

SECTION III

GENERAL REGULATIONS

A. APPLICABILITY

No building, structure or land shall be used, designed for any use or changed to any use, other than is permitted in the Zone in which such building, structure, or land is located except in conformance with these Regulations.

No building or structure shall be erected, reconstructed, structurally altered, enlarged, moved, or maintained except in conformance with these Regulations.

No conveyance of land shall be made that reduces the remaining land of the grantor below the area, width or yard requirements of the Zone.

B. EXCEPTIONS TO REGULATIONS

1. Yard Projections

- a. Open or closed porches or vestibules may extend into any required front yard provided that such extension shall not project more than five feet into the front yard, nor contain more than fifty square feet of floor area computed on exterior dimensions.
- b. Other usual projections such as chimneys, window sills, cornices, and bay windows may extend into any required yard not more than two feet.

2. Height

- a. The Commission may, by Special Exception, waive the height provisions of these Regulations for church steeples, belfries, towers, cupolas and similar architectural features; flagstaffs, chimneys, elevator mechanisms and housings, water tanks, stand pipes, and similar utility structures; and radio and television towers and antennas, and similar telecommunication structures.
- b. The height provisions of these regulations shall not prevent the erection of a school, public library, or public museum to a height not exceeding forty feet in a Residential Zone.

3. Pre-existing Lots

Where safe and adequate disposal of sewage and a safe water supply, as required by the Public Health Code, can be provided without endangering

the health and safety of adjoining residents, nothing in these Regulations shall prevent the construction of a permitted building or the establishment of a permitted use on a lot containing less than the prescribed area or width which at the time of adoption hereof or any pertinent amendment hereto was:

- a. Owned separately from any adjoining lot and filed in the Office of the Town Clerk of the Town of Avon.
- b. Shown on a plan of subdivision approved by the Town Planning and Zoning Commission and filed in the Office of the Town Clerk of the Town of Avon.

Where two or more nonconforming adjoining lots of record are in the same ownership on the effective date of these Regulations, then such lots shall be combined to meet the lot area or width requirement unless each such lot contains 15,000 square feet of lot area and 100 feet of lot width.

C. NONCONFORMING USES AND STRUCTURES

Nothing in this Section shall require any changes in the plans, construction, or designated use of any building for which a building permit has been issued, of which construction was commenced prior to the adoption of these Regulations or of any amendments hereto, and which shall be completed within one year of the adoption of same.

1. Nonconforming Uses May Be Continued

Any nonconforming use of buildings or land lawfully existing at the time of adoption of these Regulations or any amendments hereto, may be continued.

2. Changes to Nonconforming Uses

No nonconforming use may be changed except to a conforming use or, with the approval of the Zoning Board of Appeals, to another nonconforming use of a less objectionable character. No nonconforming use shall, if once changed into a conforming use, be changed back into a nonconforming use.

3. Resumption of Nonconforming Uses

No nonconforming use which has been discontinued for a period of six months shall thereafter be resumed.

4. Expansion of Nonconforming Uses

No nonconforming use, and no building containing a nonconforming use, shall be extended or expanded.

5. Alterations to Building Containing Nonconforming Uses

Structural alterations which do not materially alter the characteristics or exterior appearance of a building containing a nonconforming use may be made, providing the total costs of such alterations do not exceed 50% of the assessed valuation of such building at the time it becomes nonconforming unless the use thereof is changed to a conforming use.

6. Alterations to Nonconforming Buildings

Nonconforming Buildings may be altered, or enlarged, provided that such additions or enlargements conform to the applicable provisions of these regulations, and the total added floor area does not exceed 50% of the floor area of the original building.

Where a part of a nonconforming building extends into a required yard, any additions shall have the required yards, except that the Zoning Board of Appeals may approve a variance in yard requirements to a yard size not less than presently exists, where such smaller yards will not have a detrimental effect on adjoining property.

7. Replacement of Nonconforming Buildings

Any nonconforming building which has been damaged by fire, explosion or accident, may be repaired, rebuilt, or replaced within one year of such damage, provided that such repairs, rebuilding, or replacement does not extend nor expand the previously existing nonconforming building.

D. DEVELOPABLE LAND CALCULATION

Land designated as Flood Plain, Inland Wetlands, Watercourse, or with slopes in excess of 25% shall not be used to calculate density, as prescribed in Section IV.A.5., for any use.

The Commission may modify or waive this requirement when, in the opinion of the Commission, the location and configuration of such lands in relation to the buildable area on the site may warrant such use and the applicable Special Exception criteria established in Section VIII are satisfied.

Application of Developable Land Calculation and Density Regulations

Developable Land Calculation

A = 12.0 Acres Total Site Area

.5 Acres Inland Wetlands

2.0 Acres Floodplain Land

.5 Acres Water Course

1.0 Acres Steep Slopes > 25%

A - B =
Developable Land

B = 4.0 Acres Total Encumbered Land

12.0 - 4.0 = 8.0 Acres of Developable Land

Density Calculation

Developable Land x Density Factor for Zone = # of Lots

8.0 x .8 = 6.4 Lots Allowed

Example: Zone R 40

- References: III D, IV, IX.
- This is an interpretive aid only and is not part of the regulations.

E. CORNER VISIBILITY

On a corner lot in any district no planting, structure, fence, wall, or obstruction to vision more than three feet in height from the pavement shall be placed or maintained within the triangular area formed by the intersecting street lines and a straight line connecting points on said street lines, each point being twenty-five feet distant from the point of intersection.

Corner Visibility

- References: III E.
- This is an interpretive aid only and is not part of the regulations.

F. MUNICIPAL AND PUBLIC UTILITY USES

Municipal and public utility uses, buildings, and structures, including governmental and emergency services communication towers and/or antennas, may be authorized by the Commission as a Special Exception in any Zone under the applicable criteria of Section VIII, provided that:

1. All of the requirements of the Zone are met except floor area, lot area, and lot width.
2. The land is of sufficient area and width to protect public health, safety, and welfare.
3. The proposed use is compatible with existing development and the site development blends with the character of the area.
4. Plants generating power and plants disposing of sewage and/or garbage are not permitted in residential zones.
5. For all applications involving towers and/or antennas, information as required in Section IV.A.4.a.(1) and (2) shall be provided; and the minimum standards and conditions in Section IV.A.4.a.(4), (5), and (7), through (10) shall apply.

These requirements shall not apply to standard utility distribution systems.

G. FLOOD PLAIN

1. Statement of Purpose

It is the purpose of this regulation to regulate floodplain development, promote public health, safety, and general welfare, and minimize public and private losses due to flood conditions. As a result of past flooding including the effects of the 1938 and 1955 hurricanes in Avon, these Regulations exceed the minimum requirements of the Federal Emergency Management Agency. More specifically, it is the purpose of these Regulations:

- a. To protect human life and health, and prevent damage to property;
- b. To minimize expenditure of public funds for costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- d. To minimize prolonged business interruptions and other economic disruptions;
- e. To minimize damage to public facilities, infrastructure and utilities, such as water and gas mains, electric, telephone and sewer lines, and streets and bridges, located in the floodplain.
- f. To help maintain a stable tax base by providing for the sound use and development of flood hazard areas in such a manner as to minimize flood damage and flood blight areas;
- g. To insure that potential buyers are notified that property is in a flood hazard area;
- h. To prevent increase in flood heights that could increase flood damage and result in conflicts between property owners;
- i. To ensure that those who occupy the flood hazard areas assume responsibility for their actions; and
- j. To discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

2. Definitions

For the purpose of applying the provisions of this section, the terms below shall be defined as follows:

BASE FLOOD – the flood having a .2% chance of being equaled or exceeded in any given year, also referred to as the five hundred (500) year flood, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate map (FIRM).

BASE FLOOD ELEVATION (BFE) – The elevation of the crest of the base flood or 500-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

BASEMENT – That portion of a building where the ceiling is less than three (3) feet above the average ground level. For floodplain management purposes, a basement is any area of the building having its floor subgrade (below ground level) on all sides.

COST – As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor’s estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing components, structural components, utility and service equipment); sales tax on materials; building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor’s overhead; contractor’s profit; and grand total. Items to be excluded include: cost of plans and specifications; survey costs; permit fees; outside improvements such as septic systems, water supply walls, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

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

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program (NFIP).

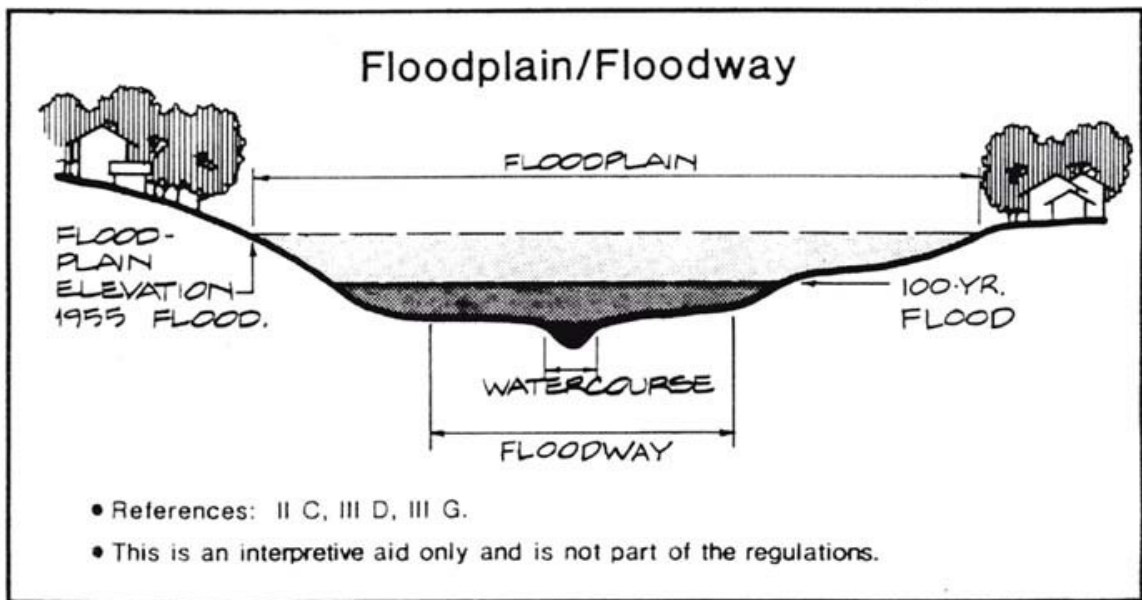
100-YEAR-FLOOD PLAIN (1%) - Areas of special flood hazard which include all land adjacent to the Farmington River and Roaring Brook and all land adjacent to Hawley Brook, Big Brook, Lake Erie Brook, Nod Brook, Chidsey Brook, and Thompson Brook which falls below the 100-year-flood-frequency profile as determined by the Federal Emergency Management Agency in their Flood Insurance Study of September 26, 2008, and any subsequent revisions thereto which establishes detailed flood profile and elevations. Since mapping is legally adopted by reference into this regulation, it must take precedence when it is more restrictive until such time as a map amendment or map revision is obtained from FEMA.

500-YEAR FLOOD PLAIN (.2%) - Areas of special flood hazard which include all land adjacent to the Farmington River and Roaring Brook and all land adjacent to Hawley Brook, Big Brook, Lake Erie Brook, Nod Brook, Chidsey Brook, and Thompson Brook which falls below the 500-year-flood-frequency profile as determined by the Federal Emergency Management Agency in their Flood Insurance Study of September 26, 2008, and any subsequent revisions thereto which establishes detailed flood profile and

elevations. Since mapping is legally adopted by reference into this regulation, it must take precedence when it is more restrictive until such time as a map amendment or map revision is obtained from FEMA.

FLOODWAY - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as shown on the Federal Emergency Management Agency's Flood Insurance Rate Maps for the Town of Avon, CT, dated September 26, 2008, and any subsequent revisions thereto. For the purposes of these regulations, the term "Regulatory Floodway" is synonymous in meaning with the phrase "Floodway".

FLOOD OR FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.



FLOOD INSURANCE RATE MAP (FIRM) – The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zones applicable to a community.

FLOOD INSURANCE STUDY (FIS) – the official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations; The Flood Insurance Rate maps

(FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

FLOODWAY FUNCTIONALLY DEPENDENT USE OR FACILITY – A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

HISTORIC STRUCTURE – Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic place in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

MANUFACTURED HOME – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” also includes park trailers, travel trailers, recreational vehicles and other similar vehicles placed on a site for greater than 180 consecutive days.

MARKET VALUE – The market value of the structure shall be determined by the appraised value of the structure prior to the start of the initial repair or improvements.

MEAN SEA LEVEL (MSL) – For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map (FIRM) are referenced.

NEW CONSTRUCTION – For structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

RECREATIONAL VEHICLE - A vehicle which can be towed, hauled or driven and is designed primarily for recreational use or as temporary living accommodations for recreational, camping or travel use. For floodplain management purposes, a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA (SFHA) – The land in the floodplain within a community subject to a .2% or greater chance of flooding in any given year. SFHAs are determined utilizing the 500-year floodplain elevations provided on the flood profiles in the Flood Insurance Study (FIS) for a community. 500-year floodplain elevation provided on the Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, AE and Zone X shaded, and include both the 100-year and 500-year floodplains. All land below the 500-year flood elevation is included within the SFHA. The SFHA is also called the Area of Special Flood Hazard.

STRUCTURE – A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place during a ten (10) year period in which the cumulative cost equals or exceed fifty (50) percent of the market value of the structure as determined at the beginning of such ten (10) year period. This term includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. For purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of a “historic” structure, provided that the alteration will not preclude the structure’s continued

designation as a “historic structure”.

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

WATER SURFACE ELEVATION – The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

3. Permitted Uses provided that no regrading or filling is necessary:

- a. Agriculture/farming
- b. Forestry
- c. Nurseries

4. Special Exception Uses

The following uses and activities may be permitted within the Flood Plain when authorized by the Commission as a Special Exception in accordance with the criteria established in Section VIII and the applicable criteria contained in this section:

- a. golf courses, playgrounds, recreation areas, parks, and open spaces;
- b. municipal or public utility uses not subject to major flood damage;
- c. parking areas as an accessory use;
- d. buildings, structures, and signs accessory to a permitted principal use located outside the Flood Plain provided that such accessory structures are located so as to minimize potential flood damage;
- e. filling of land within the Flood Plain, above the 100-year flood plain elevation, where the Commission evaluates the following:
 - (1) the impact of flooding on the proposed use,
 - (2) the availability of public services and facilities during and after flooding,

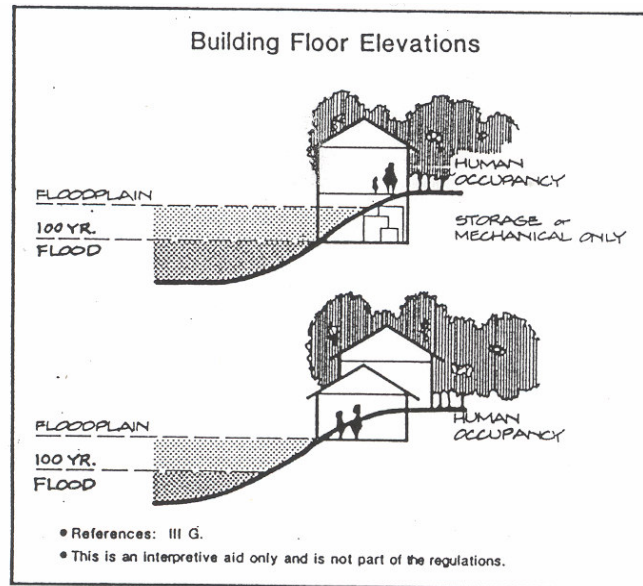
- (3) whether any loss of flood storage volume can be compensated for the provision of equivalent flood storage volume elsewhere on the site,
 - (4) any adverse effects that the proposed use or activity will have on flooding, flow velocity or direction on the site and surrounding properties,
 - (5) the cumulative effect of filling in the flood plain.
- f. regrading of land below the 100-year flood plain elevation but outside the floodway where the Commission determines that:
- (1) all the requirements as specified in Section III.G.4.e.(1)-(5) are met,
 - (2) **Compensatory Storage.** The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.
 - (3) **Equal Conveyance.** Within the floodplain, except those areas which are tidally influenced as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work

within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

5. Minimum Site Development Requirements

- a. Filling of land as authorized above shall only be allowed as logical extensions of land lying at higher elevations.
- b. Filling of land in the flood plain shall only be allowed where the resulting landscape is enhanced and where the neighborhood's essential characteristics have not been negatively altered.
- c. No encroachments, including structural use, fill, new construction, substantial improvement, repairs to substantially damaged structures, and other developments shall be permitted within the floodway unless permitted by the Commission as a Special Exception for such public purposes as road crossings, minor recreational improvements, or safety improvements, provided that no (0.00) increase occurs in flood levels during the 100-year flood discharge as certified by a Connecticut licensed professional engineer with supporting technical data. Fences in the floodway must be aligned with the flow and be of an open design. When the 100-year flood elevation has been determined on the community's FIRM but a floodway has not been designated, the Commission must require that no new construction, substantial improvements, repair to structures which have sustained substantial damage or other development, including fill, shall be permitted which will increase the water surface elevation of the base flood more than one (1.0) foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development. The Commission may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the municipality's request or not), the community shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1.0) foot at any point within the community.
- d. Building Floor Elevations
 - (1) All new construction, substantial improvements, and repair to structures that have sustained substantial damage, both residential or non-residential structures that are used for

human occupation, shall have the floor elevation of all stories elevated above the 500-year floodplain elevation.



- (2) Stories used exclusively for mechanical or storage equipment may be built below the Flood Plain elevation provided that: the building is designed to remove the hazards of flooding; and provided that all floor elevations (including basements) of all buildings shall be raised above the 100-year flood plain elevation; and provided that approval is granted by the Commission based upon hydrologic study and recommendation by the Town Engineer. Methods to reduce flood damage may be required.
- (3) Substantial improvements and repairs to structures that have sustained substantial damage shall have the floor elevation of all stories to be used for human occupancy raised above the 500-year floodplain elevation. Electrical, plumbing, machinery or other utility equipment that service the structure, as well as basements, may be located below the 500-year floodplain elevation but above the 100-year floodplain elevation. Approval must be obtained from the Commission, based upon hydrologic study and recommendation by the Town Engineer.
- (4) All manufactured homes are prohibited.
- (5) Recreational vehicles shall not be placed below the 500-year floodplain.
- e. Above-ground storage tanks (oil, propane, etc.) which are located

outside or inside of the structure must be elevated above the 100-year flood elevation on a concrete pad and be securely anchored with tie-down straps to prevent flotation or lateral movements, have the top of the fill pipe extended above the 100-year flood elevation and have a screw fill cap that does not allow for the infiltration of flood water.

- f. If any portion of a structure lies within the 500-year floodplain or Special Flood Hazard Area (SFHA), the entire structure is considered to be in these zones. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.
- g. If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., A zone is more restrictive than X zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)
- h. New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless they are a functionally dependent use or facility.
- i. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- j. New construction, substantial improvements, and structures that have sustained substantial damage shall be constructed using methods and practices that minimize flood damage and be constructed with materials and utility equipment resistant to flood damage. New construction, substantial improvements, and repairs to structures that have sustained substantial damage shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the

effects of buoyancy.

- k. Electrical, heating, ventilation, plumbing, air conditioning equipment, HVAC ductwork, and other service facilities, or any machinery or utility equipment or connections servicing a structure shall be elevated to or above the 100-year flood elevation to prevent water from entering or accumulating within the components during conditions of flooding. This includes, but is not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation ductwork, washer and dryer hook-ups, electrical junction boxes, and circuit breaker boxes.
- l. In any portion of a watercourse that is altered or relocated, the flood carrying capacity must be maintained. Notification to adjacent communities and the Connecticut Department of Environmental Protection (DEP), Inland Water Resources Division, prior to any alteration or relocation of a watercourse is required.

H. EARTH REMOVAL

1. Purpose

It is the purpose of this section to preserve the natural features of the landscape, keep the land suitable for appropriate future uses, prevent the occurrence of nuisances from earth removal operations which affect the value and enjoyment of neighboring properties, and control earth removal operations in order to protect the public health and safety.

2. Procedure

- a. The removal of 100 cubic yards or less of earth materials off site from any lot or parcel is permitted.

The removal of more than 100 but less than 1,000 cubic yards of earth materials off site from any lot or parcel is permitted provided such removal occurs in conjunction with a construction operation which has a valid approval from the Planning and Zoning Commission or which has a valid building permit. Removal shall be conducted such that the requirements of Paragraph 3 are observed.

Except as provided above, the removal of more than 100 cubic yards of earth materials off site is only permitted by the Commission as a Special Exception in accordance with the criteria established in Section VIII.

- b. Application for Special Exception shall be accompanied by a written

report indicating the purpose of the earth removal operation, the period of operation, the proposed dates of completion (removal, rough grading, finish grading, stabilization, restoration), and a statement from a registered professional engineer of the amount of material to be removed.

- c. A permit granted for the removal of earth shall be valid for a period established by the Planning and Zoning Commission but which shall not exceed 2 years in any event from the date of approval.
- d. Before any excavation occurs, a bond in a form and amount satisfactory to the Town Engineer shall be posted by the applicant to guarantee the restoration of the site and to cover erosion and sedimentation control during the operation.

Such bond shall guarantee the completion of earth removal, stabilization, and restoration of the site and adjacent areas within the period covered by the earth-removal permit. Such bond shall be released once the earth removal has been completed, and the site has been stabilized.

3. Land Use and Site Development Requirements

- a. **Period of Excavation and Removal** - Excavation and removal may be conducted between the hours of 7 a.m. and 5 p.m. weekdays only. No excavation or removal shall be conducted on weekends or holidays.
- b. **Conduct of Excavation and Removal** - The Planning and Zoning Commission may specify that area which may be under excavation at any one time, and the timetable for completion of excavation and removal operations.
- c. **Erosion and Sediment Control** - Compliance with the provisions of Section III.I. of these Regulations is required at all times during the earth removal operation.
- d. **Buffer Requirements** - Excavation shall not take place within 35 feet of any property line unless varied by the Commission. Natural vegetation in this setback shall be preserved.

In addition, the Commission may require a landscape buffer be provided around the excavation prior to the initiation of the removal operation, conforming to the requirements of a B BUFFERYARD as specified in Section VII.A. of these regulations.

I. EROSION AND SEDIMENT CONTROL

1. Purpose

It is the purpose of this section to protect wetlands, watercourses, and other natural resources; prevent the occurrence of nuisances from erosion and sedimentation during construction operations which affect the value and enjoyment of neighboring and other affected properties; preserve a cover crop on the land; and provide adequate erosion and sediment control

procedures during construction in order to protect the public health, safety, and general welfare.

2. Procedure

A soil erosion and sediment control plan shall be submitted with any application for development when the disturbed area of such development is more than one-half acre. For purposes of this section, disturbed area shall mean an area where the ground cover is destroyed or removed.

- a. A single-family dwelling that is not a part of a subdivision of land shall be exempt from these soil erosion and sediment control regulations.
- b. A soil erosion and sediment control plan shall include, but is not limited to, the following:
 - (1) a narrative describing: the development; the schedule of major activities on the land (including start and completion dates, sequence of grading and construction activities, sequence for installation of erosion and sediment control measures, and sequence for final stabilization measures); the design criteria, construction details, and ongoing maintenance program for erosion and sediment control measures and the storm water management system.
 - (2) a site plan map showing: topographic data (including soil types, wetlands and watercourses); existing structures and the proposed development; proposed area alterations; location of and detailed information concerning erosion and sediment control measures and storm water control facilities; the sequencing of all construction phases; and the sequence of installing and details of erosion and sediment control features.
- c. The Commission through the Town Planner shall certify that the soil erosion and sediment control plan complies with the requirements

and purpose of these regulations or shall deny certification where the proposal does not comply. Certification is necessary prior to any approval of a relevant development application by the Commission.

- d. 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 may be required to be covered in a performance bond or other assurance acceptable to the Commission. If a bond is required, said bond shall be posted with the Town prior to the commencement of any site construction activities.
- e. Inspections shall be made by the Commission or its designated agent during development to ensure compliance with the certified plan. The Commission may require submission of progress reports by the applicant/developer to ensure compliance with this section.

3. Minimum Site Development Standards

- a. Installation - Required erosion and sediment control procedures shall be installed at the earliest possible date relative to the normal sequencing of construction operations.
- b. Maintenance - The applicant is responsible for ensuring that adequate erosion and sediment control measures are installed at all times during construction, that reasonable procedures are followed to minimize erosion and sedimentation, and that any proposed measures or problems are inspected, reviewed, and maintained on a regular basis.
- c. Restoration - The applicant is responsible for ensuring that adequate erosion and sediment control measures are installed at all times during construction, that reasonable procedures are followed to minimize erosion and sedimentation, and that any proposed measures or problems are inspected, reviewed, and maintained on a regular basis.
- d. Minimum Standards - The Connecticut Guidelines for Soil Erosion and Sediment Control (2002), as amended, shall be the minimum standards by which plans shall be reviewed for certification. The Town Planner may grant exceptions when requested by the applicant based upon technically sound alternatives.