Subsection B shall not apply between alcoholic beverage outlets within a shopping center although compliance with said fifteen-hundred-foot limitation is required between all such outlets in the shopping center and all those outside. Within such shopping centers there shall be no more than: {8.01.300}

(1) One store for the sale of alcoholic beverages for consumption off the premises; and {8.01.310}

(2) One restaurant, tavern or grill where alcoholic beverages are dispensed for consumption on the premises with or without food; and {8.01.320}

(3) One additional alcoholic beverage outlet for on-premises consumption for each 25 retail stores, shops or uses permitted by §§ 490-17A, B and C, 490-20B and C, and 490-21B, C and D in addition to the first 15 such uses, provided that each such additional outlet shall be limited to serving alcoholic beverages to patrons seated at tables or at food counters, and no patron shall be served while standing or sitting at a bar. {8.01.330}

D. If the building or premises of any alcoholic beverage outlet is taken or threatened to be taken in the exercise of the power of eminent domain, and as a result thereof the owner shall have ceased doing business in such premises, the owner may relocate within a radius of 750 feet of his old location notwithstanding the provisions of Subsection B hereof, provided that the owner has applied for a permit for his new premises from the State Liquor Control Commission not more than 120 days following the termination of his business. {8.01.400}

E. If an alcoholic beverage outlet ceases to operate as such for more than 120 days, and the owner of such outlet has no application pending with the State Liquor Control

Commission for the granting or renewal of a permit for said location, then the use of said premises as an alcoholic beverage outlet shall be considered abandoned and its prior existence shall not be considered in applying the distance limitation set forth in Subsection B(2) hereof. No such abandoned alcoholic beverage outlet shall be used again as such unless it can meet the distance limitations set forth in Subsection B hereof. {8.01.500}

- F. The fifteen-hundred-foot separation distance contained in Subsection B shall not apply between a package store and an alcoholic beverage outlet of a type other than a package store, and it shall not apply to full-service restaurants serving alcoholic beverages only for consumption on the premises in conjunction with food service. {8.01.600}

[Amended effective 9-26-1994]

§ 490-50 Use of existing lots. {8.02}

- A. A lot in any zone existing as of August 25, 1958, having sole access to a street by means of an easement, right-of-way or strip of land at least 12 feet wide that will permit unlimited access for the owners of such lot and for all public utilities may be used and the permitted buildings may be erected, altered or enlarged only if, subsequent to August 25, 1958, the lot has not been owned (or controlled) by a person (or persons) owning (or controlling) contiguous land or lots having frontage on a street or private street. If said lot cannot meet the area or minimum square requirements for the zone in which it lies it may still be used, provided that it has not been reduced in area at any time subsequent to August 25, 1958, and did not and has not since said date adjoined other improved or unimproved land owned (or controlled) by the same person (or persons) owning (or controlling) said lot. {8.02.100}

- (1) A lot having frontage on a private street may be used and the permitted buildings may be erected, altered or enlarged or a lot having frontage only on a private street shown on a subdivision plan (filed in the Newtown Town Clerk's office) which is not valid under Chapter 460, Subdivision of Land, effective October 2, 1967, may be used for the uses permitted in the zone, and permitted buildings may be erected altered or enlarged if subsequent to October 2, 1967, the lot has not been owned (or controlled) by a person (or persons) owning (or controlling) contiguous land or lots having frontage on a street or private street. If said lot cannot meet the area of minimum square requirements for the zone in which it lies it may still be used, provided that it has not been reduced in area at any time subsequent to October 2, 1967, and did not and has not since said date adjoined other improved or unimproved land owned (or controlled) by the same person (or persons) owning (or controlling) said lot. {8.02.110}

(2) Lots shall conform in all other respects to the provisions of these regulations. {8.02.120}

B. Where property exists in an R-2 or R-3 Zone of an area capable of being divided into more lots than it has street frontage for, said property may be divided, or subdivided pursuant to law, into two or more lots, which shall be considered conforming lots, provided that the following requirements are met: {8.02.200}

(1) Each lot shall contain the required minimum square. {8.02.210}

(2) Rear lots shall have direct access to a street by means of a strip of land at least 25 feet in width in the same ownership as the rear lot, and front lots shall meet the frontage requirements. {8.02.220}

(3) Only one rear lot shall be served by each such strip of land. {8.02.230}

(4) Where such property before division has insufficient frontage for one lot with the minimum required street frontage and one twenty-five-foot strip, said property may be divided into not more than two lots with the rear lot to be served by a strip of land 25 feet wide, provided that the property to be divided has not been owned or controlled by a person or persons owning or controlling adjacent land having other frontage on any street at any time since August 25, 1958. {8.02.240}

(5) In any conventional subdivision of such property into three or more lots pursuant to law, no more than one rear lot shall be created for every two lots with street frontage. In any open space conservation subdivision, no more than one rear lot shall be created for every lot with street frontage. In any subdivision, no more than two such strips of land shall adjoin each other, and the area of the strip of land shall be indicated on the map but not included in computing the lot area for any lot. {8.02.250}

[Amended 8-30-2004]

(6) All lots created hereunder and the buildings built thereon shall conform in all other respects to the provisions of these regulations. {8.02.260}

C. Where on June 5, 1970, a tract of land was owned individually or by several individuals having undivided interests in the entire tract and containing industrially zoned land lying to the rear of land zoned for business, and the industrially zoned land had no industrial frontage or insufficient industrial frontage to meet the frontage requirements for a lot in the applicable industrial zone, then the industrially zoned portion of said tract may be considered as a separate lot regardless of such lack of frontage, and may be used for a use permitted in said industrial zone, and permitted buildings erected, altered or enlarged thereon, provided that: {8.02.300}

- (1) The lot created has either {8.02.310}
  - (a) At least 35 feet of industrial frontage on the street giving said tract frontage; or {i}
  - (b) Is served by a strip of land to said street at least 35 feet in width in the same ownership as the lot; and {ii}
- (2) Such lot and any building or other structure erected thereon shall conform in all other respects to the provisions of these regulations; and {8.02.320}
- (3) If the industrially zoned portion of said tract is of insufficient size to meet the area requirements for a lot in the zone in which it lies, it shall not be used as a separate lot until an application has been approved by the Commission to use, for the uses permitted in said industrial zone, so much of the business zoned land lying to the front of the industrially zoned land as is needed to make said industrial lot conforming or as nearly conforming as possible to the area requirements. No application for such special use of business zoned land shall be granted unless the requirements set forth below are met: {8.02.330}
  - (a) A perimeter survey meeting the A-2 classification of the Connecticut Technical Council (as defined in the Code of Practice for Standards of Accuracy of Surveys and Maps, adopted December 10, 1975, as amended by the Connecticut Association of Land Surveyors, Inc.) shall be presented with the application showing the exact acreage of that portion of the tract already zoned industrial, a line delineating the area of the business zone to be used for industrial purposes, the exact acreage of the business zone to be used for industrial purposes and the exact acreage of the business zone remaining; {8.02.331}
  - (b) No more business zoned property shall be proposed for industrial use than is needed to create a lot which conforms to the minimum size requirements in said industrial zone, provided that the business zoned property remaining and not used for a right-of-way to the industrial lot shall be of sufficient size for a conforming business lot. If said business zoned property remaining is of insufficient size for a conforming lot in such business zone, then the Commission shall require that all of such business zoned property shall be used for the industrial lot proposed unless there was a business use existing on the premises on June 5, 1970, in which case the largest amount of business property possible shall be used for the proposed industrial use which still leaves a business zoned lot on which the existing business use and buildings may be continued which is as conforming to these regulations in all respects other than area as it was before the industrial use was allowed; {8.02.332}

(c) The Commission shall find that said singly owned tract: {8.02.333}

[1] Has not at any time subsequent to June 5, 1970, been reduced in area; {i}

[2] Does not and has not since said date adjoined other improved or unimproved business or industrially zoned land owned or controlled by the same owner or owners of the tract in question; and {ii}

[3] If a business use exists on the business zoned portion of said tract and insufficient land remains to make a conforming industrial lot, that no greater area of business zoned land needs to be used to make said industrial use conforming to minimum requirements other than area than was needed to be used on June 5, 1970. {iii}

(4) Lots otherwise meeting the regulations for the business or industrial zone in which they lie may be created with the required frontage on the strip of land referred to in Subsection C(1) above, even though said strip is a private road rather than a public highway, and permitted buildings may be erected, altered or enlarged thereon, provided that: {8.02.340}

[Amended effective 10-26-1992]

(a) The strip was in existence and used to provide access to the industrially zoned property on June 5, 1970. {1.}

(b) The strip is at least 50 feet wide. {2.}

(c) The lot being created has an unlimited right of access over said strip to and from the street. {3.}

D. In establishing front, side and rear yards for any lot without street frontage permitted in this section, the front yard of any such lot may be considered located on either that portion of the rear lot nearest to the street to which such lot has access or adjacent to whichever lot line is closest to a dwelling or other building, existing or under construction, on an adjacent lot. {8.02.400}

E. Driveways. {8.02.500}

(1) No building or other structure shall be constructed on any lot without street frontage, except those on private roads or trails, unless each such lot has its own driveway to the street which is constructed with an all-weather surface capable of supporting fire apparatus or similar mobile equipment during all seasons of the year. {8.02.510}



- (2) No building or other structure shall be constructed on any lot with street frontage unless each lot has its own driveway existing within its property lines to the street which provides the street frontage. However, the Commission may grant exceptions for shared driveways as provided below: {8.02.520}

[Amended effective 5-30-1999; 5-30-2000; amended 5-14-2001; effective 7-18-2005]

- (a) Two or more adjacent properties in a professional, industrial, design or business zone may utilize a shared driveway having a single curb cut where it can be shown to lessen the potential for traffic congestion. Shared driveways shall meet the requirements of § 490-43C. The right to use and the obligation to maintain said shared driveway by the property owners shall be assured by a written dedication and/or agreement to be recorded in the Newtown Land Records. {8.02.520.1}
- (b) Certain drawings shall be used as a guide in the design and location of driveways on Connecticut Route 25. Such drawings are Figures 2 through 25 in the report entitled "Newtown Route 25 Access Management Study, HVCEO Bulletin #85," dated November 1995. Such bulletin is available in the Planning and Zoning Commission office for the particular site in question. {8.02.520.2}
- (c) Upon written request of the Conservation Commission, those properties requiring a wetlands crossing for driveway construction may utilize a shared driveway with a neighboring property. {8.02.520.3}
- (3) Where the access strips to two rear lots in a proposed subdivision adjoin each other, the requirement of Subsection E(1) shall be met by construction of a single driveway in accordance with the common driveway provisions of Chapter 460, Subdivision of Land. If access strips to existing rear lots in common ownership adjoin each other, the requirement of Subsection E(1) may be met by construction of a single driveway meeting the design, cross easement and shared cost requirements of the common driveway provisions of Chapter 460, Subdivision of Land. {8.02.530}
- (4) Once a common driveway has been constructed, no driveway serving only one of the two lots shall be constructed unless a special permit is issued by the Commission after a hearing at which it is proven that: {8.02.540}
- (a) Both lot owners have agreed to construct separate driveways; and {a}

[Amended effective 11-13-1989]

(b) Circumstances have changed since the common driveway was constructed, or through experience are shown to exist, which make the separate driveways safer within the lot and/or at the entrance to the highway than a common driveway. {b}

F. In M-1, M-2 and M-2A Zones, private ways may provide the minimum street frontage for lots devoted to the uses permitted in § 490-20A and D, provided that the following requirements are met: {8.02.600}

(1) Each private way shall permit passage of all types of vehicles and access by all public utilities. {8.02.610}

(2) The road in said private way shall be constructed in accordance with all design, materials and construction standards required for minor collector streets (also known as "commercial or industrial streets") by Chapter 271, Road Construction, in effect at the time of construction. Prior to the granting of any zoning permit for a lot for which said private way provides the necessary minimum frontage, construction of the road in said private way provides the necessary minimum frontage, construction of the road in said private way shall be completed, or a performance bond guaranteeing the completion of said road not later than two years from the date thereof shall be filed with the Commission. Inspections of said road shall be made during construction in accordance with the inspection procedures of said Chapter 271. If the road is constructed without such inspections having been made, no zoning permit shall be issued until the applicant provides proof that said road conforms in all respects to the applicable road ordinance. {8.02.620}

(3) The necessary minimum frontage shall not be provided by said private way for more than three lots. {8.02.630}

§ 490-51 Ponds and incidental excavations. {8.03}

A. Ponds one-quarter-acre or less in size.

(1) Excavations of earth materials, but not the removal thereof from the premises, when clearly incidental to the construction of a pond of one-quarter acre or less in size shall require a construction permit pursuant to Chapter 450, Sand and Gravel. {8.03.100}

(2) The creation or enlargement of such one-quarter acre pond, revision of the channel or a watercourse or any other landscaping excavations carried on by the use of bulldozers, pay loaders or similar power-driven excavating machinery shall require a construction permit pursuant to Chapter 450, Sand and Gravel. {8.03.110}

- B. Ponds or drainage basins in excess of one-quarter acre, the enlargement of any existing pond to a size greater than a one-quarter acre or a pond or drainage basin that requires excavation of 200 cubic yards or more of earth materials shall require a special permit to be obtained from the Commission. {8.03.200}
- C. No pond constructed on a special permit shall be a ruse for a mining operation. The maximum depth allowable shall be the least necessary in order to carry out the purpose of the pond. {8.03.300}
- D. Applications for a construction permit or a special permit, as the case may be, for a pond shall include a map (which may be a United States Geodetic Survey) showing the watershed area and an exact computation of the area thereof, and a computation of the peak flow from said watershed for a ten-year or twenty-five-year flood depending on whether it is a dug or impounded pond. No pond shall cause the total area of all ponds in the watershed area, including the pond to be constructed, to exceed 1/10 of the watershed area. The sides of all ponds shall have a maximum slope of three feet horizontal to one foot vertical. The outlet of dug ponds shall be capable of carrying the flow of a ten-year flood and the outlet of a pond created by damming a stream shall be capable of carrying the flow of a twenty-five-year flood. Said computations and applications shall be signed by a registered professional engineer. {8.03.400}
- E. The applicant for a special permit under Section Subsection B shall meet the following criteria for special exceptions: § 490-52E(1), (2), (3), (4), (5) and (6). The powers and procedures set forth in § 490-52F, G, H and I shall be followed. {8.03.500}
- F. A construction permit as set forth in Chapter 450, Sand and Gravel, shall be obtained concurrently with said special permit. Such information required for a construction permit shall be filed with the special permit application. The quantity of earth material which is expected to be removed from the premises shall be clearly shown. {8.03.600}
- G. In addition to the portions of § 490-52F which apply, the Commission may impose conditions on the construction of a pond under special permit to avoid stagnation and insure the continued vitality of the pond. {8.03.700}
- H. No topsoil shall be removed from any land in Newtown except incidental to construction of a pond for which a special permit is required, and except incidental to any construction on land for which a site development plan or special exception has been approved by the Commission and then only as set forth below: {8.03.800}

[Amended 4-11-1997; 11-12-2001; 8-11-2003]

- (1) In the case of a pond construction, the applicant shall state at the time the permit is sought that he/she intends to remove up 100 cubic yards of topsoil from the premises. {8.03.810}

- (2) In the case of projects that require a site development plan or special exception approval, the applicant shall state at the time an application is filed that excess topsoil will be removed. Topsoil removal shall be limited to those areas of the site that will be occupied by the building, driveway, sidewalk and parking areas. All maps and documents submitted shall clearly illustrate that the construction site will have excess topsoil following site development and the spreading of stockpiled topsoil over the disturbed areas to a finished depth of a least six inches. {8.03.815}
- (3) The area of the premises from which the topsoil is to be excavated and an area for the stockpiling for such topsoil during construction shall be shown on the site plan submitted by the applicant. No topsoil shall be stripped except from the smallest area necessary for the construction of said pond or for the development of the approved site. Stockpiled topsoil in excess of the amount used to recover the disturbed area to a depth of six inches may be removed from the site after inspection and approval by the Zoning Enforcement Officer. {8.03.820}
- (4) Upon the completion of the pond (or drainage basin construction), or site work in conjunction with development of Town-owned property, the Zoning Enforcement Officer shall inspect the premises of the permittee, including all contiguous property owned or controlled by the permittee, and determine whether or not any portion thereof, other than rock outcroppings occurring naturally, has been stripped of topsoil, either by the permittee or by erosion. {8.03.830}
- (5) If the Zoning Enforcement Officer determines that portions of the applicant's premises have been so stripped, he/she shall inform the permittee of his/her finding, and the permittee shall spread the stockpiled topsoil over the stripped area to a depth of at least six inches. {8.03.840}
- (6) When the Zoning Enforcement Officer determines that no area of the permittee's premises is or remains stripped of topsoil as aforesaid, then he/she shall clarify that the remaining stockpile of topsoil is surplus and may be removed by the permittee. {8.03.850}
- (7) Following removal of the topsoil by the permittee, the permittee shall seed disturbed areas with these applications. A certificate of zoning compliance, pursuant to § 490-80 hereof, shall not be issued until satisfactory removal or spreading of said stockpile has occurred, and after the issuance of such a certificate, no further removal of topsoil from the premises shall occur. {8.03.860}

§ 490-52 Special exceptions. {8.04}

It is recognized that certain uses and structures, because of their unique characteristics, cannot be specifically classified or regulated in a particular zone without consideration in each case of the impact of such uses and structures upon the neighborhood and surrounding area and upon the public health, safety, convenience and welfare. Such uses and structures as specified elsewhere in the regulations may be permitted upon the granting of a special exception by the Commission in accordance with the following regulations:

- A. The Commission shall require an application on a form which it prescribes. Such application shall supersede the filing of a site development plan application in accordance with Article IX. Accessory apartment applications pursuant to § 490-12J shall be exempt from Subsections A(1) through B(3). All other special exception applications shall be accompanied by the following: {8.04.100}
  - (1) Five copies of a site survey drawn to a scale of not less than 40 feet to the inch and which meets the A-2 classification of the Connecticut Technical Council. The survey shall indicate the name and address of the owner, scale, North arrow, date, perimeter of property and property area and all existing topographical features on the property, structures, paved areas, foliage limits, wetlands, watercourses, underground utilities, septic systems, wells, isolated trees, stone walls, driveways, paths, ledge outcroppings or boulders, easements, and existing building setback distances and square footage of existing structures. {8.04.200; 8.04.201}
  - (2) A site plan, with supplemental plans as necessary drawn to a scale of not less than one inch equals 40 feet (except where otherwise specified), said plan not to exceed 24 inches by 36 inches. Five copies of all maps, plans, reports, or documents shall be submitted with the following information: {8.04.300}
    - (a) Name and address of owner and of developer, if different, scale, North arrow, date and zone classification. {8.04.301}
    - (b) Signature and seal of a professional engineer, and/or surveyor, and/or architect, where applicable, licensed to practice in the State of Connecticut. {8.04.302}
    - (c) Names of all property owners within 500 feet of the subject property; all zone or municipal boundaries within 500 feet of the property. {8.04.303}
    - (d) Vicinity Map at a scale of one inch equals 1,200 feet. {8.04.304}
    - (e) Perimeter of property involved, together with total property area. {8.04.305}

- (f) A map showing the general layout of all proposed construction at a scale of not less than one inch equals 40 feet. {8.04.306}
- (g) A map showing the proposed area of construction at a scale of not less than one inch equals 20 feet. {8.04.307}
- (h) All proposed improvements to the property, including paved parking areas, walks, landscaping, building setback dimensions, wells or water supply, septic systems (including 100% reserve area), drainage with invert elevations of basins, and pipe size, utilities, signs (size, type and location), outdoor lighting (location and type), erosion control and curbing (with all radii shown). {8.04.308}
- (i) The location of each proposed septic system, detailed design computations for septic systems, including type of sewage equipment, data sources and layout of system, and the location and results of each deep test hole and percolation test. {8.04.309}
- (j) A detailed storm drainage design for the proposed development that will manage stormwater in such a way to reduce runoff, encourage stormwater infiltration, aquifer recharge, and incorporate non-point source pollution controls. A watershed map shall accompany the design plans. A complete watershed analysis is required for lots of two acres or more. {8.04.310}

[Amended 8-11-2003]

- (k) Preliminary building plans, including schematic floor plans, building dimensions and square footage, exterior elevations indicating height, exterior materials and all exterior features such as doors, windows and fire escapes. Architectural renderings of all proposed buildings, structures and signs shall be submitted. {8.04.311}
- (l) Existing and proposed contours at two-foot intervals necessary to show characteristics of the terrain; proposed spot elevations at strategic locations, including several ground-level points around the building. {8.04.312}
- (m) The volume of earth to be removed from the site or to be filled onto the site. {8.04.313}
- (n) A detailed landscaping plan indicating the amount, size and type of plantings proposed and any existing trees. Such existing trees shall be protected from damage during construction. {8.04.314}
- (o) Proposed open space such as parks, lawn areas and recreation facilities and such proposed covenants, easements and other

provisions relating to dimensions, location, and density of such buildings and public facilities as are necessary for the welfare and maintenance of the development and which are consistent with the best interests of the Town. {8.04.315}

- (p) The percentage of structural coverage, including building, storage, loading and parking areas, in relation to total area of lot; parking space calculations as determined by square footage and use. {8.04.316}
- (q) Location and dimensions of loading, storage, refuse collection, exterior machinery and equipment, and parking areas, including the location, dimensions and number of vehicle spaces and traffic islands. {8.04.317}
- (r) Proposed vehicular and pedestrian circulation patterns, including location and dimensions of private and public streets and common drives. Certain drawings shall be used as a guide in the design and location of driveways along Route 25 from the Monroe Town Line northerly to the intersection of Route 25 and Borough Lane. Such drawings are Figures 2 through 25 in the report entitled Newtown Route 25 Access Management Study, HVCEO Bulletin #85 dated November 1995. Such Bulletin is available in the Planning and Zoning Commission office for the particular site in question. {8.04.318}
- (s) Field measurements of sight distances in both directions from each access to Town and state roads. {8.04.319}
- (t) A traffic survey of the area and any other information which the Commission may reasonably require or the applicant may wish to submit. {8.04.320}
- (u) The location of water storage tanks for fire suppression, if required, pursuant to § 490-56. {8.04.321}

[Amended effective 9-10-1996]

B. In addition, the applicant shall submit the following statements with his or her application: {8.04.400}

- (1) A statement from the Fire Marshal on the fire-fighting feasibility of the proposed development. {8.04.410}
- (2) A statement from the Town Sanitarian of the adequacy of waste disposal. {8.04.420}

- (3) An inland wetlands license from the Conservation Commission, if required. {8.04.430}
- C. The Commission shall hold a public hearing on each application for a special exception, which shall be warned as required in § 8-3c(b) of the Connecticut General Statutes, as amended. The applicant shall provide notice by certified mail of the time and place of such public hearing to persons who are owners of land which is within 500 feet from the land which is the subject of the hearing. The applicant shall pay an application fee in accordance with the following fee schedule, or the actual cost of publication of the public hearing if greater than the fee, plus the cost of transcribing the proceedings of such hearing should the Commission require transcription for any purpose, including, without limitation, court action. {8.04.500}
- (1) Accessory apartment pursuant to § 490-12]: \$100.
  - (2) Ponds and incidental excavations pursuant to § 490-51: \$200.
  - (3) Special exception application: \$400.
- D. If the owners of 20% or more in area of all land (other than streets) lying outside of, but within 500 feet of, each boundary line of the property proposed for a special exception object to the proposed special exception in writing prior to Commission action, then the Commission may grant said special exception only upon the affirmative vote of at least four members of the Commission (including alternates designated to sit for absent members). {8.04.600}
- E. The following standards and criteria shall be met by all uses which are permitted only by special exception, in addition to those standards and criteria which are otherwise set forth in these regulations. No special exception shall be granted by the Commission unless it finds that all these standards have been or will be met. Approval without such findings shall be null and void, and the Zoning Enforcement Officer shall not issue a zoning permit or certificate of zoning compliance in such a case. {8.04.700}
- (1) The proposed use shall be in harmony with the general character of the neighborhood. {8.04.710}
  - (2) The proposed use shall not be inconsistent with the intent and purpose of these regulations. {8.04.720}
  - (3) The proposed use shall not substantially impair property values in the neighborhood. {8.04.730}
  - (4) The proposed use shall not create additional congestion or a traffic hazard on existing streets. {8.04.740}



(5) The proposed use shall not create a health or safety hazard to persons or property on or off the lot on which the use is proposed. {8.04.750}

(6) All applicable sections of these regulations and all other applicable Town and state laws, ordinances, regulations or codes, including, without limitation, the Town Sanitary Code,

Editor's Note: See Chs. 278, Sanitation, and 661, Sanitary Code.

Chapter 450, Sand and Gravel, and State Health Code, shall be complied with. {8.04.760}

(7) The architectural design of the proposed building shall be in harmony with the design of other buildings on the lot and within 1,000 feet of the perimeter of the lot for which the special exception is sought. {8.04.770}

(8) Construction proposed on the site shall be carried out so as to utilize the site in a manner which results in the least defacement of the natural features thereon, such as trees, rock outcroppings, etc. {8.04.780}

(9) The lot shall contain the minimum area required for the special exception use. {8.04.790}

F. In granting any special exception, the Commission may impose conditions on the buildings and structures proposed to be built and on the use of the property, including, without limitation, increasing the minimum yard, parking and landscaping requirements otherwise applicable, as are necessary to preserve the general character of the neighborhood, to protect the public health, safety and convenience of the persons and properties affected by said special exception, to stabilize and improve property values in the neighborhood, and to meet the standards set forth in Subsection E hereof. {8.04.800}

G. Following the granting of a special exception by the Commission, a zoning permit shall be issued by the Zoning Enforcement Officer upon payment of the appropriate fee set forth in § 490-79E hereof. {8.04.900}

H. Prior to occupation or use of the lot or building for which a special exception has been granted, a certificate of zoning compliance shall be obtained from the Zoning Enforcement Officer in accordance with § 490-80 of these regulations. {8.04.1000}

I. Any deviation from a special exception granted by the Commission is permitted only when an application to amend the special exception has been submitted by the applicant and such amendment has been approved by the Commission. {8.04.1100}

J. When any special exception, or amendment thereof, granted by the Commission is utilized, the use, buildings and other structures shall comply in all respects with the application, site plan and architectural plan as finally approved, as well as the conditions imposed by the Commission under this section. Any deviation from said

application, site plan, architectural plan or conditions imposed by the Commission which has not formally been approved by the Commission shall be considered a violation of these regulations and shall be cause for the rejection or revocation of a zoning permit, the refusal of a certificate of zoning compliance, or, the institution of such enforcement actions and/or imposition of penalties as are authorized by the General Statutes. {8.04.1200}

- K. Any special exception, or amendment thereof, granted by the Commission, and for which a building permit has not been issued, shall expire one year after the granting of such special exception or amendment thereof (or after the date on which it is finally determined to be valid if challenged by appeal). The Commission may, upon request received prior to the expiration of the period noted above, extend the special exception, or amendment thereof, for an additional period of time, not to exceed one year from the date of action by the Commission upon such request for extension. {8.04.1300}

[Amended effective 1-1-1991]

#### § 490-53 Nonconforming buildings and uses. {8.05}

- A. Any building, structure or use of land, either principal or accessory, lawfully existing at the time of adoption of these regulations, or any amendments thereto, may be continued although such building, structure or use does not conform with the provisions of these regulations. {8.05.100}
- B. Once a nonconforming use has been abandoned, neither it nor any other nonconforming use shall thereafter be reestablished. The discontinuance of a nonconforming use and the replacement thereof by a conforming use, for any period of time, no matter how short, shall constitute abandonment of the nonconforming use. Such replacement by a conforming use shall occur when that portion of the lot or building formerly devoted to a nonconforming use is used for a conforming use. Where a nonconforming use has not been actively conducted for a period of one year for whatever reason except the reconstruction of a building or structure in which it was conducted because of casualty loss, then it shall be presumed abandoned and a zoning permit will be necessary before any use is made of said premises. If the owner of said premises desires to resume said presumptively abandoned nonconforming use, he may apply to the Zoning Board of Appeals, which shall conduct a hearing and determine whether or not said nonconforming use was abandoned. The burden of proof shall be upon the applicant to show that the use was not in fact abandoned. {8.05.200}
- C. No lot on which a nonconforming use has been conducted shall be used for any other use which does not conform to the requirements of these regulations whether or not such new use would be more or less detrimental to the neighborhood than the nonconforming use already existing. {8.05.300}

- D. When a building in which a nonconforming use is conducted is damaged or destroyed by fire, explosion, act of God or catastrophe not brought about by or on behalf of the owner, lessee or other person in possession and control of said nonconforming building, it may be restored and used for said nonconforming use, provided that the restored building covers no greater area, has no greater cubic content, and is at least as conforming as to location on the lot as was the building damaged or destroyed. {8.05.400}
- E. No nonconforming use shall be expanded or intensified above the level at which such activity existed on the date on which it became nonconforming by virtue of these regulations. No nonconforming use may be extended to any property not owned by the owner of the nonconforming use on the date on which it became nonconforming by virtue of these regulations. No building in which a nonconforming use is conducted may be enlarged either in area or in cubic content, nor shall any portion of a building which is used for a conforming use be subsequently used for a nonconforming use. Such a building may be otherwise altered, improved or rebuilt. {8.05.500}
- F. Any building in which a conforming use is conducted and which has been made nonconforming as to front, side or rear yard dimensions, height or minimum size of dwelling by virtue of these regulations or the amendments thereto may be enlarged, altered or maintained notwithstanding any such nonconformity, provided that the enlargement or alteration of said building shall not increase the degree of such nonconformity, that said building shall comply with all the other provisions of these regulations for the zone in which it lies, and that the lot on which it is located has not, at any time after said building became nonconforming, been reduced in size so as to increase such nonconformity. {8.05.600}
- G. Nonconformity of any improved or unimproved lot with the provisions of these regulations concerning minimum lot area, minimum width at the front lot line or minimum square footage shall not prevent the erection, enlargement, alteration or maintenance on such lot of a building or buildings which, as so erected, enlarged, altered or maintained shall comply with all of the other provisions of these regulations for the zone in which it lies, if such lot was in existence on August 25, 1958, and if it was not at any time thereafter reduced in area and did not adjoin another improved or unimproved lot or lots owned or controlled by the person or persons owning or controlling the lot in question on said date or at any time thereafter. {8.05.700}
- H. Nonconformity of any lot as to minimum lot area, minimum width at the front lot line, minimum square, or ratio of rear to front lots, in a subdivision approved by the Commission (or the Newtown Planning Commission) prior to June 15, 1972, shall not prevent the construction of a building thereon by a person who is not required to seek reapproval of said subdivision pursuant to Chapter 460, Subdivision of Land, § 460-34. {8.05.800}

§ 490-54 Access to certain lots. {8.06}

Access to any industrial zone may be had through any business or any other industrial zone, but the area of the lot through which access is obtained shall not be included in computing minimum lot area or frontage. Access to business and industrial zones is not allowed through residential or professional zones except by special exception.

§ 490-55 Common-interest communities in business, professional or industrial zones. {8.07}

- A. Whenever a building or a group of buildings on one lot in a professional, business or industrial zone are permitted to contain more than one entity and the applicant for a zoning permit or site development plan intends to create a common-interest community with respect to said lot, the applicant shall so state in the application. {8.07.100}
- B. Whenever a common-interest community is created in a professional, business or industrial zone in Newtown, the owner of the land subjecting said land to the Connecticut Common Interest Ownership Act

Editor's Note: See C.G.S. Title 47, Ch. 828, § 47-200 et seq.

shall, at the time said common interest community is created: {8.07.200}

- (1) Deliver to the Zoning Enforcement Officer a copy of the declaration creating said common-interest community and a copy of the bylaws of the unit owners' association; and {8.07.210}
- (2) File with the Zoning Enforcement Officer the names and addresses of all officers of the unit owners' association as they are initially constituted. If the unit owners' association is not established concurrently with the creation of the common-interest community, the owner shall file said names and addresses as soon as the unit owners' association is established. {8.07.220}
- C. The unit owners' association of any common-interest community created in Newtown shall file with the Zoning Enforcement Officer annually, within 30 days of his election, the name and address of the President, Chairman or other designated chief executive officer authorized to act for the unit owners' association for the following year. {8.07.300}

§ 490-56 Initial attack fire suppression water supply. {8.08}

- A. Purpose. The purpose of this section is to establish criteria and requirements to assure an on-site supply of water for the immediate use of the Fire Department at all commercial, industrial and residential developments. {8.08.100}

B. Commercial/Industrial requirements.

- (1) All commercial or industrial buildings of 5,000 square feet or more and/or building renovations or additions of 2,500 square feet or more shall install a water storage tank for fire suppression according to the following specifications: {8.08.200}
  - (a) A thirty-thousand-gallon nonmetallic buried tank to be equipped with appropriate piping, sump and drainage overflow. Larger tanks or multiple tanks will be required for complexes exceeding 20,000 square feet. Specifications for tank installation are on file in the offices of the Newtown Fire Marshal and Building Inspector. {8.08.201}
  - (b) The tank may be fed from a natural water source (stream or river), roof drains, parking lot drainage, or any reliable source and engineered to prevent the intake of silt. The minimum 80% of capacity storage level will be regularly determined and maintained by the Fire Department, if necessary. {8.08.202}
  - (c) Required pipe and fittings for fire truck attachment shall be installed as indicated in drawings/specifications on file in the offices of the Fire Marshal and Building Inspector. The final standard attachment fitting, adapter and cap will be provided by the Fire Department. {8.08.203}
  - (d) The approval of the tank placement and hydrant location by the Fire Chief or his designee, and the Building Inspector, shall be indicated at the time of plan submission. A standard manhole access to the tank is to be provided. Access to the hydrant shall be hard surfaced and accessible by fire apparatus at all times by the property owner. If the owner is unavailable or undetermined, the responsibility will be assumed by the District Fire Department. {8.08.204}
  - (e) The Fire Chief or his designee will inspect all piping, connections, tank installation and any other components prior to the system being backfilled. A test of the system shall be conducted by the Fire Department within 15 days of the final inspection. Copies of the as-built plans shall be provided to the District Fire Chief and Building Inspector at the completion of the testing phase and acceptance of the system. {8.08.205}
- (2) The requirements of Subsection B(1)(a) through (e) may be waived under any of the following conditions: {8.08.206}
  - (a) The installation of an UL- or SRS/FM- approved sprinkler system within the facility. {8.08.207}

(b) An on-site surface water supply greater than indicated in Subsection A(1)(a) herewith is maintained and accessible 365 days a year, provided such surface water supply is within 1,000 feet of each commercial or industrial building and specific improvements are installed to permit utilization and access. Further, the District Fire Chief shall have authority to determine that the location of the on-site surface water supply has adequate accessibility for utilization for fire protection purposes. Should the District Fire Chief find that the on-site surface water supply is inadequate due to accessibility, length of hose lay, etc., an underground water tank must be installed. All requests for approval of a natural or man made on-site surface water supply must be accompanied by a drainage analysis prepared by a licensed professional engineer. Such an analysis must state the minimum number of gallons available during the dry season of the year and shall indicate the source and amount of water that is supplied to the surface water supply during all weather conditions. Specifications for surface water fire suppression equipment and its installation are available in the offices of the Fire Marshal and Building Inspector. {8.08.208}

(c) The availability of a Town water system hydrant. {8.08.209}

(3) Notwithstanding the provisions of Subsection B(1), commercial complexes of less than 5,000 square feet of gross floor area shall not be required to have a fire suppression water system if the District Fire Chief and the Fire Marshal deem that the nature of the business does not present a high fire risk. {8.08.210}

C. Residential requirements.

(1) Residential subdivisions, resubdivisions or multifamily complexes of three to 10 units must provide a twenty-thousand-gallon initial attack fire suppression water system. Subsection B(1)(b), (c), (d) and (e) is incorporated herein for these residential developments. {8.08.300}

(2) Subdivisions, resubdivisions or multifamily complexes of more than 10 units shall provide an additional system for each additional 10 units or portion thereof. The number of water supply systems required and their placement will be determined by the District Fire Chief and the Fire Marshal prior to the time of plan submission to the Commission. {8.08.301}

(3) The preceding requirements of Subsection C(1) and (2) may be waived under the following conditions: {8.08.302}

[Amended effective 9-1-1997]

- (a) An on-site surface water supply greater than indicated in Subsection C(1) herewith is maintained and accessible 365 days a year, provided such surface water supply is within 1,000 feet of each feasible home site in a subdivision, resubdivision or multifamily complex and specific improvements are installed to permit utilization and access. Further, the District Fire Chief shall have authority for determining that the location of the on-site surface water supply has adequate accessibility for utilization for fire protection purposes. Should the District Fire Chief find that the on-site surface water supply is inadequate due to accessibility, length of hose lay, etc., an underground water tank must be installed. All requests for approval of a natural or man-made on-site surface water supply must be accompanied by a drainage analysis prepared by a licensed professional engineer. Such an analysis must state the minimum number of gallons available during the dry season of the year and shall indicate the source and amount of water that is supplied to the surface water supply during all weather conditions. Specifications for surface water fire suppression equipment and its installation are available in the offices of the Fire Marshal and Building Inspector. {8.08.303}

§ 490-57 Route 25 access management. {8.09}  
[Amended effective 9-1-1997]

Route 25 access management from the Monroe/Newtown Town borders north to the intersection of Route 25 and Borough Lane shall be as follows: Whenever a building or a lot is improved, certain drawings shall be used as a guide in the design and location of driveways along Route 25 from the Monroe Town Line northerly to the intersection of Route 25 and Borough Lane. Such drawings are Figures 2 through 25 in the report entitled "Newtown Route 25 Access Management Study, HVCEO Bulletin #85," dated November 1995. Such bulletin is available in the Planning and Zoning Commission office for the particular site in question. {8.09.100}

§ 490-58 Open space conservation subdivision (OSCS) special exception. {8.10}  
[Added effective 8-30-2004]

- A. Purpose and intent. The purpose of this regulation is to enable the Commission to evaluate, on a case-by-case basis, the health, safety and welfare benefits to current and future Newtown residents of using an open space conservation subdivision pattern of development. The intent of this regulation is to allow for greater flexibility and creativity in the design of residential developments and to provide for areas of open space and the preservation of Newtown's rural community character consistent with the standards and criteria set forth in Subsection R below. {8.10.100}
- B. Applicability. {8.10.200}

- (1) Any proposed residential subdivision of a parcel(s) of land containing 20 or more acres or eight or more lots and being located within an R-1, R-2 or R-3 Zone is eligible to apply for an OSCS special exception. {8.10.210}
- (2) Any parcel(s) of land containing less than 20 acres located within an R-1, R-2 or R-3 Zone may be eligible to apply for an OSCS special exception, provided the open space to be preserved within the OSCS will be adjacent to existing preserved open space or if the OSCS will result in the preservation and protection of one or more significant and/or unique natural features, as determined by the Commission. {8.10.220}

C. Application procedure. {8.10.300}

- (1) An application for an OSCS special exception filed pursuant to this section shall be exempt from the requirements of Article VIII, § 490-52, of these regulations. {8.10.310}
- (2) Following the Commission's approval of an OSCS special exception, the applicant must achieve the second phase of approval before any construction takes place. The second phase is the approval of an open space conservation subdivision application. {8.10.320}

D. Preapplication review. {8.10.400}

- (1) Applicants are encouraged to request a preapplication review by the Commission. It is expected that applicants will identify to the Commission the unique features of the parcel that make it a candidate for an OSCS. Applicants are encouraged to review the materials listed herein and Chapter 460, Subdivision of Land, and to provide enough information for the preapplication review that will assist the Commission's understanding of the unique features that will be preserved with development and its relationship to the neighborhood. {8.10.410}
- (2) Nothing that is said or presented at the preapplication review by any party shall be considered evidence, and it shall not be binding on the Commission in any subsequent application presented to the Commission. {8.10.420}

E. Application requirements. {8.10.500}

- (1) The Commission shall require an application on a form which it prescribes. Seven copies of all maps, plans, reports, forms or documents shall be submitted. Drawings and maps shall not exceed the dimensions of 24 inches by 36 inches unless otherwise allowed by the Commission. The following materials shall be submitted along with the application forms. {8.10.510}



(2) The design materials outlined below shall be prepared by a team consisting of, at a minimum, a land surveyor, a landscape architect and a civil engineer, all of whom shall be licensed to practice in the State of Connecticut, and who shall each attest to their participation in the preparation of the following materials, which shall be signed and sealed by the respective professionals as applicable: {8.10.520}

(a) OSCS Concept Plan: The concept plan of an open space conservation subdivision prepared at a scale of not less than 100 feet to the inch (one inch = 100 feet). The OSCS Concept Plan shall be prepared as an overlay of the Municipal and State Environmental Protection Map and shall provide sufficient detail to clearly describe the conceptual development plan and address the following considerations: {1}

[1] The OSCS Concept Plan shall clearly illustrate the proposed site development scenario. The concept plan shall show all lot lines, the area of individual lots, street rights-of-way, edge-of-street pavement, the proposed location of the potable water, wastewater and stormwater facilities serving the development, the open space to be protected and any recreational or agricultural uses or facilities that may be planned for the designated open space. {a}

[2] The maximum number of dwelling units described on the OSCS Concept Plan shall not exceed the Commission's determination of the maximum number of lots that could be developed on the parcel(s) as a conventional subdivision. {b}

[3] A guideline of 50% preserved open space shall be used in the project design. The applicant shall prepare an estimate of the total area to be designated as preserved open space for the proposed development and shall clearly identify the 15% that will be set aside pursuant to Chapter 460, Subdivision of Land, § 460-44D; {c}

[4] The open space areas that are planned for preservation in the OSCS shall result in the protection of the unique features of the particular site and shall promote the purpose and intent of an OSCS and the standards and criteria set forth in Subsection R. {d}

[5] The application should include a description of the physical characteristics of the development parcel and an explanation of how the physical characteristics of the designated open space and its location relative to the proposed development

activities make it conducive for the function or functions proposed and an explanation of how the proposal relates to adjacent or nearby land development and open spaces. {e}

- [6] The applicant shall prepare an estimate of the total square footage of impervious surfaces that would result from the proposed development. {f}

(b) Conventional Subdivision Concept Plan.

- [1] A Conventional Subdivision Concept Plan at a scale of not less than 100 feet to the inch (one inch = 100 feet) shall be prepared as an overlay of the Municipal and State Environmental Protection Map. The Conventional Subdivision Concept Plan map is not a survey map but shall provide sufficient detail to clearly describe the concept plan and to identify the following information: {2}

- [a] The maximum number of house lots that could be developed on the subject parcel(s) for a conventional residential subdivision. The Conventional Subdivision Concept Plan shall be designed to meet the area, height, yard and design requirements of this chapter, Chapter 460, Subdivision of Land, and Chapter 271, Road Construction. {a}

- [b] The lot lines, minimum square, setback lines, the area of individual lots drawn and calculated as per the requirements of the zone in which the subject parcel is located, the proposed location of all drinking water wells, the proposed location of all potable water, wastewater and stormwater facilities serving the development, street rights-of-way, edge-of-street pavement, the designation of stormwater drainage facilities and the designation of open space to be protected. {b}

- [c] The applicant shall prepare an estimate of the total square footage of impervious surfaces that would result from the proposed development. {c}

- [2] The applicant shall have the burden of proof with regard to the assessment of the maximum number of house lots. The Commission may require additional supporting technical information from the applicant, including but not limited to the demonstration that a feasible septic system can be installed for

up to 10% of the proposed lots. The Commission shall make a determination as to the maximum number of house lots that could be developed on the subject parcel(s) as a conventional subdivision.

- (c) A Municipal and State Environmental Protection Map of the subject parcel(s) that identifies those areas of the site that fall under the direct regulatory protection of the Town of Newtown and the State of Connecticut, including watercourses, wetlands, floodplains, aquifers, protected, endangered and species of special concern and slopes of 25% or greater. Any development proposed within these areas shall be subject to existing municipal regulation as part of the Town's policies to protect important natural resources and environmental features. This information shall be mapped on a topographic map containing two-foot contour intervals at a scale of not less than 100 feet to the inch (one inch = 100 feet). {3}
- (d) Site survey. A survey which meets the A-2 classification of the Connecticut Technical Council. The survey shall indicate the name and address of the property owner, scale, North arrow, date, zone designation, perimeter of property and property area and all existing topographical features on the property, structures, paved areas, foliage limits, wetlands, watercourses, underground utilities, septic systems, wells, isolated trees, stone walls, driveways, paths, ledge outcroppings or boulders and easements. {4}
- (e) A list of all property owners within 500 feet of the subject parcel(s). {5}
- (f) A map that shall indicate all zone and/or municipal boundaries within 500 feet of the subject parcel(s). {6}
- (g) A supplemental location/vicinity map at a scale of one inch equals 1,200 feet that shows parcels of land that are within 5,000 feet of the proposed OSCS which are currently reserved as open space, parks, playgrounds or which are owned by the Town, state, a land trust or a forest association. {7}
- (h) A description of the legal instruments that will be used to guarantee the enforceability of open space conservation subdivision use and maintenance. {8}
- (i) A description of the potable water supply systems, wastewater systems, and street or roadway systems as applicable to each of the two development scenarios. {9}

- F. Supplemental design materials. In addition to the requirements outlined in Subsection E above, the following materials (required for the subdivision application) are expected application accompaniments that will assist the Commission in understanding the unique features of the site: {8.10.600, 8.10.610}
- (1) A Site Context Area Map, prepared at a scale of not less than 400 feet to the inch (one inch = 400 feet) with a radius of one mile from the center of the subject parcel(s). The Site Context Area Map shall include the following information: streets and street names; the subject parcel(s) outlined; existing land use; watercourses; water bodies; known wetlands; parks; protected open space; greenways; trails; viewsheds of the site from streets within the mapped site context area; historical features; archaeological features; and endangered species and threatened species and species of special concern as identified by the Connecticut Natural Diversity Database and as located on the Connecticut Department of Environmental Protection's map titled "Significant Habitats and State Listed Species." {1}
  - (2) A Site Conservation Features Map that identifies site features to be considered in designing a subdivision, including mature woodland areas, open fields, state-designated farmland soils, nonhydric soils unsuitable for development as published by the State of Connecticut Department of Environmental Protection, stone walls, rock outcrops, historic or archaeological factors, trails, views from within the site, easements and neighboring features, including streets, houses, protected open space, Town parks, state forests and state parks. This map shall have topographic lines, at ten-foot minimum intervals, and shall be prepared at a scale of not less than 100 feet to the inch (one inch = 100 feet). {2}
  - (3) An Areas Suitable for Development Map that identifies the areas of the parcel(s) that are most suitable for development. Said map shall be prepared as an overlay of the Municipal and State Environmental Protection Map at a scale of not less than 100 feet to the inch (one inch = 100 feet) and shall include topographic lines, at ten-foot minimum intervals. {3}
- G. Simultaneous to the filing of an application under this section, the applicant shall file an application to the Newtown Conservation Commission for an inland wetlands license, if required. {8.10.700}
- H. The Commission shall hold a public hearing on the application for a special exception, which shall be warned as required in § 8-3c(b) of the Connecticut General Statutes, as amended. The applicant shall provide notice by certified mail of the time and place of such public hearing to persons who are owners of land which is within 500 feet from the parcel(s) which is (are) the subject of the hearing. The applicant shall pay an application fee of \$400, or the actual cost of publication of the public hearing if greater than the fee, plus the cost of transcribing the proceedings of such

hearing should the Commission require transcription for any purpose, including, without limitation, court action. {8.10.800}

I. OSCS design standards. The OSCS design standards and considerations set forth herein and in Chapter 460, Subdivision of Land, shall govern the design of an OSCS Concept Plan. {8.10.900}

J. Housing type. One-family detached housing located on individual lots is subject to application approval pursuant to Chapter 460, Subdivision of Land. {8.10.1000}

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

K. Area, height and yard requirements. The regulations concerning the minimum lot area, number of stories, yard dimension, setbacks and similar requirements for an OSCS are set forth in Article V, Area, Height and Yard Requirements, Chart Number V-II.

Editor's Note: Chart V-II is included at the end of this chapter.

The requirements for conventional subdivision are set forth in Chart V-I.

Editor's Note: Chart V-I is included at the end of this chapter.

All applicable sections of these regulations apply, and in addition, the following rules shall apply to all OSCS developments: {8.10.1100}

- (1) When street frontage is less than 150 feet, garage door openings that face the street serving the lot shall be set back 15 feet or more from the front wall of the house. {1}
- (2) Where proposed development will front on an existing public street, the Commission reserves the right to require the application of the area, height and yard requirements for the respective zone contained in Chart V-I of these regulations. {2}
- (3) Rear lots. One rear lot may be created for every lot with street frontage subject to § 490-50B of these regulations. {3}
- (4) Rear lots shall have a minimum front yard setback of 25 feet from the front lot line. {4}
- (5) Minimum setback requirements shall be recorded as deed restrictions for each approved lot. {5}
- (6) Buffer areas. A buffer area of 75 feet shall be provided along the perimeters of the OSCS parcel(s). Streets and driveways necessary for access and egress to and from the subject parcel(s) may cross such buffer areas. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes or as a result of landscape improvements approved by the Commission. The Commission may waive the buffer requirement in certain locations when it determines that a smaller

buffer, or no buffer, will suffice to accomplish the purposes set forth in Subsection A herein. {6}

L. On-site pedestrian and bicycle circulation shall be designed as appropriate to link residences within the OSCS and with recreation facilities, trails, open space areas and adjacent land uses. {8.10.1200}

M. Stormwater drainage. {8.10.1300}

(1) The description of stormwater management facilities shall be accompanied by conceptual landscape plans and maintenance plans. {1}

(2) All development shall be designed to minimize the construction of impervious surfaces. {2}

(3) The use of low-impact, nonstructural, on-site stormwater management techniques, such as swales, that enable on-site infiltration of stormwater and result in no net increase in stormwater run-off from the subject parcel(s) is encouraged, subject to best management practices and best engineering practices. {3}

N. Sanitary sewage disposal facilities: {8.10.1400}

(1) If the property is approved for connection to sanitary sewers in accordance with the policies, procedures or regulations established by the Newtown Water and Sewer Authority, then the applicant shall propose that all dwelling units shall be connected to such system. A statement from the WSA shall confirm the service availability. {1}

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(2) If individual septic systems for wastewater disposal are proposed to serve the individual dwelling units, such systems and reserve areas shall be located on the same lot as the unit it is designed to serve, consistent with applicable state and local public health codes. {2}

(3) If a community wastewater disposal system is proposed to serve an OSCS, the applicant shall provide the Commission with evidence that an on-site subsurface sewage disposal system has the ability to be approved by the applicable state and/or local agencies in accordance with local and state statutes and regulations. An association of property owners, or other mechanism satisfactory to the Commission, shall be established with the authority and financial capability to operate and maintain any private community sewage system within the development. {3}

O. Potable water supply. {8.10.1500}

- (1) If a public water supply is available at the site, all dwellings shall be connected. A statement from the applicable service provider that such service is available and adequate to serve the proposed development shall be submitted to the Commission. {1}
- (2) If individual wells are proposed to serve the dwellings, the wells shall comply with all applicable public health codes. {2}
- (3) If an OSCS is to be served by a community potable water system, the system shall comply with applicable state and local public health codes. {3}

P. OSCS open space. {8.10.1600}

- (1) The use of motorized recreational vehicles is prohibited in open space created by an OSCS. {8.10.1610}
- (2) The location and protection methods proposed for the designated open space within the OSCS shall conform with the goals for the preservation of open space as set forth in Chapter 460, Subdivision of Land, and the Plan of Conservation and Development. {8.10.1620}

Q. Other information. {8.10.1700}

- (1) The Commission may engage technical experts, at the expense of the applicant, to review the plans and materials submitted by the applicant pursuant to this section. {8.10.1710}
- (2) The cost of such technical services shall be identified by the Commission at the time of submission of an application and shall be paid by the applicant to the Commission as a condition for the submission of a completed application. {8.10.1720}
- (3) Site visit. The Commission may conduct a site visit during the application review period, before the close of the public hearing. {8.10.1730}

R. Standards and criteria for the approval of an OSCS special exception. The following standards and criteria shall be met by the open space conservation subdivision special exception, in addition to the standards and criteria which are otherwise set forth in these regulations. No special exception shall be granted by the Commission unless it finds that all of these standards have been or will be met: {8.10.1800, 8.10.1810}

- (1) The development pattern will encourage and enable the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources, including aquifers, water bodies and wetlands,

scenic vistas and historical and archeological resources that will benefit present and future generations of Newtown residents. {8.10.1820}

- (2) The overall density of development is no greater than the density allowed under a conventional subdivision plan. {8.10.1830}
- (3) The development pattern will encourage an efficient form of residential development that consumes less open land and conforms to existing topography and natural features. {8.10.1840}
- (4) The total amount of disturbance to the parcel of land will be less than if it was developed as a conventional subdivision. {8.10.1850}
- (5) The development pattern will facilitate the construction and maintenance of streets, utilities and public services in an economical and efficient manner. {8.10.1860}
- (6) The development pattern will preserve and enhance Newtown's rural community character. {8.10.1870}
- (7) The development pattern will provide land for recreational use, either active or passive, which is compatible with open space preservation and which, in the opinion of the Commission, will directly or indirectly promote the general welfare of the residents of the Town of Newtown. {8.10.1880}
- (8) The development pattern will further the goals and recommended actions of Newtown's Plan of Conservation and Development: {8.10.1890}
  - (a) The nature, function, and method of preservation of the proposed open space is in harmony with the Plan of Conservation and Development and the general character of the neighborhood; {8.10.1891}
  - (b) The access to the proposed development from existing streets and highways shall not create a traffic hazard; {8.10.1892}
  - (c) The provisions for potable water, wastewater, stormwater and surface drainage systems, and other utilities shall not create a health or safety hazard to persons or property on or off the lot(s) proposed for development and shall be consistent with local and state regulations; {8.10.1893}
  - (d) The proposed development shall lessen the likely impact on environmental systems such as areas of steep topography, significant wetland areas, groundwater, watercourses, and vegetative and wildlife communities; and {8.10.1894}



- (e) The proposed development shall preserve worthy land characteristics, including, but not limited to, areas with scenic vistas, farm lands, and the presence of or potential provision of passive or active recreational facilities compatible with open space preservation. {8.10.1895}

#### ARTICLE IX Site Development Plans (§ 490-59 - § 490-68)

##### § 490-59 Purpose. {9.01.100}

The site development plan approval process is hereby established by the Planning and Zoning Commission in an effort to aid in the upgrading of future development of the Town into conformity with the Plan of Development and amendments thereof; in an effort to encourage the appropriate development in the use of land and buildings; and in an effort to diminish detrimental effects on neighborhood characteristics and property values.

##### § 490-60 Applicability. {9.01.200}

Site development plan approval is required for any development involving the erection of any new structure greater than 1,500 square feet in area and/or the reconstruction, enlargement, extension or structural alterations of existing structures which would result in an increase in the gross floor area of greater than 1,500 square feet. Excepted from this requirement are the lawful construction, alteration and occupancy of one-family dwellings and uses accessory thereto and temporary structures for propagation, growing and protection of trees, shrubs and other outdoor plants.

##### § 490-61 Application. {9.01.300} [Amended effective 5-18-1992]

The Commission shall require an application on a form which it prescribes. Said application shall contain a written statement of the proposed use, appropriate information concerning the applicant and his interests in the property for which site development plan approval is being sought. Said application shall be accompanied by a fee of \$300 or the actual cost of publication of notice, whichever is greater.

##### § 490-62 Required information. {9.01.400}

In addition, the following information shall be shown on a site development plan, with supplemental plans as necessary drawn to a scale of not less than one inch equals 40 feet (except where otherwise specified), said plan not to exceed 24 inches by 36 inches. The site

development plan shall measure 24 inches by 36 inches. Other drawings shall not exceed 24 inches by 36 inches. Seven copies of all maps, plans, reports, or documents shall be submitted with the following information:

- A. Name and address of owner and of developer, if different. {9.01.401}
- B. Scale, North arrow, date and zone classification. {9.01.402}
- C. Signature and seal of a professional engineer, and/or surveyor, and/or architect, where applicable, licensed to practice in the State of Connecticut. {9.01.403}
- D. Names of all abutting property owners. All zone or municipal boundaries within 1,000 feet of the property. {9.01.404}
- E. A Vicinity Map at a scale of one inch equals 1,200 feet. {9.01.405}
- F. The perimeter of the property involved, together with total property area. {9.01.406}
- G. A map showing the general layout of all proposed construction at a scale of not less than one inch equals 100 feet. {9.01.407}
- H. A map showing the proposed area of construction at a scale of not less than one inch equals 20 feet. {9.01.408}
- I. All proposed improvements to the property, including paved parking areas, walks, landscaping, building setback dimensions, wells or water supply, septic systems (including 100% reserve area), drainage with invert elevations of basins, and pipe size, utilities, signs (size, type and location), outdoor lighting, erosion control and curbing (with all radii shown). {9.01.409}
- J. The location of each proposed septic system, detailed design computations for septic systems, including type of sewage, equipment data sources and layout of system, and the location and results of each deep test hole and percolation test. {9.01.410}
- K. A detailed storm drainage design for the proposed development that will manage stormwater in such a way to reduce runoff, encourage stormwater infiltration, aquifer recharge, and incorporate nonpoint source pollution controls. A watershed map shall accompany the design plans. A complete watershed analysis is required for lots of two acres or more. {9.01.411}

[Amended effective 8-11-2003]

- L. Preliminary building plans, including schematic floor plans, exterior elevations and perspective drawings. {9.01.412}

- M. Existing and proposed contours at intervals not to exceed five feet; smaller intervals may be necessary to show characteristics of that terrain. Proposed spot elevations at strategic locations, including several ground-level points around the building. {9.01.413}
- [Amended effective 4-21-1990]
- N. The volume of earth to be removed from the site or to be filled onto the site. {9.01.414}
- O. All existing topographical features on and within 50 feet of the property, structures, paved areas, foliage limits, wetlands, watercourses, underground utilities, septic systems, wells, isolated trees, stone walls, driveways, paths, ledge outcroppings or boulders, easements, and building setback lines. {9.01.415}
- P. Proposed open space such as parks, lawn areas and recreation facilities and such proposed covenants, easements and other provisions relating to dimensions, location, and density of such buildings and public facilities as are necessary for the welfare and maintenance of the development and are not inconsistent with the best interests of the Town. {9.01.416}
- Q. The percentage of structural coverage, including building, storage, loading and parking areas in relation to total area of lot. {9.01.417}
- R. Location and dimensions of loading, storage, refuse collection, exterior machinery and equipment, and parking areas, including the location, dimensions and number of vehicle spaces and traffic islands. {9.01.418}
- S. Proposed vehicular and pedestrian circulation patterns, including location and dimensions of private and public streets and common drives. Certain drawings shall be used as a guide in the design and location of driveways along Route 25 from the Monroe Town Line northerly to the intersection of Route 25 and Borough Lane. These are Figures 2 through 25 in the report entitled "Newtown Route 25 Access Management Study, HVCEO Bulletin #85," dated November 1995. Such bulletin is available in the Planning and Zoning Commission office for the particular site in question. {9.01.419}
- T. Field measurements of sight distances in both directions from each access to Town and state roads. {9.01.420}
- U. A traffic survey of the area or any other information which the Commission may reasonably require or the applicant may wish to submit. {9.01.421}
- V. The location of water storage tanks for fire suppression required pursuant to § 490-56B(1). {9.01.422}

§ 490-63 Required statements. {9.01.500}

In addition, before approval, the applicant shall submit the following statements with his or her application:

- A. A statement from the Fire Marshal on fire fighting feasibility of the proposed development; {9.01.510}
- B. A statement from the Town Sanitarian of the adequacy of waste disposal; {9.01.520}
- C. An inland wetlands license from the Conservation Commission, if required. {9.01.530}

§ 490-64 Standards and criteria. {9.01.600}

No site development plan shall be approved by the Commission unless it finds that the following standards and criteria have been or will be met:

- A. The architectural design and renderings of buildings, including, among other elements, the building material, roof line and building elevations, shall be of such character as to harmonize with the neighborhood, and to protect property values in the neighborhood. {9.01.610}
- B. All details of the site development plan are designed and arranged so as not to create a health or safety hazard to persons or property on or off the road on which the development is planned. {9.01.620}
- C. All details of the site development plan are planned to conserve as much of the natural terrain and vegetation as possible. {9.01.630}
- D. All details of the site development plan are planned to minimize excessive light and noise. {9.01.640}
- E. All details of the site development plan are in conformity to the Plan of Development and Traffic Circulation Plans currently in effect and in keeping with the general intent and spirit of this chapter. {9.01.650}
- F. Utilities and drainage have been so laid out so as not to unduly burden the capacity of such facilities, such other facilities proposed by the Plan of Development. {9.01.660}
- G. The streets and drives will be suitable and adequate to carry anticipated traffic within the site. {9.01.670}

- H. Adequate loading and unloading facilities are to be provided for hospitals, hotels, restaurants, retail businesses, professional buildings and manufacturing or industrial uses, such facilities to be surfaced with concrete, bituminous concrete or the equivalent and lighted in such a manner that no direct rays from artificial lighting fall off the lot. {9.01.680}
- I. All applicable sections of these regulations and all other applicable Town or state laws, ordinances, regulations or codes shall be complied with. {9.01.690}

§ 490-65 Public hearings.

- A. The Commission may at its discretion hold a public hearing on any proposed development requiring a site development plan. {9.01.700}
- B. Notice of any such public hearing shall be warned in the same manner as a special exception application in accordance with § 490-52C of these regulations. {9.01.800}  
[Amended effective 5-18-1992]

§ 490-66 Approval of plans. {9.01.900}

The Commission shall approve, modify and approve, or disapprove any site development plan within 65 days after the public hearing thereon or, if no public hearing is held, within 65 days after the submission thereof. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed two further sixty-five-day periods.

§ 490-67 Changes to plans. {9.01.1000}

Minor changes in an approved site development plan may, with the written approval of the Town Engineer or the Zoning Enforcement Officer, be made, provided such changes shall in no way affect the overall layout, design, density, impact or nature of the site development plan. Such minor changes may include, but are not limited to, the locations of catch basins, manholes and other technical aspects of drainage; slight alterations of the locations of roads, structures or buildings due to unforeseen topographical or geological features; slight alterations of finished contours; or minor rearranging of lighting standards. If the Town Engineer or the Zoning Enforcement Officer shall have any question as to whether such a proposed change is minor, such change shall require the review and written approval of the Newtown Planning and Zoning Commission.

§ 490-68 Term of approval. {9.01.1100}

Any site plan approval granted by the Commission shall cease to be effective one year after the date of issuance (or after the date on which it is finally determined to be valid by appeal) unless the use for which the site plan approval is sought is being conducted on the lot or unless work has been commenced and is being diligently pursued. The Commission, at the time of approving the site plan, may make the effectiveness contingent on a schedule of construction being followed, if so requested by the applicant. For good cause shown, the Commission may grant up to a total of three extensions of the approval, but no single extension shall exceed six months in duration.

#### ARTICLE X Erosion and Sediment Control (§ 490-69 - § 490-77)

##### § 490-69 Title; purpose. {10.01}

This article may be cited as "The Erosion and Sediment Control Regulations of the Town of Newtown Connecticut," and are adopted for the purpose of conforming with and adhering to the requirements and public policy as set forth in Public Act 83-388.

Editor's Note: See C.G.S. § 22a-325 et seq.

##### § 490-70 Definitions. {10.02}

As used in this article, the following terms shall have the meanings indicated:

##### CERTIFICATION

A signed, written approval by the Newtown Planning and Zoning Commission that a soil erosion and sediment control plan complies with the applicable requirements of these regulations.

##### COMMISSION

The Planning and Zoning Commission of the Town of Newtown.

##### CONSERVATION DIRECTOR

The Conservation Director of the Town of Newtown.

##### COUNTY SOIL AND WATER CONSERVATION DISTRICT

The Fairfield County Soil and Water Conservation District established under § 22a-315(a) of the General Statutes.

##### DEVELOPMENT

Any construction or grading activities to improved or unimproved real estate.

##### DISTURBED AREA

An area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

##### EROSION

The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

#### GRADING

Any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

#### INSPECTION

The periodic review of sediment and erosion control measures shown on the certified plan.

#### SEDIMENT

Solid material, either mineral or organic, that is in suspension, is transported, or has moved from its site of origin by erosion.

#### SOIL

Any unconsolidated mineral or organic material of any origin.

#### SOIL EROSION AND SEDIMENT CONTROL PLAN

A scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.

#### § 490-71 Activities requiring erosion and sediment control plan. {10.03}

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. {10.03.100}

#### § 490-72 Exemptions. {10.04}

A one-family dwelling that is not part of a subdivision of land shall be exempt from this article. {10.04.100}

#### § 490-73 Erosion and sediment control plan. {10.05}

- A. To be eligible for certification, a soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed site based on the best available technology. Such principles, methods, practices necessary for certification are found in the Connecticut Guidelines for Soil Erosion and Sediment Control as amended. Alternative principles, methods and practices may be used with prior approval of the Commission or the Conservation Director, its designated agent. {10.05.100}

- B. Said plan shall contain, but not be limited to: {10.05.200}
- (1) A narrative describing: {10.05.210}
    - (a) The development. {10.05.211}
    - (b) The schedule for grading and construction activities, including: {10.05.212}
      - [1] Start and completion dates. {1}
      - [2] Sequence of grading and construction activities. {2}
      - [3] Sequence for installation and/or application of soil erosion and sediment control measures. {3}
      - [4] Sequence for final stabilization of the project site. {4}
  - (2) The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities. {10.05.213}
  - (3) The construction details for proposed soil erosion and sediment control measures and stormwater management facilities. {10.05.214}
  - (4) The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities. {10.05.215}
  - (5) The operations and maintenance program for proposed soil erosion and sediment control measures and stormwater management facilities. {10.05.216}
  - (6) A site plan map at a sufficient scale to show: {10.05.220}
    - (a) The location of the proposed development and adjacent properties. {10.05.221}
    - (b) The existing and proposed topography, including soil types, wetlands, watercourses and water bodies. {10.05.222}
    - (c) The existing structures on the project site, if any. {10.05.223}
    - (d) The proposed area alterations, including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines. {10.05.224}



- (e) The locations of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities. {10.05.225}
- (f) The sequence of grading and construction activities. {10.05.226}
- (g) The sequence for installation and/or application of soil erosion and sediment control measures. {10.05.227}
- (h) The sequence for final stabilization of the development site. {10.05.228}

§ 490-74 Minimum acceptable standards. {10.06}

- A. Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the principles as outlined in the Connecticut Guidelines for Soil Erosion and Sediment Control, as amended. Soil erosion and sediment control plans shall result in a development that minimizes erosion and sedimentation during construction, is stabilized and protected from erosion when completed, and does not cause off-site erosion and/or sedimentation. {10.06.100}
- B. The minimum standards for individual measures are those in the Connecticut Guidelines for Soil Erosion and Sediment Control, as amended. The Commission may grant exceptions when specifically requested by the applicant if technically sound reasons are presented. {10.06.200}
- C. The appropriate method from the Connecticut Guidelines for Soil Erosion and Sediment Control, as amended, shall be used in determining peak flow rates and volumes of runoff unless an alternative method is approved by the Commission. {10.06.300}

§ 490-75 Issuance or denial of certification. {10.07}

- A. The Commission shall either certify that the soil erosion and sediment control plan, as filed, complies with the requirements and objectives of this article or deny certification when the development proposal does not comply with this article. {10.07.100}
- B. Nothing in this article shall be construed as extending the time limits for approval of any application under Chapters 124, 124A or 126 of the General Statutes. {10.07.200}
- C. Prior to certification, any plan submitted to the Commission shall be reviewed by the Conservation Director, who shall make recommendations concerning such plan,

provided such review shall be completed within 30 days of the receipt of such plan. {10.07.300}

- D. The Commission may forward a copy of the development proposal to the Fairfield County Soil and Water Conservation District, to the Newtown Conservation Commission, any other Town of Newtown department, commission or agency, or any consultant for review and/or comment. {10.07.400}

#### § 490-76 Conditions relating to soil erosion and sediment control. {10.08}

- A. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, that are a condition of certification of any modified site plan, if such a modified site plan is submitted for review by the Commission, may be required to be covered in a performance bond or other assurance acceptable to the Commission in accordance with the provisions specified in the appropriate sections of this chapter and Chapter 460, Subdivision of Land, as from time to time amended. {10.08.100}
- B. Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and facilities in the plan schedule for installation prior to site development are installed and functional. {10.08.200}
- C. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan. {10.08.300}
- D. All control measures and facilities shall be maintained in effective condition to ensure the compliance of the certified plan. {10.08.400}

#### § 490-77 Inspection. {10.09}

Inspection shall be made by the Commission or the Conservation Director, its designated agent, during development to ensure compliance with the certified plan and that control measures and facilities are properly performed or installed and maintained. The Commission may require the permittee to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained. It shall be the responsibility of the permittee to provide proper notification for inspection of control measures and facilities that are required prior to proceeding with any development work which is affected by the installation of these measures. Failure to provide this notification shall nullify any approvals given by the Commission on the project site. {10.09.100}

#### ARTICLE XI Administration (§ 490-78 - § 490-84)

#### § 490-78 Zoning Enforcement Officers. {11.01}

The Commission shall designate one or more Zoning Enforcement Officers, one of whom shall serve as the Chief Officer and all other Zoning Enforcement Officers shall serve under his direction. Said Zoning Enforcement Officers shall administer and enforce these regulations and shall implement and enforce the decisions of the Zoning Board of Appeals. Said Zoning Enforcement Officers shall issue zoning permits as hereinafter set forth, make the inspections required in the administration and enforcement of these regulations and the decisions of the Zoning Board of Appeals, issue or deny certificates of zoning compliance as set forth herein, issue orders to cease and desist from the violations of these regulations; and are hereby authorized to inspect any lot, premises, building or use, whether public or private, where said Zoning Enforcement Officers have reason to believe it is or is about to be in violation of these regulations. Said Zoning Enforcement Officers shall institute civil actions in accordance with the General Statutes of Connecticut to prevent or abate violations of these regulations and, if authorized, shall arrest, or they may seek warrants for the arrest and conviction of, any owner, lessee or agent of such owner or lessee, of any building, premises or part thereof in which a violation of these regulations has been committed or is being committed or the agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation. In addition, said Zoning Enforcement Officers shall issue orders to discontinue such violations and, if violations are not discontinued within 10 days of such order, shall institute civil actions to recover fines and/or additional civil penalties as provided by statute. A property owner, lessee, or agent thereof may appeal the issuance of a cease and desist order to the Zoning Board of Appeals within 30 days of such issuance. Where reference is made in these regulations to "Zoning Enforcement Officer" in the singular, it shall be deemed to be a reference to any and all Zoning Enforcement Officers who have been appointed hereunder. {11.01.100}

§ 490-79 Zoning permits and site development plan approval. {11.02}

- A. Before any land, building or other structure is devoted to a new or changed use, whether or not the owner believes such new or changed use is in conformance with these regulations, or before the erection, enlargement or structural alteration of any structure is commenced, a zoning permit shall be obtained from a Zoning Enforcement Officer or, if required, a site development plan approval shall be obtained in accordance with Article IX hereof. {11.02.100}

[Amended effective 4-21-1990]

- (1) The application for such zoning permit shall be accompanied by a plot plan and the Zoning Enforcement Officer shall request from the applicant, in writing, sufficient information to enable the Zoning Enforcement Officer to make a determination that the proposed building, structure or use complies in all respect with the provisions of these regulations.
- (2) Whenever such application concerns an external structural change, including but not limited to erection of a building or an enlargement or external structural alteration to an existing structure, the applicant shall calculate the

average finished ground level at each side of the proposed structure, existing structure or any proposed external structural alteration.

- (3) Whenever the existing channel of a watercourse is being restricted in any way, whether by a bridge, culvert, retaining wall or filling, a drainage analysis map prepared by a licensed professional engineer shall be submitted showing the watershed and the flow expected from a twenty-five-year storm, computed in accordance with a generally accepted formula, and a computation of the flow which the watercourse, as restricted, is capable of carrying. All computations shall be set forth on the map or on an attached worksheet.
- B. No zoning permit shall be issued until the permits required by the Newtown Sanitary Code [Editor's Note: See Chs. 278, Sanitation, and 661, Sanitary Code.] as to wells and sewage disposal systems, and the driveway permit required by Chapter 271, Road Construction, have been obtained by the applicant, if applicable to the use, building or structure proposed. No such zoning permit shall be issued unless the Zoning Enforcement Officer has certified in writing that the proposed building or use complies with all the provisions of these regulations and all conditions which have been imposed by the Commission or Board of Appeals, where applicable. No building permit should be issued until the zoning permit has been issued. {11.02.200}
- C. Survey requirements. {11.02.300}
- (1) A certified survey by a licensed land surveyor meeting the requirements of a Class A-2 survey of the Connecticut Technical Council shall be filed with the Zoning Enforcement Officer under the following circumstances: {11.02.310}
    - (a) For a new building or structure for which zoning and building permits have been issued, upon completion of the foundation of such building or structure. No further work shall be done on such building or structure after completion of the foundation until said survey has been filed with the Zoning Enforcement Officer. {11.02.311}
    - (b) If the construction is an addition to an existing building or structure, the survey shall be filed with the application for the permit. {11.02.312}
    - (c) Where the building or structure has no foundation, such as a tennis court or swimming pool, the survey shall be filed with the application for the permit indicating that the location of the proposed structure has been staked on the ground, and the applicant shall build the structure in the location staked. {11.02.313}

(2) Any such survey shall contain the location of all existing and proposed buildings, structures, watercourses, wells, septic fields and property lines and such measurements between said objects and lines as are adequate for the Zoning Enforcement Officer to determine that the minimum front, side and rear yards are being maintained, that setbacks from watercourses and water bodies required by the Newtown Sanitary Code are provided for and that the septic tank, septic fields and well will have the setbacks from each other and from all buildings, structures and lines as required by all applicable statutes, codes, ordinances or regulations. {11.02.320}

(3) Lot lines not requiring survey.

(a) Notwithstanding Subsection C(1) hereof, no lot or street line need be surveyed which meets the following three criteria: {11.02.330}

[1] The street or lot line is a physical boundary, including but not limited to such things as fences, stone walls, brooks, roads, etc.; {11.02.331}

[2] The applicant proves to the satisfaction of the Zoning Enforcement Officer that the boundary in question is not in dispute; and {11.02.332}

[3] The proposed building, or structure or addition thereto is at least 25% further away from such boundary than the applicable required minimum yard.

(b) In addition, a lot line not relevant to the application, such as a lot line on the opposite side of an existing building from a proposed addition, need not be surveyed. Whenever a complete perimeter survey is not required because of this subsection, the plot plan submitted shall contain a certification by a registered land surveyor that the distance from the proposed building or structure or addition thereto to the boundary lines has been measured in the field by such surveyor to an accuracy of plus or minus one foot, such measurement appears on the plot plan, and all the other material and measurements required by Subsection B(2) hereof are made and included on the plan. In situations where the distance from the proposed building, structure or addition to the boundary is 50% in excess of the required yard or setback, the Zoning Enforcement Officer may make the measurement in lieu of the registered land surveyor. {11.02.333}

D. Any zoning permit issued hereunder shall cease to be effective six months after the date of issuance (or after the date on which it is finally determined to be valid if challenged by appeal to the Zoning Board of Appeals or the courts) unless the use for which the permit is sought is being actively conducted on the lot or unless work

has been commenced and is being diligently pursued on the building or other structure for which the zoning permit was sought. {11.02.400}

E. Applications for zoning permits shall be accompanied by a fee to be computed as follows: {11.02.500}

(1) For alterations only, resulting in no increase of usable space, and for new or changed uses of land, buildings or structures not involving alterations or additions: no fee. {11.02.510}

(2) Otherwise, \$15 for each 100 square feet of gross floor area or fraction thereof of the structure for which the permit is sought. {11.02.520}

[Amended effective 10-18-1999; 11-11-2002]

(3) Certificate of occupancy fees for each certificate of zoning compliance inspection and each erosion and sediment control inspection shall be computed as follows: {11.02.530}

[Effective 10-18-1999]

(a) First inspection: no fee.

(b) Second inspection: \$25.

(c) Each additional inspection: \$50 per trip.

§ 490-80 Certificate of zoning compliance. {11.03}

No lot or building shall be occupied or used in whole or in part for any purpose until a certificate of zoning compliance shall have been issued by the Zoning Enforcement Officer stating that the lot, building or structure complies with all the provisions of these regulations. When the building or structure is complete and ready for occupancy or use, the applicant shall notify the Zoning Enforcement Officer, who shall, within 30 days from the receipt of such notice, inspect the lot, building or structure and issue a certificate of zoning compliance if such lot, building or structure complies with all of the provisions of these regulations, and any special conditions imposed by the Commission or the Zoning Board of Appeals. Prior to issuing a certificate of zoning compliance the Zoning Enforcement Officer may require further written statements from the owner, his agent or any person who is to occupy the premises concerning any information he deems necessary in order to determine whether or not the provisions of these regulations are being and will be met. Where a portion of a building or structure is ready for occupancy or use the Zoning Enforcement Officer may issue a certificate of zoning compliance as to that part only and no other portion of said building, or structure, may be used or occupied until a subsequent certificate(s) of zoning compliance is (are) obtained therefor. In a common-interest community, each individual unit owner shall, in addition of the requirements above, also obtain a certificate of zoning compliance.

§ 490-81 Submission of electronic surveys. {11.03.100}  
[Added effective 4-14-2003]

Any "as-built" survey filed with the Zoning Enforcement Officer pursuant to §§ 490-79C(1)(a) and 490-80 herein shall be submitted in both paper and electronic formats. The electronic format shall be for purposes of updating the Town's Geographic Information System (GIS) and shall meet the following criteria: {11.03.100}

- A. Drawings shall be on a compact disk (CD). {1.}
- B. Electronics shall be in a format as prescribed by the Town's GIS Coordinator. {2.}
- C. A certification letter stating that the electronic drawing is a copy of the survey map that was presented to the Zoning Enforcement Officer shall accompany electronic drawings. A land surveyor licensed by the State of Connecticut shall certify the letter. {3.}

§ 490-82 Relationship to other regulations. {11.04}

The violation by any person seeking a zoning permit or certificate of zoning compliance of the provisions of the Newtown Sanitary Code, Chapter 271, Subdivision of Land, Chapter 460, Subdivision of Land, Chapter 450, Sand and Gravel, or any other regulations within the "police power," so-called, subsequently adopted by the Town of Newtown acting through its legislative body or its boards or commissions shall constitute a violation of these regulations and, while said violation is continuing, shall be sufficient cause to refuse to issue or revoke said zoning permit or to refuse to issue said certificate of zoning compliance.

§ 490-83 Zoning Board of Appeals; variances. {11.05}

- A. The Zoning Board of Appeals of the Town of Newtown shall have the powers and duties reposed in it by the General Statutes of the State of Connecticut and these regulations. In exercising its power to vary these regulations it may do so in the case of any exceptionally irregular, narrow, shallow, or steep lot or other exceptional physical conditions as a result of which strict application would result in exceptional difficulty or unusual hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. {11.05.100}
- B. No variance in the strict application of any provisions of these regulations shall be granted by the Board of Appeals unless it finds:
  - (1) That there are special circumstances or conditions fully described in the findings of the Board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act subsequent to the

adoption of these regulations, whether in violation of the provisions hereof or not; and {11.05.110}

- (2) That, for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance granted by the Board is the minimum variance that will accomplish this purpose; and {11.05.120}
- (3) That the granting of the variance will be in harmony with the purposes and intent of these regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. {11.05.130}

§ 490-84 Amendments. {11.06}

- A. These regulations may be amended, added to or repealed and the boundaries of the zones shown on the Zone Map may be established, altered or eliminated in accordance with the procedure established by the General Statutes of Connecticut either on the initiative of the Commission or upon receipt of a written application for such a change. {11.06.100}
- B. Any application for an amendment, change, addition or repeal of these regulations or the establishment, alteration or elimination of the boundaries on the Zone Map shall be filed with the Commission's Administrative Assistant during regular business hours. Said application shall be accompanied by a fee to defray the cost of publication, except that if said cost exceeds any of the fee amounts listed below, the applicant shall be required to bear the additional cost prior to the granting of any such amendment or Zone Map change. {11.06.200}

[Amended effective 3-1-2004]

- (1) Amendment to Zoning Regulations: \$400.
  - (2) Zone Map change: \$400.
- C. Any such application shall make specific reference to the portion of these regulations to be amended, changed, added to or repealed and shall contain the text of the proposed amendment or change. {11.06.300}
  - D. Any application to establish, alter or eliminate a zoning boundary or zone set forth on the Zone Map shall be submitted on a form prescribed by the Commission and, where applicable, shall be accompanied by maps and documents specified within the application form. The Commission shall hold a public hearing on each application for a zoning boundary change, which shall be warned as required in § 8-3 of the Connecticut General Statutes, as amended. An applicant, other than the



Commission, shall provide notice by certified mail of the time and place of such hearing to persons who are owners of land which is included in and within 500 feet of the land which is the subject of the hearing. Said application shall also contain a sufficient description of the property which may be used by the Commission in publishing the notice of hearing on said change. {11.06.400}

- E. An application for a special exception for a multiple-family development for elderly families or an adult congregate living facility shall not be required to be received by the Commission for any property not already zoned as Multiple Family for Elderly Housing EH-10. However, if an applicant chooses to deliver such an application to the Commission during the pendency of an application for a change of zone to Multiple Family for Elderly Housing EH-10, then the Commission shall determine whether to hear both applications on the same date or to hear only the application for the change of zone. In the event the Commission determines to hear the applications simultaneously, the applications shall each be decided on its own merits and the mere fact that any application might meet all of the requirements for the granting of a special exception for a multiple-family development for elderly families or an adult congregate living facility shall not entitle an applicant to a change of zone, which shall remain a legislative decision within the discretion of the Commission. {11.06.500}

## ARTICLE XII Miscellaneous Provisions (§ 490-85 - § 490-86)

### § 490-85 Severability. {12.01}

- A. Except as set forth in Subsection B below, if any section, subsection, clause, phrase, or any provision of these regulations is, for any reason, finally adjudicated to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such adjudication shall not affect the validity of the remaining portion hereof. {12.01.100}
- B. The following sections and subsections, and the clauses and phrases contained therein, shall be deemed inseparable from each other: § 490-2, definition of "dwelling unit"; § 490-84E. If a court of competent jurisdiction holds that any clause, phrase or provision thereof is illegal, unconstitutional or otherwise invalid, then all of said sections and subsections, and the clauses and phrases contained therein, shall be null and void and ineffective thereafter to permit any form of multiple-family housing. {12.01.200}

### § 490-86 Repealer; effective date. {12.02}

- A. The Zoning Regulations adopted September 13, 1975, as amended to the effective date hereof, are hereby repealed. {12.02.100}
- B. These regulations shall become effective April 25, 1987. {12.02.200}

