

## SECTION V

### GENERAL AND SPECIAL REGULATIONS FOR COMMERCIAL AND INDUSTRIAL LAND USES

#### A. APPLICABILITY

The requirements of this Section apply to all Commercial and Industrial Zones in addition to all other requirements for the specific zone.

The use of any land or building shall not be changed and no building shall be erected or added to except in conformance with these regulations.

#### B. ACCESSORY BUILDINGS AND USES

Buildings or uses customarily incidental and subordinate to a permitted principal use are also permitted.

Ground-mounted satellite dish antennas are subject to the following requirements:

1. All yard setbacks shall be observed. In addition, no antenna shall be located closer than 100 feet to the front property line.
2. No antenna shall be located within any required landscaped perimeter or landscape buffer as defined in Section VII of these Regulations.
3. No antenna shall exceed a height of 13 feet measured from ground level to the highest point of the antenna.
4. The antenna shall be screened from adjoining lots, drives, and streets by the installation and maintenance of a visual barrier. All installations, including the antenna, dish, and mounting pad, shall employ materials and colors that blend with the surroundings.
5. Proposed antennas shall be shown as part of any application requesting Site Plan Approval to construct a principal use. Any request to modify a previously approved site plan by the addition of a satellite dish antenna shall require separate Site Plan Approval. A site development plan shall be prepared in accordance with Section X of these Regulations.
6. NIER emissions from this site as measured at the property lines and combined with ambient levels in similar frequency ranges shall not exceed levels adopted or established by either the American National Standards Committee C95.1 (ANSI), the Environmental Protection Agency of the United States, the State of Massachusetts Department of Public Health, or the State of Connecticut Department of Health Services, whichever is more stringent.

A single ground-mounted satellite dish antenna which is under 3 1/2 feet in diameter shall be permitted by right. All yard setbacks shall be observed.

Roof-mounted satellite dish antennas may be permitted by Special Exception provided the following standards and conditions can be met:

1. Applicant shall demonstrate that due to the unusual shape of a parcel of land, building design, or site layout, a ground-mounted installation is not feasible.
2. The antenna shall be completely screened utilizing building materials and a design which will complement and enhance the architecture of the building and not detract from it.
3. The height of the installation shall not exceed the maximum height restriction of the zone in which it will be located.
4. Proposed antennas shall be shown as part of any application requesting Site Plan Approval to construct a principal use. Any request to modify a previously approved site plan by the addition of a satellite dish antenna shall require separate Site Plan Approval. A site development plan shall be prepared in accordance with Section X of these Regulations.
5. The antenna shall meet all Special Exception Criteria listed in Section VIII of these Regulations.
6. NIER emissions from this site as measured at the property lines and combined with ambient levels in similar frequency ranges shall not exceed levels adopted or established by either the American National Standards Committee C95.1 (ANSI), the Environmental Protection Agency of the United States, the State of Massachusetts Department of Public Health, or the State of Connecticut Department of Health Services, whichever is more stringent.

C. CONSOLIDATED PARCELS

For the purpose of integrated development, any number of contiguous parcels may be consolidated for the purpose of development, and the consolidated parcel shall be construed to be one lot when computing building coverage and yard requirements, and permitted uses, provided:

1. The owner of each lot shall give to the owner of each lot in the consolidated parcel by deed, easement, or agreement filed in the Office of the Town Clerk, the right of entrance, exit, passage, parking and loading.
2. The consolidated parcel is developed with an integrated plan of buildings, parking, loading and unloading, and open space.
3. The Commission may require or limit use of access driveways to one or more parcels, whether or not under separate ownership, in order to assure

safe traffic movement onto the street and to avoid congestion.

D. OUTDOOR DISPLAY OF MERCHANDISE AND MATERIALS

The Commission may, by Special Exception, approve the display of merchandise in any commercial zone except for the NB Zone. Site Plan approval shall also be required in accordance with Section X of these Regulations.

The following criteria shall be met:

1. Merchandise shall not be displayed within the required front yard setback.
2. Parking spaces, landscaped areas, and walkways shall not be used for sales, storage, display of goods, or advertising purposes of any kind except for detached signs installed in conformance with these Regulations and except for the display of automobiles accessory to new car sales in parking spaces.
3. The area to be used for outdoor display shall be adequately screened from public view from any nearby public roadway or residence. The area shall be screened using a combination of landscape materials and decorative masonry walls which complement the main structure. The materials which will be used to construct the enclosure shall be of a design and overall quality as the Commission may require in determining that the display area will enhance the overall aesthetics of a project. No advertising signage shall be permitted on the enclosure or within the enclosure such that it can be seen by the public from outside the building. Measures shall be taken to prevent any adverse impact on nearby residences from sound which may be generated from the display area.
4. The pad for the display area shall be constructed of concrete, brick, or a similar material approved by the Commission.
5. The area shall not conflict with pedestrian or vehicular circulation.
6. The entire enclosure area shall be considered additional retail space and lot coverage. Accordingly, additional parking shall be required and certification shall be provided which documents compliance with maximum building and minimum landscaping requirements.
7. The outdoor display area may include a permanent structure(s) such as a trellis to be used in conjunction with the display of live plants. Any structure must receive Site Plan approval from the Commission. No temporary structures, such as tents, shall be permitted.
8. Approvals shall be valid for an initial period of three (3) years from the issuance of a certificate of occupancy. Prior to the expiration of the initial three-year period, or any subsequent approval, an application for renewal must be submitted. Consecutive extensions in increments of up to five (5) years may be granted if there are no documented violations of this

regulation, any other sections of these regulations, or conditions of approval imposed by the Commission.

E. AREAS FOR LOADING AND UNLOADING

Any lot developed for business or industrial use shall provide adequate space for the loading and unloading of goods and materials so located as to avoid conflict with vehicular movement. No loading space, any part thereof, or access thereto shall be located within the front yard, except for access from the street.

F. HOURS OF OPERATION

Retail establishments and restaurants shall be closed to the public between the hours of 2:00 a.m. and 5:00 a.m.

In a Neighborhood Business Zone, all premises shall be closed to the public between the hours of 10:00 p.m. and 6:00 a.m. except for emergency medical care facilities, which may be open for business 24 hours per day.

G. ENCLOSED OPERATIONS

All commercial and industrial uses and accessory uses shall be conducted wholly within enclosed buildings except for off-street loading and those operations normally conducted outdoors.

H. NOISE LEVELS

Commercial and industrial uses and processes shall not be conducted in such a way as to create noise which is considered objectionable due to volume, intermittence, beat, frequency, shrillness, or intensity.

Sustained noise levels shall not exceed the following decibel readings at the indicated locations:

<u>Frequency (Hertz)</u>	<u>Maximum Sound Level (Decibels)</u>	
	<u>At Residential Zone Boundaries</u>	<u>At Property Lines in Business Zones</u>
0 - 74	72	75
75 - 149	67	70
150 - 299	59	63
300 - 599	52	57
600 - 1199	46	52
1200 - 2399	40	45
2400 - 4799	34	40
4800+	32	38

I. ILLUMINATION

Commercial and industrial interior or exterior lighting, including signs, shall not be of such intensity, or located or directed in such a way, as to produce glare or discomfort on public streets or neighboring property.

J. ALCOHOLIC LIQUORS

Buildings intended to be used for the sale of alcoholic beverages shall observe the following requirements:

1. Buildings shall be located at least 500 feet in a straight line from any property used for church, public school, private school, or library purposes.
2. Any portion of a building to be used with a package store liquor permit or drug store liquor permit shall be located at least 1000 feet in a straight line from any portion of any other building used for the sale of alcoholic beverages for consumption off the premises.
3. Any portion of a building to be used with a restaurant liquor permit or hotel liquor permit shall be located at least 500 feet in a straight line from a Residential Zone and shall not advertise any alcoholic liquors or beverages in such a way that it is visible from the street.
4. Drug store, Grocery Beer, Restaurant, and Hotel permits are permitted as incidental uses only. Cafe permits are not permitted in any zone.

K. GAS STATIONS

Gasoline filling stations may be permitted by the Commission as a Special Exception in either the Commercial-Retail or Commercial- Specialized Zone. The Commission shall carefully review the suitability of any site proposed for such use in relation to the purposes of the specific zone and the Special Exception criteria. Premises intended to be used for a gasoline station shall observe the following requirements:

1. Premises shall be located at least 1500 feet in a straight line from any other property used as a gasoline filling station.
2. Premises shall be located at least 1000 feet in a straight line from any property used for a church, school, playground, or public park.
3. Gasoline pumps or other filling appliances shall be located at least 40 feet from any street or property line.

L. MAXIMUM SLOPE

In order to alleviate the danger of erosion hazards, to minimize the excesses of large earth moving operations, and to encourage that newly developed sites are compatible to the existing natural features, the following shall be the maximum slopes allowable on disturbed land:

for any filled slope - 3 horizontal : 1 vertical  
for any cut slope - 2 horizontal : 1 vertical

The Planning and Zoning Commission may modify this requirement upon the recommendation of the Town Engineer in unusual conditions where the use of retaining walls is necessary to most appropriately develop the site, and where such walls will not pose a safety hazard, and where the aesthetic impact will not negatively alter the characteristics of the site and neighborhood.

M. GUARD RAILS

In areas where parking spaces abut slopes which fall away in excess of 4 horizontal : 1 vertical, guard rails shall be installed in locations designated by the Town Engineer. Guard rails shall be constructed of pressure-treated wooden materials and be located on a minimum 3- foot-wide level shoulder adjacent to the curb.

N. TEMPORARY SPECIAL EVENT

Temporary special events as defined in Section II of these regulations are permitted up to a maximum of 4 times per parcel of land during each calendar year. Individual parcels which are joined as a result of a common merchants' association shall be limited to a maximum of 4 events per calendar year. Events held on Town-owned properties shall not be limited as to frequency. Special events are permitted only 1) in a Commercial zoning district on the grounds of an established commercial property; 2) in an Industrial or Office Park zoning district on the grounds of an established industrial or office property; 3) in a zoning district other than those listed above on the property of a use which has been approved by Special Exception, such as a school, church, library, or golf course; or 4) on property owned by the Town of Avon. Thirty days in advance of the event, a permit shall be applied for and approvals obtained from the Building Official, Fire Marshal, Farmington Valley Health District, and Public Safety Department. Applications must be signed by the property owner or, in the case of consolidated properties, by the owners of all properties subject to the consolidated agreement.

O. RESTAURANTS

1. Traffic generated by restaurant operations shall not adversely affect traffic flow, circulation, or patterns or the level of service on adjacent or nearby streets. The Commission may require an applicant for approval of a special exception for any restaurant to provide data or analyses from a qualified traffic engineer or other appropriate expert and may condition the approval of a special exception on roadway, signalization, intersection, drainage, or other improvements if the Commission deems such requirements to be necessary to assure compliance with these Regulations.
2. Restaurants that are expected to or actually produce more than 350 vehicle trip ends per peak hour of generation are prohibited.
3. The size, nature, character, and site layout of any restaurant requiring a special permit shall be designed in such a way as to minimize hazards to pedestrians and vehicles; to harmonize with the character of the neighborhood and zoning district in which the restaurant is or is to be located; and to prevent any nuisance or unnecessary annoyance to nearby properties. In determining whether a restaurant meets these requirements, the Commission may consider, and may limit by conditions, all operational aspects of the restaurant relevant to the generation of traffic, noise, litter, and pollution, including but not limited to the relative proportions of on-premises and off-premises consumption of food and beverages, the percentage of building space used for patron seating, the expected average duration of visits by customers, hours of operation, the nature of the food and beverages served at the premises, and the manner in which service is provided. If the operational aspects of any restaurant for which a special exception has been issued are changed in any manner that the Commission or its lawful agent determines to create a nuisance or to have a significant impact on the generation of traffic, noise, litter, or pollution, the Commission or its lawful agent may issue an order to cease such changed operations or may require an application for a new special exception.
4. Outdoor walk-up windows and drive-through windows shall be permitted only in the Commercial-Retail Zone and only upon the submission of evidence satisfactory to the Commission that the proposed walk-up or drive-through window will not cause or contribute to hazards to vehicles or pedestrians.
5. Outdoor dining may be permitted by Special Exception as an accessory use to all classes of restaurants. In addition to meeting all criteria enumerated in this section and Special Exception Criteria in Section VIII of these regulations, the following criteria shall be met:
  - a. It will not create visibility problems or hazards for motorists or pedestrians. Where appropriate, walls, fencing, or plantings are encouraged to separate seating from traveled areas and parking areas.

- b. No required parking spaces or drives shall be utilized.
  - c. Additional parking shall be provided at the rate required by these regulations for the additional number of seats to be added.
  - d. Tables shall not be located in such a manner as to restrict access by emergency services to any portion of the building. Access to neighboring properties shall not be obstructed, and at least 44 inches of unobstructed public walkway space shall be maintained around the perimeter of all buildings, including the portion of the building where outdoor dining is provided.
  - e. Hours of operation shall be limited to no later than 10 p.m. unless waived by the Commission.
  - f. All portions of the dining area shall be separated by a distance equal to the required yard separating distances for structures for the zone in which the restaurant is located.
  - g. If any structural or lighting changes are proposed, Site Plan Approval shall be required.
  - h. If the service of alcoholic beverages is proposed, the applicant must demonstrate that the location is compatible with surrounding uses; offers maximum protection to the public health, safety, and welfare; and does not detract from neighboring property values.
6. Any change in the nature of a restaurant from one class to any other class shall be considered a change to a new use and shall be allowed only upon proper application for and issuance of such approvals, permits, or special exceptions as may be required by these Regulations for such new use. In determining whether to issue such new approvals, permits, or special exceptions, the Commission or its lawful agent shall employ the standards and procedures set forth in these Regulations as they may be amended and existing on the date of such application.