

Town of Berlin

Zoning Regulations



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BERLIN ZONING REGULATIONS

Berlin Municipal Code Appendix B

ZONING

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SECTION I. INTENT AND PURPOSE

The Planning and Zoning Commission of the Town of Berlin, Connecticut, hereby adopts these regulations in accordance with the purposes, authority and requirements of the General Statutes of the State of Connecticut, for the following purposes:

- A. To guide the future growth and development of the town in accordance with the town's convenient relationships among the residential, commercial, industrial and public areas within the town, considering the suitability of each area for such uses as indicated by existing conditions, trends in development and changing modes of living, and having due regard for the use of land, building development and economic activity, both within and adjacent to the town;
- B. To provide adequate light and air;
- C. To prevent the overcrowding of the land and to avoid undue concentration of population;
- D. To secure safety from fire, panic, flood and other dangers;
- E. To protect and conserve the character, the environment and the social and economic well-being of the town;
- F. To protect and conserve the value of land and buildings throughout the town, appropriate to the various zones established by these regulations;
- G. To bring about the gradual conformity to the uses of land and buildings throughout the town to the adopted Plan of Conservation and Development and to minimize conflicts among the uses of land and buildings;
- H. To promote the most beneficial relationship of streets and traffic circulation throughout the town and the arrangement of land uses, having particular regard for the minimizing of congestion in the streets and the promotion of safe and convenient vehicular and pedestrian access appropriate to the various uses throughout the town;
- I. To provide a guide for public policy and action in the efficient provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings through the town;
- J. To ensure that development takes place in an amount commensurate with the availability and present and future capacity of public facilities and services, thereby facilitating adequate provision for transportation, water, school, parks, recreation, open space and other public requirements;
- K. To encourage the appropriate use and sound management of natural resources throughout the town and conserve the town's natural beauty and topography; and,
- L. To encourage the development of housing opportunities for all citizens of the town, consistent with soil types, terrain and infrastructure capacity.

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SECTION II. RULES AND DEFINITIONS

A. General construction of language. In the construction of these regulations, the rules and definitions contained in this section shall be observed and applied, except where the context clearly indicates otherwise.

1. Words used in the singular may include the plural, and the plural the singular; words used in the present tense may include the future tense.
2. The word *shall* is mandatory and not discretionary.
3. The word *may* is permissive.
4. The word *lot* shall include the words *piece* and *parcel*.
5. The word *zone*, *zoning district*, and *district* shall have the same meaning.
6. The phrase *used for* shall include the phrases *arranged for*, *designed for*, *intended for*, *maintained for*, and *occupied for*, and vice-versa.
7. The phrase *these regulations* shall refer to the entire zoning regulations of the Town of Berlin.
8. The word *section* shall refer to a section of these regulations, unless otherwise specified.
9. The word *person* or *applicant* shall include any individual, firm, partnership, corporation, association, organization or other legal entity.
10. The word *building* shall include the word *structure*, and any part thereof.
11. The word *built* shall include the words *erected*, *constructed*, *reconstructed*, *altered*, *enlarged*, or *occupied*.
12. The word *premises* shall include land and buildings thereon.
13. The word *town* means the Town of Berlin, Connecticut.
14. The word *state* means the State of Connecticut.
15. The word *commission* means the Planning and Zoning Commission of the Town of Berlin, unless otherwise specified.
16. The abbreviated *ZBA* means the Zoning Board of Appeals of the Town of Berlin.
17. The terms *zoning inspector* and *zoning enforcement officer* means the same official. The abbreviation *ZEO* means the zoning enforcement officer of the Town of Berlin.
18. Any agency, commission, board or department is that of the Town of Berlin, unless otherwise specified.
19. The word *original* means the conditions existing at the effective date of these regulations.
20. Words which are specifically masculine or feminine shall be interpreted as interchangeable.
21. The words *occupied* or *used* shall be considered as though followed by the words *or intended*, *arranged* or *designated to be used or occupied*, unless the natural construction of the sentence indicates otherwise.
22. All distances shall be measured horizontally unless otherwise indicated.
23. The term *town engineer* means the town engineer and/or supervisor of public works of the Town of Berlin.

24. The terms "architect," "landscape architect," "surveyor," "land surveyor," "engineer," "professional engineer," "civil engineer," "soil scientist," or "traffic engineer" refers to that specific professional registered and licensed to do business in the State of Connecticut.
25. The terms "General Statutes" means the General Statutes of the State of Connecticut, as may be amended.

B. Definitions.

Affordable housing: Housing for which persons and families pay 30 percent or less of their annual income, where such income is less than or equal to the area median income for the town, as determined by the U.S. Department of Housing and Urban Development

Alcoholic beverage: All spirituous and intoxicating liquors, as defined in the Connecticut General Statutes.

Alteration: As applied to a building or structure:

- a. A change or rearrangement in the structural parts;
- b. An enlargement or reduction, whether horizontally or vertically; or
- c. The moving from one location or position to another.

Antenna(s): A device used in communications which transmits or receives telecommunications or radio signals. Examples include panel, whip and dish antennas.

Area, building: Total of areas taken on a horizontal plane at the main grade level of and terraces.

Area, site: The total area within the property lines of a site excluding external streets.

Basement: That portion of a building that is partly or completely below grade (see Story Above Grade). The definition of cellar shall be interchangeable with the term Basement. This definition shall remain consistent with the CT Adopted Building Code.

Basement Wall. The opaque portion of a wall that encloses one side of a basement and has an average below grade wall area that is 50 percent or more of the total opaque and non-opaque area of that enclosing side. This definition shall remain consistent with the CT Adopted Building Code.

Beer: Any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and hops in drinking water, as per Connecticut General Statutes §30-1.

Bed and breakfast accommodations: An establishment offering transient lodging accommodations to the general public operated by a resident manager, with a maximum of five guestrooms, with the serving of meals limited to breakfast for guests.

Billboard: A sign which directs attention to a business, commodity, service or entertainment conducted, sold, offered or manufactured at a location other than the premises on which the sign is located.

Brew Pub: An establishment whose sole use is for:

- (1) the manufacturing, storage and bottling of beer;
- (2) the retail sale of alcoholic liquor to be consumed on the premises with or without the sale of food;

(3) the selling of retail from the premises of sealed bottles or other sealed containers of beer brewed on such premises for consumption off the premises; and,

(4) the sale of sealed bottles or other sealed containers of beer brewed on such premises.

The brew pub must produce at least five thousand gallons of beer on the premises annually. Such selling at retail from the premises of sealed bottles or other sealed containers shall comply with the Connecticut State Statutes Manufacturing Permit and shall permit not more than nine liters of beer to be sold to any person on any day on which such sale is authorized under the provisions of Connecticut General Statutes §30-91 Subsection(d). All brew pubs in the Town of Berlin must maintain a license by the State of Connecticut.

Buffer, buffer area or buffer strip: A strip of land along a property boundary free of any building, structure or use other than natural woody growth, landscaping, fencing or screening designed to create open space separating uses or to shield or block noise, lights or other nuisances.

Building: A structure having a roof supported by a columns or walls and intended for the shelter, housing, or enclosure of any person, animal, process, equipment, goods or materials of any kind or nature.

Building, accessory: A subordinate building, the use of which is customarily incidental to that of a principal building on the same lot, or on a contiguous lot under the same ownership.

Building bulk: The gross volume above ground level of all buildings on a lot, excluding open porches, balconies and permitted height exceptions.

Building coverage: The percentage which the ground floor area of all buildings and structures on a lot bears to the lot area.

Building height: The vertical distance of a building measured from the average finished grade at the building wall to the highest point of the mansard, curvilinear or flat roofs or to the mean level between the eaves and the ridge of gable, hip or gambrel roofs, excluding parapets not more than four feet high. For the purposes of Elderly Housing, height shall be the vertical distance from the average ground level (finished grade) of the highest structure face to the highest point on the structure, excluding architectural screening elements for mechanical equipment, chimneys, and decorative cupolas.

Building length: The horizontal distance between the furthestmost walls of a building, measured along the line parallel to the axis of its greatest dimension.

Building, principal: A building in which is conducted the main or principal use of the lot on which it is situated.

Campground: Any parcel intended to be used by campers for occupancy by tents or recreational vehicles.

Campsite: The space reserved for a single tent or temporary structure.

Change of use: Any proposed use which substantially differs from the existing use of a building, structure or lot by having different zoning requirements or is otherwise categorized differently in the zoning regulations.

Channel: A segment of a frequency band. Also referred to simply as "frequency."

- Clean fill:* Natural soil, rock, brick, ceramics, concrete and asphalt paving fragments which are virtually inert and pose neither a pollution threat to ground or surface waters, nor a fire hazard.
- Club:* A building, structure or use operated by a nonprofit recreational, fraternal, political, civic, social or athletic organization on a non-for-profit basis for its members or guests accompanying them.
- Collocation:* Locating wireless communications equipment from more than one provider on a single site. This reduces the need to build a new communications tower. A collocated telecommunication facility may include accessory structures such as cabinets and sheds for associated telecommunication equipment.
- Commercial:* Relating to or connected with the interchange of goods or commodities including, but not limited to, the offering and/or sale of personal or professional services.
- Common carrier:* A public radio service in which a single licensee provides one-way or two-way service to multiple users.
- Communications facility:* A land use facility supporting antennas and microwave dishes that send and/or receive radio frequency signals.
- Communications tower:* A structure that is intended to support antennas and other telecommunications equipment in the provisions of wireless telecommunications services. Examples include monopoles, lattice and guyed towers.
- Congregate senior housing facility:* A residential community occupied by those aged 55 and over to the extent permitted by the federal and state fair housing laws with support services that may include meal service, laundry service, housekeeping, social, recreational, and spiritual activities, medical, therapy, transportation, and personal services. All such services shall be for the exclusive use of the residents of the facility and may not be offered to the general public. These facilities may include administrative officers used solely in support of its operations.
- Court:* An open unoccupied space, other than a yard, on the same lot with a building or group or buildings and which is bounded on two or more sides by such building or buildings.
- Court, inner:* A court enclosed on all sides by the exterior walls of a building.
- Court, outer:* A court extending to a street line or opening upon any front, side, or rear yard.
- CRCOG:* Capital Region Council of Governments.
- Cul-de-sac street:* A street with only one means of ingress and egress and ending in a turnaround.
- Day care center, adult:* A facility to provide supervisory daytime care for adults in a congregate setting to persons not residing in nursing homes or in medical or psychiatric institutions.
- Day care center, child:* An establishment which offers or provides a program of supplementary care to more than 12 related or unrelated children outside their own homes on a regular basis for a part of the 24 hours in one or more days in the week.
- Deck:* A porch-like structure or portion of a structure, usually constructed of wood, with structural supports and having a height of more than eight inches above ground level.

- Dish antenna:* A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called *Microwave antenna* or *Microwave dish antenna*.
- Disability glare:* The eye's line-of-sight with a direct light source, which causes a partial blindness.
- Domestic Pets:* Any of various animal species indigenous to the area that have been tamed by hundreds of years of human exposure and made fit for a human environment.
- Drainage:* The controlled removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development, to maximize groundwater recharge, and to prevent or alleviate flooding.
- Drive-in establishment:* An establishment which by design, physical facilities, service or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles (e.g., restaurants, car washes, banks, theaters, etc.)
- Drive-through facilities:* Any facility which by design, physical facilities, service or packaging procedures encourages or permits customers to receive service or obtain goods while remaining in their motor vehicles.
- Dustless surface:* A surface adequately covered with screening, stone, gravel, asphalt, or bituminous products or adequately treated with calcium chloride, or similar dust-inhibiting substances.
- Dwelling:* A building designed or used exclusively as living quarters for one or more families. The term shall not be deemed to include motel, hotel, rooming house or tourist home.
- Dwelling, attached:* A building containing two or more dwelling units attached to each other by continuous vertical party walls, without openings except for utilities, which walls extend from the basement or cellar to the roof.
- Dwelling, detached:* A dwelling surrounded on all sides by yards and which does not have any roof, wall or floor in common with any other dwelling unit.
- Dwelling, multifamily:* A building containing three or more dwelling units including, but not limited to, garden apartments and townhouses.
- Dwelling, two-family:* A detached building containing two dwelling units.
- Dwelling unit:* A room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, arranged or designed to be occupied for living, sleeping, cooking and eating and including separate kitchen facilities and bathroom facilities.
- Dwelling unit, accessory:* A separate dwelling unit which is part of, and accessory to, a single-family residence.
- Dwelling unit, efficiency:* A dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.
- Earth:* Any material of which the ground is composed including, but not limited to, soil, loam, sand, gravel, rock, stone, and clay.
- Electromagnetic field (EMF):* The local electric and magnetic fields that envelop the surrounding space. The most ubiquitous source of EMF's is from the movement

and consumption of electric power, such as with transmission lines, household appliances and lighting.

Emergency Animal Clinic: an up to twenty-four hour a day clinic for the emergency treatment of small, domestic pets. Exotic animals larger than 25 pounds are not permitted. Wildlife may be brought to the hospital on a short term, emergency situation to be euthanized or sent to proper wildlife authorities for rehabilitation. The facility, including cage areas for patients, must be completely enclosed and constructed and maintained so that objectionable odors and noise are not emitted from the building. Overnight accommodations for staff must be accessory to veterinary use only. Kennels for the purpose of boarding are not permitted. Boarding of animals will be permitted only on a short-term basis for sick or surgical patients. A green area may be provided for animals to be taken outside for walks (15 minutes maximum) on a finding of the Planning and Zoning Commission that no nuisance will be created by either odor or noise. All animals taken outside must be on a leash at all times. Proper disposal of animal waste is required.

Environmental impact evaluation (E.I.E): A detailed written document concerning the environmental impacts of a proposed development and/or action.

Erosion: The detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, ice or gravity.

Excavation: The digging out, extraction and removal of earth, whether exposed or covered by water, so as to alter its contour.

FAA: Federal Aviation Administration.

Family: One person, or a group of two or more persons related by blood, marriage, legal adoption or legal guardianship, or a group of not more than four unrelated persons, living and cooking together as a single housekeeping unit, including domestic help but excluding boarders or roomers.

Family day care home: A private family home caring for not more than six children, including the provider's own children not in school full-time, where the children are cared for not less than three nor more than 12 hours during a 24-hour period, where care is given on a regularly recurring basis, and where the principal provider of the service resides on the premises.

Farm: See Section XI C, Agriculture.

Farm occupation, customary accessory: See Section XI C. Agriculture.

Farm Winery: Any place or premise in which wine is manufactured and sold and which is located on a farm parcel consisting of at least twenty (20) acres and with at least ten (10) acres of the land dedicated to the growing of fruits used to produce the wine. Such land shall either be planted in fruit for wine or held in abeyance for future growing. (For the purposes of these regulations, a Farm Winery is limited to wine and brandies distilled from grape products or other fruit products, including grappa and eau-de-vie.) A Farm Winery must manufacture wine on site. A Farm Winery permittee shall grow on the premises of the Farm Winery located in Berlin, at least an average crop of fruit equal to not less than twenty-five (25) percent of the fruit used in the manufacture of the Farm Winery permittee's wine. The remaining seventy-five (75) percent may come from other vineyards provided State Law allows for such. And average crop shall be defined

each year as the average yield of the Farm Winery permittee's two largest annual crops out of the preceding five years, except that during the first seven years from the date of issuance of a Farm Winery permit, an average crop shall be defined as three tons of grapes for each acre of land farmed by the Farm Winery permittee. Fifty (50) percent of the wine provided for tasting or retail sales on the premises must be manufactured on the Berlin Farm Winery. The shipping of wine to off-site premises shall be controlled by State law. General picnicking and touring of the grounds by the public is not considered a special event and shall be permitted as a normal activity of the Farm Winery.

Farm Winery Retail Store: A building or a portion of a building located on the Farm Winery established as a place for the retail sale of wine by the bottle or case(s) manufactured on or off the premises. Such retail store may only exist as an accessory to an actively producing Farm Winery. Should the manufacturing of wine cease or the winery close, the retail store must be converted to a legal use in the zone. All products must be sealed for consumption off the site, except for approved tastings in compliance with the State of Connecticut Liquor Control Act.

Farm Winery Special Event: Events such as weddings, bat and bar mitzvahs, quinceaneras, art exhibits, wedding and anniversary receptions, birthday parties, seminars, and other such events.

Farm Winery Tasting Rooms and Special Events: A building or portion of a building used to hold tastings or special events on the premises of the Farm Winery. Such room and use may only exist as an accessory to an actively producing Farm Winery and must cease operation should the winery use close. These buildings shall not include a catering facility or full kitchen. Hand washing sinks, kitchen sinks, microwaves, and outlets to allow for minor appliances such as coffee pots, hot plates, warming ovens, and other items normally needed by a caterer while off site are permitted. Wine sold by the bottle or glass is permitted and is allowed to be consumed on the premises.

Federal Communications Commission (FCC): The federal agency responsible for licensing and regulating wireless communications providers. The FCC has primary regulatory control over communications providers through its powers to control interstate commerce and to provide a comprehensive national system in accordance with the Federal Communications Act.

Fence: A structure designed of any material or combination of materials erected to enclose, separate, screen or buffer areas of land.

Filling: The process of depositing clean fill such as soil, sand, gravel, rock or clay.

Floor area ratio (F.A.R.): The gross floor area of all principal structures on a lot divided by the lot area.

Footcandle: A unit of luminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

Frontage: The contiguous length measured along that side of a lot abutting on a public street. Said length shall be measured along the street line except said length shall be measured along the front yard setback line in those situations where the street line is an arc or a lot's side lines converge toward the street provided said convergence is perpendicular or radial to the street lot lines.

Full cutoff type fixture: A luminary or light fixture that does not allow any light dispersion or direct glare to shine above a 90-degree, horizontal position as designed, or the purpose of the design is defeated, and disability glare will result.

Funeral home: A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Garage, private: An accessory building or portion of a principal building used for the parking and storage of motor vehicles and not available to the general public.

Garage, public: A building or portion thereof other than a private garage or carport, used for the parking and storage of motor vehicles and available to the general public.

Garden supply centers: An agricultural and associated retail operation where the primary use is the propagation, growth, storage, and/or sale of flowers, plants, shrubs, or trees. This use may also include the sale of garden related merchandise not to include the sales, service, or rental of power equipment or its attachments, pool supplies, or porch and patio furniture.

Gasoline filling station: Any building, place or location primarily engaged in the sale of gasoline and motor oil and which may sell other merchandise or perform minor repair work.

Grade, finished: The final evaluation of the ground surface after the completion of grading.

Grade, plane: A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet (1829 mm) from the building between the building and a point 6 feet (1829 mm) from the building. This definition shall remain consistent with the CT Adopted Building Code.

Grading: Any excavation, grubbing, filling (including hydraulic fill) or stockpiling of earth, or any combination thereof, which results in a change of contour or elevation of the land.

Gross floor area (GFA): The sum of the gross horizontal areas of the floors of a building, measured from the exterior faces of exterior walls, or from the centerline of walls separating two buildings. In particular, the gross floor area of a building shall include:

- a. Basement space.
- b. Penthouses.
- c. Attic space (whether or not a floor has actually been laid) providing structural headroom of seven feet, six inches or more.
- d. Interior balconies and mezzanines.
- e. Enclosed and covered porches.

However, the gross floor area of a building shall not include:

- a. Elevator shafts and stairwells at each floor.
- b. Floor space for permanent fixed mechanical and HVAC equipment.
- c. Elevator and stair bulkheads, accessory water tanks and cooling towers.
- d. Uncovered steps.
- e. Terraces, plazas, decks, and open spaces.

Gross leasable area (GLA): The GLA shall be determined by deducting 15 percent from the gross floor area in office buildings and 30 percent from the gross floor area in shopping center buildings.

Group day care home: An establishment which offers or provides a program of supplementary care to not less than seven nor more than 12 related or unrelated children on a regular basis for a part of the 24 hours in one or more days in the week.

Group homes: A community-based residential facility which houses up to six mentally retarded or autistic persons and is regulated under applicable General Statutes.

Health and/or fitness center: An establishment that provides facilities for exercises, game courts, swimming, showers, or massages only when provided by licensed masseurs.

Home office, home occupation: A commercial enterprise operated by the resident of a dwelling unit as an accessory use to the residence.

Horizontal luminance: The measurement of brightness from a light source usually measured in footcandles which is taken through a light meter's sensor at a horizontal position.

Hospital: A structure, or group of structures, used for the diagnosis, treatment, or other care of human ailments and containing inpatient beds.

Hotel: A building, or part thereof, which has a common entrance and general dining room and which contains 50 or more living and sleeping rooms, designed to be occupied by individuals or groups of individuals for compensation. Hotel facilities may include conference facilities and incidental retail and service uses.

Impervious surface coverage: The percentage which the ground floor area of all buildings, structures and pavement on a lot bears to the lot area.

Independent living: A residential community with on-site management catering to senior citizens with independent living quarters for persons who are 55 years of age and older. These facilities may include common areas and spaces for the provision of services and programs in support of the residents. Residents may also receive medical and personal services within their individual dwelling unit.

Inoperable vehicle: Means inherently incapable of performing the function for which designed by virtue of parts missing, essential components broken or severely damaged, and incapable of being registered.

Interference: Disturbances to reception caused by radio frequency waves or other electric fields.

Junkyard: Any place in or on which old metal, glass, paper, cordage or other waste or discarded or secondhand material, which has not been a part, or is not intended to be a part, of any motor vehicle, is stored or deposited, but not including recycling centers, transfer stations or other such facilities established by the town or its designee for the purpose of complying with the General Statutes regarding solid waste.

Junkyard, motor vehicle:

- a. Any business of any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two or more unregistered motor vehicles or used parts of motor vehicles or old iron, metal, glass, paper, cordage or other waste or discarded or secondhand material

which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two or more motor vehicles;

- b. Any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to cut up the parts thereof.

Kennel, commercial: A kennel maintained as a business for selling, boarding or grooming dogs.

Kitchen: A room, place or space within a structure equipped for the preparation and/or cooking of food.

Leaf composting facility: A facility designed for the storage and decomposition of leaves and the sale of its resultant compost.

Light trespass: Light from an artificial light source that is intruding into an area where it is not wanted or does not belong.

Loading space: An off-street area or berth for the loading or unloading of commercial vehicles.

Lot: A parcel of land occupied or capable of being occupied by a principal building, structure or use and the accessory buildings, structures or uses customarily incidental thereto.

Lot area: The total area within the lot lines of a lot, excluding any street rights-of-way.

Lot, corner: A lot which two adjacent sides face a street or streets so that the interior angle of the intersection is not more than 120 degrees, provided that the corner of any such intersection is not rounded by a curve having an inside radius greater than 50 feet.

Lot, exterior: A lot having frontage on a street.

Lot, interior: A lot having no frontage on a street.

Lot of record: A lot which is either part of an approved subdivision which has been recorded in the office of the town clerk or described by metes and bounds which has been recorded in the land records of the town prior to the date of adoption of these regulations.

Lot, rear: A lot located to the rear of another lot and served by an access way owned in fee by the owner of the rear lot.

Lot, through: A lot which abuts two parallel streets, or which abuts two streets which do not intersect at the boundaries of the lot.

Lot line: A line bounding the area of a lot.

Lot line, front: The lot line separating a lot from a street right-of-way.

Lot width: The horizontal distance between the side lot lines of a lot, measured in a straight line at but not in front of the required front yard setback line.

Manufacturing: The making, processing, fabrication or assembling of good or wares by manual labor or by machinery.

Manufactured home: A detached residential unit having three-dimensional components which are intrinsically nonmobile without a wheeled chassis or a detached residential unit built on or after June 15, 1976, in accordance with federal manufactured home construction and safety standards, and, in either case, containing sleeping accommodations, a flush toilet, tub or shower bath, kitchen

facilities and plumbing and electrical connections for attachment to outside systems, and designed for longterm occupancy.

Monopole: A structure composed of a single spire used to support communications equipment.

Motel: A building or group of buildings containing between 25 and 49, in total, guest rooms designed and used primarily for the accommodation of transient automobile travelers for compensation.

Motor vehicle: Includes automobiles, cars, trucks, camp trailer, boat trailer, house trailers, and mobile homes, motorcycles or any other wheeled vehicle designed or used for highway use and required to be registered by the state department of motor vehicles.

Multifamily development: Three or more dwelling units located on one lot.

Nursery school: A school designed to provide daytime care for instruction for five or more children from two to five years old.

Nursing or convalescent home: Any establishment where persons suffering or convalescing from illness due to infirmity, disease or ailment are boarded or housed with on-site medical care.

Office: A room, group of rooms, or facilities in which services involving predominantly administrative, professional, or clerical operations are performed.

Open space: A space not occupied by a building or structure on the same lot as the principal building or use or within the same project.

Panel antenna: An antenna or array of antennas designed to concentrate a radio signal in a particular area. Panel antennas are typically flat, rectangular devices approximately six square feet in size. Also called *Directional antennas*.

Parking area: Any public or private land area designed and used for parking motor vehicles including parking lots, garages, private driveways and legally designated areas of public streets.

Parking lot: An off-street, ground level area used for the temporary parking of more than four motor vehicles and available to the general public, whether for free or for compensation, or to accommodate employees, clients, customers or residents, but not including private driveways.

Parking space, off-street: The area intended for the temporary parking of a motor vehicle, not including aisles and driveways giving access thereto, located in other than a public street or other public way and having a permanent means of access to a public street without requiring passage through another parking space.

Patio: See *Terrace*.

PCS: Personal communication services.

Pet: An animal that is domesticated and customarily kept within the home for personal use or enjoyment.

Place of worship: A building which is intended for the conduct of religious services and which is maintained and controlled by a religious body organized to sustain public worship and recognized as such for nonprofit status by the Internal Revenue Service.

Porch: A structure, with or without a roof, projecting out four feet or more from the wall or walls of a building, including a deck.

Premises: A lot, parcel or tract of land together with the buildings and structures thereon.

Private: Confined to, or intended, only for the persons immediately concerned; not for public or common use.

Private school: Any building or group of buildings the use of which meets the state's requirements for primary, secondary or higher education and which is not operated by the town or any other governmental agency.

Public and semipublic use: A nonprofit or quasi-public use or institution such as a place of worship, library, post office, hospital, school or facility of the town, state, or federal government.

Public school: Any building or group of buildings, the use of which meets the state's requirements for primary, secondary or higher education and which is operated by the town or state.

Radio: A generic term referring to communication impulses, sounds, and pictures through space by means of electromagnetic waves.

Recreation facility: A place designed and equipped for the conduct of sports, leisure time activities or other customary and usual recreational activities.

Recreational vehicle: A portable vehicle built on a chassis, which can be towed, hauled or driven and primarily designed to be used as temporary living accommodations for travel, camping and recreational purposes including, but not limited to, campers, travel trailers and motor homes but excluding mobile manufactured homes.

Residence: A dwelling unit or group of dwelling units.

Restaurant, fast-food: An establishment or use whose principal business is the sale of prepared or rapidly prepared foods, frozen desserts or beverages to the customer in a ready-to-consume state, primarily served in paper, plastic or other disposable containers, for consumption within the restaurant building, elsewhere on the premises, or for carryout or for consumption via drive-through or off the premises.

Restaurant, sit-down: An establishment or use whose principal business is the preparation and serving of food for consumption on the premises, primarily served by waiters or waitresses at tables, booths or similar sit-down accommodations primarily within the restaurant building.

Right-of-way street: The area of a public or private street, between the two opposing street lines of that street.

Screen or screening: Either:

- a. A strip at least four feet wide, densely planted (or having equivalent natural growth) with shrub or trees at least four feet high at the time of planting of a type that will form year round a dense screen at least six feet high within three years; or
- b. An opaque wall or barrier or uniformly painted fence at least six feet high. Either (a) or (b) shall be maintained in good condition at all times and may have normal entrances and exits.

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

Setback line: A line parallel to a street or lot line at a distance established by the minimum yard requirements of these regulations, behind which buildings and structures may be legally erected.

- Service center for public transportation vehicles:* An area of land, including structures thereon, used for the servicing of public transportation vehicles including buses, vans, and limousines, such services to include inspection, repair, maintenance, and refueling. Such services shall not be offered or sold to the general public.
- Shopping center:* A grouping of retail businesses and service establishments on a single site with common parking facilities and containing at least 25,000 square feet of gross building floor area.
- Sign:* Any advertisement, announcement, direction, or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any printed, lettered, pictured, figured or colored material on any building, structure, or surface.
- Sign, business:* A sign which directs attention to a business's commodity, service or entertainment conducted, sold, offered or manufactured on the premises on which the sign is located. Such signs shall include those of individual retail, wholesale, industrial or commercial establishments.
- Sign, canopy:* A sign which is part of or attached to an awning canopy, or other fabric, plastic or structural protective cover over a door, entrance, window, walkway or outdoor service area; a marquee is not a canopy.
- Sign, construction:* A temporary sign, located on the premises on which construction is taking place during the period of such construction, which may indicate the names of the design professionals, contractors, owners, financial supporters, sponsors and/or similar individuals or firms having a role or interest with respect to the structure or project.
- Sign, directional:* A sign limited to directional messages, principally for pedestrian or vehicular traffic such as "one way," "entrance" or "parking."
- Sign, freestanding:* A sign placed on the ground or supported by one or more uprights, poles or other supports placed in or upon the ground.
- Sign, identification:* A sign, located on the premises, which indicates the name, address and/or identifying symbol of:
- a. A development containing two or more occupants such as a professional office building, a residential development and industrial park or commercial shopping center; or
 - b. A school, park, church, hospital, or other public or semipublic facility.
- Sign, marquee:* A sign attached to or made part of the vertical face of a building marquee.
- Sign, nameplate:* A sign, located on the premises, which indicates the name and occupation or profession of each occupant of the premises.
- Sign, portable:* A sign which is not permanent, affixed to a building, structure or the ground.
- Sign, projecting:* A sign which is wholly or partly dependent upon a building for support and which projects more than 15 inches from the building.
- Sign, public service:* A sign erected by, or on behalf of, nonprofit organizations for promoting civic events of nonprofit organizations.
- Sign, real estate:* A sign which pertains to the sale, lease or rental of the premises, or a portion of the premises, on which the sign is located.

- Sign, roof:* A sign mounted on, against or directly above the roof or on top of or above the parapet of a building or structure.
- Sign, temporary:* A sign temporary in nature such as announcing a business opening, a festival, a bazaar, a tag sale or a political campaign.
- Sign, wall:* A sign attached to the exterior wall of a structure in such a manner that the wall becomes the support for, or forms the background surface of, the sign and which does not project more than 15 inches from the structure.
- Soil:* Any unconsolidated mineral or organic material of whatever origin.
- Solar Energy System:* A combination of solar panels which may include solar energy equipment, used to generate electrical power which may be located on the ground or on a roof.
- Solar, Large Scale:* Solar energy systems located on land primarily used to convert solar energy into electricity for offsite energy consumption.
- Solar Panel:* A device capable of collecting and converting solar energy into electrical energy.
- Solar Panels, Ground Mounted:* A solar energy panel or system that is anchored to the ground and attached to a pole or similar mounting system.
- Solar Panels, Roof Mounted:* A solar panel located on a roof of a permitted principle use.
- Stable:* An establishment where horses are kept, ridden, boarded, bred, shown, trained, groomed, housed or sold for commercial purposes.
- Stoop:* Any raised building entrance platform with one or more steps leading up to it.
- Story:* That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. This definition shall remain consistent with the CT Adopted Building Code.
- Story, Above Grade Plane:* Any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement meets any one of the following: (This definition shall remain consistent with the CT Adopted Building Code)
- a. Is more than 6 feet (1829 mm) above grade plane.
 - b. Is more than 6 feet (1829 mm) above the finished ground level for more than 50 percent of the total building perimeter.
 - c. Is more than 12 feet (3658 mm) above the finished ground level at any point.
- Story, half:* That portion of a building under a gable, hip or gambrel roof, the floor of which is not more than two feet below the roof plate at its closest point.
- Street:* Any right-of-way used as a public thoroughfare or a proposed public thoroughfare shown upon a plan approved by the commission and for which a bond has been posted with the town guaranteeing construction thereof.
- Street line:* The common line between a lot and a street right-of-way.
- Structure:* Anything constructed or erected, the use of which requires:
- a. Location on, in or under the ground or water; or
 - b. Attachment to something having location on the ground or water including, but not limited to: buildings, swimming pools, tennis courts, towers, paddle or platform tennis courts, docks, balconies, open entries, porches, decks, handicap ramps, signs, permanent awnings, gas or liquid storage tanks which are principally above ground, ground-mounted antennas, ground-mounted

solar panels or satellite dishes, or fences or walls (other than retaining walls) more than six feet in height.

Structure, accessory: A structure, the use of which is customarily incidental and subordinate to that of the principal building, structure or use on the same lot.

Structure, principal: A structure in which is conducted the main or principal use of the lot on which it is situated.

Structural alteration: Any change in or addition to the supporting members of a building such as bearing walls, columns, beams or girders or other such work requiring a building permit under the state building code.

Swimming pool: A water-filled structure, permanently constructed or portable, having a depth of more than 24 inches and a water surface area of more than 60 square feet, used for bathing or swimming.

Subdivision plan: The final map or drawing of the subdivision approved by the commission and filed or recorded in the office of the town clerk.

Telecommunications Act of 1996: An act which contains important provisions concerning the placement of towers and other facilities for use in providing personal wireless service. Section 704 governs federal, state and local government oversight of siting of "personal wireless service" facilities. The act establishes a comprehensive framework for the exercise of jurisdiction by state and local zoning authorities over the construction, modification and placement of facilities such as towers for cellular, personal communications service (PCS), and specialized mobile radio transmitters.

Temporary structure: A structure without any foundation or footings erected for a limited period of time and intended to be removed upon the expiration of such time period.

Temporary use: A use established for a limited period of time and intended to cease upon the expiration of such time period.

Terrace or patio: A level, landscaped and/or surfaced area located on the ground with no structural supports other than subsurface base material and retaining walls. A terrace or patio located at grade or ground level shall not be deemed to be a structure.

Trailer: A structure standing on wheels, towed or hauled by another vehicle and use for short-term human occupancy, carrying materials, goods or objects, a temporary office for a construction project or for special events.

Unattended car wash: A structure in which motor vehicles are washed by means of automatic spraying and drying mechanical equipment without the use of conveyor devices.

Uniformity ratio (U. Ratio): The average level of illumination in relation to the lowest level of illumination for a given area.

Unightly material: Means parts of motor vehicles as well as, but not limited to unusable and/or discarded household appliances, furniture, equipment, building materials, junk and refuse, as well as any other material which is unsanitary or causing a nuisance.

Uplighting: Any light source that distributes illumination above a 90-degree horizontal plane.

Use: The specific purpose or activity for which a building, structure or lot is intended.

Use, accessory: A use which is customarily incidental and subordinate to that of the principal building, structure or use on the same lot.

Use, principal: The primary or predominant use of a building, structure or lot.

Vehicle, commercial: A motor vehicle with commercial license plates or with lettering, markings, racks or other apparent accessories indicating it is intended for use other than personal and/or recreational transportation.

Veterinary Clinic (with kennels for the purpose of boarding): Veterinary services including grooming and short-term emergency overnight care for small, domestic pets. Exotic animals larger than 25 pounds are not permitted. Wildlife may be brought to the clinic on a short term, emergency basis to be euthanized or sent to proper wildlife authorities for rehabilitation according to Federal and State laws. The main facility, including cage areas for patients, must be completely enclosed and constructed and maintained so that objectionable odors and noise are not emitted from the building. Overnight accommodations at the facility for staff must be accessory to veterinary use for surgical or emergency patient care only. Kenneling for the purpose of boarding as an accessory use, including outdoor runs, shall be permitted only on a finding of the Planning and Zoning Commission that the outdoor runs will not be a nuisance to surrounding areas by odor or noise. A green area may be provided for animals to be taken outside for walks (15 minutes maximum) on a finding of the Planning and Zoning Commission that no nuisance will be created by either odor or noise. Any animals taken outside must be on a leash at all times. Proper disposal of animal waste is required.

Veterinary Clinic (without kennels for the purpose of boarding): Veterinary services including grooming and short-term emergency overnight care for small, domestic pets. Exotic animals larger than 25 pounds are not permitted. Wildlife may be brought to the clinic on a short term, emergency basis to be euthanized or sent to proper wildlife authorities for rehabilitation according to Federal and State laws. The facility, including cage areas for patients, must be completely enclosed and constructed and maintained so that objectionable odors and noise are not emitted from the building. Overnight accommodations at the facility for staff must be accessory to veterinary use for surgical or emergency patient care only. Kenneling for the purpose of boarding is not permitted. A green area may be provided for animals to be taken outside for walks (15 minutes maximum) on a finding of the Planning and Zoning Commission that no nuisance will be created by either odor or noise. Any animals taken outside must be on a leash at all times. Proper disposal of animal waste is required.

Wireless telecommunication facility: Antenna, telecommunication equipment, communications towers, monopoles and/or other support structures used together in conjunction with the provision of wireless communication services. These services may include, but are not limited to, cellular communications, personal communications services and paging.

Yard: An open space between a lot line and the nearest facing wall of a building on the same lot, unoccupied and unobstructed from the ground to the sky by buildings or structures, except as specifically permitted by these regulations.

Yard, front: An open space extending across the full width of a lot and lying between the street line of the lot and the nearest facing wall of a principal building on the same lot.

Yard, side: An open space parallel to a side lot line, extending from the front yard setback line to the rear yard setback line and lying between the side line of the lot and the nearest facing wall of a principal building on the same lot.

Yard, rear: An open space extending across the full width of a lot and lying between the rear lot line of the lot and nearest facing wall of a principal building on the side lot.

Yard, required: An open space between a lot line and the permitted buildable area within which no structure shall be located except as specifically permitted by these regulations.

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SECTION III. ESTABLISHMENT OF DISTRICTS, BOUNDARIES

- A. Establishment of zoning districts.** The Town of Berlin is hereby divided into the following districts, the respective symbol for each type of district being set forth opposite its title:

<i>Symbol</i>	<i>Title</i>
Residential	
R-86	Residence 86 Zone
R-43	Residence 43 Zone
R-21	Residence 21 Zone
R-15	Residence 15 Zone
R-11	Residence 11 Zone
R-7	Residence 7 Zone
PR-1	Planned Residential ó 1 Zone
PR-2	Planned Residential ó 2 Zone
PR-3	Planned Residential ó 3 Zone
Commercial	
PS-A	Planned Shopping ó A
PS-B	Planned Shopping ó B
SP-DD	Special Design District Regional Center
GC	General Commercial
BT-1	Berlin Turnpike Zone ó 1
BT-2	Berlin Turnpike Zone ó 2
CCD-1	Commercial Core District ó 1
CCD-2	Commercial Core District ó 2
Industrial	
OT	Office Technology
OT-2	Office Technology ó 2
GI	General Industrial Zone
GI-2	General Industrial Zone ó 2
PI	Planned Industrial Zone
PI-2	Planned Industrial Zone ó 2
POD	Planned Office Development
Special	
MR-1	Mountain Reserve ó 1 Zone
MR-2	Mountain Reserve ó 2 Zone
POR	Planned Office Residential Zone
OP	Office Professional Zone
Overlay districts	
HDOZ	Historic District Overlay Zone
SP-DD 2	Special Design District 2 ó Berlin Turnpike Overlay District
SP-DD Overlay	Special Design District Regional Center Overlay District
Aquifer Protection Area	
VDO- KO	Village District Overlay-Kensington Overlay Zone

B. Official zoning map: The areas and boundaries of such districts are hereby established (a) as shown on a map entitled "Town of Berlin's Zoning Map, dated September 2010" as amended, and (b) as specified in this section as fully as if set forth herein. Such map referred to herein as the "zoning map," together with everything shown thereon, is hereby made part of these regulations. An original of the zoning map and any amendments thereof shall be on file in the office of the town clerk, and a copy shall be maintained on public display in the town hall.

1. *Interpretation of zoning district boundaries.* In interpreting the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:
 - a. Boundaries indicated as abutting the right-of-way lines of streets, highways or alleys shall be construed to extend to the centerline of such streets, highways or alleys.
 - b. Boundaries indicated as approximately following plotted lot lines shall be construed to follow such lot lines as shown on the town assessor's map.
 - c. Boundaries indicated as following railroad lines shall be construed to extend to the centerline of the main tracks.
 - d. Boundaries indicated as following shorelines of water bodies shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed to move with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, or other watercourses shall be construed to follow such centerline.
 - e. Boundaries indicated as parallel to or extensions of features indicated in Sections III.B.1.a through d. shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the ZEO using the scale of the map or other substantiating evidence.
 - f. In cases where the ZEO is unable to determine the location of boundaries of zoning districts, the commission shall determine the location of the boundary.

SECTION IV. APPLICATION OF ZONING REGULATIONS

A. General provisions.

1. *Compliance with regulations.* Except as otherwise provided herein, no land, building or structure or part thereof shall be constructed, reconstructed, erected, extended, enlarged, moved, arranged, altered or use, or the use changed, or the dimensional requirements of lots, yards or courts changed, except in conformity with the requirements of these regulations for the district in which such land, building, structure or use is located.
2. *Permitted and prohibited uses.* Any use not specifically permitted by right or by special permit in a zoning district by these regulations shall be deemed to be prohibited within such district.
3. *Determination of uses.* Where a proposed use is not clearly permitted nor clearly prohibited in a zoning district by these regulations, the commission shall make the determination as to whether the proposed use is permitted in that district by right or by special permit or is prohibited.
4. *Minimum requirements:* In interpreting and applying these regulations, the requirements contained herein are declared to be the minimum requirements necessary for the attainment of the purposes set forth in Section I. Intent and Purpose.
5. *Conflicting standards.* Where these regulations require a greater width or size of yards or other open space, or a lower height of a building, or a fewer number of stories, or a greater percentage of lot area to be left unoccupied or impose other and higher standards than required by any other statute, bylaw, ordinance or regulation, the provisions of these regulations shall govern. Where the provisions of any other statute, by law, ordinance or regulation require a greater width or size of yards or other open spaces, or a lower height of building, or fewer number of stories, or a greater percentage of lot area to be left unoccupied or use other and higher standards than are required by these regulations, the provisions of such statute, bylaw, ordinance or regulation shall govern.
6. *Use of land for access or parking.* Access to any use in a nonresidential zoning district other than by a public street shall be prohibited on or across land in a residential zoning district. Parking for any use in a nonresidential zoning district shall be prohibited in a residential zoning district.
7. *Yards and open space required for each building.* Except as otherwise provided herein, no part of any yard or other open space required around a building or structure shall be included as part of the yard or other open space required for any other building or structure.
8. *Utilities.* All utility and service lines shall be installed underground for any lot shown on an approved subdivision or resubdivision plan for which a building permit has not been issued as of the effective date of these regulations.
9. *Lots in more than one zoning district.* Where a lot of record existing as of the date of adoption of these regulations lies in more than one zoning district, a

use permitted in one district may be extended on the same lot into the other district, provided that:

- a. Such use shall not extend more than 30 feet into the other district;
- b. The lot has frontage on a street in a less restrictive district; and
- c. Setbacks for required yards in the less restricted portion shall be measured from a line parallel to and 30 feet from the boundary lines of the zoning district.

10. *Height exceptions.* The height limitations of these regulations shall be modified as follows:

- a. The maximum building height limitations shall not apply to chimneys, antennas, as an accessory to the principle use, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level, provided that:
 - i. They do not extend more than 15 feet above the level of the roof on which they are located; and
 - ii. The total area covered by such features does not exceed ten percent of the area of the roof upon which they are located.
- b. The provisions of these regulations shall not apply to flagpoles, church spires, belfries, cupolas and domes not used for human occupancy.
- c. Water towers, standpipes, monuments and similar structures shall not exceed the maximum building height limitations unless a special permit therefore is granted by the commission. Facilities owned by the town or by a fire district may exceed the maximum building height without a special permit.
- d. Necessary mechanical appurtenances, such as elevator enclosures, air-conditioning equipment, exhaust fans and water tanks shall be concealed, inconspicuous and architecturally consistent with the principal part of the building. The mechanical appurtenances shall not be erected on any roof to such height as to be visible to any person standing at ground level on an adjoining residential property or the street, but in no case shall such mechanical feature be erected to a greater height than is necessary to accomplish the purposes they are intended to serve.

11. *Corner lots.* On a corner lot in any district there shall be provided a yard on each street equal in depth to the required front yard on such street. A rear yard shall be provided on each corner lot and the owner shall have the privilege of electing which yard is the rear yard. When a corner lot is bordered by a limited access highway and a ñon-access lineö established by the state, the yard fronting said highway shall be considered a side yard unless access is proposed therefrom.

12. *Visibility at intersections.* On a corner lot in any district no fence, wall, hedge or other structure, or planting, more than three feet in height, shall be erected, placed or maintained within a triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are 30 feet distant from the point of intersection, measured along said street line, except that in a retail business zone the 30 feet distance may be reduced to ten feet.

The height of three feet shall be measured above the road surface at the nearest edge of the road. For land that has been deemed Agriculture Land by these regulations, the triangular area may be waived or reduced by Planning and Zoning Staff, in consult with Town Police and Engineering, if it is determined that no safety hazard exists. Additionally, the fence height may be increased provided adequate sight distance is still available, but not to exceed the height limit set in Section XI C. Agriculture.

13. *Odd-shaped lots.* In cases of uncertainty as to the proper application of any of the requirements of these regulations to a particular lot because of its peculiar or irregular shape, the ZEO shall determine how such regulations shall be applied.
14. *Reduction of lots.* No lot shall be so reduced, divided, or created that the area, width or other dimensions of the lot or any of its required yards or required open spaces shall be less than prescribed by these regulations.
15. *Required street frontage.* No permit shall be issued for any building unless the lot upon which such building is to be built shall have the frontage required by these regulations on a street as defined herein, except for farms or associated agricultural structures.
16. *Accessory buildings, structures and uses.*
 - a. Accessory buildings, structures and uses shall be located on the same lot as the principal building, structure or use to which they are accessory, or on a contiguous lot in the same ownership.
 - b. Accessory buildings, structures and uses shall not be located on a lot without the prior establishment of a permitted principal use, nor shall any new lot be created that has an accessory building, structure or use without a principal use.
 - c. If any accessory building is attached to a principal building, including attachment by means of a breezeway or a roofed passageway with open or latticed sides, it shall comply in all respects to the requirements of these regulations applicable to the principal building
 - d. All attached buildings shall in all respects comply with the requirements of these regulations applicable to principal buildings. Detached accessory buildings which do not exceed one story or 15 feet in height may be located as provided specifically in the various sections for accessory buildings.
 - e. If a detached accessory building or structure is located within 12 feet of the principal structure, the requirements for minimum side and rear yards for the principal structure shall apply. However, if the accessory building or structure is located 12 feet or further from the principal structure, the minimum side and rear setback requirements for accessory buildings and structures shall apply.
 - f. Notwithstanding the above, accessory buildings, structures, and uses shall be permitted on Town of Berlin owned properties even where a principal building, structure or use does not exist provided that the accessory building, structure or use complies with the area and bulk requirements of the zone and that it is used for a public purpose.

- g. For accessory buildings on lands deemed Agriculture by these regulations, see Section XI.C.2. *Agriculture, Accessory Buildings*.
17. *Rear lots.* Rear lots shall be permitted in all industrial zones and the MR, R-86, R-43 and R-21 zones subject to special permit and site plan approvals from the commission in accordance with Sections XII Special Permits and XIII Site Plans and shall be in accordance with the following requirements:
- a. Such construction or use may not, with respect to future occupants of the lot or lots, the abutting landowners or the general community, significantly impair health, safety, general welfare, property values, or future land use and road layouts.
 - b. In all residential zones, there shall be permitted a maximum of one single-family dwelling with permitted accessory buildings or uses on a rear lot. Rear lots may be contiguous; however, there shall be no stacking of rear lots.
 - c. No rear lot or lots shall land lock another rear lot by blocking or removing the most logical or feasible access thereto, notwithstanding the fact that a potential for access to said other rear lot may still exist under more remote conditions.
 - d. Approval of the commission shall be obtained as to the overall design, construction and layout of the right-of-way and driveway, which shall provide for such lot or lots an unobstructed right of access, at least 20 feet wide in residential zones and 30 feet in industrial zones and shall be otherwise adequate to accommodate fire and other emergency equipment, to and from a public street. Driveways shall conform to the minimum standards required by the town's subdivision regulations. The commission may require that slope rights be provided to accommodate driveway construction and that lots share a common driveway, where appropriate. The owner of a rear lot shall own the fee interest in said right-of-way. Where the commission has required that lots share a common driveway, the applicants shall provide an agreement specifying that the users of said driveway will share in the responsibility for its maintenance. The area of said right-of-way shall not be included in the minimum area requirements of this section. The commission, in its discretion, may waive the requirement of fee ownership in the case of unusual property lines or other situations where securing the fee is impracticable, so long as property over which said right-of-way passes shall have frontage on a town road in excess of 20 feet over the minimum frontage required. This waiver shall apply only to those lots which may exist prior to the adoption of this amendment. Approval of the commission in accordance herewith shall not be considered as acceptance of said right-of-way or driveway by the town for public purposes such as maintenance repair, or other services normally provided within the public highway. No driveway shall serve more than two lots unless it is designated as a Town road or private driveway and constructed to Town public road specifications as outlined in the Subdivision Regulations.

- e. Access driveways in residential zones shall be paved where the grade exceeds five percent and erosion and or other disturbance is likely to result if pavement is not used. Access driveways in residential zones shall also be paved where they are in proximity to an existing or proposed dwelling on another parcel where there is a possibility of disturbance from dust or mud in the opinion of the commission. Driveways in industrial zones shall be paved in their entirety. Contiguous rear lots may share a common driveway provided each lot has the minimum right-of-way required by Subsection d hereof. There shall be no more than two contiguous rights-of-way.
 - f. Each rear lot shall have sufficient area and suitable dimensions to provide ample space for a private water supply system where a public water supply system is not available; and for the proper layout, installation and future extension of a private sewage disposal system where public sanitary sewers are not available. Dwellings constructed on rear lots shall be connected to public water and sewer facilities, when constructed, if those facilities are available. The term "not available" shall mean that public water supply or sanitary sewer systems are not situated within 500 feet from the principal structure of the rear lot created under these regulations.
 - g. Electrical and other utility service lines shall be placed underground.
 - h. In all residential zones, each rear lot created subsequent to the adoption of these regulations shall have an area not less than three times that of the underlying zone except that R-21 may have not less than two times that of the underlying zone. In all industrial zones and for those lots which may exist prior to the adoption of these regulations, the minimum area shall be equal to the lot area required in that zone. Each rear lot shall comply in all respects with all other requirements of the district in which it is located except for lot frontage. For purposes of determining compliance with this subsection, the lot line from which the rights of access leads shall be considered as the front line of any proposed rear lot.
 - i. No rear lot shall be created from a parcel of less than two acres in size.
 - j. Applications for residential rear lots, if approved, must be site specific in showing the location of the house.
 - k. Landscaping should be considered in mitigating the effects of a rear lot.
 - l. Any rear lot created shall have the required area as a contiguous area within the lot absent of any wetland and floodplain regulated areas.
18. *Lots located in a regulated wetland area, floodplain, or having steep slopes.* On properties that are zoned R-43, R-86, MR-1 and all nonresidential districts, not more than 25 percent of the minimum area requirement of a lot may be fulfilled by land designated as an inland wetland by the IWWC or having slopes in excess of 35 percent. In all other districts, this percentage shall be 20 percent. Land which is under water that is open to use by persons other than the owner of the lot shall be excluded entirely from the computation of

the required minimum area of that lot. Minimum usable areas for sanitary disposal purposes and building sites shall be satisfied by contiguous nonregulated wetland areas. Should land designated as a regulated area be drained or improved for building purposes, the land shall be subject to the regulations of the underlying district. Where such property has steep slopes, the applicant will avoid disturbance of these areas as much as possible and will stabilize them during construction. Applicants must demonstrate that their disturbance is the minimum necessary for the development of the property as shown on an approved subdivision or site plan. Areas so disturbed shall be stabilized using retaining walls designed by a professional engineer and shall be aesthetically pleasing as determined by the Planning and Zoning Commission.

19. *Lot required for every building.* In a single-family residential zone or as otherwise provided herein, there shall be not more than one principal building on a lot.
20. *Trailers and mobile structures.* A trailer or mobile structure, whether supported on wheels, a foundation or otherwise, shall not be used as a part of any principal or accessory use, except as a temporary field office in connection with and only during the course of construction, and except as it may otherwise be specifically permitted by these regulations. A temporary permit for a construction trailer may be issued by the ZEO for a period not exceeding six months, but may be renewed for successive periods of not more than three months each, at his discretion, if work on said construction is diligently progressing but not yet completed. An unoccupied parked trailer shall not be kept on a lot unless garaged or screened from view from the street and adjacent properties.
 - a. The sale of food from trucks, trailers, wagons or any other vehicle or non-permanent structure that is not classified as a building in accordance with the applicable Health Code of the State of Connecticut, the Berlin Zoning Regulations, nor the International Building Code shall be permitted only under the following circumstances: (1) A vehicle which moves on an ongoing basis to various locations, and is not parked in a residential zone at all or in one commercial location for a period of more than four hours within any 24 hour period. Such location shall not have more than one such vehicle parked on it at any given time, and each location shall limit the total number of hours such various vehicle(s) can be parked on the location to 4 hours in a calendar day. (2) The structure is affixed to a permanent commercial building, and its operation is accessory to the principal commercial use on site and has site plan approval by the Planning and Zoning Commission. (3) All mobile vendors must not be on town property or right of way without Town Council and Planning and Zoning Commission approval. For the purposes of this section, "location" is defined as a single lot of record and must have a principal use as part of that lot.

- b. Notwithstanding the provisions of Section IV.A.20, the Planning and Zoning Commission may, by site plan approval, permit the sale of food from temporary use of a truck, trailer, wagon, vehicle or other non-permanent structure, when done in conjunction with a special event sponsored by a non-profit entity for a maximum period of 14 days.
- 21. *Hazards to the public health, safety and welfare (inoperable motor vehicles, unsightly material, and other hazards).*
 - a. Intent: Storage of either any inoperable motor vehicle or unsightly material for an extended period of time within the corporate limits of the Town of Berlin is hereby declared to be a nuisance and dangerous to public safety.
 - b. No person shall store, park or keep, in open space, on his own land or shall permit to remain on his own land or land that is in his custody or in his care in the open, any inoperable motor vehicle for a period exceeding 15 days.
 - c. No person shall deposit or cause to be deposited on his own land or shall permit to remain on his own land or land that is in his custody or under his care in the open, any unsightly material including but not limited to trash, debris, weeds, excessively tall grass, or other materials deemed detrimental to the public health, safety and welfare.
 - d. Exceptions:
 - i. Farm equipment used by a person whose principal occupation is the cultivation, operation, or management of a farm for gain or profit, either as owner or tenant, is excluded from the effect of this regulation. The term "farm equipment" does not include any type of motor vehicle licensed by the State of Connecticut for travel on the public highways except vehicles bearing farm plates. The term "farm" includes stock, dairy, poultry, fruit and truck farms.
 - ii. Licensed junkyards legally operating shall be permitted to store such vehicles in the open, subject to all other provisions of the zoning regulations of the Town of Berlin and/or by the Connecticut General Statutes.
 - iii. Gas stations, auto repair garages, automobile dealerships and contractors yards containing building materials, equipment, etc., are outside the scope of this ordinance, but shall continue to be subject to regulation under the provisions of the Berlin Zoning Regulations and/or by the Connecticut General Statutes.
- 22. *Lot Dimensions.* Lot dimensions shall comply with the minimum standards of the Zoning Regulations. The Planning Commission may require that lots be arranged so as to allow the opening of future streets where they would be necessary to serve potential lots, all in compliance with the Zoning Regulations.

Lots may have to be increased in size as necessary to provide for adequate water supply and sewage disposal systems as required by the health director and the Connecticut Department of Health.

Lots may have to be increased in size as necessary to provide a suitable building lot that protects the natural topography. Each potential building lot shall be of a size and configuration that it can contain somewhere on the lot a square that contains no land with an average slope greater than 35 percent, as measured over the distance of 50 feet, and be of the size required in the following chart:

Zone Minimum Dimension:

R-7 Single-family = Conventional 40'/Open Space N/A

R-7 Two-family= Conventional 50'/Open Space N/A

R-11 = Conventional 50'/Open Space N/A

R-15 = Conventional 68'/Open Space N/A

R-21 = Conventional 72'/Open Space 50'*

R-43 = Conventional 81'/Open Space 60'*

R-86 = Conventional 135'/Open Space 70'*

MR-1/MR-2 = Conventional 99'/Open Space 80'*

*Due to the flexibility of the lot sizes/frontage in Open Space Subdivisions, the minimum building square may be reduced in the rare occasion that the square cannot be met within the setbacks. However, the applicant and the Commission should keep in mind that one purpose of the Open Space Subdivision is to protect sensitive land areas, and therefore the applicant should make every attempt to pursue the building

23. *Ground Mounted Solar Panels.* Ground mounted solar panels shall only be allowed in the following (Industrial) Zones: General Industry (GI); General Industry 2 (GI-2); Planned Industrial (PI); and, Planned Industrial 2 (PI-2). They shall not be permitted in any other zoning districts. Ground mounted solar panels will be permitted by Special Permit in each zone listed above and must adhere to the following:
 - a. Solar panels may only be erected to support the energy needs of an existing building. They must be on the same lot as the building for which they support.
 - b. Before the solar panels are approved, the Planning and Zoning Commission must be given enough information to prove that the solar panels will only generate enough electricity for the building on the same lot within any given year.
 - c. The solar panels shall be set back 100 feet from the front property line and fifty feet from any side or rear property line. If abutting a residential district, the panels shall be 100 feet from all property lines that abut the residential district.
 - d. Solar panels shall occupy no more than 30 percent of the lot.
 - e. The Planning and Zoning Commission may require any screening they deem necessary to buffer the solar panels from the view of passing motorists and adjacent properties that may be affected. Screening can include, but not be limited to, fencing, landscaping and berming.

- f. Glare. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.
- 24. *Roof Mounted Solar Panels:* Roof mounted solar panels shall be permitted in all zones under the following guidelines:
 - a. Roof mounted solar panels shall be permitted in residential zones with the approval of a Certificate of Zoning Compliance. They are subject to the same rules and regulations as commercial roof mounted panels, except for Section IV.A.24.c. shall not apply.
 - b. Height. Solar energy systems shall not exceed maximum height restrictions within any zoning district.
 - c. Exterior surfaces of the collectors and related equipment shall have a non-reflective finish.
 - d. If solar energy systems located on a roof are visible from a public right-of-way, they shall be color-coordinated to harmonize with roof materials and other dominant colors of the structure.
 - e. Panels shall be mounted at the same angle as the roof's surface with the maximum distance of 18 inches between the roof and the highest edge of the system.

B. Exceptions to yard requirements.

- 1. *Lots adjacent to a railroad.* In business and industrial zones, that portion of a lot contiguous to a railroad line and served by a railroad siding or spur, shall not require a yard or open space.
- 2. *Terraces.* A paved terrace shall not be considered in the determination of lot coverage, provided such terrace is unroofed and without walls, parapets or other forms of enclosure. Such terrace, however, may have an open guard railing not over three feet high, shall not project into any yard to a point closer than five feet from any lot line and shall not include driveways.
- 3. *Porches.* No porch or stoop over four feet in height may project into any yard. Any two-story or enclosed porch, or one having a roof capable of being enclosed, shall be considered a part of the building in the determination of the size of yard.
- 4. *Projecting architectural features.* The space in any required yard shall be open and unobstructed, except for the ordinary projection of windowsills, stoops, belt-courses, cornices, eaves, chimneys, and other architectural features; provided, however, that such features shall not project more than two feet into any required yard.
- 5. *Bay windows.* Bay windows including their cornices and eaves, may project into any required yard not more than two feet; provided, however, that the sum of any such projections on any wall does not exceed one-fourth of the length of any said wall.
- 6. *Fire escapes and handicapped ramps.* Open fire escapes and handicapped access ramps may extend into any required yard according to the following:
 - a. Fire escapes ó a maximum of six feet.
 - b. Handicapped access ramps ó a maximum of ten feet.

Such fire escapes and ramps shall not be closer than five feet to any property line. All handicapped ramps shall meet the minimum standards required by the state building code.

7. *Walls and fences.* The yard requirements of these regulations shall not be deemed to prohibit any necessary retaining wall nor to prohibit any fence or wall, provided that in any residential district no wall or fence shall exceed six feet in height, measured above the natural grade except that no fence erected in the front yard between the street line and the applicable setback line shall exceed three feet in height in any residential district. On corner lots or curves the provisions of Section IV.A.12 *Visibility at intersections*, shall also apply. A certificate of zoning compliance shall be required for the construction of all walls and fences that are located between the setback line and the property lines. Fences shall be a good neighbor type with the more attractive side facing outwards. Any retaining wall over four feet tall must be designed and certified by a licensed engineer and plans submitted to the Planning and Zoning Commission for review and approval.
8. *Lots on narrow streets.* The required front yard of any lot abutting a street with a right-of-way width of less than 50 feet shall be increased by one-half the difference between 50 feet and the actual width of the street right-of-way.
9. *Lots with a shared driveway.* In business and industrial zones, the side yard requirements of these regulations shall not be applicable along the common side lot line which separates two or more proposed adjoining lots containing no residential uses where such lots share a single driveway entrance and exit on a street, provided that permanent vehicular access shall be provided to the rear of such lots.
10. *Exception for existing alignment of buildings.* The provisions for front yard setbacks notwithstanding, if on one side of a street within a given block and within 150 feet of any lot there is pronounced uniformity of alignment of the fronts of existing buildings and the depths of front yards greater or less than the depth specified, a front yard may be permitted in connection with any new building which shall conform as nearly as practicable with those existing on the adjacent lots.
11. *Courts.*
 - a. Inner court: The least dimension of any inner court at the sill level of the lowest windows shall be at least equal to the height of the highest wall forming part of such court.
 - b. Outer court: The depth of any outer court shall not exceed one-half of its width, and such width shall not be less than 15 feet.
12. *Treatment of highway frontage.*
 - a. Access to highway. Access shall be designed in compliance with town specifications as on file in the office of the town engineer and shall be designed to handle the expected traffic from the premises safely and conveniently. Access drives shall be properly related to the public streets so as to avoid unsafe conditions and traffic congestion.
 - b. Street classification. For the purpose of providing for the development of a system of major streets and highways in the town and for the

future improvement, reconstruction and necessary widening of streets and highways, each street in the town is hereby designed by one of the following street classifications:

- i. Major arterials: Berlin Turnpike Routes 5, 15), Route 72 bypass.
- ii. Minor arterials: Chamberlain Highway, Farmington Avenue (from High Road to the Berlin-New Britain Town Line), High Road (between Gladding Place and the Berlin-New Britain Town Line), Mill Street (between the Mattabasset River and Berlin Turnpike), New Britain Road (between relocated Route 72 and the Berlin-New Britain Town Line).
- iii. Collectors: Alling Street (between Gladding Place and Harris Street, Bacon Lane, Beckley Road, Berlin Street, Brook Street, Butler Street, Christian Lane, Deming Road, Depot Road, Edgewood Road, Episcopal Road, Farmington Avenue (with the exception of the section located between High Road and the Berlin-New Britain Town Line), Gladding Place, Glen Street, Harris Street, High Road (between Chamberlain Highway and Percival Avenue and between Glen Street and Chamberlain Highway), Hudson Streets, Kensington Road, Lincoln Street, Lower Lane, Main Street (East Berlin, Main Street Kensington), Meadow Lane, Middletown Road, Mill Street (between Berlin Turnpike and Farmington Avenue), New Britain Road (between Main Street and relocated Route 72), Norton Road, Park Drive, Percival Avenue, Porters Pass, Rowley Street, Savage Hill Road, Selden Street, Seymour Road, Southington Road, Spruce Brook Road, Tollgate Road, Webster Street, Wethersfield Road, Worthington Ridge (between Berlin Turnpike and Berlin Turnpike).
- iv. Local Streets: All other roads in the town.

C. Nonconforming lots, nonconforming uses of land and nonconforming structures.

1. *Intent*. Within the zoning districts established by these regulations or by amendments that may later be adopted, there exist lots, uses, and structures which were lawful at the time these regulations were adopted or amended but which would be prohibited, regulated, or restricted under the provisions of these regulations or future amendments. Such lots, uses, and structures are declared by these regulations to be nonconforming. It is the intent of these regulations to permit these nonconformities to continue until they are removed but not to encourage their survival. It is further the intent of these regulations that nonconformities shall not be enlarged upon, expanded or extended if such a change would increase the nonconformity, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
 - a. Nonconforming uses are declared by these regulations to be incompatible with permitted uses in the districts involved. After the effective date of adoption or amendment of these regulations, a

nonconforming use of land, a nonconforming use of a structure, or a nonconforming use of a structure and land in combination shall not be extended or enlarged by the attachment to a building or land of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

- b. To avoid undue hardship, nothing in these regulations shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of these regulations and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.
2. *Nonconforming lots.* In any residential district, a single-family dwelling and customary accessory buildings may be erected on a lot of record as of the effective date of adoption or amendment of these regulations, notwithstanding requirements imposed by other provisions of these regulations. Such lot shall be in separate ownership and shall not have continuous frontage with other lots under the same ownership. This provision shall apply even though such lot fails to meet the lot area, lot frontage and/or lot width requirements of the district in which such lot is located, provided that the yard dimensions and requirements other than those applying to lot area, lot frontage and/or lot width shall conform to the requirements of the district in which such lot is located.
3. *Nonconforming uses.* Where a lawful use exists at the effective date of adoption or amendment of these regulations which is no longer permitted under the provisions of these regulations as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - a. In any residential district, no nonconforming use may be added to or enlarged unless such additions or enlargements conform to the applicable provisions of these regulations, and only if the area of all such additions or enlargements does not exceed 25 percent of the ground floor area of the building or the land use area at the time a permit is applied for unless the entire building is made to conform to the provisions of these regulations. No permit shall be granted under this section for more than one such addition to any nonconforming building and/or land use.
 - b. The commission may grant an increase in the permitted floor area to any nonconforming land use in any nonresidential district if in its judgment it were deemed that the public interest would be better

served by the improvements brought about through a new site plan approval and that the increase in permitted floor area would not be detrimental to the environment or to adjacent properties and would still be adequately served by traffic circulation, parking, storm drainage and sewage disposal.

- c. A nonconforming use shall not be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of these regulations, unless such move has been approved by the commission.
 - d. If a nonconforming use is superseded by a permitted use, it shall thereafter conform to the requirements of the district in which it is located, and the nonconforming use shall not thereafter be resumed.
 - e. 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 the same or less objectionable character. If the intended use is specifically provided for or described in these zoning regulations then the intended use shall comply with such specific regulations.
4. *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of these regulations which could not be built under the provisions of these regulations as enacted or amended by reason of restrictions on floor area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- a. Such nonconforming structure shall not be enlarged or altered in a manner which extends or increases the nonconformity but may be altered to decrease the nonconformity.
 - b. For all uses other than single-family homes or two-family homes, if such nonconforming structure is damaged by any means not exceeding fifty percent (50%) of its assessed value as of the latest Grand List as determined by the building inspector before such damage, it may be repaired or replaced to an extent which does not increase the nonconformity. Single-family or two-family homes may be repaired or replaced regardless of the extent of the damage. Such repair or replacement shall commence within six months after the damage or destruction occurs, and shall be completed within 18 months after commencement. If such repair or replacement is not accomplished within such time periods, the structure shall be reconstructed in conformity with the requirements of the district in which it is located, or demolished.
If either single-family or two-family home is rebuilt, it shall be rebuilt on the same footprint and no greater in square footage than the original structure.
 - c. If such structure is moved for any reason for any distance whatsoever, it shall thereafter conform to the requirements of the district in which it

is located after it is moved, unless such move is approved by the Planning and Zoning Commission.

5. *Repairs and maintenance.*
 - a. Ordinary repairs may be made or remodeling done to any structure devoted in whole or in part of a nonconforming use, provided that such work does not increase the nonconformity.
 - b. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of any nonconforming structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
6. *Uses under special permit provisions not nonconforming uses.* Any use which is permitted by special permit in a district under the provisions of these regulations shall not be deemed a nonconforming use in such district, but shall, without further action, be considered a conforming use.

SECTION V. RESIDENTIAL ZONES

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| A. Single-family residential
(R-86, R-43, R-21, R-15) | C. Historic District Overlay Zone
(HDOZ) |
| B. Single and two-family residential
(R-11, R-7) | D. Planned Residential
(PR-1, PR-2, PR-3) |

SECTION V. RESIDENTIAL ZONES

- A. Single-family residential (R-86, R-43, R-21, R-15).**
1. *Purpose.* The single-family residential districts are intended to provide suitable areas for residential development appropriate to the environmental characteristics of the land and the character of the neighborhood. The districts are also intended to accommodate certain nonresidential uses which are compatible with residential uses while preserving neighborhood character and property values.
 2. *Permitted uses.* The following uses shall be permitted in all single-family residential districts as a matter of right:
 - a. Single-family detached dwellings.
 - b. Farms, subject to Section XI.C. Agriculture.
 - c. Open space, both public and private, and public parks.
 - d. Golf courses.
 - e. Group homes.
 3. *Special permit uses.* The following principal uses shall be permitted in all single-family residential districts, except as noted, subject to special permit and site plan approvals by the Commission in accordance with Section XII Special Permits and Section XIII Site Plans:
 - a. Public schools.
 - b. Private schools, subject to the requirements of Section XI.I.
 - c. Hospitals, nursing and/or convalescent homes, as defined herein subject to the requirements of Section XI.E.
 - d. Religious, charitable and eleemosynary institutions, subject to the requirements of Section XI.L.
 - e. Camps, subject to the requirements of Section XI.F.
 - f. Nonprofit civic organizations, subject to the requirements of Section XI.P.
 - g. Municipal and governmental offices.
 - h. Nursery schools, subject to the requirements of Section XI.G.
 - i. Housing for elderly, subject to the requirements of Section XI.Q.
 - j. Rear lots except in R-15, subject to the requirements of Section IV.A.17.
 - k. Garden supply centers or nurseries, subject to the requirements of Section XI.U.

- l. Leaf composting facilities, subject to the requirements of Section XI.V.
 - m. Open Space Subdivisions, Design Open Space Developments (except in R-15 Zones). Subject to the requirements of Section V.A.8.
 - n. Wineries per Section XI. CC only permitted in the R-86 zone.
 - o. Temporary roadside stands, subject to the requirements of Section XI.C.
4. *Special permit uses; ZBA.* The following principal uses shall be permitted in all single-family residential districts, except as noted, subject to special permit approval by the ZBA in accordance with Section XII:
- a. Public utility substations, water filtration plants or pumping stations, subject to the requirements of Section XI.K.
 - b. Telephone exchanges, subject to the requirements of Section XI.N.
 - c. Private riding clubs, subject to the requirements of Section XI.J.
 - d. Bus passenger shelters.
 - e. *(Deleted)*
 - f. Cemeteries.
 - g. Places of worship.
5. *Special permit uses in R-21, R-43 and R-86 districts.* The following principal uses shall be permitted in the R-21, R-43 and R-86 districts, in addition to those within Section V.A.3, subject to special permit and site plan approvals by the commission in accordance with Section XII and Section XIII:
- a. Neighborhood affordable housing, subject to the requirements of Section V.A.9.
 - b. Open space subdivisions, subject to the requirements of Section V.A.8.
 - c. Design open space developments, subject to the requirements of Section V.A.8.
6. *Special permit uses in R-15, R-21, R-43 and R-86 districts.* The following principal uses shall be permitted in the R-15, R-21, R-43 and R-86 districts, in addition to those within Section V.A.4, subject to special permit approval by the commission in accordance with Section XII:
- a. Accessory dwelling units, subject to the requirements of Section XI.T.
7. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in all single-family residential districts:
- a. Private garages, sheds, garden houses, tool houses, playhouses, greenhouses, swimming pools or other detached accessory structures not used for human habitation or for housing animals or fowl, and not operated for profit, provided the height of such structures shall not exceed 15 feet.
 - b. Accessory buildings for housing domesticated animals or fowl permitted under these regulations.
 - c. Signs, subject to the requirements of Section IX.A.
 - d. Family day care homes.
 - e. Off-street parking facilities for the use of the occupants of the premises and their guests, in accordance with Section IX.B, provided

that no more than one commercial vehicle, not exceeding 10,000 pounds gross weight other than a passenger car, shall be regularly parked on the premises.

- f. Storage of camping trailers, mobile home trailers, boats or other single unregistered vehicles, provided that such trailer, boat or other single unregistered vehicle shall be fully enclosed or otherwise effectively screened from persons standing on adjoining properties. Such structure or storage area shall comply with all yard setback requirements for buildings, but shall not be permitted in the required front yard.
 - g. Radio and television reception equipment, including satellite dishes.
 - h. Home occupations or home offices in accordance with the requirements of Section XI.S.
8. *Open space subdivisions (OSS) and design open space developments (DOSD).*
- a. Purpose. The purpose of OSS and DOSD districts is to provide reasonable flexibility in the division and subsequent development of land when, in the judgment of the Commission, such flexibility shall ensure the conservation or preservation of natural or manmade features, archaeologically significant areas, and related open space areas which contribute to the health, safety and general welfare of the Town. In order to satisfy this, the applicant shall be required to submit to the Commission both a subdivision plan that would otherwise be permitted by these regulations and an alternative plan to demonstrate to the Commission that the alternate plan (OSS or DOSD) will serve to fulfill the following objectives:
 - i. To preserve and protect the town's natural environment by encouraging the permanent preservation of specific features and lands which, in turn, contribute to the stabilization and enhancement of residential amenities and values and the maintenance of the town's existing character.
 - ii. To preserve and protect areas having conservation value particularly those features having qualities of natural beauty, ecological significance, or historic interest.
 - iii. To preserve and protect wetlands, streams, rivers, aquifers, potential municipal water supplies, and ponds as natural resources and to avoid flooding, erosion and water pollution.
 - iv. To promote more suitable siting of buildings and better overall site planning.
 - v. To protect the health and safety of the public by restricting the extent to which steep slopes and poor soils shall be utilized for public and private roads, waste disposal systems and other types of development.
 - vi. To promote the preservation of space that will benefit the present and future generations of Berlin including active or passive recreation areas (including hiking trails), farmland of local significance, and/or areas containing significant natural

features such as unusual terrain or land forms, vegetation, wildlife habitats and scenic views or vistas.

- b. Open space subdivision (OSS); intent. The intent of OSS open space subdivisions is to provide an alternative form of residential land subdivision by permitting a reduction in the minimum lot size normally required in specified zones for residential purposes, provided that the total number of lots in such subdivision is not greater than otherwise permitted by these regulations.
- c. Design open space development (DOSD); intent. The intent of design open space development is to provide an alternative form of residential development whereby the subdivision of land into individual building lots is eliminated. This regulation exists to permit the development of detached, single-family residential communities under a cooperative, condominium, or planned community form of ownership which will be done in accordance with an overall design theme for the individual site, provided that the total number of housing units in such development is not greater than the number of lots that would otherwise be permitted by these regulations.
- d. Applicability and standards. Design open space subdivisions and design open space developments shall be permitted in the R-86, R-43, R-21 and MR-1 and MR-2 districts; all subject to site plan and special permit approvals by the Commission in accordance with Sections XII and XIII and the following standards:
 - i. Minimum parcel size: eight acres.
 - ii. The total number of dwellings in an OSS and DOSD shall be no greater than the number of building lots that would otherwise be allowed in the district in which the land is located. The number of building lots shall be determined in accordance with the following:
 - (1) The number of lots that are shown on the subdivision plan submitted by the applicant shall be in accordance with regulations that would otherwise pertain to the land. Such "unconventional" subdivision plan will be subject to review of the Commission and other pertinent Town Commissions, Boards and Department staff as normally required. For the purposes of this section, the Inland Wetlands and Water Courses Commission and the Health Department shall make a determination of the number of lots that would be permitted under conventional development and shall submit a report to the Planning and Zoning Commission for its consideration.
 - iii. To provide a buffer between an OSS or DOSD and surrounding properties, no structure shall be located within 100 feet of the overall perimeter boundary. This buffer will not be required along the frontage of any existing public street. The buffer

requirement may be reduced by the Commission where it finds that existing topography, natural features, or existing forest areas will provide a sufficient buffer area. In no case shall such buffer area be reduced to less than the required side yard of the underlying zone. Said buffer area shall be landscaped so as to provide screening as deemed appropriate by the Commission. The Commission may require berms as part of the landscaping plan to provide additional screening.

- iv. Natural site features shall be preserved by minimizing disturbance to existing vegetation and by minimizing changes to existing topographic conditions on the site.
- v. Proposed buildings shall be related harmoniously to the terrain and to the use, scale and proportions of existing buildings in the vicinity that have a functional or visual relationship to the proposed buildings. No buildings shall exceed 2½ stories nor 35 feet in height. The Commission may require that buildings be located at the edges of existing fields and open areas and within wooded areas so as to preserve the open character of a site. Buildings shall also be located as far from watercourses as possible.
- vi. The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy, and separation between buildings.
- vii. The proposed development plans shall show proposed sewage disposal and water supply systems. Public water and sanitary sewers are preferred. The applicant may use private wells and septic systems approved by the health director if it can be shown that the soils shall be suitable for long-term disposal of sanitary waste effluent. Individual wells and septic systems shall be reviewed and approved by the health director or his designee, prior to approval by the commission.
- viii. The Commission may approve a development plan to be completed in phases. The minimum amount of land to be included within any single phase of development shall be four acres. The Commission may grant approval limited to each phase of development. Each phase shall be capable of independent existence without the completion of succeeding phases. Buffer and setback requirements shall not apply to the common line between phases of development. Open space shall be conveyed and committed concurrent with the recording of the subdivision and/or site plan.
- ix. The site plan shall contain existing wooded areas of sufficient density and size and of appropriate species to provide adequate screening and privacy between proposed dwellings and between proposed dwellings and proposed public areas or areas to be owned in common by the residents. In specific cases, the

commission may find that equivalent privacy and screening may be provided by other unique natural site features (i.e., dramatic topography, etc.). In all cases, any OSS or DOSD application shall clearly outline the method to reasonably ensure the survival of natural site features critical to the provisions of screening and privacy (i.e., berms or mounds, tree wells, root area drainage systems, retaining walls, etc.).

- x. Lots or dwelling units shall be laid out, to the greatest extent feasible, to achieve the following objectives.
 - (1) Within any woodland contained in the parcel, or along the far edges of the open fields adjacent to any woodland in order to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features;
 - (2) In locations least likely to block or interrupt scenic views or vistas as seen from the public roadway(s);
 - (3) In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities;
 - (4) Preserve and maintain existing fields, pastures, other land in agricultural use, and sufficient buffer areas to minimize conflict between residential and agricultural use;
 - (5) Maintain or create a buffer of natural vegetation of at least 100 feet in width adjacent to surface waters and wetlands and a buffer area free of residential structures of at least 200 feet in width adjacent to surface waters and designated aquifers;
 - (6) Maintain the visual integrity of hilltops and ridgelines by siting development so that building silhouettes will be below the ridgeline or hilltop silhouettes will be below the ridgeline or hilltop or if the area is heavily wooded, the building silhouette will be at least ten feet lower than the average canopy height of trees on the ridge or hilltop. No building shall be permitted above an elevation of 350 feet as shown on the town's topographic maps on file in the town engineer's office;
 - (7) Create and maintain the concept of a New England green or "commons" area within the site.

e. Permitted uses.

- i. Open space subdivisions:
 - (1) All permitted principal and accessory uses in the applicable zoning district as indicated in Section V.A.2 and Section V.A.5.
- ii. Design open space developments:

- (1) All permitted principal and accessory uses in the applicable zoning district as indicated in Section V.A.2 and Section V.A.5.
 - (2) Single-family attached dwellings.
- f. Additional requirements for open space subdivisions.
- i. *Minimum lot area.* The minimum area of building lots shall be as follows:

Zone	Area
R-21	12,600 sq. ft.
R-43	21,550 sq. ft.
R-86	43,000 sq. ft.
MR-1	65,340 sq. ft.
MR-2	65,340 sq. ft.

Lots must conform to provisions of the regulations with respect to minimum building square, maximum percentage of steep slopes, and other provisions that pertain to the definition of a buildable lot. See Section IV.A.22.

In cases where a tract overlaps more than one residential zone, the minimum lot area shall be determined by multiplying the number of lots in each zone by the area prescribed above, adding the total areas, and then dividing by the total number of lots.

- ii. *Frontage.* Lot frontage in an OSS may be averaged together, provided the average lot frontage in the development is not less than 100 feet in the R-21 zone, not less than 125 feet in the R-43 zone, not less than 200 feet in the R-86 zone and 150 feet in the MR zones. In any case, no lot in an OSS may have a lot frontage of less than 75 feet exclusive of any easements. For the purpose of this section, all lots shall have frontage on a public street. Rear lots are permitted in an OSS in accordance with the requirements of Section IV.A.17.
- iii. *Minimum setbacks for principal structures (when buffer is not required on a lot).*

Zone	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard
R-21 & R-43	30 ft.	15 ft.	35 ft.
R-86	40 ft.	20 ft.	45 ft.
MR	40 ft.	20 ft.	45 ft.

Minimum setbacks for accessory structures:

Distance from Principal Structure: 10 Feet

Zone	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard
R-21 & R-43	30 ft.	10 ft.	10 ft.
R-86	40 ft.	15 ft.	15 ft.
MR	40 ft.	15 ft.	15 ft.

- g. Additional requirements for design open space developments.
 - i. Separation of units: All proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy, and separation. Walls with windows in a building shall not be less than 35 feet from an opposing wall without windows and not less than 50 feet from an opposing wall with windows. In no case shall buildings be closer than 35 feet.
- h. Open space. Not less than 30 percent of the gross land area of the tract as calculated in Section V.A.8.d. shall remain un-subdivided and undeveloped and shall be dedicated as permanent open space.
 - i. The ownership of common land shall either be conveyed to the town and accepted by it for open space, conservation, agriculture, outdoor recreation, park, or school use, or be conveyed to a corporation or trust owned or to be owned by the owners of lots within the development. In all cases of ownership, a perpetual restriction running to or enforceable by the town shall be recorded for all common land. Such restriction shall provide that the common land shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, outdoor recreation, park or school purposes, and said use or uses shall be so noted on the OSS or DOSD map which is recorded in the land records. The Commission shall prescribe and may contain such additional restrictions on development and use of the common land as the Commission may deem appropriate.
 - ii. The common land shall be used for open space, conservation, agriculture, outdoor recreation, park or school purposes and shall be maintained and groomed by the owner in a manner appropriate for such use and in accordance with the purpose of this section. The common land shall be in one or more parcels of a size, shape and location appropriate for its intended use as determined by the Commission. The common land shall remain un-built upon except that a maximum of five percent of such land coverage may be devoted to paved areas or structures accessory to active outdoor recreation and/or agriculture use and consistent with the open space use of the land. Such structures or paved areas may not be constructed on floodplain, wetland, slopes in excess of ten percent grade, or ledge outcroppings. Provision shall be made so that the common land shall be readily accessible to all lots and dwelling units within the development that do not abut the common land. Each parcel of common land shall be provided with at least one means of access at least 20 feet in width, leading from a public or private way. Such means of access shall be identified on the open space subdivision plan or site plan submitted with the special permit application.

- iii. In the case where the common land is not conveyed to the town and in order to ensure that the corporation, trust, or nonprofit organization will properly maintain the common land, an instrument shall be recorded in the Berlin Land Records which shall, at a minimum, provide:
 - (1) A legal description of the common land;
 - (2) A statement of the purposes for which the common land is intended to be used and the restrictions on its use and alienation;
 - (3) The type and name of the corporation, trust or nonprofit organization which will own, manage, and maintain the common land;
 - (4) Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of lots or dwelling units within the development, the ownership or beneficial interest in the corporation, nonprofit organization or trust of each owner of a dwelling or lot and a provision that such ownership or beneficial interest shall be apparent to the dwelling or lot to which it relates and may so be conveyed or encumbered separately therefrom;
 - (5) Provisions for the number, term of office, and the manner of election to office, removal from office and the filling of vacancies in the office of directors and officers of the corporation or nonprofit organization or of trustees of the trust;
 - (6) Procedures for the conduct of the affairs and business of the corporation, trust or nonprofit organization, including provisions for the calling and holding of meetings of members, directors and officers of the corporation or nonprofit organization or beneficiaries and trustees of the trust, and provisions for quorum and voting requirements for action to be taken. Where the common land is to be owned by a corporation or trust owned or to be owned by the owners of dwelling units within the development, each owner of a dwelling shall have voting rights proportional to his ownership or beneficial interest in the corporation or trust;
 - (7) Provision for the management, maintenance, operation, improvement and repair of the common land and facilities thereon, including provision for obtaining and maintaining adequate insurance and where applicable levying and collecting from the dwelling owners common charges to pay for expense associated with the common land, including real estate taxes. Where the common land is to be owned by a corporation or trust

owned or to be owned by the owners of dwelling units within the development, it shall be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership or beneficial interests in the corporation or trust and that each dwelling owner's share of the common charges shall be a lien against his real estate in the development which shall have priority over all other liens with the exception of municipal liens and first mortgages or record;

- (8) The method by which such instrument or instruments may be amended.
- iv. The instrument required above may be amended only upon the approval of the commission. Any proposed amendments, together with an explanation of the reasons thereof, shall be submitted in writing to the commission. The commission shall indicate its approval or disapproval within 65 days after its receipt of the proposed amendments.
 - v. Any proposed amendment to the articles of organization or incorporation of the corporation or nonprofit organization or to the declaration or other instrument of trust which would affect in any way the information required to be furnished above shall be submitted for approval by the Commission at least 30 days prior to the vote or other action thereon.
 - vi. If the articles of organization or incorporation of the corporation or nonprofit organization or the declaration or other instruments of trust are amended so as to affect in any way the information required to be furnished, a notice of such amendment and the provisions thereof shall be furnished to the Commission within 30 days of the adoption of the amendment. A copy of said notice shall be recorded in the Berlin land records and a marginal reference to said notice shall be made on the page where the instrument required above was originally recorded.
- i. Application requirements.
 - i. Concept plans.
 - (1) A key map at a scale of one inch equals 800 feet showing the parcels location in the Town of Berlin;
 - (2) A map at a scale of one inch equals 100 feet showing the boundaries of the parcel, general topography highlighting areas exceeding 15 percent slope, inland woodlands, flood zones, heavily wooded areas, and other significant natural or manmade features of the land;

- (3) Two concept plans, with one showing a conventional subdivision and the other showing how the property could be developed as an open space subdivision;
 - (4) A description of the uses, if any, for which the open space will be utilized;
 - (5) A statement outlining the reasons why the developer believes that the intent of this regulation would be satisfied by development as an OSS or DOSD;
 - (6) An A-2 Survey of the boundaries of the parcel, topography, (highlighting areas exceeding 15 percent slope), inland wetlands field located by a qualified soil scientist, flood zones, heavily wooded areas, and other significant natural or manmade features of the land.
- ii. Special permit and subdivision application for open space subdivisions. All open space subdivisions shall be subject to the town's subdivision regulations. Once the Commission has made a positive finding of suitability for an OSS or DOSD, the applicant may file jointly a special permit, site plan and subdivision application. The following shall be submitted in addition to the submittal requirements of Section XII, Section XIII and the subdivision regulations:
 - (1) The manner of ownership and maintenance of any private roadways private or public facilities and any commonly owned real property rights, including without limitation, open space, conservation restrictions, recreational restrictions; and
 - (2) A description of the open space, conservation restrictions and recreational facilities on the site, including the method of proposed protection of each of these areas.
- j. Decision. Upon approval by the Commission of the special permit, the Commission may include any of the following conditions if it determines that they are necessary to ensure the intent of the development:
 - i. Granting of a covenant or easement to ensure that existing fields or pastures will be plowed or mowed periodically with attention given to the requirements of existing animal and plant species;
 - ii. Granting of an easement providing and defining rights of public access;
 - iii. Designation of no-cut or limited clearing areas on lots;
 - iv. Measures to ensure the maintenance of scenic views, vistas, and hiking trails;
 - v. If the number of lots or dwelling units approved is less than the basic development density calculated in accordance with Section V.A.8.d., the decision shall state whether there is

potential for a future increase in density and, if so, the conditions under which such an increase would be approved.

9. *Neighborhood affordable housing development (NAHD).*
 - a. Purpose. The purpose of the NAHDs are to permit and regulate the development of affordable, detached single-family dwellings within well-planned, mixed income neighborhoods. This section is adopted pursuant to Connecticut General Statutes § 8-2, as amended by Public Act 91-392.
 - b. Permitted uses. Permitted uses for NAHDs are as follows:
 - i. Single-family detached dwellings.
 - c. Permitted accessory uses. Permitted accessory uses for NAHDs are as follows:
 - i. All permitted accessory uses in the R-86, R-43, R-21 and R-15 districts as indicated in Section V.A.6
 - d. Applicability and standards. NAHDs shall be permitted, subject to special permit and site plan approvals by the Commission, in the R-86, R-43 and R-21 districts, in accordance with Sections XII Special Permits and Section XIII Site Plans and the following conditions:
 - i. Subdivision approval by the Commission in accordance with the subdivision regulations.
 - ii. The land to be developed consists of at least ten acres and is served by public water and sewer.
 - iii. Lot sizes in any development shall be in accordance with the following table:

Zone	Minimum Lot Size	Average Lot Size
R-21	7,200	15,000
R-43	15,000	21,000
R-86	30,000	43,000

- iv. There shall be no more than a total of 50 dwelling units in any NAHD, nor more than 100 units approved under this section in any continuous 12-month period.
- v. No NAHDs shall be located within one mile of another NAHD, a development approved in accordance with Connecticut General Statutes §8-30 or any other affordable housing developments as defined by the Connecticut General Statutes or town regulation; as measured from the outside boundaries of all property within the development including open spaces.
- vi. The percentage of dwelling units within any NAHD that must be conveyed by deeds containing covenants or restrictions as affordable units, the prices which will qualify and preserve the units as affordable housing as defined in Section II.B, and the duration of such covenants shall be as required under Connecticut General Statutes, §8-30g at the time of application.

Restrictive covenants shall be recorded in the land records at the same time as the subdivision/special permit plan and shall be reviewed by the town attorney prior to being recorded.

- vii. For rental housing, the costs of housing shall comply with Connecticut General Statute §8-30g at the time of application.
- viii. The restrictive covenants shall state that before the transfer or rental of any affordable housing unit, developer, lessor, or any subsequent assigned shall certify to an agency approved by the Commission that the costs of said unit complies with the standards stated in Section II.B. and shall provide the designated agency with an itemized listing of these costs. The covenants shall also state that all prospective purchasers or renters shall also provide sufficient information as may be required by the designated agency to verify that they meet the income limitations established by Section II.B. The designated agency shall have 30 days from the receipt of such information to certify that this information satisfies the requirements of these regulations and the restrictive covenant; or contest such certification. The restrictive covenant shall state that no affordable housing unit may be conveyed or rented until the designated agency has certified the income qualification of the purchaser or lessee and the housing cost standard as being in compliance with these regulations.
- ix. The restrictive covenant shall stipulate that if the developer, lessor, or subsequent transferor conveys or leases (rents) an affordable housing unit for an amount that exceeds the costs set forth in Section II.B., the purchaser or lessee shall be entitled to recover from the transferor or lessor an amount equal to:
 - (1) The difference between the housing costs charged and the allowable housing charge;
 - (2) The legal rate of interest on such difference over the period of time of the overpayment; and
 - (3) Reasonable costs of collection, including legal fees and court costs.
- x. All affordable housing units shall be scattered throughout the development with a maximum of two units located together and shall be offered for sale at the same time as the market rate housing within the development. The location of all affordable housing units shall be clearly indicated on the development plan at the time of application.
- xi. The applicant shall demonstrate to the satisfaction of the Commission that all affordable units are of comparable square footage, workmanship, and completion to market rate units within the development. There shall be no more than 20 percent variation in size between market rate units and affordable units.

- xii. To provide a buffer between an NAHD and adjacent residentially zoned properties, no structure shall be located within 60 feet of the overall perimeter boundary. This buffer will not be required along the frontage of any existing public street, nor adjacent to any nonresidential zone. The buffer requirement may be reduced by the commission where it finds that existing topography will provide sufficient buffer area. In no case shall such buffer area be reduced to less than the required side yard of the underlying zone. Said buffer area shall be landscaped so as to provide screening as deemed appropriate by the commission. The commission may require berms as part of the landscaping plan to provide additional screening.
- xiii. Lot frontage may be averaged together provided the average lot frontage in the development shall not be less than 100 feet in R-21 zones, 125 feet in R-43 zones and 200 feet in the R-86 zones. In any case, no lot shall have a frontage of less than 75 feet. All lots shall have frontage on a public street. Rear lots are permitted in accordance with the requirements of Section IV.A.17.
- xiv. Setbacks shall not be less than 30 feet in the front yard, nor 35 feet in the rear yard. Side yards shall be a minimum of 30 percent of the total lot width for the combined side yards with the least one being no less than ten feet and the total of both not less than 20 feet.
- xv. No affordable housing unit offered for sale shall be subject to any private restriction or covenant except as approved by the Commission. The Commission shall not approve any private restriction or covenant that will adversely affect the affordability of such dwelling unit.
- xvi. No NAHD shall be approved unless the Commission finds that the topography and other natural features of the property are capable of accommodating the increased building density without detrimental impact.
- xvii. This section shall cease to be applicable where it has been determined that the Town is exempt from the Affordable Housing Land Use Appeals Procedure under Connecticut General Statutes §8-30g.

(See next page for V.A.10 Area and Bulk Requirements)

10. *Area and bulk requirements.* The following area and bulk requirements shall be applicable to all developments in the R-86, R-43, R-21 and R-15 districts, as indicated. Dimensions are in feet unless otherwise indicated.

	R-86 Zone	R-43 Zone	R-21 Zone	R-15 Zone
<i>Min. Lot Requirements</i>				
Area (sq. ft.)	86,000	43,000	21,000	15,000
Frontage	250	150	125	100
Width	250	150	125	100
<i>Min. Yard Requirements</i>				
Front	75	50	40	35
Side (each one)	50	30	20	10
Side (total two)	100	60	45	25
Rear	75	50	50	40
<i>Max. Building Height</i>				
Stories	2½	2½	2½	2½
Feet	35	35	35	35
<i>Detached Acc. Building</i>				
<i>Min. Distance From ⁽¹⁾</i>				
Principal Building	12	12	12	12
Side lot line	10	10	10	5
Rear lot line	30	30	15	5
Front lot line	75	50	40	35

Footnotes:

- (1) The accessory building or structure maybe located closer than 12 feet from the principal structure, providing the minimum front, rear and side yard setbacks for principal uses are maintained. (Amended 02-22-2007)

B. Single and two-family residential (R-11, R-7).

1. *Purpose.* The purpose of R-11 and R-7 single-family and two-family residential districts is to provide suitable areas for moderate density residential development appropriate to the character of the neighborhood, where adequate facilities and services are present. The R-11, R-7 districts are also intended to accommodate certain nonresidential uses which are compatible with residential uses while preserving neighborhood character and property values.
2. *Permitted uses.* The following uses shall be permitted in all single and two-family residential districts as a matter of right:
 - a. Single-family detached dwellings.
 - b. Two-family dwellings allowed in R-7 zones only.
 - c. Open space, both public and private, and public parks.
 - d. Golf courses.
 - e. Farms, subject to Section XI.C. Agriculture.
3. *Special permit uses.* The following principal uses shall be permitted in R-11 and R-7 residential districts, except as noted, subject to special permit and site

plan approvals by the applicable commission in accordance with Sections XII Special Permits and XIII Site Plans:

- a. All uses permitted in the R-86, R-43, R-21 and R-15 districts subject to special permit and site plan approval, as indicated in Sections V.A.3. and V.A.4, except for rear lots, OSS, DOSDø and Wineries which are not permitted.
4. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in all single and two-family residential districts.
 - a. All permitted accessory uses in the R-86, R-43, R-21 and R-15 districts as indicated in Section V.A.7.
5. *Area and bulk requirements.* The following area and bulk requirements shall be applicable to all developments in the R-11 and R-7 districts, as indicated. Dimensions are in feet unless otherwise indicated.

	<i>R-11 Zone</i>	<i>R-7 Zone</i>
<i>Minimum Lot Requirements</i>		
Area (sq. ft.)	11,250	7,200
For two-family dwellings	N/A	10,000
Frontage	75	60
For two-family dwellings	N/A	80
Width	75	60
For two-family dwellings	N/A	75
<i>Minimum Yard Requirements</i>		
Front	25	20
For two-family dwellings	N/A	20
Side (each one)	10	8
For two-family dwellings	N/A	12
Rear	40	30
For two-family dwellings	N/A	30
<i>Maximum Building Height</i>		
Stories	2½	2½
Feet	35	35
<i>Detached Accessory Buildings</i>		
<i>Minimum Distance From ⁽¹⁾</i>		
Principal Building	12	12
Side lot line	5	5
Rear lot line	5	5
Front lot line	25	20

Footnotes:

- (1) The accessory building or structure may be located closer than 12 feet from the principal structure, providing the minimum rear and side yard setbacks for principal uses are maintained.

C. Planned Residential (PR-1, PR-2, PR-3).

1. *Purpose.* The purpose of planned residential districts PR-1, PR-2 and PR-3 is to provide appropriate locations for a range of residential densities where adequate facilities and services are present.
2. *Permitted uses.* The following uses shall be permitted as a matter of right in PR-1, PR-2, and PR-3 districts:
 - a. Single-family detached dwellings, in accordance with the area and bulk requirements of the applicable underlying district.
 - b. Open space, both public and private and public parks.
 - c. Farms, subject to Section XI.C. Agriculture.
3. *Additional design requirements for planned residential districts.* Additional design requirements for planned residential districts are subject to the requirements of Section VIII.D.
4. *Special permit uses.* The following principal uses shall be permitted in planned residential districts subject to special permit and site plan approvals by the commission in accordance with Sections XII Special Permits and XIII Site Plans:
 - a. Public schools.
 - b. Private schools, subject to the requirements of Section XI.I.
 - c. Hospitals or nursing homes, subject to requirements of Section XI.E.
 - d. Religious, charitable or eleemosynary institutions, subject to the requirements of Section XI.L.
 - e. Nonprofit organizations, subject to the requirements of Section XI.P.
 - f. Municipal or governmental offices.
 - g. Nursery schools, subject to the requirements of Section XI.G.
 - h. Child day care centers, subject to the requirements of Section XI.H.
 - i. In the PR-1 zone, planned office development in accordance with Section VII.F. Planned Office Development.
 - j. Multifamily developments, subject to the provisions of Section VIII.D.
 - k. Adult housing only in the PR-1 zone, subject to Section XI.AA
5. *Special permit uses; ZBA.* The following principal uses shall be permitted in the planned residential districts subject to special permit approval by the ZBA in accordance with Section XII.
 - a. Places of worship.
 - b. Public utility substations, water filtration plants, or pumping stations, subject to the requirements of Section XI.K.
 - c. Telephone exchanges, subject to the requirements of Section XI.N.
 - d. Bus passenger shelters.
 - e. Group homes or community care facilities.
6. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in all planned residential districts:
 - a. Garages; one garage shall be provided for each dwelling unit in a PR-1, PR-2, and PR-3 and, if not an integral part of the dwelling unit, the structural structure shall be located within 100 feet of the entrance of the unit for which it is provided. In situations of unusual geography or

other site limitations, the Commission may permit such garages to be located within 200 feet of the entrance of the unit for which it is provided.

- b. Maintenance and utility shops for the upkeep and repair of buildings, structures and equipment on the site.
 - c. Utility buildings and structures.
 - d. Recreation facilities.
 - e. Home occupations or home offices in accordance with Section XI.S.
 - f. Radio and television reception equipment, including satellite dishes.
7. *Area and bulk requirements.* The following area and bulk requirements shall be applicable in the planned residential districts. Dimensions are in feet unless otherwise indicated.

	PR-1 ⁽¹⁾	PR-2 ⁽²⁾	PR-3 ⁽³⁾
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Minimum Lot Requirements

Area (acres)	20	7 ⁽⁴⁾	5
Frontage	250	200	50
Width	250	200	200

Minimum Yard Requirements

Front	150	100	100
Side	80	60	60
Rear	80	60	60

Minimum Parking and Loading Setbacks

Side and rear yards	20	20	20
Front yards	25	25	25

Maximum Density

Units per acre	2	3	10
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Maximum building height

Stories	2½	2½	2½
Feet	35	35	35

Detached Accessory Bldg.

Distance From ⁽⁵⁾

Principal building	25	25	25
Side lot line	40	40	40
Rear lot line	40	40	40
Front lot line	150	100	100

Maximum Coverages

Building coverage	10 percent	15 percent	20 percent
Impervious surface ⁽⁴⁾	25 percent	30 percent	40 percent

Footnotes:

- (1) For single-family detached dwellings, the area and bulk requirements are the same as those for the R-43 district.
- (2) For single-family detached dwellings, the area and bulk requirements are the same as those for the R-21 district.
- (3) For single-family and two-family detached dwellings, the area and bulk requirements are the same as those for the R-11 district.

- (4) In all PR zones, any proposed development plan which integrates the rehabilitation and restoration of existing historic buildings and/or houses shall be permitted an increase in the maximum impervious surface coverage for the entire site by an additional five percent. The historic structure shall be calculated as part of the building coverage as defined by these regulations. To be eligible, this historic structure shall be listed in the "Town-wide Historic & Architectural Survey of the Town of Berlin." Any proposed rehabilitation shall be consistent with the building's original architectural character and significance as described in this survey.
- (5) The accessory building or structure may be located closer than 12 feet from the principal structure, providing the minimum rear and side yard setbacks for principal uses are maintained.

D. Historic District Overlay Zone (HDOZ).

1. *Purpose.* The purpose of the HDOZ district is to maintain and preserve the unique residential character of the Worthington Ridge Historic District. This zoning district is intended as an overlay zone for all properties within the Worthington Ridge Historic District.
2. *Permitted uses.* The following uses shall be permitted as a matter of right in the HDOZ district:
 - a. All uses permitted as of right in the underlying districts.
3. *Special permit uses.* The following principal uses shall be permitted in the HDOZ residential districts, except as noted, subject to special permit and site plan approvals by the commission in accordance with Sections XII Special Permits and XIII Site Plans:
 - a. All uses permitted in the underlying districts subject to special permit and site plan approval, except rear lots as indicated in Section IV.A.17.
4. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in all single and two-family residential districts in the HDOZ district:
 - a. All permitted accessory uses in the underlying districts.
5. *Area and bulk requirements.* The area and bulk requirements in the HDOZ district shall be as provided for in the underlying district.

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SECTION VI. COMMERCIAL ZONES

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|---|--|
| A. Planned Shopping ó A (PS-A) | F. General Commercial (GC) |
| B. Planned Shopping ó B (PS-B) | G. Berlin Turnpike Zone ó 1(BT-1) |
| C. Special Design District Regional Center (SP-DD) | H. Berlin Turnpike Zone ó 2 (BT-2) |
| D. Special Design District Regional Center Overlay District (SP-DD Overlay) | I. Commercial Core District ó 1 and Commercial Core District ó 2 (CCD-1 & CCD-2) |
| E. Special Design District 2 ó Berlin Turnpike Overlay District (SP-DD 2) | J. Bulk Tables |

SECTION VI. COMMERCIAL ZONES

A. Planned Shopping ó A (PS-A).

1. *Purpose.* The purpose of the PS-A district is to accommodate retail and other business uses with a primary local orientation.
2. *Permitted site plan uses.* The following principal uses shall be permitted in the PS-A district, subject to site plan approval by the commission in accordance with Section XIII.
 - a. Stores or shops for the conduct of retail businesses.
 - b. Stores or shops for the conduct of personal service businesses.
 - c. Banks or financial institutions.
 - d. Retail dry cleaning establishments or coin-operated laundromats.
 - e. General or professional offices.
 - f. Medical offices or health care clinics, excluding facilities established solely for the treatment or rehabilitation of drug-dependent persons.
 - g. Restaurants, except drive-ins.
 - h. Indoor theaters.
 - i. Commercial recreation facilities if entirely enclosed, such as bowling alleys or ice or roller skating rinks, health or fitness clubs.
 - j. Funeral homes.
 - k. Schools operated for profit; studios of dance, photography, graphic design, painting or similar artistic endeavors.
 - l. Caterers.
 - m. Museums, art galleries or similar facilities of nonprofit educational or cultural organizations or institutions.
 - n. Clubs.
 - o. Membership organizations such as business or professional associations, labor organizations or political organizations.
 - p. Printing, lithography, photocopying or similar graphic arts services; publishing facilities.

3. *Special permit uses.* The following principal uses shall be permitted in the PS-A district, subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII.
 - a. Hospitals, subject to the requirements of Section XI.E.
 - b. Public transportation facilities, including bus stations and shelters.
 - c. Automobile dealers, including accessory automobile service and repair, each subject to a certificate of approval from the Zoning Board of Appeals.
 - d. Adult day care centers, subject to the provisions of Section XI.O.
 - e. Medical or dental laboratories.
 - f. Animal hospitals; boarding of animals or birds; commercial kennels.
 - g. Radio or television broadcast facilities.
 - h. Nurseries or garden supply stores.
 - i. Building Materials suppliers, if all equipment and supplies are stored inside.
 - j. Public schools, libraries, or post offices.
 - k. Drive-through facilities as an accessory to the principal use otherwise permitted in this zone, provided that:
 - i. The outdoor speaker be located a minimum of 100 feet from the boundary of any residentially zoned property;
 - ii. No sound from the outdoor speaker be heard on any residentially zoned property;
 - iii. All drive-through facilities shall be discontinued upon cessation of the principal use to which they are associated.
 - l. Commercial parking lots, garages or structures, for the parking of motor vehicles.
 - m. Amusement facilities entirely enclosed.
 - n. [Reserved].
 - o. Public utility substations, telephone exchanges, water filtration plants or other public utility facilities, subject to the requirements of Sections XI.K. and XI.N.
 - p. Gasoline filling stations, subject to the requirements of Section XI.R.; also subject to a certificate of approval from the Zoning Board of Appeals.
 - q. [Reserved].
 - r. Child day care centers or group day care homes, subject to Section XI.H.
4. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in the PS-A zone:
 - a. Any accessory building, structure or use customarily incidental and directly related to the operation of the principal use.
 - b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.
 - d. The outside overnight parking of vehicles or equipment, provided that no vehicle or equipment shall be parked within any required yard and

that the commission may require appropriate screening in accordance with the provisions of Section IX.C.

5. *Additional requirements for permitted uses.* All permitted operations and related storage, except for the parking of motor vehicles, shall be conducted entirely within a building in the PS-A district.

B. Planned Shopping 6 B (PS-B).

1. *Purpose.* The purpose of the PS-B district is to accommodate unified development of planned commercial facilities to serve a local and regional market.
2. *Special permit uses.* The following principal uses shall be permitted in the PS-B district, subject to special permit and site plan approvals by the commission in accordance with Sections XII Special Permits and XIII Site Plans:
 - a. Retail uses.
 - b. Business and professional offices.
 - c. Hotels and conference centers, with a minimum of 100 rooms.
 - d. Restaurants, including drive-through restaurants.
 - e. Banks and financial services.
 - f. Indoor motion picture theatres.
 - g. Indoor commercial recreational facilities.
 - h. Multi-Use developments comprised of a new automobile dealership and at least one other special permit use identified in 2a through 2g above, provided the property so developed:
 - i. has a minimum continuous linear frontage of 500 feet on the Berlin Turnpike; and
 - ii. has a minimum lot area of seven and one-half (7.5) acres.
3. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in the PS-B district:
 - a. Any accessory building, structure or use customarily incidental and directly related to the operation of the principal use.
 - b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.
 - d. The outside overnight parking of vehicles or equipment, provided that no vehicle or equipment shall be parked within any required yard and that the commission may require appropriate screening in accordance with the provisions of Section IX.B.
 - e. The installation, balancing and alignment of new tires sold as merchandise on the premises. All activities, including storage of old tires, to be conducted inside a building. The provision of other automotive service or repair is not permitted as an accessory use; only as a special permit use per Section 2h above.
4. *Additional requirements for permitted uses.* Additional requirements for permitted uses in the PS-B district are as follows:

- a. All permitted operations and related storage, except for the parking of motor vehicles, shall be conducted entirely within a building.
- b. Minimum initial building size for special permit uses 2a through 2g above: At least 80,000 square feet of gross floor area shall be provided in the building or buildings. Subsequent buildings on an already approved site shall not be subject to this requirement.
Minimum building or building size for special permit use for 2h above:
At least 25,000 square feet of gross floor area for the new automobile dealership, and at least 15,000 square feet of gross floor area for any additional use permitted pursuant to 2h above.
- c. Maximum building size: 300,000 square feet.
- d. Pedestrian circulation shall be provided internally on each site and, to the extent feasible, to adjacent sites to avoid or minimize the need for shoppers or employees to drive out to the Berlin Turnpike when accessing nearby establishments.

C. Special Design District 6 Regional Center (SP-DD).

1. *Purpose.* To accommodate unified, well planned, mixed use development that offers a high intensity of uses, consistent with the area capacity and environmental conditions, is pedestrian friendly, will create a favorable image of the community and will make a strong contribution to the local and regional economy, and serve as a regional activity center.
2. *Special permit uses.* The following principal uses shall be permitted in the SP-DD district subject to special permit and site plan approvals by the commission in accordance with Sections XII Special Permits and XIII Site Plans:
 - a. Retail uses, including shopping malls, provided that no retail establishment occupy over 50,000 square feet of building area, except if included within enclosed shopping malls in excess of 500,000 square feet.
 - b. [Reserved].
 - c. General business, medical and professional offices.
 - d. Hotels, with a minimum of 100 rooms.
 - e. Restaurants, excluding drive-through restaurants.
 - f. Banks and financial services.
 - g. Indoor commercial recreational facilities, when a part of shopping center.
3. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted:
 - a. Any accessory building, structure or use customarily incidental and directly related to the operation of the principal use.
 - b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.

- d. The outside overnight parking of vehicles or equipment, provided that no vehicle or equipment shall be parked within any required yard and that the commission may require appropriate screening in accordance with the provisions of Section IX.B.
- 4. *Criteria for approval.* The commission shall approve a proposed development within the SP-DD district, only if it finds that it conforms to all the following criteria:
 - a. All permitted operations and related storage, except for the parking of motor vehicles, shall be conducted entirely within a building.
 - b. The proposal conforms to the plan of conservation and development.
 - c. The overall development shall be pedestrian oriented, with the buildings and uses in close proximity to each other, connected by a functional network of pedestrian paths. The buildings shall be oriented towards the pedestrian network.
 - d. Not more than 50 percent of the total floor area shall be devoted to a category of use, except offices. However, the commission may permit more than 50 percent of the floor area devoted to a specific use if it determines that the proposed development is consistent with the intent of this zone.
 - e. Surface parking areas shall be screened from view from public rights-of-way, and shall not visually dominate the site.
 - f. The architectural style of the proposed developments shall be internally compatible, and consistent with standards of contemporary commercial design.
 - g. The design and improvement associated with the proposed development shall not result in excessive traffic congestion on the state or local road system.
 - h. Landscaping shall enhance the pedestrian orientation of the proposed development. In addition to the requirements of §IX.B.14, and §IX.C, landscaping shall include street trees planted along all roadways within the development, and along the perimeter, at a maximum spacing of 75 feet, each tree having a minimum caliper of 2½ inches. Landscaping shall include the abundant use of planting beds to enhance the aesthetic environment.
 - i. Benches and other pedestrian amenities shall be installed at appropriate locations throughout the development, as determined by the commission.

D. Special Design District ó Regional Center Overlay District (SP-DD Overlay).

- 1. *Purpose.* To provide for additional area for the development of a regional mixed used commercial center. This district is intended as an overlay district for properties that may be incorporated into the planned regional center.
- 2. *Site plan uses.* The following principal uses shall be permitted in the SP-DD overlay district subject to site plan approval by the commission in accordance with § XIII:

- a. All uses permitted subject to site plan approval in the underlying zoning districts.
3. *Special permit uses.* The following principal uses shall be permitted in the SP-DD overlay zone subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII:
 - a. All uses permitted subject to site plan and special permit approval in the underlying zoning districts.
 - b. All uses permitted subject to site plan and special permit approval in the special design district regional center, when an integral component of a regional center to be developed, subject to the criteria for approval described in Section VI.B.4.
4. *Permitted accessory buildings, structures and uses.* The following accessory buildings structures and uses shall be permitted:
 - a. All accessory uses permitted in the underlying zoning districts.
5. *Criteria for approval.* The Planning and Zoning Commission shall approve a proposed development within the SP-DD overlay district, only if it finds that it conforms to all the following criteria:
 - a. All permitted operations and related storage, except for the parking of motor vehicles, shall be conducted entirely within a building.
 - b. The proposal conforms to the plan of conservation and development.
 - c. The overall development shall be pedestrian oriented, with the buildings and uses in close proximity to each other, connected by a functional network of pedestrian paths. The buildings shall be oriented towards the pedestrian network.
 - d. Not more than 50 percent of the total floor area shall be devoted to a category of use, except offices. However, the commission may permit more than 50 percent of the floor area devoted to a specific use if it determines that the proposed development is consistent with the intent of this zone.
 - e. Surface parking areas shall be screened from view from public rights-of-way, and shall not visually dominate the site.
 - f. The architectural style of the proposed developments shall be internally compatible, and consistent with standards of contemporary commercial design.
 - g. The design and improvements associated with the proposed development shall not result in excessive traffic congestion on the state of local road system.
 - h. Landscaping shall enhance the pedestrian orientation of the proposed development. In addition to the requirements of Sections IX.B.14, and IX.C, landscaping shall include street trees planted along all roadways within the development, and along the perimeter, at a maximum spacing of 75 feet, each tree having a minimum caliper of 2 ½ inches. Landscaping shall include the abundant use of planting beds to enhance the aesthetic environment.

- i. Benches and other pedestrian amenities shall be installed at appropriate locations throughout the development, as determined by the commission.
- j. The project is part of a regional development in the adjacent or nearby SP-DD zone and the applicant demonstrates that the minimum yard requirements when abutting a residential district have been met with respect to other properties in the SP-DD overlay district that are not included in the proposed development.
- k. The property in the SP-DD overlay zone is not used as a point of access or egress for a regional development in the adjacent or nearby SP-DD zone.

E. Special Design District 2 ó Berlin Turnpike Overlay District (SP-DD 2).

- 1. *Purpose.* To provide for a quality of commercial development consistent with the nearby development of a regional mixed used commercial center. This district is intended as an overlay district for properties that have functional relationship to the planned regional center.
- 2. *Site plan uses.* The following principal uses shall be permitted in the SP-DD 2 district subject to site plan approval by the Planning and Zoning Commission in accordance with Section XIII:
 - a. All uses permitted subject to site plan approval in the underlying zoning districts.
- 3. *Special permit uses.* The following principal uses shall be permitted in the SP-DD 2 overlay zone subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII:
 - a. All uses permitted subject to site plan and special permit approval in the underlying zoning districts.
- 4. *Permitted accessory buildings, structures and uses.* The following accessory buildings structures and uses shall be permitted:
 - a. All accessory uses permitted in the underlying zoning districts.
- 5. *Criteria for approval.* The commission shall approve a proposed development within the SP-DD 2 overlay district, only if it finds that it conforms to all the following criteria:
 - a. All permitted operations and related storage, except for the parking of motor vehicles, shall be conducted entirely within a building.
 - b. The proposal conforms to the plan of conservation and development.
 - c. The overall development shall be pedestrian oriented, with the buildings and uses in close proximity to each other, connected by a functional network of pedestrian paths. The buildings shall be oriented towards the pedestrian network.
 - d. Surface parking areas shall be screened from view from public rights-of-way, and shall not visually dominate the site.
 - e. The architectural style of the proposed developments shall be internally compatible, and consistent with standards of contemporary commercial design.

- f. The design and improvements associated with the proposed development shall not result in traffic congestion on the state or local road system.
- g. Landscaping shall enhance the pedestrian orientation of the proposed development. In addition to the requirements of Sections IX.B.14, and IX.C, landscaping shall include street trees planted along all roadways within the development, and along the perimeter, at a maximum spacing of 75 feet, each tree having a minimum caliber of 2½ inches. Landscaping shall include the abundant use of planting beds to enhance the aesthetic environment.
- h. Benches and other pedestrian amenities shall be installed at appropriate locations throughout the development, as determined by the commission.

F. General Commercial (GC).

- 1. *Purpose.* The purpose of the GC district is to accommodate small scale commercial uses on property that benefit from and are appropriate for a highway location in such a manner so as to be compatible with nearby residential properties.
- 2. *Site plan uses.* The following principal uses shall be permitted in the GC district, subject to site plan approval by the commission in accordance with Section XIII:
 - a. Retail stores on parcels of at least one acre.
 - b. Business offices, professional buildings.
 - c. Banks, including drive-in windows.
 - d. Restaurants, banquet halls or other places serving food and beverage.
 - e. Service businesses such as tailors, laundrettes, custom dressmakers, jewelry repair, shoe repair, travel agents, appliance repair, photographers, or duplication business.
 - f. Wholesale businesses.
 - g. Storage facilities or warehouses.
 - h. Indoor motion picture theaters, auditoriums, or places of assembly.
 - i. Manufacturers' showrooms or product distribution centers.
 - j. Funeral parlors.
 - k. Caterers or bakeries.
 - l. Service businesses governed by best management practices, as defined by the state department of environmental protection, such as barber shops, beauty parlors, furniture repair and dry cleaning stores which are served by a public sewer.
- 3. *Special permit uses.* The following principal uses shall be permitted in the GC zone subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII.
 - a. Indoor or outdoor commercial recreation facilities including, but not limited to, skating rinks, dancehalls, sports arenas, health clubs, swimming pools and swimming clubs, miniature golf courses, batting

- cages, go-cart facilities, tennis clubs, bowling alleys and golf driving ranges.
 - b. Motor vehicle repair, garages, or gasoline filling stations; also subject to a certificate of approval from the ZBA.
 - c. Hospitals, subject to the requirements of Section XI.E.
 - d. Public transportation facilities, including bus stations and shelters.
 - e. Automobile dealers, also subject to a certificate of approval from the Zoning Board of Appeals.
 - f. Private transportation or auto rental services.
 - g. Adult day care centers, subject to the provisions of Section XI.O.
 - h. Medical or dental laboratories.
 - i. Animal hospitals; boarding of animals or birds; commercial kennels.
 - j. Radio or television broadcast facilities.
 - k. Nurseries or garden supply stores.
 - l. Service businesses governed by best management practice as defined by the state department of environmental protection, such as barber shops, beauty parlors, furniture repair and dry cleaning stores not served by public sewers.
 - m. Lumberyards or Building Material Suppliers, if all equipment and supplies are stored inside.
 - n. Public schools, libraries, or post offices.
 - o. Drive-through facilities as an accessory to the principal use otherwise permitted in this zone, provided that:
 - i. The outdoor speaker be located a minimum of 100 feet from the boundary of any residentially zoned property;
 - ii. No sound from the outdoor speaker be heard upon any residentially zoned property; and
 - iii. All drive-through facilities shall be discontinued upon cessation of the principal use to which they are associated.
 - p. Commercial parking lots, garages or structures, for the parking of motor vehicles.
 - q. Amusement facilities entirely enclosed.
 - r. Religious, charitable and eleemosynary institutions, subject to the requirements of Section XI.L.
 - s. Public utility substations, telephone exchanges, water filtration plants or other public utility facilities, subject to the requirements of Sections XI.K. and XI.N.
 - t. Child day care centers or group day care homes, subject to Section XI.H.
 - u. Motels, in accordance with Section XI.W.
 - v. Sales, service and storage facilities for boats, vehicles and equipment.
 - w. Unattended car wash.
4. *Special permit uses; ZBA.* The following principal uses shall be permitted in the GC district, subject to special permit approval by the ZBA in accordance with Section XII:

- a. Nonprofit membership clubs, subject to the requirements of Section XI.P.
 - b. Liquor sales.
- 5. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in the GC district:
 - a. Any accessory building, structure or use customarily incidental and directly related to the operation of the principal use.
 - b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.
- 6. *Other provisions and regulations.* Other provisions and regulations in the GC districts are as follows:
 - a. Outdoor sales established on a permanent or seasonal basis, at specific locations used only for that purpose shall be subject to site plan review by the commission. Outside sale areas shall not extend into the area required for setback from the street line or into required side yards. The commission may require the outside sales area to be enclosed by buildings, fences, walls, landscaped earthen berms, evergreen shrubs or trees and may also require nonpermeable ground barriers and storage covers where appropriate.
 - b. There shall be provided a minimum 30-foot landscaped buffer in the rear yard and a minimum ten-foot buffer in the side yard. Where the abutting property is zoned or used for residential purposes, there shall be provided a minimum of two rows of evergreen trees planted in a staggered pattern. Said trees shall be a minimum of six feet high and shall be planted no farther than eight feet on center.
 - c. There shall be no more than one curb cut for each 200 feet of street frontage, except as may be required under applicable law for gasoline filling stations and for corner lots as defined herein. The commission may restrict further the number of curb cuts where they find, following review by the police commission, that more restrictive access is necessary to protect public safety.

G. Berlin Turnpike Zone 6 1 (BT-1).

- 1. *Purpose.* To provide for a range of commercial and related uses that are appropriate to the unique nature of the properties along the Berlin Turnpike that do have detrimental impacts on nearby residential properties.
- 2. *Site plan uses.* The following principal uses shall be permitted in the BT district subject to site plan approval by the commission in accordance with Section XIII, provided that the total building area of uses does not exceed 5,000 square feet GFA and further provided that vehicular access between adjacent parcels and integration of pedestrian access between adjacent parcels is addressed:
 - a. Stores or shops for the conduct of retail business, except that the sale, service or rental of motor vehicles shall be specifically excluded.
 - b. General business medical or professional offices.

- c. Banks, including drive-in and drive-through establishments.
 - d. Restaurants, banquet halls or other places serving food and beverage.
 - e. Stores or shops for the conduct of personal or business service businesses such as travel agents, beauty salons/spa, computer repair.
 - f. Indoor motion picture theaters.
 - g. Manufacturers' showrooms or product distribution centers.
 - h. Caterers or bakeries.
3. *Special permit uses.* The following principal uses shall be permitted in the BT-1 zone subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII and further provided that vehicular access between adjacent parcels and integration of pedestrian access between adjacent parcels is addressed.
- a. All uses permitted by site plan in excess of 5,000 square feet provided that a single unified site plan application may be submitted for multi-building projects.
 - b. Indoor or outdoor commercial recreation facilities including, but not limited to, skating rinks, dancehalls, sports arenas, health clubs, swimming pools and swimming clubs, miniature golf courses, batting cages, go-cart facilities, tennis clubs, bowling alleys and golf driving ranges.*
 - c. Health and Fitness Clubs.
 - d. Motor vehicle repair, garages, or gasoline filling stations; also subject to a Certificate of Location Approval from the Zoning Board of Appeals.
 - e. Hospitals, subject to the requirements of Section XI.E.
 - f. Public transportation facilities, including bus stations and bus shelters.
 - g. Automobile dealers, also subject to a certificate of approval from the Zoning Board of Appeals.*
 - h. Private transportation or auto rental services.
 - i. Adult day care centers, subject to the provisions of Section XI.O.
 - j. Medical or dental laboratories.
 - k. Animal hospitals.
 - l. Radio or television broadcast facilities.
 - m. Nurseries or garden supply stores.
 - n. Lumberyards or building materials suppliers, provided that that building material is stored and displayed within an enclosed building.
 - o. Public schools, libraries, or post offices.
 - p. Drive-in establishments, which are part of a use otherwise permitted by right and including but not limited to restaurants and banks.
 - q. Amusement facilities entirely enclosed.
 - r. Religious, charitable and eleemosynary institutions, subject to the requirements of Section XI. L
 - s. Storage facilities or warehouses.
 - t. Child day care centers or group day care homes, subject to Section XI.H.
 - u. Hotels.

- v. Motels, in accordance with Section XI.W.
 - w. Sales and service facilities for boats, vehicles and equipment.
 - x. Manufacturing facilities.*
 - y. Wholesale and distribution facilities.*
 - z. Research and development facilities.
 - aa. Printing and publishing services.
 - bb. Public utilities buildings or facilities subject to the requirements of Sections XI.K and XI.N.
 - cc. Carwashes.*
- * These special permit uses may not be developed on lots less than two acres.
4. *Special permit uses, ZBA.* The following principal uses shall be permitted subject to special permit approval by the ZBA in accordance with Section XI.B.
 - a. Liquor sales.
 5. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted:
 - a. Any accessory building, structure or use customarily incidental and directly related to the operation of the principal use.
 - b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.
 6. *Other provisions and regulations.*
 - a. Outdoor sales established on a permanent or seasonal basis, at specific locations used only for that purpose shall be subject to site plan review by the Planning and Zoning Commission. Outside sale areas shall not extend into the area required for setback from the street line or into required side yards. The commission may require the outside sales area to be enclosed by buildings, fences, walls, landscaped earthen berms, evergreen shrubs or trees and may also require non-permeable ground barriers and storage covers where appropriate.
 - b. Where the abutting property is zoned or used for residential purposes, there shall be provided a minimum 30 foot landscaped buffer in the rear yard and a minimum of 10 foot buffer in the side yard. The landscape buffer shall have a minimum of two rows of evergreen trees planted in a staggered pattern. Said trees shall be a minimum of 6 feet high and shall be planted no farther than 8 feet on center.
 - c. There shall be no more than one curb cut for each 200 feet of street frontage, except as may be required under applicable law for gasoline filling stations and for corner lots as defined herein. The Planning and Zoning Commission may restrict further the number of curb cuts where they find, following review by the police commission, that more restrictive access is necessary to protect public safety.

H. Berlin Turnpike Zone – 2 (BT-2).

1. *Purpose.* To provide for a range of commercial and related uses that are appropriate to the unique nature of the properties along the Berlin Turnpike that do have detrimental impacts on nearby residential properties.
2. *Site Plan Uses.* The following principal uses shall be permitted in the BT 2 district subject to site plan approval by the Planning and Zoning Commission in accordance with Section XIII, provided that the total building area of uses does not exceed 5,000 square feet GFA:
 - a. Stores or shops for the conduct of retail business, except that the sale, service or rental of motor vehicles shall be specifically excluded.
 - b. General business medical or professional offices.
 - c. Banks.
 - d. Restaurants, banquet halls or other places serving food and beverage.
 - e. Stores or shops for the conduct of personal or business service businesses such as travel agents, beauty salons/spa, and computer repair.
3. *Special Permit Uses.* The following principal uses shall be permitted in the BT-2 zone subject to Special Permit and Site Plan approvals by the Commission in accordance with Sections XII and XIII.
 - a. All uses permitted by site plan in excess of 5,000 square feet provided that a single unified site plan may be submitted for multi-building projects.
 - b. Health and fitness clubs.
 - c. Hospitals, subject to the requirements of Section XI.E.
 - d. Public transportation facilities, including bus stations and bus shelters.
 - e. Adult day care centers, subject to the provisions of Section XI.O.
 - f. Radio or television broadcast facilities.
 - g. Public schools, libraries, or post offices.
 - h. Drive-in establishments, which are part of a use otherwise permitted by right and including, but not limited to restaurants and banks.
 - i. Religious, charitable and eleemosynary institutions, subject to the requirements of Section XI.L.
 - j. Child day care centers or group day care homes, subject to Section XI.H.
 - k. Hotels.
 - l. Motels, in accordance with Section XI.W.
 - m. Veterinary Clinics (without kenneling for the purpose of boarding.)
4. *Special Permit Uses, ZBA.* The following principal uses shall be permitted subject to Special Permit approval by the Zoning Board of Appeals in accordance with Section XI.B.
 - a. Liquor sales.
5. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted.
 - a. Any accessory building, structure or use customarily incidental and directly related to the operation of the principal use.

- b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.
- 6. *Other provisions and regulations.*
 - a. Outdoor sales established on a permanent or seasonal basis, at specific locations used only for that purpose shall be subject to site plan review by the Planning and Zoning Commission. Outside sale areas shall not extend into the area required for setback from the street line or into required side yards. The commission may require the outside sales area to be enclosed by buildings, fences, walls, landscaped earthen berms, evergreen shrubs or trees and may also require non-permeable ground barriers and storage covers where appropriate.
 - b. There shall be provided a minimum 30 foot landscape buffer in the rear yard and a minimum 10 foot buffer in the side yard. Where the abutting property is zoned or used for residential purposes, there shall be provided a minimum of two rows of evergreen trees planted in a staggered pattern. Said trees shall be a minimum of 6 feet high and shall be planted no farther than 8 feet on center.
 - c. There shall be no more than one curb cut for each 200 feet of street frontage, except as may be required under the applicable law for gasoline filling stations and for corner lots as defined herein. The Commission may restrict further the number of curb cuts where they find, following review by the Police Commission, that more restrictive access is necessary to protect the public safety.

I. Commercial Core District 1 and 2 (CCD-1/ CCD-2).

- 1. *Purpose.* The purpose of the commercial core design districts is to encourage the orderly development of a shopping area for the town which provides the opportunity for creative and flexible architectural design, the sound interrelationship of buildings to open spaces, pedestrian and vehicular circulation, landscaping, parking areas and business uses and to carry out the recommendations and proposals for circulation and use contained in the duly adopted plans and policies of the commission.
- 2. *Permitted site plan uses.* The following principal uses shall be permitted in the CCD-1 and CCD-2 districts, subject to site plan approval by the commission in accordance with Section XIII:
 - a. Stores or shops for the conduct of retail businesses, except that the sale, service or rental of motor vehicles shall be specifically excluded.
 - b. Stores or shops for the conduct of personal service businesses.
 - c. Retail dry cleaners or retail laundry establishments.
 - d. Restaurants, sit-down.
 - e. Banks or financial institutions without drive-in facilities.
 - f. General, medical or professional offices.
 - g. Medical clinics, not for overnight patient stay, excluding facilities established solely for the treatment or rehabilitation of drug-dependent persons.

- h. Public or semipublic uses.
 - i. Bed and breakfast establishments.
 - j. Health or fitness clubs, gymnasium or racquet clubs.
 - k. Printing, lithography, photocopying or similar graphic arts services; publishing.
 - l. Religious or eleemosynary institutions.
 - m. Civic associations, fraternal organizations or social clubs.
 - n. Other membership organizations such as business or professional associations, labor organizations or political organizations.
 - o. Studios of dance, photography, graphic design, painting or similar artistic endeavors.
 - p. Adult day care centers, in accordance with Section XI.O.
3. *Special permit uses.* The following uses shall be permitted in the CCD-1 and CCD-2 districts subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII.
- a. Convalescent or nursing homes, subject to the requirements of section XI.E.
 - b. Movie theaters, auditoriums or stage theaters.
 - c. Restaurants, fast-food.
 - d. Child day care centers or group day care homes subject to Section XI.H.
 - e. Drive-through facilities as an accessory to the principal use otherwise permitted in this zone, provided that:
 - i. The subject property is at least one acre in size and that sidewalks shall be provided across all property frontages. In addition, it is recommended that the following be considered in the site design:
 - (1) Provisions for shared access to principal streets with abutting properties through common drives and curb cuts.
 - (2) Shared interior parking, circulation, and maintenance by mutual agreement of the property owners.
 - (3) Drive-through facilities should be a subordinate element of the interior circulation arrangement and should not have independent access to streets.
 - ii. Drive-through areas shall be screened from view from public streets with substantial landscaping treatment including a variety of evergreen and deciduous species.
 - iii. Outdoor speakers are to be located a minimum of 100 feet from the boundary of any residentially zoned property.
 - iv. No sound from the outdoor speaker shall be heard upon any residentially zoned property.
 - v. All drive-through facilities shall be discontinued upon cessation of the principal use to which they are associated.

- vi. Circulation should allow for adequate length of stacking for drive through facilities so as to not interfere with the movement of traffic (on or off-site) and/or pedestrian areas.
- vii. Drive through elements should be architecturally integrated into the building, rather than appearing to be applied or "stuck on" to the building.
- viii. Provide for safe pedestrian circulation including interior sidewalks through the parking areas and sidewalks around the site perimeter as deemed necessary by the Commission.
- f. Multifamily dwelling units, at a maximum density of four units per acre, if not located at street level or on the first floor of a building.
- g. Hospitals, nursing and/or convalescent homes, subject to the requirements of Section XI.E.
- h. Gasoline filling stations at locations where gasoline filling stations legally exist at the time of the adoption of these regulations, notwithstanding the provision of Section XI.R.6, which prohibits the erection of a gasoline filling station near any building or premises used for such purposes on any part of a lot within a radius of 1,500 feet of any part of any lot used or proposed to be used for the within stated purpose; subject to all other requirements of Section XI.R and a Certificate of Approval from the Zoning Board of Appeals.
- i. Gasoline filling stations. In a CCD-2 zone only, gasoline filling stations, excluding any repairs, as part of a complex of structures comprising a shopping center with a principal building containing a principal tenant occupying not less than sixty thousand (60,000) square feet may be allowed. Any Special Permit shall be subject to site plan approval by the Planning and Zoning Commission in accordance with Section XII and XIII. The requirements of Section XI.R shall not apply to facilities approved pursuant to this provision but they shall be subject to the following conditions:
 - i. The gasoline filling station shall be serviced by a building which shall not be greater than one hundred (100) square feet designed and permitted to monitor the facility, service customers, and sell retail merchandise.
 - ii. The location of gasoline filling stations shall be subject to receipt of a certificate of approval from the Zoning Board of Appeals.
 - iii. No outside storage of any motor vehicle shall be permitted.
 - iv. Fuel pumps shall be set back from the street line at least 25 feet. All other buildings and structures, except underground storage tanks, shall be set back at least 45 feet from the street line, ten feet from each side line and 20 feet from the rear lot line. If the gasoline filling station abuts a residential zone, the greater setbacks required by the CCD-2 zone shall apply.

- v. Storage tanks for gasoline or other motor vehicle fuels shall be located underground in compliance with pertinent local and state codes and regulations.
- vi. There shall be no outdoor display of merchandise, except that motor oil and other fluids for motor vehicles may be displayed on racks designed therefore immediately adjacent to the service building.
- vii. There shall be no dumping of waste materials, such as grease or oil.
- viii. There shall be no residence or sleeping quarters maintained in any gasoline filling station.
- ix. Sign provisions of Section IX.A shall apply except that small (not visible from the street) credit card, direction, telephone or similar public convenience signs shall not count towards the permitted sign area.
- x. The Commission may require a suitable buffer to screen from adjacent properties. The buffer may include a 10-foot landscaping area and/or a fence approved by the Planning and Zoning Commission. Landscaping plans for the overall site shall be submitted as part of the Special Permit/Site Plan applications and shall be a critical part in evaluating how well the use shall fit in with the surrounding areas.
- xi. The architectural style and design of the gasoline filling station (including but not limited to the canopy and service building) shall be approved by the Planning and Zoning Commission and shall be compatible with the architectural style and design of the primary buildings and design of the shopping center of which it is to be a part.
- xii. The facility shall not be designed to service motor vehicles with an overall wheel base greater than thirty (30) feet in length. The Planning and Zoning Commission may require design changes, signage or other appropriate measures be utilized to prevent the use of the facility by larger vehicles.
- xiii. There shall be no more than one driveway per every 50 feet of parcel length. Such driveways shall not be more than 35 feet wide, and not less than 20 feet wide at the curb line; shall be no closer than 15 feet at the curb line and shall be at least 20 feet from any intersection of public streets. All driveways, parking or standing areas shall be permanently improved with a paved surface.
- xiv. The applicant shall demonstrate that enough parking has been provided for in the special permit and site plan applications.
- xv. The applicant shall demonstrate that the nature and intensity of the operations involved in or conducted in connection with the gasoline filling station shall be such that it will be in harmony

- with the appropriate and orderly development of the area including all adjacent zoning districts in which it is located.
- xvi. Receptacles appropriate for debris and trash shall be located and maintained in the area of the gasoline filling station at locations approved by the Commission. The Commission may require screening of any receptacles through the use of appropriate landscaping or fencing.
 - j. Multifamily dwelling units at a maximum density of 2.5 units per acre for persons 55 years of age or older, subject to the requirements of Section XI.AA. of these regulations and the architectural design standards contained in "Active Adult Housing" as stated in Section XI.AA.3.c.
 - k. Brew Pub – Only permitted in the CCD-2 Zoning District.
 - l. Caterers and Wholesale Bakeries. Such uses located in the CCD-1 Zone will not be permitted to have trucks for shipping or deliveries on site that exceed 26 feet. The size of the truck (up to 26 feet) that will be permitted on site will be part of the Special Permit review but no truck shall exceed 26 feet.
4. *Special standards for CCD-2 district.* For parcels of a minimum size of four acres or larger, multifamily residential uses at a density of up to ten dwelling units per acre, with a maximum height of four stories or 50 feet, whichever is less, shall be permitted in the CCD-2 district, subject to site plan and special permit approvals by the commission in accordance with Sections XII and XIII, provided that the first floor area of the building along the frontage on a public street, and other areas in which high volumes of pedestrian traffic are anticipated consist entirely of stores and shops for the conduct of retail business or personal service business.
5. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in the CCD-1 and CCD-2 districts:
- a. Uses normally accessory to a principal use requiring site plan approval, provided that such uses shall be applied for with, and included in, a site plan application.
 - b. Uses normally accessory to a principal use requiring a special permit, provided that such uses shall be applied for with, and included in, a special permit application.
 - c. Building mechanical equipment located outside the structure, including radio and television reception equipment, provided that such equipment shall be properly screened.
 - d. Off-street parking and loading, excluding parking structures, subject to Section IX.B. No parking shall be permitted in the front yard.
 - e. Signs, subject to Section IX.A.
 - f. Outdoor sales established on a permanent or seasonal basis, at specific locations used only for that purpose and subject to site plan review. Outside sale areas shall not extend into the area required for setback from the street line or into required sidelines. The Commission may

require the outside sales area to be enclosed by buildings, fences, walls, landscaped earthen berms, evergreen shrubs or trees and may also require nonpermeable ground barriers and storage covers, where appropriate.

6. *Design requirements.* Design requirements in the CCD-1 and CCD-2 districts are as follows:
 - a. All uses, except parking, loading and permitted signs, shall be conducted entirely within a building.
 - b. All buildings shall include a principal entrance oriented towards the public right-of-way.
 - c. Pedestrian facilities shall be provided to link the entrance to the buildings to the public pedestrian circulation system.
 - d. All individual ground level retail business, including stores and shops, shall have separate direct outside access to the pedestrian circulation system.
7. *Additional site plan submittal requirements.* The following information shall be submitted with all applications for site plan approval in the CCD-1 and CCD-2 districts, in addition to the requirements of Section XIII:
 - a. Elevation drawings of all sides of the building, with finish materials and colors indicated.
 - b. Samples of all finish materials to be used on the exterior of the building.
 - c. A roof plan showing all mechanical equipment, vents, hatches, skylights, etc., and the type and extent of screening to be provided.

(SEE NEXT PAGE FOR AREA & BULK REQUIREMENTS)

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J. Area and bulk requirements. The following area and bulk requirements shall be applicable in the PS- A, PS- B, SP- DD, SP- DD Overlay, SP- DD 2, GC, BT- 1, BT- 2, CCD- 1, and CCD- 2 districts, as indicated. Dimensions are in feet unless otherwise indicated.

	PS-A Planned Shopping- A ⁽⁴⁾	PS-B Planned Shopping- B	SP-DD Special Design District Regional Center	SP-DD Overlay Special Design District Regional Center Overlay District	SP-DD 2 Special Design District 26 Berlin Turnpike Overlay District (see BT-2)	GC General Commercial	BT-1 Berlin Turnpike	BT 2 Berlin Turnpike 2	CCD-1 Commercial Core Design-1	CCD-2 Commercial Core Design-2
1. Minimum front yard	75	50	100 ⁽¹¹⁾	200		50	50	50	5	5
2. Minimum side yard (each) ⁽⁵⁾	25	25	100 ⁽¹¹⁾	100		25	25	25	5	10
When abutting a residential district	50	100	200 ⁽¹¹⁾	200		50	50	50	30	30
3. Minimum rear yard	30	100	100 ⁽¹¹⁾	100		50	50	50	20	20
When abutting a residential district	50	100	200 ⁽¹¹⁾	200		50 ⁽⁷⁾	50	50	30	30
4. Minimum parking and loading setbacks (side and rear yards) ^{(5), (6)}	10	25-parking 50-loading	50	50		10	10	10	0	0
When abutting a residential district	50	100	100 ⁽¹¹⁾	200		50	50	50	30	30
5. Maximum building height (stories) / (feet)	2 ½ / 35	40 ⁽³⁾	5 / 75	5 / 75		2 ½ / 35	2 ½ / 35	4 / 35	2 ½ / 35	4 / 60 ⁽¹⁾
6. Minimum parking and loading setback front yard ⁽⁶⁾	10	10 ⁽⁶⁾	50	50		10	10	10	10	10
7. Maximum building coverage (percent)	25	30	25	25		25	25	25	50	50
8. Maximum building impervious surface coverage (percent)	75	80	80	80		80	80	80	90	90
9. Minimum lot size (acres)	5	5 ⁽²⁾	10 ⁽²⁾⁽¹¹⁾	20 ⁽²⁾		1 ⁽⁸⁾	2 ⁽⁹⁾	2 ⁽⁹⁾	2	2
10. Minimum lot width	400	400	400 ⁽¹¹⁾	400		175	175 ⁽¹³⁾	175	NA	NA
11. Maximum floor area (FAR)	0.3	1.0	1.0	1.0		0.3	0.5	0.5	1.5	2.5 ⁽¹⁾
12. Detached accessory buildings Minimum distance from principal building	12	12	12	12		12	12	12	12	12
Side lot line	25	100	100	100		25	25	25	10	10
Rear lot line	30	100	100	100		50	50	50	20	20
Front lot line	75	100	100	100		50	50	50	5	5

Footnotes:

- (1) Subject to minimum parcel size of four acres. For parcels smaller than four acres, requirements of CCD-1 shall apply.
- (2) For initial development; smaller parcels may be added after initial development or when permitted by the Commission as part of a master plan with shared access or with easements to permit shared access.

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- (3) One additional foot of height shall be permitted for each five feet of building setback provided above the minimum, not to exceed 65 feet in total height.
- (4) Where permitted uses which are part of a complex of structures comprising a shopping center and/or office park and/or a planned development of two or more principal buildings, the overall complex shall comply with other use and bulk provisions of these regulations. However, in those cases where such a complex may be divided into individual lots, such individual lots need not comply with frontage, setback, lot coverage, lot area and size, and other use and bulk provisions of these regulations. In the case of a new shopping center and/or office park and/or planned development to be developed subsequent to the adoption of these regulations, all site development plans shall conform to an overall design theme approved by the commission prior to the subdivision of the property.
- (5) Yards on a common side lot line may be omitted where two or more lots containing no residential uses share a single joint entrance and single joint exit to a public street, provided permanent vehicular access shall be provided to the rear of such lots, or if building is attached to building on adjacent lot. Minimum side yard may be otherwise reduced, at the discretion of the commission, where a common site plan application is submitted for adjacent properties.
- (6) Parking lot setbacks may be reduced by the commission if it finds that size and/or shape of the lot makes adherence to the prescribed setbacks not feasible and adequate visual buffering is in place in accordance with the provisions of Section IX.C.
- (7) For properties fronting on a state highway that abut a residential district, the minimum rear yard setback shall be 30 feet.
- (8) The Commission may permit, by special permit, development on existing lots of less than one acre, provided that they find it adequate for the intended use.
- (9) Within the BT-1 district, the Commission may permit, by special permit, development on lots of less than two acres, provided that they find the lot size adequate for the intended purpose and further provided that adequate provision has been made for driveway closing, shared driveways with access easements for adjoining properties, and parking area interconnections with adjoining properties in order to minimize curb cuts and enhance access management along the Berlin Turnpike.
- (10) [Reserved].
- (11) For existing, nonconforming lots in the SP-DD zone that are less than the required minimum lot size, these dimensional requirements will be halved. For lots in the SP-DD zone which are developed jointly in conformance with a master plan approved by the commission, the commission may reduce the minimum lot size requirement and may reduce or eliminate the setback requirements.
- (12) [Reserved].
- (13) Within the BT-1 district, the commission may allow a lot with lesser frontage and/or smaller lot size provided that adequate provision has been made for driveway closing, shared driveways with access easements for adjoining properties, and parking area interconnections with adjoining properties in order to minimize curb cuts and enhance access management along the Berlin Turnpike.

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SECTION VII. INDUSTRIAL ZONES

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| A. OT Office Technology and OT-2
Office Technology ó 2 | E. PI-2 Planned Industrial 2 |
| B. GI General Industrial | F. POD Planned Office Development. |
| C. GI-2 General Industrial 2 | G. General Requirements |
| D. PI Planned Industrial | H. Bulk Table |

SECTION VII. INDUSTRIAL ZONES**A. Office Technology (OT) and Office Technology ó 2 (OT-2).**

1. *Purpose.* To provide and ensure for the development of high quality economic development that will contribute to the long term economic base of the town, provide attractive sites for the growing and emerging industries, and become an economic, aesthetic and environmental asset for the town.
2. *Permitted site plan uses.* The following principal uses shall be permitted in the office technology zones, subject to site plan approval by the commission in accordance with Section XIII:
 - a. Business or professional offices, including medical offices.
 - b. Corporate office complexes, including offices, training facilities, outdoor equipment storage, service facilities and other related uses with proper screening.
 - c. Laboratories, research facilities, design centers and other similar professional uses.
 - d. Farms, subject to Section XI.C.
3. *Special permit uses.* The following principal uses shall be permitted in the office technology zones, subject to special permit and site plan approvals in accordance with Sections XII and XIII:
 - a. Child day care centers, subject to Section XI.H.
 - b. Health or fitness clubs, gymnasiums, tennis or racquet clubs.
 - c. Hotels, or hotel conference centers.
 - d. Manufacturing, provided that, along with wholesale and distribution uses, these uses are less than 50 percent of the total GFA of each building.
 - e. Wholesaling and distribution uses, provided that, along with manufacturing uses, these uses are less than 50 percent of the total GFA of each building.
 - f. Manufacturers showroom.
4. *Special permit uses, ZBA.* The following use shall be permitted in the office technology zones subject to special permit approval by the ZBA in accordance with Section XII.

- a. Liquor sales for accessory restaurants within permitted uses. Said restaurants shall be exempt from the 1500-foot radius provision of Section XI.B.I.a.
- 5. *Special permit uses in the Office Technology-2 Zone.*
 - a. Adult housing, subject to Section XI.AA.
- 6. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in the office technology zones:
 - a. Uses normally accessory to a principal use requiring site plan approval, provided that such uses shall be applied for with, and included in, a site plan application.
 - b. Uses normally accessory to a principal use requiring a special permit, provided that such uses shall be applied for with, and included in, a special permit application.
 - c. Building mechanical equipment located outside the structure, including radio and television reception equipment, provided that such equipment shall be properly screened.
 - d. Signs, subject to Section IX.A.
 - e. Off-street parking and loading, subject to Section IX.B.
 - f. Parking garages and parking structures, subject to Section IX.B.
 - g. Outside overnight parking or storage of vehicles or equipment, provided that no vehicle or equipment shall be parked within any required yard and that the commission may require appropriate screening in accordance with Section IX.B.
 - h. Clinics or cafeterias, for employees only, when conducted within a main building.
 - i. Recreation facilities, provided that all such buildings and uses shall be planned as an integral part of the office building or research laboratory development and located on the same lot with the use to which they are accessory.
 - j. Assembly halls, for meetings incidental to the business of the principal use.
 - k. Utility buildings, facilities and equipment.
- 7. *Additional requirements for permitted uses.*
 - a. Architectural style. The commission shall review the architectural design of all buildings within the office technology zones and shall approve applications only if they conform with the following requirements.
 - i. All buildings and uses within a proposed development shall be complimentary in design.
 - ii. The architectural design of each building shall be consistent with the setting of a contemporary business park, with glass or masonry exteriors. The Commission may waive this provision for detached accessory buildings located to the side or rear of the principal building or buildings.

- iii. Each building shall be designed to avoid a long, unbroken expanse of wall.
- iv. Each building shall utilize varying facades and rooflines to create architectural interesting design.
- v. A 40-foot landscaped buffer shall be provided around the entire perimeter, except when adjacent to lots which are also zoned OT and OT-2 or for nonresidential purposes, in which case the buffer may be reduced to 20 feet. Only access drives, landscaping and utilities shall be permitted within this buffer area.
- vi. Outdoor lighting shall be directed or shielded so that the light source is not readily visible and no glare or direct light is cast on adjacent properties. Indirect light falling on adjacent property shall be of low intensity.
- b. Landscaping shall be provided in a manner that enhances the environment of the business park, in addition to the requirements of Sections IX.B.14 and IX.C., trees shall be planted along all roads in accordance with the requirements of Section 52:036 of the subdivision regulations.

B. General Industrial (GI).

1. *Purpose.* The purpose of the GI district is to accommodate basic industrial uses and heavy commercial operations incompatible with residential environments and is intended to be less restrictive than the planned industrial zone.
2. *Permitted site plan uses.* The following principal uses shall be permitted in the GI district, subject to site plan approval by the commission in accordance with Section XIII:
 - a. Building or construction contractors' yards.
 - b. Landscape contractors.
 - c. Trucking terminal facilities.
 - d. Public warehousing or storage, including self-storage.
 - e. Trucking or courier services.
 - f. Bus terminal/service/storage facilities, including school buses.
 - g. Fuel oil dealers.
 - h. Sanitary services (e.g., trash haulers, septic tank cleaners).
 - i. Building services (e.g., pest control services, building maintenance services).
 - j. Lumberyards or building materials suppliers.
 - k. Equipment rental or leasing services, excluding motor vehicles.
 - l. Electrical repair shops.
 - m. Upholstery or furniture repair shops.
 - n. Manufacturing facilities.
 - o. Wholesaling or distribution facilities.
 - p. Printing, lithography, photocopying or similar graphic arts services; publishing facilities.

- q. Industrial laundries or dry cleaners.
 - r. Carpet or upholstery cleaning establishments.
 - s. Public utility buildings or facilities.
 - t. Buildings or facilities of the local, state or federal government.
 - u. Laboratories devoted to research, design or professional use.
 - v. Offices, excluding medical or dental offices, but including business services such as advertising, computer and data processing, public relations, management or personnel supply.
3. *Special permit uses.* The following principal uses shall be permitted in the GI district, subject to special permit and site plan approvals in accordance with Sections XII and XIII:
- a. Child day care centers, subject to Section XI.H.
 - b. Removal of earth materials, subject to Section X.B.
 - c. Rear lots, subject to Section IV.A.17.
4. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in the GI zone:
- a. Any accessory buildings, structures or uses customarily incidental and directly related to the operation of the principal use.
 - b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.
 - d. A dwelling unit of the manager or caretaker of the premises.
 - e. The display or sale of goods made, processed or assembled on premises only, provided that:
 - i. Such use shall be clearly accessory to the principal use;
 - ii. Such use shall take place entirely within the confines of the principal building;
 - iii. Such use shall occupy no more than 2,500 square feet or ten percent of the gross floor area devoted to the principal use, whichever is less;
 - iv. No goods shall be displayed outside; and
 - v. There shall be at least one parking space provided for every 250 square feet of floor area devoted to such use.
 - f. The outside overnight parking of vehicles or equipment, provided that no vehicle or equipment shall be parked within any required yard and that the commission may require appropriate screening in accordance with the provisions of Section IX.B.

C. General Industrial ó 2 (GI-2).

- 1. *Purpose.* To provide an area for the use of manufacturing and related uses.
- 2. *Permitted site plan uses.* The following principal uses shall be permitted in the GI-2 district subject to site plan approval by the Planning and Zoning Commission in accordance with Section XIII.
 - a. Manufacturing facilities.
 - b. Wholesaling or distribution facilities.

- c. Printing, lithography, photocopying or similar graphic arts services; publishing facilities.
 - d. Public utility buildings or facilities.
 - e. Buildings or facilities of the local, state or federal government.
 - f. Laboratories devoted to research or professional use.
 - g. Offices, excluding medical or dental offices, but including business services such as advertising, computer and data processing, public relations, management or personnel.
3. *Special permit uses.* The following principal uses shall be permitted subject to special permit and site plan approvals in accordance with Sections XII and XIII:
- a. Child day care centers, subject to Section XI.H.
 - b. Removal of earth materials, subject to Section X.B.
 - c. Rear lots, subject to Section IV.A.17.
 - d. Private Use Helicopter Landing Area, subject to being licensed by the Bureau of Aviation and Ports, Department of Transportation, State of Connecticut. Said property owner in his/her Special Permit Use Application specifically authorizes any and all local, state, and/or federal emergency rotorcraft/helicopters and any and all Lifestar rotorcraft/helicopters the use of the aforesaid helicopter land area if found to be appropriate by the Planning and Zoning Commission.
 - e. Contractor shops for establishments providing courier services, industrial repair services, irrigation services, landscape services and building trades such as carpentry, electrical, HVAC, and plumbing services provided that, notwithstanding Section VII.G.3 of the regulations, all materials and equipment are stored inside approved structures or on a contractor's utility truck and specifically excluding the outside parking of trailers.
4. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in the GI zone:
- a. Any accessory buildings, structures or uses customarily incidental and directly related to the operation of the principal use.
 - b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.
 - d. The display or sale of goods made, processed or assembled on premises only, provided that:
 - i. Such use shall be clearly accessory to the principal use;
 - ii. Such use shall take place entirely within the confines of the principal building;
 - iii. Such use shall occupy no more than 2,500 square feet or ten percent of the gross floor area devoted to the principal use, whichever is less;
 - iv. No goods shall be displayed outside; and
 - v. There shall be at least one parking space provided for every 250 square feet of floor area devoted to such use.

- e. [Reserved].
- f. The outside overnight parking of vehicles or equipment, provided that no vehicle or equipment shall be parked within any required yard and that the Planning and Zoning Commission may require appropriate screening in accordance with the provisions of Section IX.B.

D. Planned Industrial (PI).

1. *Purpose.* The purpose of the PI district is to provide a favorable and stable environment for the growth of industry to strengthen Berlin's employment opportunities and economy. The planned industrial zone is intended to foster coherent development of manufacturing, warehousing, distribution plants, research and development, offices, and supporting private and public facilities at well-designed and aesthetically pleasing modern site development standards, while minimizing disturbances to residential areas.
2. *Permitted site plan uses.* The following principal uses shall be permitted in the PI district, subject to site plan approval by the commission in accordance with Section XIII:
 - a. Manufacturing facilities.
 - b. Research or development facilities.
 - c. Printing, lithography, photocopying or similar graphic arts services, publishing facilities.
 - d. Business or professional offices, excluding medical and dental offices, but including business services such as advertising, computer and data processing, public relations, management or personnel supply.
 - e. Radio or television broadcast facilities.
 - f. Public warehousing or storage, excluding self-storage.
 - g. Public utilities buildings or facilities.
 - h. Buildings or facilities of the local, state or federal government.
 - i. Wholesale and distribution uses of up to 50,000 (but less than) square feet in size.
3. *Special permit uses.* The following principal uses shall be permitted in the PI district, subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII:
 - a. Wholesale and distribution uses 50,000 square feet in size or larger.
 - b. Vocational schools operated for profit.
 - c. Health or fitness clubs, gymnasiums, tennis or racquet clubs.
 - d. Child day care centers, subject to Section XI.H.
 - e. Hotels or hotel conference centers.
 - f. Rear lots, subject to Section IV.A.17.
 - g. Contractor shop(s) for establishments providing courier services, industrial repair services, irrigation services, landscape services and building trades such as carpentry, electrical, HVAC, and plumbing services provided that, notwithstanding Section VII.G.3. of the regulations, all materials and equipment are stored indoors and specifically excluding the outside parking of trailers.

4. *Permitted accessory buildings, structures and uses.* The following accessory buildings structures and uses shall be permitted in the PI district:
 - a. Any accessory buildings, structures or uses customarily incidental and directly related to the operation of the principal use.
 - b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.
 - d. A dwelling unit of the manager or caretaker of the premises.
 - e. The display or sale of goods made, processed or assembled on premises only, provided that:
 - i. Such use shall be clearly accessory to the principal use;
 - ii. Such use shall take place entirely within the confines of the principal building;
 - iii. Such use shall occupy no more than 2,500 square feet or ten percent of the gross floor area devoted to the principal use, whichever is less;
 - iv. No goods shall be displayed outside; and
 - v. There shall be at least one parking space provided for every 250 square feet of floor area devoted to such use.
 - f. The outside overnight parking of vehicles or equipment, provided that no vehicle or equipment shall be parked within any required yard and that the commission may require appropriate screening in accordance with the provisions of Section IX.B.
 - g. The following accessory uses shall be permitted in the PI zone subject to special permit and site plan approval by the Commission in accordance with Sections XII and XIII:
Auction and private vendor sales of surplus, overstocked and collectible goods, including goods purchased in lots, estate and inventory liquidation sales and goods purchased by way of bulk wholesale purchases, provided that:
 - i. The use shall take place entirely within the principal building;
 - ii. The use shall occupy no more than fifty (50%) percent of the gross floor area of the principal building;
 - iii. No goods shall be displayed outside of the principal building; and
 - iv. Such uses cannot exceed ten days per calendar month.
5. *Additional requirements for permitted uses.* Additional requirements for permitted uses in the PI district are as follows:
 - a. All permitted operations and related storage, except for the parking of motor vehicles, shall be conducted within a building, except in accordance with Section VII.D.4.f.
 - b. [Deleted. Reserve for future use]

E. Planned Industrial ó 2 (PI-2).

1. *Purpose.* To provide a favorable and stable environment for the growth of industry in the form of manufacturing, warehousing, distribution, research and

development, offices, and supporting private and public facilities at well designed and aesthetically pleasing modern site development standards. It is also intended to permit certain other nonresidential uses that would be compatible with nearby residential areas.

2. *Permitted site plan uses.* The following principal uses, which are less than 50,000 square feet GFA, shall be permitted subject to site plan approval by the commission in accordance with Section XIII:
 - a. Manufacturing facilities.
 - b. Research or development facilities.
 - c. Printing, lithography, photocopying or similar graphic arts services; publishing facilities.
 - d. Business or professional offices, excluding medical and dental offices, but including business services such as advertising, computer and data processing, public relations, management or personnel supply.
 - e. Radio or television broadcast facilities.
 - f. Public warehousing or storage, excluding self-storage.
 - g. Public utilities buildings or facilities.
 - h. Buildings or facilities of the local, state or federal government.
3. *Special permit uses.* The following principal uses shall be permitted subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII:
 - a. All uses permitted by site plan approval which are 50,000 square feet or greater GFA.
 - b. Wholesaling or distribution facilities.
 - c. Vocational schools operated for profit.
 - d. Health or fitness clubs, indoor sports complexes, gymnasiums, tennis or racquet clubs.
 - e. Child day care centers, subject to Section XI.H.
 - f. [Reserved].
 - g. Adult day care centers.
 - h. Medical or dental offices.
 - i. Service businesses such as tailors, laundrettes, custom dressmakers, jewelry repair, shoe repair, travel agents, appliance repair, photographers, or duplication business.
 - j. Schools operated for profit; studios of dance, photography, graphic design, painting or similar artistic endeavors.
 - k. Landscape contractors, provided that all equipment and material are stored indoors, or if outdoors, properly screened.
 - l. Building services.
 - m. Contractor shop(s) for establishments providing courier services, industrial repair services, irrigation services, landscape services and building trades such as carpentry, electrical, HVAC, and plumbing services provided that, notwithstanding Section VII.G.3. of the regulations, all materials and equipment are stored indoors and specifically excluding the outside parking of trailers.

4. *Permitted accessory buildings, structures and uses.* The following accessory buildings structures and uses shall be permitted.
 - a. Any accessory buildings, structures or uses customarily incidental and directly related to the operation of the principal use.
 - b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.
 - d. The display or sale of goods made, processed or assembled on premises only, provided that:
 - i. Such use shall be clearly accessory to the principal use;
 - ii. Such use shall take place entirely within the confines of the principal building;
 - iii. Such use shall occupy no more than 2,500 square feet or ten percent of the gross floor area devoted to the principal use, whichever is less;
 - iv. No goods shall be displayed outside; and
 - v. There shall be at least one parking space provided for every 250 square feet of floor area devoted to such use.
 - e. The outside overnight parking of vehicles or equipment, provided that no vehicle or equipment shall be parked within any required yard and that the commission may require appropriate screening in accordance with the provisions of Section IX.B.
5. *Additional requirements for permitted uses.*
 - a. All permitted operations and related storage, except for the parking of motor vehicles, shall be conducted within a building, except in accordance with Section VII.E.4.e. VII.C.4.F.
 - b. No parking shall be permitted in the required front yard setback. All front yard areas shall be suitably landscaped as required by Section IX.C.
 - c. Architectural style. When a new building will be visible from an arterial road or a residential zone, the commission may review the architectural design of the new building in order to determine whether the building design is appropriate given the visibility from the arterial road or the residential zone.

F. Planned Office Development (POD).

1. *Purpose.* The purpose of the POD district is to provide for the development of well-planned, integrated developments of executive offices in a campus setting with other supportive uses with the following objectives.
 - a. Minimal adverse impact will be imposed on the adjacent properties and streets.
 - b. Sufficient capacity in sanitary facilities, water supply and other utility systems will be available over the life of the development.
 - c. Creative design and careful land planning will be accomplished.
 - d. All water resources and natural land features will be protected to the fullest extent possible.
 - e. Appropriate screening and landscaping will be provided.

- f. Soil erosion and sedimentation that occur as a result of the development will be minimized during construction and completely stabilized after development is complete.
2. *Permitted uses.* The following uses shall be permitted as a matter of right in the POD district:
 - a. Agriculture
3. *Special permit uses.* The following uses shall be permitted in the POD district, subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII:
 - a. Professional offices, including facilities to house data processing equipment, management, and/or general administrative functions such as executive, personnel, finance and sales activities performed centrally for other establishments of the same company.
4. *Special requirements.* Special requirements for the POD district are as follows:
 - a. For subdivision purposes, minimum lot area shall be ten acres. (Existing lots of less than ten acres may also be developed in accordance with this section.)
 - b. A 40-foot landscaped buffer shall be provided around the entire perimeter, except when adjacent to lots which are also zoned POD or for nonresidential purposes, in which case the buffer may be reduced to 20 feet. Only access drives, landscaping and utilities shall be permitted within this buffer area.
 - c. All buildings in the POD shall be of similar architectural design, color, texture and scale.
 - d. Maximum height of buildings shall be three stories, not to exceed 40 feet, except that antennas, elevator stacks and other similar uses may be erected to a reasonable and necessary height but not greater than ten feet above any roofline. All roof structures shall be integrated into the architectural design of the buildings so as to be concealed and inconspicuous.
 - e. Structures shall be located to provide for public safety, adequate light and air, to maintain the neighborhood character, and shall be designed and located to be consistent with the reasonable enjoyment of neighboring property and the efficiency of public services as more specially set forth herein.
 - f. The Commission may approve divisible geographic sections of the entire parcel as long as all lot and bulk requirements are adhered to.
 - g. The applicant shall provide a phasing plan stating the anticipated time frames for the development of the entire POD.
 - h. All PODs shall be adequately serviced by public water and public sanitary facilities, except for the conversion of those structures existing at the time of the adoption of this section.
 - i. Outdoor lighting shall be directed or shielded so that the light source is not readily visible and no glare or direct light is cast on adjacent

properties. Indirect light falling on adjacent property shall be of low intensity.

- j. Utilities shall be designed so that underground installation of utilities, including electricity and telephone in both public streets and under private property, is accomplished.
- k. Vehicular access to a POD shall be limited to state highways only.

G. General requirements for all industrial zones.

1. All uses shall conform to the environmental and performance standards of Section X.D. and to the requirements of all other applicable town regulations.
2. Waste or scrap materials, debris, discarded or used materials, nonregistered or nonoperable motor vehicles or parts, or other unsightly material, whether or not part of a junkyard or motor vehicle junkyard, shall be stored within a structure or fenced compound at least six feet in height which shall not be located within any required yard, or shall be screened in accordance with the provisions of Section IX.C.
3. Outside storage including the storage of merchandise, supplies, machinery and other materials shall be allowed in the town's industrial zones (general industry, planned industry and office laboratory). Outside storage areas shall be located in the rear or side yards on the same premises of the principal use building and shall not extend into the area required for setback from the street line or into the required side yards adjacent to any nonindustrial zone. Outside storage areas shall be enclosed by buildings, fences, walls, landscaped earthen berms, or evergreen shrubs or trees, so as to provide an opaque screen from adjacent lots or streets. All outside storage areas shall be subject to site plan review by the commission. The commission has the discretion to require non-permeable ground barriers and storage covers where appropriate.

(SEE NEXT PAGE FOR:

VII.H – INDUSTRIAL ZONES AREA AND BULK REQUIREMENTS)

BERLIN ZONING REGULATIONS

§ VII

- H. Area and bulk requirements.** The following area and dimensional requirements shall be applicable to all developments in the OT, OT-2, GI-2, PI-2, POD, GI and PI zones, as indicated. Except as otherwise provided herein, these requirements shall be deemed the minimum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

	OT	OT-2	GI	GI-2	PI	PI-2	POD
Minimum front yard	75 ⁽²⁾	75 ⁽²⁾	30 ⁽²⁾	30 ⁽²⁾	50 ⁽²⁾	50	200 ⁽²⁾
Minimum side yard (each)	50 ⁽²⁾	50 ⁽²⁾	25 ⁽²⁾	25 ⁽²⁾	30 ⁽²⁾	30	150 ⁽²⁾
when abutting a residential district	50 ⁽²⁾	50 ⁽²⁾	50 ⁽²⁾	50 ⁽²⁾	50 ⁽²⁾	50	150 ⁽²⁾
Minimum rear yard	50 ⁽²⁾	50 ⁽²⁾	25 ⁽²⁾	25 ⁽²⁾	30 ⁽²⁾	30 ⁽²⁾	140 ⁽²⁾
when abutting a residential district	75 ⁽²⁾	75 ⁽²⁾	50	50	30	50	200 ⁽²⁾
Minimum parking & loading setbacks side and rear yards	50 ⁽²⁾	50 ⁽²⁾	5 ⁽²⁾	5 ⁽²⁾	15 ⁽²⁾	15	75 ⁽²⁾
when abutting a residential district	50 ⁽²⁾	50 ⁽²⁾	25 ⁽²⁾	25 ⁽²⁾	50 ⁽²⁾	50	75 ⁽²⁾
Minimum parking & loading setbacks (front yard) ⁽⁵⁾	50	50	5	5	10	25	50
Maximum building height							
Stories	3	3	3	3	3	3	3
Feet	45	45	45	45	45	45	40
Maximum building coverage (%)	25	25	35	35	30	30	25
Maximum impervious surface coverage (%)	60	60	80	80	60	60	50
Minimum lot size (acres)	10 ⁽¹⁾	10 ⁽¹⁾	0.5	0.5	5 ⁽⁴⁾	2	10 ⁽³⁾
Minimum lot width	200	200	100	100	200	200	500
Maximum floor area ratio (FAR)	1.00	1.00	0.40	0.40	0.35	0.35	0.35
Detached accessory buildings							
minimum distance from principal building	12	12	12	12	12	12	12
Side lot line	50	50	5	5	15	15	75
Rear lot line	50	50	15	15	30	30	75
Front lot line	100	100	30	30	50	50	200
Maximum residential density (per/acre)	N/A	6				N/A	

Footnotes:

- (1) Industrial lots may be two acres in size or larger if part of total site of 25 acres or larger which is developed in accordance with a single unified site plan.
- (2) Setback requirements shall apply only to perimeter of total site development in accordance with a single unified site plan.
- (3) Lots may be two acres in size or larger if part of a total site of ten acres or more which is developed in accordance with a single unified plan.
- (4) Lots may be one acre in size or larger if part of a total site of five acres or more which is developed in accordance with a single unified plan.
- (5) Parking lot setbacks may be reduced by the commission if it finds that size and/or shape of the lot make adherence to the prescribed setbacks not feasible and adequate visual buffering is in place in accordance with the provisions of Section IX.B.14.c.

SECTION VIII. SPECIAL USE ZONES

- | | |
|--|---|
| A. Planned Office Residential District-
(POR) | E. Village District Overlay Zone
(VDO) |
| B. Mountain Reserve Districts
(MR61, MR62) | F. Kensington Overlay Zone |
| C. Office Professional District (OP) | G. Planned Development District |
| D. Site Plan Requirements for
Multifamily | H. Bulk Requirements |

SECTION VIII. SPECIAL USE ZONES**A. Planned Office Residential District (POR).**

1. *Purpose.* The purpose of the POR district is to provide for the development of multifamily residential uses, offices and related uses in a manner which is well-designed and compatible with nearby single-family residential uses.
2. *Permitted uses.* The following principal uses shall be permitted by right in the POR district:
 - a. Single-family detached dwellings, in accordance with requirements of the R-21 district.
3. *Special permit uses.* The following principal uses shall be permitted in the POR district, subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII:
 - a. Public schools.
 - b. Private schools, subject to the requirements of Section XI.I.
 - c. Hospitals or nursing homes, subject to the requirements of Section XI.E.
 - d. Religious, charitable or eleemosynary institutions, subject to the requirements of Section XI.L.
 - e. Nonprofit civic organizations, subject to the requirements of Section XI.P.
 - f. Municipal or governmental offices.
 - g. Group day care homes, subject to the requirements of Section XI.H.
 - h. Group homes or community care facilities.
 - i. Nursery schools, subject to the requirements of Section XI.G.
 - j. Child day care centers, subject to the requirements of XI.H.
 - k. Restaurants.
 - l. Multifamily developments, subject to the provisions of Section VIII.D.
 - m. Office developments.
 - n. Hotels.
 - o. Wineries according to Section XI.CC.

4. *Special permit uses; ZBA.* The following principal uses shall be permitted in the POR district, subject to special permit approval by the ZBA in accordance with Section XII:
 - a. Places of worship, subject to the requirements of Section XI.L.
 - b. Public utility facilities, subject to the requirements of Section XI.K.
 - c. Telephone exchanges, subject to the requirements of Section XI.N.
 - d. Bus passenger shelters.
5. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses in the POR district shall be permitted:
 - a. Uses normally accessory to a principal use requiring site plan approval, provided that such uses shall be applied for with, and included in, the site plan application.
 - b. Uses normally accessory to a principal use requiring a special permit, provided that such uses shall be applied for with, and included in, the special permit application.
 - c. Building mechanical equipment located outside the structure, including radio and television reception equipment, provided that such equipment shall be properly screened.
 - d. Signs, subject to Section IX.A.
 - e. Off-street parking or loading, subject to Section IX.B.
 - f. Parking garages or parking structures, subject to Section IX.B.
 - g. Outside overnight parking of vehicles or equipment, provided that no vehicle or equipment shall be parked within any required yard and that the commission may require appropriate screening in accordance with Section IX.C.
 - h. Maintenance or utility shops for the upkeep and repair of buildings, structures or equipment on site.
 - i. Utility buildings or structures.
 - j. Recreational facilities limited to the use of individuals living or working on the premises.
 - k. Home occupations or home offices, subject to Section XI.S.
 - l. Radio or television reception equipment, including satellite dishes.

B. Mountain Reserve Districts (MR-1, MR-2)

1. *Purpose.* The purpose of the mountain reserve districts is to permit low intensity development which is appropriate for the environmentally sensitive hilly areas of Berlin to preserve their environmental and aesthetic qualities.
2. *Permitted uses.* The following uses shall be permitted in the mountain reserve districts:
 - a. All uses permitted in the R-86, R-43, R-21 and R-15 districts as indicated in Section V.A.2.
 - b. Minimum lot size in the MR-2 district shall be three acres.
3. *Special permit uses.* The following uses shall be permitted in the mountain reserve districts, subject to special permit and site plan approvals by the commission or the ZBA in accordance with Sections XII and XIII: All uses permitted in the R-86, R-43, R-21 and R-15 districts subject to special permit

and site plan approvals, as indicated in Sections V.A.3., V.A.4., V.A.5. and V.A.6 including OSS, except DOSD and NAHD.

4. *Special permit uses in the MR-2 district.* The following principal use shall be permitted in the MR-2 district in addition to those uses within Section VIII B.3, subject to special permit and site plan approvals by the Commission in accordance with Section XII and Section XIII:
 - a. Multifamily dwelling developments.
5. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in the mountain reserve districts:
 - a. All permitted accessory uses in the R-86, R-43, R-21 and R-15 districts as indicated in Section V.A.6.
6. *Easements.* The commission may require easements for preservation of open spaces in the MR-2 district.
7. *Development prohibition.* All development shall be prohibited above elevation of 350 feet in the MR-2 district.

C. Office Professional District (OP).

1. *Purpose.* The purpose of the office professional district is to permit the conversion of existing residential buildings into offices or the creation of new office uses in a scale consistent with a residential neighborhood.
2. *Permitted uses.* The following uses shall be permitted in the office professional district as a matter of right:
 - a. All uses permitted in the R-15 districts as provided for in Section V.A.2.
3. *Special permit uses.* The following uses shall be permitted in the OP district subject to site plan and special permit approvals by the commission in accordance with Sections XII and XIII.
 - a. All uses permitted by special permit in the R-15 district as provided for in Section V.A.3 and Section V.A.4.
 - b. General or professional offices.
4. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted in the office professional district:
 - a. All accessory uses permitted in the R-15 districts as provided for in Section V.A.5.

D. Site plan requirements for multifamily developments in planned office residential (POR), planned residential (PR) and mountain reserve 2 districts (MR-2).

1. *Design requirements.* Design requirements in the multifamily developments shall be as follows:
 - a. More than one use on a lot. If there is more than one use on a lot, the minimum lot requirement shall not apply to each use. Each use shall conform to all of its applicable requirements other than lot size;

permitted density or floor area shall be determined by that portion assigned to each use.

- b. Grouping. Each development plan shall group the buildings in such a manner as to reflect the existing topography and preserve as much of the natural features as possible. The minimum distance between any two structures shall be 35 feet. Courts shall be completely open on one side. The commission may require division of, or further separation of, groups of buildings and/or facilities depending upon layout and topography in order to maintain the open character of the area.
- c. Setbacks from interior roads. All residential buildings shall be set back a minimum of 25 feet from the edge of the pavement of interior roads, whether such roads are public or private. For the purposes of this section, interior roads are those to be constructed within and as part of developments within these zones.
- d. Building size. Each multifamily structure shall contain no more than six dwelling units except where dwellings are proposed to be stacked and then no more than ten dwelling units; each office structure shall contain no more than 10,000 square feet of gross floor area.
- e. Phasing. The commission may approve a development plan to be completed in phases. The commission may grant approval limited to each phase of development. Each phase shall be capable of independent existence without the completion of succeeding phases. Buffer and setback requirements shall not apply to the common line between phases of development.
- f. Sewage disposal and water supply. Multifamily and/or office development shall be served by public sanitary sewer and public water supply. The commission may require that sanitary sewer and water mains, along with easements, be dedicated to the town or the appropriate sewer authority.
- g. Fire hydrants. Fire hydrants shall be installed and located within 500 feet of each dwelling unit.
- h. Location of recreational facilities. Swimming pools, tennis courts, or other active recreational facilities for the common use by residents and/or employees shall be as centrally located as possible, protected with a suitable and safe fence, located no closer than 75 feet from any dwelling unit and shall not be located within any of the required setbacks or buffer areas.
- i. Architectural style. Buildings shall be designed to achieve a residential appearance. All buildings shall have pitched roofs and have at least one architectural projection per unit. A change in wall plane or separation of walls shall be provided between every unit in a row. Rooflines shall be representative of the units under them and an articulation in roofline shall be provided for every upper unit. Both vertical and horizontal roof articulation are encouraged. Rooftop mechanical equipment, other than solar energy panels, shall be

concealed, inconspicuous, and architecturally integrated into the structure. Exterior stairways shall be stylistically consistent with the buildings they serve and shall be architecturally integrated. Buildings shall be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible. All accessory buildings shall have the same architectural style and character as the principal buildings. There should be a diversity of building types and sizes depending upon scale of the development. Smaller buildings and lower densities should be located on the perimeter of the site and particularly at entrances.

2. *Parking and circulation requirements.* Parking and circulation requirements for multifamily developments shall be as follows:
 - a. Interior road standards.
 - i. All interior roads shall have a minimum paved width of 24 feet.
 - ii. All roads shall be constructed in accordance with standards specified in the town's subdivision regulations except for road width.
 - iii. All interior roads shall remain private roads unless the commission determines that acceptance of the roads by the town is required to serve the transportation needs of the town. If so, the commission may recommend that the roads be accepted by the town. For roads which are to be accepted by the town, the commission may require a minimum pavement width of 30 feet.
 - b. Adequate pedestrian circulation, including a sidewalk on at least one side, shall be required along any road access connecting with an existing public road and along the major interior roads of the development. Bus stop pads or areas for school children shall also be provided. The commission may waive the sidewalk requirement along major interior roads provided that adequate alternative pedestrian circulation shall be provided.
 - c. Parking facilities for both passenger and service vehicles shall be convenient to building entrances, adequately graded, drained, paved and maintained in all seasons to prevent dust, excessive water flow and congestion of driveways and to promote the safety of residents and visitors.
 - d. All garages shall be fully enclosed and have a minimum width of ten feet and minimum depth of 20 feet per parking space.
 - e. Driveways shall be arranged in a suitable and convenient traffic pattern and adequately graded, drained and maintained in all seasons to accommodate traffic and to afford satisfactory access to police, firefighting and snow removal equipment.
 - f. All parking shall be screened from view from the public street in accordance with the requirements of Section IX.B.
 - g. Garage aprons and other parking spaces in tandem shall not be counted towards satisfying the minimum parking requirement.

3. *Open space.* Open space requirements for multifamily developments shall be as follows:
 - a. *Recreational use.* At least 600 square feet of lot area per dwelling unit shall be allocated for outdoor recreational use; at least 75 percent of the area shall not exceed a grade of ten percent, nor be identified as inland wetlands; and no dimension shall be less than 40 feet, in addition to the required private open space, as set forth in the following paragraph. The areas allotted for outdoor recreational use shall be shown on the site plan, as well as the nature and type of recreation and facilities to be provided.
 - b. *Private open space.* Each residential unit shall have a minimum of 200 square feet of private open space such as a terrace, deck, patio or courtyard adjoining and directly accessible to the residential unit.

E. Village District Overlay Zone (VDO).

1. *Purposes:* As recommended in the Plan of Conservation and Development, this section of the Regulations is intended to help the Planning and Zoning Commission preserve, restore and enhance the overall historic and unique character of the Kensington Village area. The Village District Overlay zone is hereby declared to be a "village district" as authorized by Connecticut General Statutes §8-2j.
2. *Nature of the Zone:* The VDO zone is an overlay zone which exists in addition to any other zone(s) on the Zoning Map. For any development within the VDO area, the Commission shall consider the design guidelines in this section in addition to the standards of the underlying zoning district and any other requirements of these Regulations.
3. *Procedures.*
 - a. When an application is filed for property located within the VDO zone which is other than a single-family residential use, such application shall be forwarded for review and comment to the village district consultant selected by the Commission. In accordance with Connecticut General Statutes §8-2j, such village district consultant shall be a licensed architect or architectural firm; or a licensed landscape architect; or a planner who is a member of the American Institute of Certified Planners.
 - b. The village district consultant shall review an application and submit a report to the Commission within thirty-five (35) days of receipt of the application.
 - c. Such report and recommendation shall be entered into the public record and considered by the Commission in making its decision.
 - d. Failure of the village district consultant to report within the specified time shall not prejudice the decision of the Commission nor alter or delay any other time limit imposed by these Regulations, including the time required for the Commission to act on an application.

- e. The Commission may hold a public hearing on any application within the VDO zone involving:
 - i. Construction of a new building or expansion or exterior modification of an existing building.
 - ii. Installation or reconfiguration of parking areas or other impervious surfaces.
- 4. *Review Criteria.*
 - a. For smaller projects, such as those listed below, the Commission's review and the village districts consultant's report shall be limited to evaluating whether the proposed project is consistent with the purposes of the VDO zone as stated in Section VIII.E.1:
 - i. Exterior modification of an existing building without an expansion,
 - ii. Reconfiguration of parking areas without increasing the limits or extent of impervious surfaces, and/or
 - iii. Installation of exterior signage.
 - b. For larger projects, the Commission's review and the village districts consultant's report shall consider the design guidelines contained in Section VIII.E.5.
 - c. Single family residential properties are exempted from review.
- 5. *Design Guidelines.*
 - a. General ¶ Since this area is the historic village center of Kensington, the overall intent in this area is to promote development and redevelopment that will, to the extent practicable, reinforce this area as a significant focal point in the community. The following principles are intended to guide development proposals within this area:
 - i. Promote building designs and development patterns reflective of a New England village center.
 - ii. Encourage walkability.
 - iii. Promote visual interest for pedestrians through appropriate architectural design and window displays at the street level.
 - iv. Encourage adaptive reuse of existing buildings to the extent practicable.
 - v. Encourage that the streetscape is not encumbered by multiple driveways.
 - vi. Create an environment that is conducive to walking including sidewalks, crosswalks, ample street lighting, and street trees and landscaping.
 - b. Building Facades:
 - i. Buildings facades should be broken down into a series of smaller elements to evoke the rhythm of historic shop fronts and mixed use village centers and to add to the visual character and maintain the pedestrian scale of the streetscape. To accomplish this, facades on buildings more than 40 feet long should incorporate wall plane projections or recesses having a

- depth of at least two (2) feet which extend at least twenty percent (20%) of the length of the facade.
- ii. Within the village core area, ground-floor facades that face public streets should have display windows, entry doors with awnings, fanlights, or other such features that emphasize a pedestrian scale.
 - iii. Façade design should incorporate a distinction between the ground level floor and the upper stories, using banding, smaller windows on upper stories, balconies, and other architectural elements that are appropriate to the scale and design of the building.
 - iv. To modulate their scale, multi-story buildings should articulate the base, middle, and top by separating with cornices, string cornices, step-backs, or other articulating features.
 - v. Blank wall surfaces greater than five (5) feet along the horizontal plane of the building are discouraged at the street level on any building façade adjacent to a sidewalk or street.
 - vi. Side and rear facades which are visible from the public ways should be articulated in a manner compatible with the design of the front facade.
- c. Building Materials and Colors:
- i. Building materials should be selected to convey a sense of quality, durability, and permanence, and should be economically maintained and able to retain their appearance over time.
 - ii. Building façade materials permitted within the district include brick, wood, stone, glass, cementitious fiber board, manufactured limestone, cast stone, masonry, terra cotta, cellular PVC trim, and sustainable materials.
 - iii. Stone or pre-cast concrete may be appropriate as a secondary material for architectural elements such as window sills or lintels in combination with other materials such as brick or concrete.
 - iv. A combination of materials is encouraged to create visual interest, especially on larger buildings. Where used, the heavier material (stone, brick, concrete) should be located below lighter materials (wood, cementitious fiber board), and the change in material should occur along a horizontal line, preferably at floor level.
 - v. Façade colors should be low reflectance, subtle, neutral or New England color palate. The use of high intensity colors, metallic colors, black or fluorescent colors is discouraged.
 - vi. Building trim and accent areas may feature brighter colors including primary colors, but neon tubing is not be an acceptable feature for building trim or accent areas.

- vii. The use of vinyl siding, smooth faced concrete block, tilt-up concrete panels, or prefabricated steel panels as an exterior surface is discouraged.
- d. Windows and Doorways:
 - i. Windows should generally be taller than they are wide, regardless of whether they are on the ground level or upper stories.
 - ii. Placement of windows on upper stories of a building façade should be arranged with a balanced spacing and evident rhythm. Windows should also align vertically with those of stories above and/or below.
 - iii. Windows on the upper stories should generally be smaller than those on the ground floor and should have visually prominent sills, lintels, or other such forms of architectural framing.
 - iv. Windows should be inset a minimum of three (3) inches from the exterior wall surface to add visual relief to the wall.
 - v. Recessed doorways are preferred, to break up the building facade, provide a welcoming space, and provide protection from the weather. Where a recessed doorway is not used, an awning or similar architectural overhang should be used. Adequate lighting for the doorway should be incorporated into the design of the doorway.
- e. Roofs:
 - i. Roof forms should complement the principal building in terms of style, detailing, and materials.
 - ii. Roof forms should be varied within a block, and may be varied within a building, and should include sloped roofs, parapets, decorative cornice treatments, decorative soffits, overhangs a minimum of three (3) feet, dormers, cupolas, or other architectural elements to complement the building without creating a cluttered visual appearance.
 - iii. Flat roofs should be screened from public view using parapets or other architectural elements. Outdoor living space may be constructed on roofs, provided the floor and lower three (3) feet of such space will not be visible from public view on abutting streets. Railings may be built into the exterior roof treatment (parapet, etc.) at other sides of the building.
 - iv. Mechanical equipment, metal chimneys, and elevator shafts on a roof shall be screened from public view using parapets or other architectural elements.
 - v. Three story buildings should incorporate mansard roofs with dormers for the third story, or a strong cornice at the floor level of the third story, or for large buildings, a combination of the two in different sections of the building, to reduce the potential for an imposing appearance of the building.

- vi. Where a sloped roof is used, all roofs should be sloped at a pitch of at least thirty (30) degrees (6:12 roof pitch).
- f. Streetscapes:
 - i. Where a proposed development abuts a street that lacks a sidewalk, or where existing sidewalks are not in compliance with applicable standards, the application should include a proposal to construct or improve the sidewalks abutting the project site.
 - ii. Streetscape enhancements may include new granite or concrete curbs, brick or concrete sidewalks, driveways constructed to Town standards, brick paver bands, handicap pedestrian ramps, grass utility strips, ornamental street lights, street trees, benches, trash receptacles, and/or associated landscaping.
 - iii. These enhancements should be constructed in general conformance with the Town's standards for like work and be approved by the Town Engineer or his designee.
 - iv. Landscape features that enhance the pedestrian environment should be included, such as plazas, sitting areas, and outdoor seating for cafes.
- g. Landscaping:
 - i. All areas between the front of a building and the street that are not occupied by sidewalks or other approved hardscape should be landscaped with grass or other living ground cover, trees and shrubs or other surface treatment approved by the commission.
 - ii. All plantings should be native species. Invasive species, native or non-native, are discouraged. Plantings near streets; parking areas, or sidewalks should be salt tolerant.
 - iii. Street trees, if used, should be planted in conformance with Town standards.
 - iv. Landscaping improvements may include amenities such as street furniture, artwork, fences, stone walls, fountains, and courtyards.
 - v. Preservation of existing trees is strongly recommended.
- h. Lighting:
 - i. All outdoor lights should be designed, located, and installed in such a manner as to enhance the character of the district, compliment the architecture of the building, and prevent objectionable light, including disability glare, from creating a nuisance on abutting properties or the public way.
 - ii. Light levels should comply with the luminance recommendations of the Illuminating Engineering Society of North America (IESNA).
 - iii. Any outdoor lighting fixtures including street lighting fixtures should be as approved by the Commission for the Kensington Village area and should be full cutoff fixtures.

- iv. Any wall mounted lighting fixtures at doorways should be full cutoff fixtures and should be shielded from emitting light upwards beyond an entry overhang or awning.
- v. Lighting fixtures along sidewalks should not exceed twelve (12) feet in height, although the supporting poles may exceed that height.
- vi. Poles supporting light fixtures should be dark in color to reduce light reflectivity.
- vii. Light fixtures should not emit a flashing or irregular light unless specifically required by Federal, State, or municipal authorities.
- viii. The following types of light sources are discouraged: mercury vapor, low pressure sodium, or quartz lamps, laser, searchlights, cobra-head fixtures, or moving or colored lights with the exception of temporary holiday displays.
- i. Surface Parking:
 - i. Landscaping around and within surface parking lots should be designed with low-impact development techniques to allow storm water runoff to drain into the landscaped areas to supplement irrigation and to pre-treat the runoff.
 - ii. The use of permeable pavements or surface materials is encouraged to allow infiltration of storm-water runoff.
- j. Parking Structures (if applicable):
 - i. Parking structures may be used to efficiently provide for the parking needs of the diverse uses in this area.
 - ii. Whenever feasible, parking structures should be located underground or within the interior of the block to minimize visibility from public streets.
 - iii. When a garage must be located adjacent to the street or in a visible location, setbacks may be increased by the Commission to allow for trees to be planted to provide visual softening of the upper levels of the structure and the exterior design of the structure should match the proportions of neighboring buildings.
 - iv. The ground level of parking structures should be separated from the public sidewalks with retail building space, unless a suitable alternative is proposed. Landscaping in combination with architectural details on otherwise blank walls of a garage may be a suitable alternative where there is insufficient space for a building.
 - v. Garage access points should be clearly identified with architectural elements and signage.
 - vi. Garage access points should be located to minimize the impact of vehicular turning movements on safe and efficient movement of pedestrians, cyclists, and other vehicles, and

- should not be located within fifty (50) feet of any street intersection.
- vii. Signage and light fixtures within the parking structure should not directly illuminate or produce disability glare on adjacent properties.
- k. Mechanical Equipment And Waste Receptacles:
 - i. Mechanical equipment should be located and screened so as to provide for an attractive pedestrian environment and streetscape.
 - ii. Solid waste receptacles should be located and designed for ease of access of solid waste removal services to the site and must be located within a garage (trash cans) or in a free-standing trash enclosure.
 - iii. A trash enclosure should be designed with architectural details to incorporate it into the overall development and to minimize aesthetic impacts. Gates should be designed to be self-closing.

F. Kensington Overlay Zone (KO).

1. *Purposes:* This section of the Regulations is intended to allow the commission to modify some of the use and dimensional standards in the underlying zoning districts in the Kensington area in order to:
 - a. Promote the development of a transit-oriented, pedestrian-friendly, village-type environment in the Kensington Village area and within walking distance to the Berlin train station.
 - b. Help create an attractive and inviting, pedestrian friendly environment.
 - c. Allow and encourage mixed use development that offers a high intensity of uses.
 - d. Help provide for a variety of housing opportunities in Berlin.
 - e. Help preserve, restore, and enhance the overall village character and feeling.
 - f. Ensure high quality site planning, architecture, and landscape design that will complement and enhance the area and surrounding neighborhoods.
2. *Nature of the Zone.* The KO zoning district is an overlay district which exists in addition to the underlying zoning district(s) on the Zoning Map. A property owner may choose to develop property using the provisions in the underlying zoning district(s) or they may choose to develop property in accordance with the provisions of the KO zoning district.
 When a property owner chooses to use this section of the regulations, the regulations and design standards in this section shall supersede:
 - a. Any provisions in the underlying zone(s).
 - b. The required minimum number of spaces in the parking requirements of these regulations.
3. *Special Permit Uses.* In the event a property owner wishes to utilize the provisions of the KO district, the following uses shall be permitted within the

indicated sub-district subject to special permit and site plan approvals by the commission in accordance with Sections XII and XIII:

- a. Village Core 6 Area 1.
 - i. Mixed use developments containing retail stores, restaurants, business and professional offices and other business uses.
 - ii. Mixed use development (business and residential uses) provided that:
 - (1) Only business uses shall be located at street level along the public way,
 - (2) Retail and/or restaurant uses shall only be located at street level along the public way or, with approval by the Commission, below street level or off the public way,
 - (3) Residential uses shall not be located at street level,
 - (4) No dwelling units shall have more than one bedroom, including dens, offices or similar undesignated rooms,
 - (5) Separate and distinct entrances shall be provided for first floor and upper story uses; and
 - (6) There shall be a maximum of twenty (20) dwelling units per whole acre provided that mixed use residential incorporated) developments will require a minimum lot area of 1.0 acre and further provided that calculations for residential density shall exclude any area of the parcel categorized as wetlands or floodplain. There shall be no pro-rate of acreage.
 - iii. Restaurants, including outdoor dining but excluding drive-through restaurants.
 - iv. Parking structures.
- b. Village Core 6 Area 2.
 - i. Mixed use developments containing retail stores, restaurants, business and professional offices and other business uses and residential uses) provided that:
 - (1) Only business uses shall be located at street level along the public way,
 - (2) Residential uses shall not be located at street level,
 - (3) No dwelling unit shall have more than one-bedroom, and a den, office, or similar undesignated room (provided not used as a bedroom);
 - (4) Separate and distinct entrances shall be provided for first floor and upper story uses; and,
 - (5) There shall be a maximum of six dwelling units per whole acre (no pro-rate of acreage), with a one acre minimum.
 - ii. Restaurants, including outdoor dining but excluding drive-through restaurants.
 - iii. Parking structures.

- c. Village Redevelopment Area.
 - i. Multifamily residential development, subject to the following conditions:
 - (1) No more than 20% of dwelling units shall have more than two-bedrooms including dens, office or similar undesignated room (provided not used as a bedroom); and
 - (2) There shall be a maximum of six dwelling units per whole acre provided that multi-family developments will require a minimum lot area of 1.0 acre and further provided that calculations for residential density shall exclude any area of the parcel categorized as wetlands or floodplain.
 - ii. Parking structures.
- 4. *Permitted accessory buildings, structures and uses.* The following accessory buildings, structures and uses shall be permitted:
 - a. Any accessory building, structure or use customarily incidental and directly related to the operation of the principal uses, as determined by the Planning and Zoning Commission.
 - b. Off-street parking and loading, including parking structures, subject to the provisions of Section IX.B.
 - c. Signs, subject to the provisions of Section IX.A.
 - d. The outside overnight parking of vehicles or equipment, provided that no vehicle or equipment shall be parked within any required yard and that the Commission may require appropriate screening in accordance with the provisions of Section IX.B.
- 5. *Dimensional standards.* Dimensional standards shall be as approved by the Commission in order to support the allowed density, comply with any design guidelines, and mitigate any extraordinary adverse impacts of the development on nearby properties. Residential units shall provide for the following:
 - a. Studio units shall contain at least 600 square feet of living area.
 - b. One-bedroom units shall contain at least 750 square feet of living area.
 - c. Two-bedroom units shall contain at least 900 square feet of living area.
 - d. Libraries, dens, dining rooms, studios or other similar separate rooms shall be construed to be bedrooms.
- 6. *Parking requirements.* Parking requirements shall be as approved by the Commission based on information submitted by the applicant, demonstrating there is adequate parking for the use, taking into account the following:
 - a. Due to the proximity to the train station and the overall desire to create a walkable and pedestrian-friendly place, it is understood that the Commission may require the installation of on-street parking spaces or may accept shared off-street parking areas or off-site parking areas to satisfy the anticipated parking demand.

- b. Unless modified by the Commission for traffic safety or other reasons, on-street parking shall be provided to serve as much of the retail and restaurant parking requirement as possible.
 - c. Unless modified by the Commission, the minimum residential and office parking requirements shall be met with off-street parking.
- 7. *Affordability Guidelines.*
 - a. Any application proposing affordable housing units shall be deed-restricted to comply with all aspects of the Connecticut General Statutes §8-30g.
 - b. Any application proposing affordable units shall submit an affordability plan specifying the procedures for establishing and monitoring the affordability restrictions and identifying the Administering Agency which will monitor and enforce the affordable housing restrictions.
 - c. Affordable units shall be of comparable size, quality, and level of finish as the overall development and shall be completed and occupied on a proportional basis.
 - d. Prior to the issuance of a building permit, the developer shall submit documents to the Administering Agency such that the Administering Agency can certify compliance with applicable statutory and other requirements.
- 8. *Application Process.*
 - a. Persons submitting an application utilizing the provisions of the KO zone are strongly encouraged to arrange for preliminary meetings with the Town Planner prior to submitting an application.
 - b. Prior to submitting a formal application to the Planning and Zoning Commission, persons preparing an application utilizing the provisions of the KO zone are strongly encouraged to arrange for preliminary meetings with the neighborhood.
 - c. Peer Review - The Commission may require the applicant to pay the cost of reasonable consulting fees for peer review of the technical and legal aspects of the application.
 - d. Referral - The Commission may refer an application to other agencies, boards or commissions for comment.
- 9. *Criteria for approval.* The commission shall review a development proposed within the KO district and may approve such application if the Commission finds that the proposed development conforms to the following criteria:
 - a. The overall development shall be pedestrian oriented, with the buildings and uses oriented towards the street, in close proximity to the street and to each other.
 - b. Unless otherwise approved by the Commission, the total floor area of the proposed development shall be allocated among multiple uses. The Commission may permit the floor area of one or more buildings to be devoted to a specific use if it determines that the proposed development is consistent with the intent of this zone.

- c. In order to create and maintain a strong pedestrian-friendly environment, surface parking areas shall generally be located to the rear of buildings. In exceptional situations, where parking to the rear of a building is not possible or practical, the commission may permit parking to be located to the side of a building provided that the parking is screened from view from public rights-of-way, and the applicant has made other arrangements to significantly enhance the pedestrian-friendly nature of the area.
- d. The architectural style of proposed buildings shall be attractive and complementary to the area, and consistent with generally recognized standards of a New England village.
- e. Benches, bicycle racks, and other amenities shall be installed at appropriate locations, as determined by the commission.

G. Planned Development District.

- 1. *Purposes.* This section of the Regulations is intended to:
 - a. Enable the development of specific areas in accordance with an overall master plan for such area;
 - b. Encourage a mixture of compatible uses and structures to create a sustainable and attractive environment;
 - c. Be flexible in order to allow for innovative design techniques, accommodate unique uses and encourage creative approaches to development issues; and
 - d. Result in a development that demonstrates a high regard for design and that is compatible with the historic, cultural and geographic qualities of Berlin.
- 2. *Basic Parameters.*
 - a. Persons submitting an application to establish a Planned Development District hereunder are strongly encouraged to arrange for preliminary meetings with the Planning and Zoning Commission's designee prior to submitting an application for a Planned Development District.
 - b. Prior to submitting a formal application to the Planning and Zoning Commission, persons preparing an application to establish a Planned Development District hereunder are strongly encouraged to arrange for preliminary meetings with the neighborhood.
 - c. A Planned Development District may only be established by approval of:
 - i. A master plan in accordance with Section VIII.G.3,
 - ii. A Text Amendment application, processed in accordance with Section XIV.E, codifying the approved master plan as part of this Section of the Regulations, and
 - iii. A Zone Change application, processed in accordance with Section XIV.E, locating the approved master plan on the official Zoning Map.

- d. The location and general objectives of the Planned Development District shall be in accordance with the Plan of Conservation and Development.
 - e. The Commission may require the applicant to pay the cost of reasonable consulting fees for peer review of the technical and legal aspects of the application.
 - f. The Commission may refer an application to other agencies, boards or commissions of the municipality for comment.
3. *Master Plan Requirements.* A master plan of the proposed development shall be submitted to the Commission for approval and such master plan shall include the following:
- a. Name of Planned Development District ó A name identifying the proposed Planned Development District.
 - b. Purpose Statement ó A general statement regarding the intent of the proposed Planned Development District.
 - c. Proposed Uses ó A statement identifying the specific uses proposed within the Planned Development District and whether such uses will be subsequently permitted by:
 - i. Zoning Permit approval;
 - ii. Site Plan approval; or
 - iii. Special Permit approval
 - d. General Development Plans ó One or more sheets depicting the proposed schematic design of the site including:
 - i. The identification and specific location of proposed uses;
 - ii. Existing and proposed building footprints;
 - iii. Proposed public and private streets, sidewalks and/or pedestrian walkways, rights-of-way, and parking areas;
 - iv. A landscaping plan, including the location of proposed buffers;
 - v. Information regarding the provision of water, sewer, drainage, and other utilities; and
 - vi. The location of public and/or private open space or conservation areas.
 - e. Schematic Architectural Drawings ó One or more sheets illustrating the schematic design of the proposed buildings and structures, which may include:
 - i. Schematic floor plans;
 - ii. Architectural elevations of all buildings, and/or
 - iii. Photographs of buildings similar to the proposed buildings.
 - f. Data Table ó Information regarding the proposed development including:
 - i. Lot area and lot frontage;
 - ii. Building setbacks, yards, and/or building separations;
 - iii. Building coverage;
 - iv. Impervious coverage;
 - v. Proposed floor area by proposed use;
 - vi. Parking spaces.

- g. Additional Documentation ó Depending on the nature and/or intensity of the proposed Planned Development District, the following documentation may also be required by the Commission:
 - i. A traffic study estimating the potential traffic generation and the capacity of streets within and neighboring the district to accommodate the projected traffic;
 - ii. A report regarding the adequacy of proposed utility services;
 - iii. A statement on how the proposed development complies with the Plan of Conservation and Development; and
 - iv. Any additional information as may be required by Section VIII.G.2.f of these Regulations.

4. *Decision Process.*

- a. In deciding whether to approve, modify and approve, or reject the Text Amendment application and/or the Zone Change application, the Commission shall consider whether the proposed applications:
 - i. Are in general accordance with the recommendations of the Plan of Conservation and Development.
 - ii. Are in general accordance with the purposes of these Regulations.
 - iii. Are in general accordance with the purposes of this Section.
 - iv. Are appropriate for the location proposed, and
 - v. Will promote the appropriate development of the community.
- b. While the establishment of a Planned Development District is a legislative decision rather than a Special Permit, the Commission may use the criteria in Section XII of these Regulations when reviewing an application to establish a Planned Development District.
- c. Following the close of the public hearing(s), the Commission shall first approve, modify and approve, or deny the master plan.
- d. If the Commission denies the master plan, they shall also deny the Text Amendment application and the Zone Change application.
- e. If the development proposed in the Planned Development District is a õset-aside developmentö as defined in Connecticut General Statutes §8-30g or an õincentive housing developmentö as defined in Connecticut General Statutes §8-13m, the application shall also be processed in accordance with applicable provisions in Section VIII.F.7 of these Regulations and applicable provisions of Connecticut General Statutes §8-30g or Connecticut General Statutes §8-13m et seq.
- f. If the Commission approves or modifies and approves the master plan, the Commission may approve the Text Amendment application and the effect of such approval of the Text Amendment application shall be to include the following in Section VIII.G.4.h of these Regulations provided that the approved master plan has been signed by the Chair of the Commission and filed on the Berlin land records.
- g. If the Commission approves the Text Amendment application, the approved master plan and accompanying material shall, within thirty (30) days of the Commissionø action unless some other period of time

is authorized, be submitted to the Commission for signature by the Chair.

- h. Once signed by the Chair of the Commission, the approved master plan shall be filed on the Berlin land records within thirty (30) days of the Chairman's signature and the Text Amendment and the Zone Change shall not be effective until such filing on the land records.
- i. If the Commission approves or modifies and approves the master plan, the Commission may approve the Zone Change application and the effect of approval of the Zone Change application shall be to:
 - i. rezone the property to the name of the Planned Development District provided the approved master plan and accompanying material shall have been signed by the Chair of the Commission and filed on the land records, or
 - ii. in the case of an "incentive housing development" as defined in Connecticut General Statutes §8-13m, establish an overlay zone on the property provided the approved master plan and accompanying material shall have been signed by the Chair of the Commission and filed on the land records.

5. *Following Approval.*

- a. Development within a Planned Development District shall only be as authorized by the approved master plan.
- b. Development within a Planned Development District shall conform to the approved master plan.
- c. Any modification of an approved master plan that, in the opinion of the Commission, does not substantially alter the character of the approved master plan may be approved by Site Plan approval in accordance with Section VIII G.4.b of these Regulations.
- d. Any modification of an approved master plan which substantially alters the character of the approved master plan shall be processed as a Text Amendment application, processed in accordance with Section VIII G.2.c, codifying the revised master plan as part of this section of the Regulations.

(SEE NEXT PAGE FOR VIII.H. SPECIAL USE ZONES BULK REQUIREMENTS)

BERLIN ZONING REGULATIONS

§ VIII

- H. Area and Bulk Requirements:** The following area and dimensional requirements shall be applicable to all developments in the POR, MR-1, MR-2 and OP zones, as indicated. Except as otherwise provided herein, these requirements shall be deemed the minimum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

	POR ⁽¹⁾	MR-1, MR-2 All Uses Except Multi- family dwellings	MR-2 Multi- family Dwellings	OP
<i>Minimum Lot Requirements</i>				
Area (acres)	3 ⁽⁶⁾	3	60	15,000 sq. ft ⁽⁵⁾
Frontage	150	200	250	125
Width	150	200	250	125
Depth	200	300	300	150
<i>Minimum Yard Requirements</i>				
Front	50	60	100	40
Side (each one)	30	45	100	20
Side (total of two)	60	90	200	45
Rear	30	75	100	50
<i>Maximum Building Height</i>				
Stories	2½	2½	2½	2½
Feet	35	35	35	35
<i>Maximum Density</i>				
Dwelling per acre	3 ⁽⁴⁾	N/A	2	N/A
Minimum Floor Area Per Dwelling Unit	900	N/A	1,000	N/A
<i>Detached Accessory Building</i>				
<i>Minimum Distance From⁽⁷⁾</i>				
Principal building	25	20	25	12
Side lot line	30	45	100	5
Rear lot line	30	75	100	5
Front lot line	50	60	100	40
<i>Maximum coverage</i>				
Buildings	15% ^{(3),(4)}	15%	20%	20%
Impervious surface	30% ^{(3),(4)}	20%	50%	50%
<i>Minimum Parking & Loading Setbacks</i>				
Side and rear yards (each)	20	30	50	10
Front	25	25	50	40 ⁽²⁾

Footnotes:

- (1) For single-family detached dwellings, the area and bulk requirements are the same as those for the R-21 district.
- (2) No parking shall be permitted between the building and the street in the OP district.
- (3) In the POR district, any proposed development plan which integrates the rehabilitation and restoration of existing historic buildings and/or houses shall be permitted an increase in the maximum impervious surface coverage for the entire site by an additional five percent. The historic structure shall be calculated as part of the building coverage as defined by these regulations. To be eligible, this historic structure shall be listed in the "Town-wide Historic & Architectural Survey of the Town of Berlin." Any proposed rehabilitation shall be consistent with the building's original architectural character and significance as described in this survey.
- (4) For properties having frontage on the Berlin Turnpike and zoned POR, the maximum density shall be eight units per acre; the maximum building coverage shall be 30 percent; and the maximum impervious surface shall be 60 percent.

BERLIN ZONING REGULATIONS

§ VIII

- (5) For single-family dwellings, the area and bulk requirements are the same as those for the R-15 district.
- (6) Current permitted and special permitted uses, except multifamily developments, will be allowed by special permit on existing lots smaller than three acres.
- (7) The accessory building or structure may be located closer than 12 feet from the principal structure, providing the minimum rear and side yard setbacks for principal uses are maintained.

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SECTION IX. SUPPLEMENTARY REGULATIONS

A. Signs.

1. *Purpose.* The purpose of Section IX.A. is to address the need for adequate business identification, indexing of the business districts, and visual communication within the town through the display of well-designed signs, while recognizing the town's responsibility to promote public safety, protect property values, minimize visual clutter and enhance the physical appearance of the town.
2. *General provisions.*
 - a. No zoning permits or site plans shall be approved if the signage indicated is not in conformance with these regulations.
 - b. Signs shall be so located as to not obstruct or interfere with the visibility of vehicular or pedestrian traffic, shall not conflict with the corner visibility requirements of these regulations and shall be so located as to not obstruct or interfere with the view of any traffic control sign, signal, or device.
 - c. This section shall not prohibit or regulate the installation of street signs, emergency signs, traffic control signs, warning signs or directional signs by any governmental agency.
 - d. Nothing in this section shall be construed as prohibiting signs viewed principally from within a building.
 - e. The number and area of all existing signs on a lot shall be counted toward the maximum number and sign area allowable on that lot by this section.
 - f. Directional signs shall contain no advertising.
3. *Sign design and area.*
 - a. Computation of sign area.
 - i. The area of a sign shall be computed from the outer dimensions of the frame, trim or molding by which the sign is enclosed including any structure surrounding the copy area which does not provide structural support.
 - ii. When a sign consists of individual letters, symbols or characters, its area shall be computed as the area of the smallest rectangle which encloses all of the letters, symbols or characters.
 - iii. When a sign consists of two or more faces, only one face of the sign shall be used in computing the sign area if the faces are parallel to and within 12 inches of each other. Otherwise, all faces of the sign shall be used to compute the sign's area.
 - b. Standards for wall signs.
 - i. All wall signs shall be parallel to the wall to which it is attached and shall not project more than 12 inches therefrom.
 - ii. A marquee sign may extend the full length of the marquee, but shall not extend beyond the ends of the marquee.
 - iii. No wall signs shall be painted directly upon any wall.

- iv. No wall sign shall extend above the eaves of the building to which it is attached.
 - c. Standards for freestanding signs.
 - i. In residential districts, the height of any freestanding sign shall not exceed six feet. In nonresidential districts and sites limited to office uses in the POR districts, the height of any freestanding sign shall not exceed the height of the building to which it relates or a height of 16 feet, whichever is less. If the premises on which the sign is located does not contain a
 - ii. principal building, the sign shall not exceed a height of six feet. The height of the sign shall be measured from the ground to the top of the sign.
 - iii. In nonresidential districts, the bottom edge of a freestanding sign shall be at least seven feet above ground level when located in an area where the public walks or where it would impair visibility.
 - iv. No part of any freestanding sign shall be located closer than ten feet of any property line, except for properties having their principal access from the Berlin Turnpike.
 - v. Except as otherwise provided herein, only one freestanding sign shall be permitted on a lot for each street from which the lot has vehicular access, even if there is more than one building or use on that lot.
 - d. Standards for projecting signs, marquee or canopy signs.
 - i. The bottom edge of a the sign shall be at least seven feet above ground level when located in an area where the public walks.
 - ii. No sign shall extend more than six feet from the wall to which it is attached, except that canopy signs may project as approved by the Planning and Zoning Commission.
 - iii. No part of a sign shall be above the height of the building.
 - iv. No projecting sign shall be located within ten feet of the street lot line.
- 4. *Sign Illumination.*
 - a. When a sign is internally illuminated, the light source shall be completely covered.
 - b. When a sign is externally illuminated, the light source shall be shielded so that the beams or rays of light do not shine or reflect directly onto adjacent properties or streets.
 - c. Any illuminated sign located on a lot adjacent to, or across the street from, a residential district shall not be illuminated between the hours of 10:00 p.m. and 7:00 a.m.
 - d. Signs shall not utilize or contain flashing or moving lights.
 - e. In residential zones, no signs shall be internally illuminated.
- 5. *Prohibited signs.* The following signs shall be prohibited in all districts:
 - a. Rotating, moving or animated signs.

- b. Roof signs on the principal roof of any given structure. Such signs may only be permitted if attached and are over porches or porticoes which are attached to the principal building and are located at the entrance to a building.
 - c. Billboards, except as otherwise permitted by Section IX.A.6.c.vi.
 - d. Signs permanently painted, posted, or otherwise attached to any rock, fence, tree, motor vehicle, or utility pole except as otherwise permitted by Section IX.A.6.c.vi.
 - e. Attention-getting devices such as banners, pennants, valances, flags (except governmental flags), streamers, searchlights, string or festoon lights, flashing lights, balloons or similar devices designed for purposes of attracting attention, promotion or advertising.
 - f. Any sign which could be mistaken for, or confused with, a traffic control sign, signal or device.
 - g. All signs not expressly permitted by this section.
 - h. Portable signs.
6. *Permitted signs.*
- a. Signs permitted in all districts without a sign permit.
 - i. One real estate sales sign for each street frontage of the lot on which the sign is located, such sign not to be illuminated nor exceed four square feet in area in residential districts or 18 square feet in area in nonresidential districts.
 - b. Signs permitted in business districts without a sign permit.
 - i. Window signs, the total area of such signs not to exceed one square foot of sign area for each linear foot of building frontage; such signs not to be illuminated.
 - c. Signs permitted in all districts with a sign permit.
 - i. Signs pertaining to service club meetings; such signs not to exceed four square feet in area.
 - ii. Temporary signs, provided that:
 - (1) A temporary permit has been issued by the ZEO indicating the nature, size, location and tenure of the signs;
 - (2) The permit shall be valid for a period not to exceed 30 days;
 - (3) The Signs shall be removed within 24 hours after the event; and
 - (4) Such signs shall not be illuminated.
 - iii. One construction sign for each street frontage of the lot on which the sign is located, such sign not to exceed four square feet in area in residential districts or 18 square feet in area in nonresidential districts. Such signs shall be permitted for a maximum of 90 days.
 - iv. One identification sign, not to exceed four square feet in area, to identify a public or semipublic facility. The identification sign for a place of worship, school, museum or similar

institution may include as part of its sign area, a non-electronic bulletin board on which messages and announcements of activities and programs can be displayed.

- v. Directional signs not to exceed two square feet in area.
- vi. Signs for the advertisement of goods and services at a facility for spectator sports, such as baseball, softball, football or soccer, provided that the facility is a noncommercial facility, and the signs are intended for viewing only by the spectators within the facility, and Willow Brook Park.
- d. Signs permitted in Planned Residential districts.
 - i. One identification sign, not to exceed 16 square feet in area, to identify a unified development.
- e. Signs permitted on properties with frontage on Farmington Avenue, New Britain Road, Mill Street or Webster Square Road which are zoned Commercial Core District-1, Commercial Core District-2 or General Commercial.
 - i. One freestanding sign not to exceed 40 square feet in area; and
 - ii. One wall or marquee sign per building occupant not to exceed the linear feet of building frontage of the occupant multiplied by one-tenth of the building height; or
 - iii. One projecting sign per building occupant not to exceed eight square feet in area;
 - iv. Freestanding signs shall be located no farther than ten feet from the principal structure as measured from the closest point of the sign, nor 20 feet as measured from the farthest point of the sign. If, however, a principal structure is located greater than 75 feet from the street line, this location will be permitted a freestanding sign no part of which would be closer than 50 feet from the street line, thus eliminating the ten-foot/20-foot rule.
- f. Signs permitted with frontage on Webster Square Road or the Chamberlain Highway which are zoned Planned Shopping A.
 - i. One freestanding sign not to exceed 50 square feet in area; and
 - ii. One wall or marquee sign per building occupant not to exceed the linear feet of building frontage of the occupant multiplied by one-tenth of the building height; or
 - iii. One projecting sign per building occupant not to exceed eight square feet in area;
 - iv. For all land uses on at least ten acres and having 400,000 square feet of building area, the following provisions are applicable.
 - (1) The maximum area of freestanding signs shall be 64 square feet per face;
 - (2) Double-faced signs are permitted;
 - (3) The size of freestanding signs may be increased by one square foot in area for each two feet of additional distance that the side of the building nearest the sign is

set back from the property line beyond the minimum setback required by these regulations, provided said signs shall not exceed 128 square feet in area and shall not exceed 20 feet in height regardless of the height of the building;

- (4) All such uses located on corner lots may have one freestanding sign for each road frontage exclusive of direction signs, provided that only one such sign may be increased to more than 64 square feet as regulated by this section; and
 - (5) Land uses and outside entrances may have signs attached to the building, provided each use shall be limited to one sign per entrance which signs, in the aggregate may not exceed 1.5 square feet for each linear foot of the front façade of the buildings. The linear frontage of the building(s) shall be determined by measuring the distance with a straight line through the main axis of the building(s). All signs shall be of such scale, color and illumination as to conform to a consistent design theme throughout the site. All freestanding signs shall be located in a landscaped area; and
 - (6) One interior directory sign is permitted listing the occupants of the site, provided such signs do not exceed 24 square feet nor a height of eight feet.
- g. Signs for properties with frontage on the Berlin Turnpike which are zoned GC and CCD-1.
- i. One freestanding sign per lot not to exceed 64 square feet; and
 - ii. One wall or marquee sign per building occupant not to exceed the linear feet of building frontage of the occupant multiplied by one-tenth of the building height; or
 - iii. One projecting sign per building occupant not to exceed eight square feet in area.
- h. Signs permitted for properties having frontage on Main Street, Brook Street, or Kensington Road which are zoned CCD-1, CCD-2 or GC.
- i. One freestanding sign per lot not to exceed 40 square feet; and
 - ii. One wall or marquee sign per building occupant not to exceed the linear feet of building frontage of the occupant multiplied by one-tenth of the building height; or
 - iii. One projecting sign per building occupant not to exceed eight square feet in area.
- i. Signs permitted in the Planned Shopping B district, provided that all signs be of such scale, color and illumination as to conform to a consistent design theme throughout the site.
- i. One freestanding sign, located in a landscaped area, not to exceed 64 square feet in area, except that the size of

- freestanding signs may be increased by one square foot in area for each two feet of additional distance that the side of the building nearest the sign is set back from the property line beyond the minimum setback required by these regulations, provided said sign shall not exceed 128 square feet in area and shall not exceed 25 feet of height regardless of the height of the building; the shopping center or office park may have one freestanding sign for each side of the shopping center or office site which abuts on a state highway exclusive of directional signs, provided that only one such sign may be increased to more than 64 square feet as regulated by this section; and
- ii. One interior directory sign listing the occupants of the site provided such signs do not exceed 24 square feet nor a height of eight feet;
 - iii. Traffic and directional signs, each not to exceed four square feet in area; and
 - iv. One marquee or wall sign for each store with an outside entrance, per entrance, not to exceed 1.5 square feet for each linear foot of the front façade of the buildings.
- j. Signs permitted in the office laboratory, general industry and planned industry districts.
- i. One wall identification sign per each occupant of the building, each sign not to exceed the area obtained by multiplying the linear feet of the building frontage of the occupant multiplied by 1/20 of the building height; or
 - ii. One freestanding identification sign per each street on which the tract abuts, each sign not to exceed 32 square feet in area;
 - iii. Industrial parks may have one identification sign at the entrance to the park not to exceed 80 square feet in area.
- k. Signs permitted as part of a planned office development.
- i. One freestanding sign pertaining to the use of the entire POD, for the purpose of identifying the development, may be erected on any lot in the POD. Such sign shall not exceed 40 square feet in area nor a height of eight feet.
 - ii. One freestanding sign pertaining to each principal structure within the development may be erected on any lot in the POD. Such sign shall be located within 100 feet of the building.
- l. Public service signs may be permitted only after issuance of a special permit by the Commission. These signs may be permitted in the GC, PS-A, PS-B, CCD-1, and CCD-2 zones, provided they meet the following criteria:
- i. The premises upon which the signs are to be located shall have frontage on a state highway.
 - ii. Signs shall be located at least ten feet from the street line.
 - iii. No such sign shall be permitted within a 3,000-foot radius of another public service sign.

- iv. No sign shall exceed 20 square feet in area nor 12 feet in height.
 - v. If the use of said sign is discontinued for a continuous period of 90 days, the commission may revoke said special permit and take action to cause said sign to be removed.
7. *Sign permits.*
- a. Except as otherwise provided herein, no sign shall be constructed, erected, altered or otherwise changed unless a sign permit has been issued by the ZEO.
 - b. All applications for a sign permit shall be signed or countersigned by the owner of the lot on which the sign will be located and shall be accompanied by the following:
 - i. For freestanding signs, a plot plan of the premises and, for any signs attached to structures, a measured elevation drawing of the building façade, each drawn to scale, showing the location, dimensions and area of all existing and proposed signs on the premises; and
 - ii. Plans and specifications of the proposed sign, including its dimensions, area, maximum and minimum height, proposed message and design, materials, colors, method of construction and method of illumination.
8. *Sign maintenance and removal.*
- a. All signs, together with their supports, braces, guys and anchors, shall be kept in good working order and safe condition.

B. Parking and Loading.

- 1. *Purpose.* An adequate supply of parking and loading spaces shall be provided, in the opinion of the Commission, to meet the needs of persons making use of structures or land uses within the Town of Berlin. In making such determination, the Commission shall be guided by a finding that adequate parking will be available for the proposed uses due to on-street parking, dedicated shared parking arrangements with other uses, the use of dedicated off-site parking, the availability of public parking, off-peak demands, and other considerations.
- 2. *Amount of parking required.*
 - a. No building or structure shall be erected, enlarged, modified, or its use changed unless permanently maintained parking and loading spaces are provided in accordance with the provisions of these regulations. In addition, no alterations, improvements or modifications to an existing off-street parking lot or the establishment of a new off-street parking area may be permitted until a site plan has been approved by the Commission as specified in these regulations. In addition, the issuance of an encroachment review response or STC review response from the Conn DOT shall not prohibit or preempt the commission from requiring more restrictive requirements in accordance with this

- section. This section shall also govern the location and control of access drives from a public right-of-way.
- b. Structures and land uses in existence, or for which building permits have been approved at the time of the adoption of these regulations shall not be subject to the parking or loading space requirements of these regulations provided that should any existing parking and loading facilities exceed such requirements, they shall not be reduced below such requirements. Required parking and loading facilities, however, shall be provided as a condition for issuance of any zoning permit for any enlargement of such structures or change of use in the future.
 - c. Required parking facilities which, after development, are later dedicated to and accepted by the town, shall be deemed to continue to serve the uses or structures for which they were originally provided.
 - d. When two or more different uses occur on a single lot, the total amount of parking facilities required shall be the sum of the requirements for each individual use on the lot, except that the applicable commission may approve the joint use of parking space by two or more establishments, the total capacity of which space shall be no more than 20 percent less than the sum of the spaces required for each, provided it is demonstrated by the applicant to the commission that the capacity to be provided shall substantially meet the intent of this section by reason of variation in the probable time of maximum usage by patrons and employees among such establishments.
3. *Improvement and maintenance.* Required off-street parking and loading facilities may be enclosed in a structure or may be open, except as otherwise required, provided that all off-street parking and loading facilities shall be properly graded, surfaced, drained and suitably maintained to the satisfaction of the applicable commission, to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways or adjacent lands. Required off-street parking and loading facilities shall be properly maintained as long as the use or structure exists which the facilities are designed to serve.
4. *Handicapped parking.* Parking spaces for the physically handicapped shall be located as close as possible to ramps, walkways, and building entrances and shall be so arranged as to eliminate or minimize the need for physically handicapped persons to wheel or walk behind parked cars to reach entrances, ramps and walkways. The number, size, designation, location, and markings of parking spaces for the handicapped shall be as required by the Connecticut General Statutes and designed in accordance with the Federal Americans with Disabilities Act. All parking spaces for the handicapped that are provided shall be credited to the total required number of parking spaces.
5. *Minimum parking requirements.* Unless modified by the Commission, the following requirements shall be considered the minimum number of parking space required for each use. Where the number of parking spaces is calculated to be a fraction, it shall be rounded up to the nearest whole number.

a. Residential Uses; Public and Semipublic Uses		Minimum Number of Spaces Required
i.	Single-family or two-family dwellings	2 per dwelling unit, plus 1 per guest sleeping room for roomers and boarders
ii.	Multifamily dwellings	2 per dwelling unit
iii.	Senior housing rental and adult housing	1.25 per dwelling unit
iv.	Senior housing owner occupied (attached or detached)	2 spaces per unit
v.	Parochial or private schools or colleges	1 per teacher, plus 1 per other staff member, plus 1 per each 10 pupils for elementary and secondary schools. 1 for each 2 pupils for colleges, plus 1 per 3 seats for gymnasiums, auditoriums, grandstands and other gathering places
vi.	Private clubs	1 per 3 maximum capacity, plus 1 per employee on any given shift
vii.	Public utility substations	2 spaces
viii.	Telephone exchanges	1 per 2 employees on duty at the peak employment hour, plus 1 per each company vehicle
ix.	Libraries, museums, art galleries or similar uses	1 per each 400 sq. ft. of GFA
x.	Group homes	2 per home, plus 1 per 2 employees
xi.	Nursing or convalescent homes	1 per 2 beds
xii.	Places of worship	1 per 3 seats or 1 per 3 persons of maximum rated occupancy, whichever is greater plus additional spaces as may be required by the Commission (1 seat = 18 linear inches of pew bench)
xiii.	Child day care centers or adult day care centers	1 per employee, plus 1 per 10 enrollees, plus adequate dropoff/pickup area as determined by the Commission
xiv.	Roominghouses or boardinghouses	1 per each guest sleeping room, in addition to residential space requirements
xv.	Hospital, clinic or sanitarium	1 per 3 beds, plus 1 per 2 employees of the largest shift
xvi.	Professional office or home occupation	2 in addition to spaces required for a permittee in a residential zone as a residential unit, except that medical or accessory use dental offices shall have 4 additional spaces
xvii.	Congregate housing	1.5 per dwelling plus 1 per employee on largest shift
xviii.	Roadside stands	10 spaces
xix.	Public or semipublic buildings not otherwise listed	As determined by the commission
xx.	(Deleted) [Reserved]	

b.	<i>Business Uses, Except Automotive</i>	<i>Minimum Number of Spaces Required</i>
i.	Theaters, auditoriums or other places of public assembly	1/3 occupancy of building
ii.	Retail or personal business services	1 per 250 sq. ft. of GFA
iii.	General, business or professional offices, nonmedical	1 per 250 sq. ft. of GFA
iv.	Banks or financial institutions	1 per 300 sq. ft. of GFA
v.	Drive-in bank windows	8 off-street waiting spaces per window for approaching cars, plus 1 off-street waiting space per window for cars leaving
vi.	Medical or dental offices or clinics	1 per 150 sq. ft. of GFA
vii.	Sit-down restaurants or other places serving food or drink	1/3 occupancy of building
viii.	Fast-food restaurants or drive-ins	1 per 75 sq. ft. of GFA or 1 per 3 seats, whichever is greater
ix.	Bowling establishments	5 per bowling lane
x.	Commercial kennels or Veterinary hospitals	1 per employee, plus 1 per 400 sq. ft. of GFA
xi.	Funeral homes	1 per 3 seats, plus additional spaces as may be required by the Commission (1 seat = 18 linear inches on pew bench)
xii.	Commercial recreation facilities, enclosed or not enclosed	As determined by the Commission
xiii.	Amusement and entertainment facilities with fixed seats, such as theaters, auditoriums and sports arenas	1/3 occupancy of building
xiv.	Bed and breakfast establishment	1 per bedroom, plus 1 for owner and additional spaces as may be required by the Commission
xv.	Self-service storage facilities (mini warehouses)	1 per employee on largest shift plus 2 per 10,000 square feet of GFA with a minimum number of 5 spaces.
xvi.	Studios of dance, photography, or similar artistic endeavors	1 per 500 sq. ft. of GFA
xvii.	Centers of public amusement, the capacity of which cannot be measured in terms of seats.	1 per 2 persons of maximum rated occupancy but not less than 1 per 300 square feet of GFA.
xviii.	Shopping centers and associated retail activities for centers with a GFA of 25,000 to 400,000 sq. ft.	1 per 225 sq. ft. of GFA
xix.	For centers with a GFA of 401,000 to 600,000 sq. ft.	As above for the first 400,000 sq. ft., plus 1 per 200 sq. ft. of additional GFA
xx.	For centers of over 600,000 sq. ft. of GFA	As above for the first 600,000 sq. ft., plus 1 per 180 sq. ft. of additional GFA

c. Business Uses, Automotive		Minimum Number of Spaces Required
i.	Automobile sales establishments	As determined by the commission
ii.	Car washes	1 per employee on largest shift, plus 3 stacking spaces for self service bays and/or 10 stacking spaces per bay for full service/drive through room per stall
iii.	Motor vehicle service stations with service bays with sale of convenience items/food products/snacks	4 per facility plus 2 per bay plus 1 per 150 sq. ft. of GFA devoted to such use
iv.	Automotive repair and service facilities	3 per bay
v.	Automotive rental	25, of which 5 shall be reserved and suitably identified to accommodate vehicles returned outside normal operating hours, plus 1 per 100 sq. ft. of GFA

d. Industrial Uses		Minimum Number of Spaces Required
i.	Manufacturing or research facilities	1 per 500 sq. ft. of GFA
ii.	Lumbeyards: building materials suppliers	1 per 400 sq. ft. of GFA of buildings, plus 1 per 1,000 sq. ft. of outdoor storage area
iii.	Building, construction or landscape, contractors' yards	As determined by the Commission
iv.	Bus facilities; trucking terminals; trucking or courier services	As determined by the Commission
v.	Warehousing or storage, excluding self-storage	1 per 1,000 sq. ft. of GFA
vi.	Wholesale or distribution facilities	1 per 1,000 sq. ft. of GFA

- e. The minimum number of parking spaces required for other uses not listed above shall be as determined by the Commission.
 - f. Where the minimum number of parking spaces required for a particular use is to be determined by the Commission, the Commission shall be guided by the nature intensity and/or mix of the proposed use, including projected attendance, the number of employees, visitors and/or customers and the experience of similar facilities elsewhere.
 - g. Within the Kensington Overlay Zone, the Commission may reduce the minimum parking requirements or accept fewer parking spaces than the amount specified in this section provided the Commission finds that adequate parking will be available for the proposed uses due to on-street parking, dedicated shared parking arrangements with other uses, the use of dedicated off-site parking, the availability of public parking, off-peak demand, or other considerations.
6. *Use of parking facilities.*
- a. Required parking areas to serve specific structures and uses shall be reserved at all times for those persons who are employed at, or make

use of, such structures and land uses, except when dedicated to and accepted by the town as public parking areas.

- b. Required off-street parking and loading facilities which, after development, shall be later dedicated to and accepted by the town, shall be deemed to continue to serve the uses or structures for which they were originally provided.

7. *Loading requirements.*

- a. Unless modified by the Commission, off-street loading and unloading facilities shall be provided as follows, except that the Commission in granting site plan approval, may require additional off-street loading where the Commission determines that such is necessary in accordance with the purposes set forth in this section.

<i>Use</i>	<i>Minimum Number Off -Street Loading Spaces</i>
Retail and service business establishments, restaurants or other places serving food and drink:	
a. 10,000 to 19,999 sq. ft. of GFA	1
b. 20,000 to 30,000 sq. ft. of GFA	2
c. Over 30,000 sq. ft. of GFA	2 plus 1 per additional 20,000 sq. ft. of GFA
Manufacturing, industrial, warehousing, or wholesale establishments:	
a. 5,000 to 15,000 sq. ft. of GFA	1
b. 15,001 to 40,000 sq. ft. of GFA	2
c. Over 40,000 sq. ft. of GFA	3 plus 1 per additional 30,000 sq. ft. of GFA
Offices:	
a. Up to 40,000 sq. ft. of GFA	1
b. 40,001 to 125,000 sq. ft. of GFA	2
c. Over 125,000 sq. ft. of GFA	3 plus 1 per additional 75,000 sq. ft. of GFA
Other uses not listed	Off-street loading requirements for uses which do not fall within the categories listed above shall be determined by the Commission.

- b. Unless modified by the Commission, each off-street loading space shall have a width of at least 15 feet, a length of at least 40 feet, and a height of at least 14 feet.

8. *Driveways and Curb Cuts.*

- a. Combination of curb cuts and access drives to off-street parking for more than one use shall be encouraged and may be specified by the applicable Commission on any special permit or site plan.
- b. The maximum grade for new driveways accessory to uses other than single-family dwellings and connecting off-street parking area to the

street, shall not exceed six percent within 25 feet of any street line nor ten percent at any other point.

- c. Notwithstanding the maximum permitted grades specified above, no driveway serving a use other than a single-family dwelling shall have a grade in excess of two percent within 50 feet of the centerline of the traveled way of the street, nor within 25 feet of the street right-of-way line, whichever distance is greater. The Commission may require increased platform area of this type in situations where, because of the nature of the proposed use, substantial traffic volumes would be anticipated.
- d. Driveway alignment and location.
 - i. Any driveway entering onto a street shall be located and aligned in such a way as to create the minimum possible traffic hazard. The platform portion of the driveway, as required above, shall be aligned at approximate right angle to the street.
 - ii. The Commission may require that only one driveway serve a lot regardless of the amount of street frontage, if deemed necessary for public safety purposes.
 - iii. Driveways serving the same lot must be approved by the traffic officer and the Planning and Zoning Commission.
 - iv. For corner lots, driveways shall be located as far from the intersection of the street lines of the lot as is practical, but a driveway shall not be located within 60 feet of such intersection.
 - v. Where property is under unified ownership at the time of development, joint use of driveways shall be required. In other circumstances, joint use of driveways by adjacent lots shall be encouraged.
 - vi. The maximum driveway width shall be 30 feet, measured at and parallel to the street lines, except for two-way access to nonresidential uses with a raised island in the center, for which the maximum width shall be 44 feet, and rear lots, which shall be in conformance with Section IV.A.17.
 - vii. The minimum driveway width for nonresidential uses shall be 20 feet for two-way access and 12 feet for one-way access.
 - viii. Driveways shall cross the street line so that the angle between the centerline of the driveway and a line perpendicular to the street right-of-way line, measured at such street line, does not exceed 30 degrees.
- e. Sight distance. Clear visibility shall be provided in both directions at all exit points so that the driver of a vehicle stopped on the platform portion of any new driveway shall have an unobstructed view of the highway for a reasonable distance (commensurate with the speed and volume of traffic on such highway), and so that the driver of a vehicle traveling on the highway shall have a similar view of the vehicle in the driveway. For all driveways, except those serving single-family

dwelling or in the Kensington Overlay Zone where traffic speeds are lower and the Commission wishes to encourage a pedestrian-oriented place, no fence, wall hedge or other structure or planting shall be erected, placed or maintained in such a way as to obstruct traffic visibility across the triangular area formed by the intersecting street right-of-way and driveway lines and a straight line connecting points along said street right-of-way and driveway lines, which points are located 50 feet distant from the theoretical point of intersection of such lines measured along said lines. This provision shall not apply to existing trees, provided that no branches are closer than eight feet to the ground unless the applicable commission determines that said trees create a hazard.

- f. Driveways shall be paved where the grade exceeds five percent and erosion and or other disturbance is likely to result if pavement is not used. Access driveways in residential zones shall also be paved where they are in proximity to an existing or proposed dwelling on another parcel where there is a possibility of disturbance from dust or mud in the opinion of the Commission.

9. *Location of parking.*

- a. Except in the Kensington Overlay Zone where on-street parking may be available or provided or as otherwise provided for herein, off-street parking spaces shall be located on the same lot as the principal use they are designed to serve.
- b. At the time of special permit or site plan approval, the Commission may allow all or a portion of the required parking spaces to be located either on a public street, on a separate lot under the same ownership as the use being served, or on a separate lot under a different ownership than the use being served, provided that arrangements satisfactory to the commission shall have been made to guarantee long-term access to and use of such spaces. All spaces approved under this provision shall be located within 500 feet (direct line measurement) of the main building entrance of the use being served.
- c. Unless modified by the Commission (such as in the Kensington Overlay Zone), no off-street parking area or portion thereof, including parking spaces, driveways and access aisles, shall be located within ten feet of any portion of a building other than for garage entrances or loading area aprons. Such ten-foot clear area shall be used for walkways, plantings or other landscaping.
- d. Unless modified by the Commission (such as in the Kensington Overlay Zone), no parking area which serves a use in a business or industrial district shall be permitted on land in a residence district; and no access to such parking area shall be permitted across land in a residence district except where such use is a residential use allowed under Section XI.D.2. *Conversion of certain existing industrial and educational buildings.* and such parking area preexists the conversion.

In such case, a five (5) foot parking setback and screening shall be required.

- e. Where an applicant proposes to create on-street parking spaces in a location acceptable to the Commission, after obtaining input from other agencies such as the traffic authority and/or the public works department, such on-street parking spaces shall be considered to be the equivalent of two off-street parking spaces.
10. *Parking structures.* Parking spaces may be located beneath or within the principal structure they are intended to serve or in a detached structure. A parking structure shall be considered an accessory use for purposes of these regulations unless said structure shall be the only use on the parcel of land. Unless modified by the Commission (such as in the Kensington Overlay Zone), parking structures which are not part of the principal structure shall not be closer than 25 feet to the principal structure.
11. *Dimensions and layout.*
- a. Except as otherwise specified herein, the minimum dimensional requirements for parallel, angled and perpendicular parking, whether off-street or on-street, shall be as follows:

<i>Parking Angle (Degrees)</i>	<i>0</i>	<i>45</i>	<i>60</i>	<i>90</i>
i. Curb length per stall (ft.)	23	13	10	9
ii. Stall depth (ft.)	9	18	18	18
iii. Access isle width (ft.)	15*	15**	18**	24***
iv. Stall width (ft.)	9	9	9	9

* 15 feet required for one-way circulation, 24 feet required for two-way circulation

** One-way circulation only

*** Two-way circulation permitted

- b. All unenclosed off-street parking areas shall be constructed in accordance with town specifications and shall be maintained, drained, and designed to effectively discourage the intermingling of pedestrians and vehicular circulation.
- c. Except for driveways which serve as parking for single-family dwellings, off-street parking spaces shall be directly accessible only from private property and no parking spaces shall require direct access from a public street or right-of-way. All required aisles shall be located on private property.
- d. Off-street parking spaces for all business and industrial uses shall be suitably separated from the building in such a way as to ensure safe movement of pedestrian traffic to all major entrances of the building served by any of the following means: a six-foot wide concrete walk with an eight-inch high concrete safety curb; eight-inch high precast concrete curbs in such a manner as to provide a five-foot wide vehicle-free passageway; any combination of landscaping and walkway which establishes a five-foot wide vehicle-free passageway; or by any other

manner as may be approved by the Commission. However, no parking shall be permitted adjacent to the front, sides and rear of any building except upon approval of the Commission in those cases where it is determined that such parking will not constitute a hazard to vehicular and pedestrian circulation and will not interfere with any required fire lanes.

- e. Tandem parking spaces are prohibited for all nonresidential uses and for multi-family uses except for driveway areas that are dedicated to a single unit.
12. *Pavement marking.* Off-street parking and loading facilities serving multifamily or nonresidential land uses shall be provided with suitable markings to indicate individual parking spaces, directions of traffic flow, pedestrian crossings, entrances and exits.
 13. *Reserved future parking.* If the actual demand or need for off-street parking spaces for office park use can be shown to the applicable Commission's satisfaction to be actually less than the minimum required number of parking spaces for said use, the commission may permit the reservation of up to 25 percent of the required spaces for future parking needs. Such reserved spaces shall be standard-sized, shown on the site plan and labeled "future parking," but landscaped for the present. The Commission may require the future construction of said reserved spaces, or portion thereof, within three months of written notice to do so based upon a change in parking demand, a change of use or a change in traffic safety circumstances as determined by the commission. The Commission may consider evidence of actual use and need in parking areas for similar uses, and other evidence presented by the applicant that would provide a reliable basis for the Commission's determination of actual need.
 14. *Outdoor lighting for parking and loading areas.*
 - a. It is the intent of this section to regulate the design, location, and installation of all exterior lighting and illuminated signs in such a manner as to prevent objectionable light and disability glare at any location on or off of property. In accordance with these regulations, the maintained horizontal luminance recommendations set by the Illuminating Engineering Society of North American (IES) shall be observed.
 - b. All parking area lighting will be full cut-off type fixtures.
 - c. Externally lit signs, displays, buildings, and aesthetic lighting must be shielded to prevent direct glare and/or trespass. The lighting must also be contained to the target area as much as possible. Lights used to uplight a sign, building or other structure/feature shall be located in landscaped beds.
 - d. All building lighting for security or aesthetics will be full cut-off or shielded to prevent the upward distribution of light beyond the point where the light is targeted. Floodlighting is discouraged, and if used, must be shielded to prevent disability glare for drivers or pedestrians,

light trespass beyond the property line, and light above a 90-degree horizontal plane. Wall pack fixtures are not permitted.

- e. In nonresidential districts, direct light sources may not shine directly upon adjacent residential properties. Nonessential lighting will be turned off after business hours, leaving only the necessary for site security and to support other operational needs.
- f. Lighting shall be so designed that the filaments, light sources, reflectors or lenses are shielded with opaque materials such that the light shall be directed down and shall not be visible at a height greater than six feet above the ground level at any lot line.
- g. Luminaries shall be of a design appropriate to the use and the area, and shall be subject to the approval of the Commission.
- h. Lampposts shall be the minimum height necessary to provide adequate illumination, but in no case shall they exceed a height of 30 feet.
- i. Lampposts within parking areas shall be placed within planting areas (i.e., end islands, interior islands, planting strips) and shall be recessed at least three feet from curbs.
- j. Walkways shall be adequately lighted; the use of bollard lighting for such purpose is encouraged.

15. *Commercial vehicles in residential districts.*

- a. Not more than one commercial vehicle not exceeding 10,000 pounds gross weight other than a passenger car, per dwelling unit shall be regularly parked in residential districts, except for registered farm vehicles.
- b. A maximum of one camping trailer, mobile home trailer boat or other single unregistered vehicle per dwelling unit may be stored on the premises of property in residential districts, provided that such trailers, boats or vehicles shall be effectively screened from adjoining properties. Such building or storage area shall comply with all yard setback requirements for buildings, but shall not be permitted in the required front yard.

C. Landscaping Requirements:

- 1. *Purpose.* This section is intended to establish minimum standards for the preservation, installation and maintenance of landscaping materials in order to protect property values, provide privacy from view, light, glare, dirt and noise, screen parking areas from view from roadways, buffer incompatible land uses, provide shade in parking areas, prevent the erosion of soil, provide water recharge areas, improve the environment and enhance the appearance of properties in town.
- 2. *Applicability.* Landscaping shall be required for all plans submitted to the Planning and Zoning Commission for approval. This section shall apply for all new construction or expansions to existing buildings or uses in all zones in Berlin and to all uses except that it shall not apply to the development of a single family dwelling or a two family dwelling.
- 3. *General Landscaping Regulations.*

- a. All landscaping areas shall be planted in lawn or mulched planting beds unless modified by the Planning and Zoning Commission for another suitable landscape material.
 - b. Bituminous materials will be permitted only when required for vehicular travel.
 - c. All proposed trees and shrubs shall be nursery grown and be suitably planted in accordance with the International Society of Arboricultural Standards and Practices. Deciduous trees shall, when planted, be not less than two and a half inches (2.5ø) in caliper measured six inches (6ø) above the root collar. Evergreen trees shall be not less than six feet (6ø) in height, and of at least two and a half foot spread for coniferous shrubs.
 - d. Incorporation of stone walls and the preservation of existing trees into the overall landscaping scheme shall be encouraged to the maximum extent possible.
 - e. A suggested plant list is available from the Department of Development Services for reference as to trees and other vegetation found compatible with local soil and climatic conditions and which are preferred for various types of applications.
 - f. A landscaping plan shall consider the landscaping species on adjacent parcels so as to avoid drastic changes in style, species, or appearance.
 - g. The use of indigenous plants is recommended.
 - h. Trees or shrubs planted within 5 feet of parking areas shall be of a variety capable of withstanding salt damage.
 - i. Non-native invasive plant species identified by the State of Connecticut Department of Environmental Protection shall not be permitted as part of any landscaping plan approved by the Commission.
 - j. All landscaped areas shall be planted in grass, shrubbery, trees or other plant material.
 - k. Earth berms may be required by the Commission in areas where they will complement design, increase aesthetics, add screening and/or reduce noise levels.
4. *Overall Landscape Requirements.*
 - a. Except where modified by the Commission, at least 15 percent of any lot developed for non-residential use shall be maintained as a landscaped area.
 5. *Perimeter Landscaped Area Requirements.*
 - a. Unless modified by the Planning and Zoning Commission, any lot developed for nonresidential use shall provide a landscape strip of at least five feet (5ø) between the front property line and the building line (except driveways).
 - b. A minimum five foot (5ø) landscaped area between the side property line and any parking area. Perimeter landscape areas (front, side and rear) shall contain an equivalent number of trees equal to at least one

deciduous tree at least 2.5 inches in caliper for each 50 feet or part thereof of perimeter.

6. *Screening.* Screening shall be provided for all loading areas, refuse storage areas, and ground-fixed mechanical equipment and any other area or view as determined by the Commission which might be visible from adjacent properties or from the street. Acceptable screening materials shall include:
 - a. Evergreen trees or hedges having a minimum height of six feet at the time of planting, planted close enough to obscure the view of the area to be screened;
 - b. Fences of timber or vinyl construction, of a suitable height;
 - c. Masonry walls of a suitable height;
 - d. Earthen berms, when covered with shrubs, trees and/or ground cover, except grass, stone or gravel; or
 - e. Any combination of the above materials.
7. *Parking Area Landscape Requirements.*
 - a. Unless modified by the Planning and Zoning Commission, any parking area accommodating 15 or more cars shall provide landscape areas consisting of curbed islands, peninsulas or medians within the parking lot equal to at least 15 percent of the gross paved parking lot area.
 - b. At minimum planting strips shall be provided at the intervals of every four rows of interior parking space between abutting rows of spaces for the complete length of the parking aisle. A row is considered to be one car length. Such internal landscape areas shall be planted with not less than one tree for each 20 feet for the entire length of the landscape island, , suitably located in landscaped islands within the parking area so as to enhance the appearance of the lot.*
 - c. Any planting strips used to satisfy the requirements of Section IX.C.7. b above shall have a width of not less than ten (10) feet, or fifteen (15) feet in width if a pedestrian walkway is required and shall be protected by curbing and shall run the entire length of the parking row. Planting islands shall be no less than 100 square feet.*
 - d. Wherever possible, existing trees shall be saved by appropriate welling or mounding and incorporated into parking lot islands.
 - e. Whenever possible, each island, median or peninsula required herein shall at a minimum contain at least one tree.
 - f. All rows of parking spaces shall be provided a terminal island to protect parked vehicles, define driveways, identify and improve circulation control, identify ingress and egress points for traffic control and provide space for landscaping.
 - g. No parking area shall be closer than ten (10) feet from any portion of a building other than its garage entrance or loading area apron. This ten (10) foot area shall be used for walkways and/or landscaping.
 - h. There shall be at least one pedestrian walkway in the landscape strips per customer entrance for parking lots of 200 spaces or more. Such pedestrian walkways shall have the required trees staggered on either side of a four foot wide sidewalk.*

* Provisions of Sections 7a, 7b, 7c and 7h do not apply to industrial zone categories.

8. *Sign Area Landscape.*
 - a. The area within which a detached sign is erected shall contain at least sixty-four (64) square feet of landscaping.
9. *Landscaped Buffer Requirements.*
 - a. A landscape buffer shall be provided between a nonresidential or multifamily residential use and adjacent uses in a residential district.
 - b. Such landscape buffer shall be of suitable height and density to provide effective screening of neighboring uses and property.
 - c. Such landscape buffer shall contain adequate landscape materials to provide a visual barrier and shall consist of no fewer than two rows of suitable evergreen shrubs and trees of at least six (6) feet in height, planted at a density sufficient to obscure lights and other visually objectionable items, staggered in adjoining rows or other landscaping treatment deemed acceptable to by the Planning and Zoning Commission.
 - d. Where appropriate, in the judgment of the Commission, walls, fencing, berms, or existing vegetation may be required as part of the required buffer.
 - e. When any lot or part thereof in a business district fronts on a street opposite a residential district a front yard landscaped buffer may be required by the Commission where necessary to preserve and protect residential character.
10. *Preservation of Existing Trees for Credit.*
 - a. Site development shall be designed where possible so as to avoid locating parking and buildings if such would result in the removal of any existing significant trees. Whenever possible, existing vegetation and plant materials, which are preserved, may be used to meet all or part of the required landscaping.
 - b. Any tree for which credit is given shall be in a condition that encourages long-term survival and in a location that conforms to the intent and standards of this regulation.
 - c. Existing trees which are to be preserved and receive credits shall be marked on the landscape plan.
 - d. The caliper of the preserved tree shall exceed 3 times the minimum tree caliper required herein to be considered for credit.
11. *Landscaping Plans and Maintenance.*
 - a. Landscape plans shall show existing vegetation to remain, proposed new planting, and shall include a plant list with plant names (common and botanical), quantities, size at planting and size when mature.
 - b. In order for the Commission to be able to determine compliance with the requirements of these regulations, all landscape plans shall include calculations which document compliance with the requirements of these regulations.

- c. All landscaping shall be completed and maintained in accordance with the landscaping plan approved by the Commission. The Commission reserves the right to determine and may require the installation of irrigation systems to ensure vitality of the landscaped areas of the site.
 - d. Landscape plans shall include a maintenance program specifying how the proposed landscaping will be maintained in perpetuity.
 - e. All landscape areas shall be maintained in a living and healthy condition, with the owner of the property replacing dead or diseased trees or shrubs. Failure to maintain any required landscaping shall constitute a violation of the provisions of these regulations.
 - f. All landscaping shown on the approved plan shall be completed before issuance of a Certificate of Occupancy. If weather or other extraordinary conditions do not allow for completion of the landscaping, the completion of the landscaping shall be guaranteed by filing with the town: A written agreement between the Town and the developer assuring that the planting will take place when the proper season arrives along with a bond in the amount of the cost of such improvements.
 - g. Prior to the granting of a Certificate of Occupancy, the applicant shall provide evidence of a guarantee from the landscaping contractor or supplier that any trees or shrubs that die within one year will be replaced.
12. *Reduction or Modification.*
- a. The Planning and Zoning Commission may, in accordance with the applicable sections of these Regulations, modify or waive the landscaping requirements of these regulations where site conditions limit the ability of a particular site to conform to the requirements herein. In such cases the application shall submit a proposal that strives to maintain the intent of these regulations to the best of its ability.
 - b. In addition, the Commission may, modify or reduce the landscaping requirements of these regulations where the applicant has demonstrated excellence in the building and site design.
 - c. The Commission may increase the landscape area requirements when unusual conditions of the site or if the use requires more extensive screening for noise abatement or to protect surrounding residential properties.
13. *Landscape Plan.*
- a. A landscaping plan shall be submitted showing the following information unless specifically waived by the Planning and Zoning Commission.
 - i. The seal of a licensed landscaped architect or professional engineer, as appropriate.
 - ii. Existing Conditions: significant existing trees with a caliper of 12 inches or more; name, location and size of existing vegetation to be preserved; present wooded areas indicated by

a foliage line; existing stone walls; and, significant rock outcrops.

- iii. Proposed Conditions: Details of landscaping showing the type, common name, scientific name, size at planting, number, location and extent of all proposed planting, or vegetation, or otherwise provided for on the site; Buffer areas and means of screening development from the view of highway traffic and neighboring property owners; and Other proposed landscaped features.
- iv. Proposed measures for guaranteeing survival of proposed plantings: Planned maintenance of landscaped areas; a table which includes the calculations used to demonstrate compliance with the landscaping requirements; and relevant planting specifications.

D. Outdoor lighting.

- 1. Outdoor lighting shall be provided by luminaries mounted on lampposts and/or by floodlights mounted on a building.
- 2. Luminaries shall be of a design appropriate to the use and the area, and shall be subject to the approval of the applicable commission.
- 3. Lampposts shall be the minimum height necessary to provide adequate illumination, but in no case shall they exceed a height of 30 feet.
- 4. Light intensity at ground level shall be a minimum of three footcandles and a maximum of six foot candles.
- 5. Walkways shall be adequately lighted; the use of bollard lighting for such purpose is encouraged.
- 6. Lighting shall be so designed that the filaments light sources, reflectors or lenses are shielded with opaque material such that the light shall be directed down and shall not be visible at a height greater than six feet above the ground level at any lot line.

E. Miscellaneous site features.

- 1. *Walkways.*
 - a. Walkways shall be provided in such locations as to separate pedestrian movement from vehicular movement wherever feasible.
 - b. Walkways shall facilitate pedestrian movement between parking areas and building entrances, between the development and the street, and between buildings in a multibuilding development.
 - c. All walkways within parking areas and along the perimeter thereof shall be a minimum of five feet in width.
- 2. *Dumpsters.*
 - a. No dumpster shall be located within the front yard or within the required side or rear yards adjacent to any residential zone.
 - b. Dumpsters shall be screened in accordance with the requirements of Section IX.C.3.

- c. No dumpster shall be so located as to interfere with normal vehicular movement.
- d. In all developments, suitable area shall be set aside within the dumpster screening area to accommodate recycling bins.
3. *Mailboxes*. In all developments, group mailboxes shall be so located as to not interfere with normal vehicular movement.

F. Architectural requirements for retail uses.

1. It is the intent of this section to address issues of architectural variety, compatible scale, and pedestrian access that can be used as tools to achieve site specific design in context by incorporating human-scale detailing, reducing uniform façade treatments, and to create visual interest consistent with the community's character. Unless otherwise specified, these standards shall apply to all new commercial buildings. Buildings under renovation shall conform to these standards when elements addressed in these sections are part of the renovation.
2. Uniform façade treatments shall not exceed 100 continuous linear feet. Wall plane projections and recesses shall be incorporated with an aggregate length of at least 20 percent of the façade length.
3. Ground floor facades facing public streets shall have architectural elements including arcades, display windows, entry areas, awnings, or similar features a minimum of 60 percent of the horizontal length.
4. New retail buildings of less than 25,000 square feet of gross floor area shall have transparent street level facades between the height of three feet and eight feet above the walkway for no less than 60 percent of the horizontal length of the building façade. Windows shall be articulated as a recess or projection and should include visually prominent sills, shutters, or other such forms of framing.
5. Roof lines shall be varied to add interest and reduce scale. Roof features should be incorporated to complement the character of adjoining neighborhoods.
6. Roofs should include architectural features to conceal rooftop equipment such as HVAC units from public view. HVAC equipment is prohibited from being located on the street side of the building or, since it can be noisy, adjacent to residential uses.
7. Retail shall have pitched roofs with overhanging eaves.
8. Exterior building materials shall be high quality including brick, wood, sandstone or other native stone, or tinted, textured concrete masonry units.
9. Façade colors shall be of low reflectance.
10. Entryway design elements shall be included that give orientation and visual interest to the building. Customer service entrances shall include no less than three of the following:
 - a. Canopies and porticos.
 - b. Overhangs.
 - c. Recesses/projections.
 - d. Arcades.

- e. Parapets over the door.
 - f. Peaked room forms.
 - g. Arches.
 - h. Outdoor patios.
 - i. Fountains.
 - j. Display windows.
 - k. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
 - l. Architectural details such as tile work and moldings which are integrated into the building structure and design.
11. Back and side facades shall be designed to contribute to the pleasing scale features of the building and shall feature characteristics similar to the front façade.
 12. Customer entrances shall be featured on all sides of a principal building that directly face an abutting public street. Where a principal building faces more than two abutting public streets, this requirement shall apply only to two sides of the building, including the side of the building facing the primary street, and another side of the building facing a second street.
 13. Architectural and landscaping features including berms should mitigate impacts of unattractive views of blank walls, loading areas, storage areas, HVAC units, garbage receptacles, and other such features. Loading docks and truck parking shall be screened from public view using building mass, freestanding walls, and/or evergreen trees and shrubs.
 14. Where any façade faces adjacent residential uses, an earthen berm shall be established, no less than six feet in height, containing at a minimum evergreen trees in clumps or clusters planted at intervals to effectively screen the building from view.
 15. Site design should strive to respond to and to protect the topography, vegetation/landscape and other natural features and to improve the overall drainage of the site. Site grading should emulate the natural characteristics of the site's underlying topography with finished floor elevations of the buildings and parking areas transitioned with the grades of the site.
 16. In the town center area along Farmington Avenue and Main Street, building entries should be easily identifiable and having a strong pedestrian connection from the doorway to pedestrian walkways.
 17. Shopping carts shall be stored within the building.
 18. Parking lot striping shall be white except where certain colors are required by ADA standards.
 19. Buildings that derive their image primarily from applied treatments that express corporate identity are discouraged.
 20. The design of a building that occupies a pad or portion of a building within a planned project, office or industrial complex or shopping center should share similar design characteristics and design vocabulary. Exact replication is not desirable but instead utilizing the same basic architectural themes such as materials and colors.

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21. Excessive use of decorative detail applied to the surface of a building is discouraged.
22. New additions should match the architecture and design elements of the existing building.
23. Screening of mechanical, dumpsters, and other items required to be screened by the Commission shall be with materials consistent with the building's approved materials and with landscaping.

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SECTION X. ENVIRONMENTAL AND RELATED REGULATIONS**A. Soil erosion and sedimentation control.**

1. *Purpose.* To further the purposes set forth in Public Act 83-388 entitled, "An Act Concerning Soil Erosion and Sediment Control," as it may apply to activities subject to Connecticut General Statutes §§ 8-2, 8-13d and 8-25; to strengthen and extend the soil erosion and sediment control activity in the town and to reduce the danger from stormwater runoff, minimize sediment pollution from land being developed and to conserve and protect the land, water, air and other environmental resources of the town.
2. *Basic requirements.* No land development which is cumulatively more than one-half acre in area may be undertaken in any district unless certification therefore in compliance with the provisions of this section has been first obtained from the commission or its appointed agent. A CT DEP Stormwater Permit may be required if the site disturbance area is equal to or greater than 1 acre. The applicant is also required to receive town review and written approval (Planning and Zoning) of its erosion and sediment control measures and follow the guidelines for site disturbances equal to or greater than 1 acre and less than or equal to 5 acres. Applicants are responsible to determine the applicability of this and all other State and Federal agency permits.
3. *Definitions.* For the purpose of this section, the words and terms hereinafter listed are hereby defined as follows:
 - a. Certification. A signed, written approval by the commission, its designated agent, or the Hartford County Soil and Water Conservation District that a soil erosion and sediment control plan complies with the applicable requirements of this section.
 - b. County soil and water conservation district. The Hartford County Soil and Water Conservation District established under Connecticut General Statutes §221-315(a).
 - c. Development. In connection with a soil erosion and sediment control plan, any construction or grading activities to improved or unimproved real estate.
 - d. Disturbed area. An area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.
 - e. Inspection. The periodic review of sediment and erosion control measures shown on the certified plan.
 - f. 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 a narrative. Hereafter, the scheme is called a control plan.
4. [Reserved].
5. *Certification.* To be eligible for certification, a control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. For methods and practices necessary for certification refer to the "Connecticut Guidelines for Soil Erosion and

Sediment Control (2002), as amended, published by the Connecticut Council on Soil and Water Conservation. Alternative principles, methods and practices may be used with prior approval of the Commission. The control plan shall be prepared by a professional engineer. Said control plan shall contain, but not be limited to:

- a. A narrative describing:
 - i. The development.
 - ii. The schedule for grading and construction activities including:
 - a. The development.
 - b. The schedule for grading and construction activities including:
 - i. Start and completion dates;
 - ii. Sequence for grading and construction activities;
 - iii. Sequence for installation and/or application of soil erosion and sedimentation control measures;
 - iv. Sequence for final stabilization of the project site.
 - iii. The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities.
 - iv. The construction details for proposed soil erosion and sediment control measures and stormwater management facilities.
 - v. The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities.
 - vi. The operations and maintenance program for proposed soil erosion and sediment control measures and stormwater management facilities.
- b. A site plan at a scale of at least one inch equals 40 feet on sheets of either 18 inches x 25 inches or 24 inches x 36 inches in size.
 - i. The location of the proposed development and adjacent properties;
 - ii. The existing and proposed topography including soil types, wetlands, watercourses and water bodies;
 - iii. The proposed area alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines;
 - iv. The existing structures on the project site, if any;
 - v. The location and details for all proposed soil erosion and sediment control measures and stormwater management facilities;
 - vi. The sequence of grading and construction activities;
 - vii. The sequence and installation and/or application of soil erosion and sediment control measures;
 - viii. The sequence for final stabilization of the development site.

- c. A certification that the control plan is in conformance with the provisions of this section, which certification shall be signed, sealed, and dated by the professional engineer responsible for preparing the plan.
 - d. Any other information deemed necessary and appropriate by the applicant or requested by the Commission or its designated agent.
- 6. *Minimum acceptable standards.* The minimum standards for individual measures are those in the "Connecticut Guidelines for Soil Erosion and Sedimentation Control (2002)," as amended. The Commission or its appointed agent may grant exceptions when requested by the applicant if technically sound reasons are presented.
- 7. *Issuance or denial of certification.*
 - a. The Commission or its authorized agent shall either certify that the control plan, as filed, complies with the requirements and objectives of this section or shall deny certification when the development proposal does not comply with this section.
 - b. Nothing in this section shall be construed as extending the time limits for the approval of any application under Connecticut General Statutes Chapters 124 or 126.
 - c. Prior to certification, any plan submitted to the town may be reviewed by the county soil and water conservation district which may make recommendations concerning such plans, provided such review shall be completed within 30 days of the receipt of such plan. When determined by the Commission to be necessary or desirable, the Commission may require that the control plan be certified by the county soil and water conservation district. Any costs related to such certification by the district shall be borne by the applicant.
 - d. The Commission may forward a copy of the development proposal to the Commission or other agencies and/or advisors for review and comment.
- 8. *Conditions relating to soil erosion and sediment control.*
 - a. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, shall be covered by a bond submitted in accordance with Section XIII.A.12 or other assurance acceptable to the Commission for the completion and maintenance of the required soil and erosion and sediment control measures.
 - b. Site development shall not begin unless the control plan has been certified and those control measures and facilities in the plan scheduled for installation prior to site development have been installed and functional and/or a bond ensuring completion and maintenance of such measures and facilities has been posted and approved by the Commission.
 - c. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.

- d. All control measures and facilities shall be maintained in effective condition to ensure the compliance with the certified plan.
- 9. *Inspection and release of bond.*
 - a. Inspections shall be made by the Commission or its designated agent during the 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.
 - b. Upon completion of all work specified in the certified plan, the applicant shall notify the Commission thereof and submit a report, including maps as necessary, certifying that the soil erosion and sediment control measures have been completed as approved or as may have been modified with the prior approval by the Commission. Upon receipt of the report and inspection of the site by the Commission or its designated agent, the Commission may release the portion of the bond posted for the installation of the required measures upon the finding that the provisions of the certified plan have been complied with. The portion of the bond posted for assurance that the installed measures shall be adequately maintained may be released, subject to the above inspection and reporting requirements, upon termination of the maintenance period, normally 18 months.

B. Removal of earth materials.

- 1. *Purpose.* The purpose of removing earth materials is to regulate the removal by certain earth materials from the ground and in the property on which they are located in a manner that will not adversely affect the surrounding neighborhood; that will not result in unsafe, unsightly or unsanitary conditions; that will result in land which in the future can be put to a use permitted by these regulations; that will not adversely affect public or private water supplies; and that will protect the land from erosion and sedimentation.
- 2. *General provisions.*
 - a. Except as otherwise provided for herein, there shall be no removal of earth materials from any property in any district.
 - b. Nothing in this section shall prevent the regrading of property or the moving of earth materials entirely within the property lines of a single parcel, provided that no earth materials shall be removed from such parcel to any other property.
- 3. *Temporary earth removal permits.*
 - a. Where a bonafide building construction operation, as evidenced by an approved site plan, an approved subdivision or resubdivision plan, a valid building permit, or septic system permit requires the removal from the property of not more than 1,000 cubic yards of earth materials, the ZEO may issue, without a bond, a temporary earth

removal permit. Such permit shall be valid for a period of 60 days. Such time period may be extended once by the ZEO.

- b. The ZEO may issue without a bond, a temporary earth removal permit to excavate and move up to 1,500 cubic yards of earth materials in any district to an adjacent property, provided public roads shall not be used. Such permit shall be valid for a period of 60 days.
- c. The ZEO may issue a temporary earth removal permit to excavate and move up to 1,500 cubic yards of earth materials in any district if done in conformance with an approved inland wetlands permit.

4. *Earth removal permit required.*

- a. Any removal of earth materials shall be subject to approval of a Special Permit and an earth removal permit, reviewed and issued by the Commission, in accordance with the requirements of this Section X.B. and Section XII. Special Permits. Refueling does not require a special permit but plans should be submitted at the time of the site or subdivision plan for review however, it must adhere to the same hours as rock crushing and topsoil screening.
- b. In all zones other than a general industrial zone except as otherwise provided for herein, no earth materials shall be removed from any property, except as part of a bonafide construction operation, as evidenced by an approved site plan, an approved subdivision or resubdivision plan, a valid building permit, or approved inland wetlands permit.
- c. The commission shall hold a public hearing on any application for an earth removal permit. The commission shall not approve any application for an earth removal permit unless, upon the advice of the town engineer, it is determined that the amount of material to be excavated and the depth of excavation are the minimums to achieve a reasonable construction objective, and are in accordance with statement of purpose in Section X.B.1.
- d. As part of the earth removal permit application, the applicant shall submit maps, plans and cross sections prepared by a professional engineer which, at a minimum, shall contain the following information:
 - i. The boundaries of the entire property, the location and extent of the earth removal operation, any wetlands and watercourses, any wooded areas (denoted by foliage lines), and all intersecting streets within 200 feet of the property.
 - ii. Existing contours of the entire property and for 20 feet beyond, and proposed final contours of the area of the earth removal operation. Contours shall be based on NGV datum and drawn at an interval not to exceed two feet. Existing contours shall be based upon an actual field survey or an aerial survey with established ground elevations.
 - iii. The amount of material, in cubic yards, proposed to be removed from the area of the earth removal operation.

- iv. Longitudinal and transverse cross sections of the area of the earth removal operation at intervals no greater than 50 feet, showing existing contours and proposed final contours.
- v. An erosion and sedimentation control plan in accordance with Section X.A.
- vi. The location, surface treatment and grading of truck access to the property. The commission may require refueling pads.
- vii. The location, type, size and purpose of any existing and proposed buildings, structures and equipment proposed to be used for storage or processing of earth materials on the property; proposed areas for the stockpiling of materials.
- viii. A concept plan showing the possible re-use of the property after completion of the earth removal operation. The concept plan shall show general building and parking locations, a general layout of storm drainage and sanitary sewer lines, proposed grades, and site access. A determination by the commission that the concept plan is acceptable shall not constitute approval of the plan by the commission, nor shall it constitute an obligation on the part of the applicant to construct the proposed facilities shown on the plan.
- ix. Existing and proposed temporary and permanent drainage on the premises.
- x. The names of abutting property owners and streets.
- e. The removal of earth materials under this section shall comply with the following standards:
 - i. Excavation and grading shall provide for proper drainage of the property during the earth removal operation and after its completion. Except when part of an approved site plan or subdivision plan/resubdivision plan, there shall be no excavation within 500 feet of any property line or abutting a residential district, within 200 feet of any property line in or abutting a business district, or within 20 feet of any property line in or abutting an industrial district.
 - ii. The proposed excavation and removal shall not result in the creation of any sharp pots, depressions, soil erosion, depressed land values, drainage or sewerage problems or other conditions which would impair the use of the property in accordance with these regulations, and further provided that such excavation or removal shall be in harmony with the general purpose and intent of these regulations.
 - iii. Finished slopes of an excavation shall not exceed 1:1½ (vertical to horizontal) in undisturbed earth, 1:2 in earth fill, and 4:1 in rock, whether or not the ground surface will be below water.
 - iv. The method of soil erosion control shall be by vegetation and the specifications for the work shall provide that any layer of

topsoil over the area to be excavated shall be set aside and retained on the premises in sufficient quantity to be spread over all surfaces which will remain exposed, except rock, to a depth of at least four inches with topsoil added if necessary to make up any deficiency. The specification shall also provide that at the completion of respreading of topsoil it shall be immediately harrowed or raked to establish a seed bed and shall be seeded with grass, permanent pasture mixture or other approved fast-growing vegetation, repeated as necessary until the area is stabilized.

- v. Excavation shall not interfere with public utility systems and shall not create or aggravate any condition detrimental to the public health and safety.
- vi. Truck access to the excavation shall be arranged as to minimize danger to traffic and nuisance to surrounding properties.
- vii. The processing of excavated materials including rock or topsoil, facilities for refueling and rock crushing shall be permitted on-site except none shall be located closer than 200 feet of the property boundary of land in a residential zone. Right of way may be included as part of the 200 feet. Rock crushing and Topsoil Screening shall be permitted to occur only between the hours of 9:00 a.m. and 4:00 p.m., from Monday through Friday. Such activity shall not be permitted on Federal Holidays. The following conditions shall apply:
 - (1) All refueling locations shall be operated in accordance with the regulations set forth by the State of Connecticut Fire Prevention Code and the State of Connecticut Department of Energy and Environmental Protection (DEEP).
 - (2) After receiving Special Permit Approval from the Planning and Zoning Commission, before the plan may be implemented, approvals shall also be obtained by the Town's Fire Marshal, Engineer and Planner.
 - (3) The site shall be operated in a manner that prevents the release of dust and/or motor fuels into the environment.
 - (4) Any Rock Crushing done on the site shall be in accordance with an approved site plan and all crushed rock not to be used in the grading of the site shall be removed immediately from the site. Any rock to remain on site during construction must be shown to be necessary for the completion of the subdivision. The Planner may at any time require the applicant to produce proof that rock stored on site is part of the approved site or subdivision plan.

- (5) Any topsoil to be screened on site must be from the site. Unfiltered topsoil that will need screening shall not be brought to the site.
 - (6) The Commission may impose other such conditions as may be necessary to protect the health and welfare of the adjacent property owners and other citizens of Berlin considering such factors as truck routes and dust abatement. Specifically Crystalline Silica will be reviewed and its effect to the health of the area. Also see Section X D for other conditions of any approval.
- viii. Barricades shall be erected as necessary to protect pedestrians and vehicles during the period of excavation.
- ix. Measures shall be taken to minimize the nuisance of flying dust by use of chemical dust deterrents and access drives shall be provided with a dustless surface.
- x. The maximum depth of excavation shall be no greater than ten feet below the grade of the street along which the property has frontage or, if the property has no street frontage, no greater than ten feet below the grade of that side of the property through which access to the site is provided.
- xi. All excavation shall be done on conformance with the erosion and sedimentation control requirements of Section X.A.
- f. An earth removal permit shall be granted for not more than two years. Such permit may be renewed a maximum of two times by application to, and approval by, the commission in accordance with the provisions of this section. A maximum of three earth removal permits, or one such permit and two renewals, or any combination thereof may be granted on a parcel of land.
- g. In granting an earth removal permit, the commission may attach such conditions and safeguards as may be required to protect the public health, safety and general welfare and to ensure continued compliance with this section including, but not limited to:
 - i. The days and hours of operation;
 - ii. The area of the property to which the earth removal operation shall be confined;
 - iii. The extent of stockpiling of materials on the property;
 - iv. Protective measures to minimize the nuisance of noise, dust and flying rock;
 - v. The location of vehicular access into and out of the property; and
 - vi. Regulation of traffic use on Berlin streets.
- h. An earth removal permit shall not become effective until the applicant posts a bond with the commission in accordance with Section XIII.A.12.
- i. Every six months after the approval of an earth removal permit, the applicant shall submit to the commission information prepared and

certified by a professional engineer regarding the progress of the operation, including the amount of material removed, existing contours and cross sections in the area excavated during the preceding six-month period. Failure of the applicant to provide the commission with such information within 30 days after the end of the six-month period shall be deemed sufficient cause for the commission to revoke permit.

- j. If, at any time, the commission finds that the earth removal operation is not being conducted in accordance with the approved permit, the commission shall order the applicant to cease the operation and, following a duly noticed public hearing, may revoke the permit.
 - k. Not more than one earth removal permit may be granted for any parcel in any one-year period.
5. *Existing earth removal operation.*
- a. Existing earth removal operations with valid permits which are not located in the GI general industrial zone, shall be considered nonconforming uses and shall be subject to the requirements of Section IV.C.3.
 - b. For those existing earth removal operations which have a valid permit as of the effective date of these regulations pertaining to Earth Removal the commission shall require that the following information be submitted either as part of an application to renew the existing permit for earth removal or as part of an application for a new permit:
 - i. The location and extent of the existing earth removal operation.
 - ii. The estimated amount of material, in cubic yards, removed since the earth removal operation originally began.
 - iii. Items i-ix in Section X.B.4.d. above.
 - c. In granting or renewing a permit for earth removal for an existing operation, the commission may attach any of the other requirements and conditions of this section as it may deem necessary to protect the public health, safety and general welfare.

C. Filling of land.

- 1. *General Provisions.*
 - a. The filling of land shall be subject to a filling permit approval of the commission unless:
 - i. The operation shall be for the express purpose of preparing the land for immediate development in accordance with an approved site plan;
 - ii. Done in conformance with an approved inland wetlands and watercourses permit;
 - iii. The amount of such fill shall be less than 100 cubic yards in any 12-month period and not increase stormwater runoff onto other properties or otherwise create drainage problems on other properties; or
 - iv. Where the deposit shall be topsoil for the purpose of improving an existing agricultural use.

- b. Except as otherwise provided for herein, there shall be no filling of land on any property in any district.
- 2. *Filling permit required.*
 - a. The filling of land shall be subject to a filling permit approval of the commission unless:
 - i. The operation shall be for the express purpose of preparing the land for immediate development in accordance with an approved site plan;
 - ii. Done in conformance with an approved inland wetlands permit;
 - iii. The amount of such fill shall be less than 100 cubic yards in any 12-month period and not increase stormwater runoff onto other properties or otherwise create drainage problems on other properties; or
 - iv. Where the deposit shall be topsoil for the purpose of improving an existing agricultural use.
 - b. All applications for a filling permit shall be made in writing, shall be signed by the owner of the property in which the filling operation is to be conducted and by the contractor involved, if any. The application in quintuplicate shall indicate the material to be used as fill and shall be accompanied in quintuplicate by a plan prepared by a professional engineer showing:
 - i. The area on which the filling operation is to be conducted.
 - ii. Existing and proposed contours of the area to be filled and of the surrounding area within 20 feet of the filling operation shown on a map drawn to a scale not over 50 feet to the inch and with contour intervals of not more than two feet on slopes less than three percent, otherwise at intervals of not more than five feet.
 - iii. Details of existing and proposed temporary and permanent drainage of the premises and adjacent premises, if affected.
 - iv. The names of abutting property owners and streets.
 - v. Access from the area to be filled to public highways.
 - vi. Such other information relating to the proposed filling operations as the commission may require establishing compliance with the intent of these regulations.
 - c. The Commission may grant approval of a filling project for a maximum period of three years and may impose such conditions as it feels necessary to protect the health, safety and general welfare of the town and immediate neighboring area. Renewal of a filling project may be granted for a specifically stated time period. Prior to renewal, the Commission may require an amended site plan showing topographical changes to date, or any other information necessary for further study of the project.

- d. The Commission shall receive a report from the town engineer prior to taking any action on an initial, or renewal, application for filling operations.
- 3. *Minimum requirements for filling operations.*
 - a. Provision for adequate drainage shall be made for storm drainage control.
 - b. Only clean fill shall be used for filling.
 - c. [Reserved].
 - d. The final grade of any filled slope shall not exceed one foot of vertical rise per three feet of horizontal distance.
 - e. Dust shall be kept at a minimum at all times by use of calcium chloride or other acceptable means.
 - f. All filling shall be done in conformance with the erosion and sedimentation control requirements of Section X.A.
 - g. The filling of the site shall be carried out in a safe and orderly manner. All fill shall be compacted to provide stability of material and to prevent undesirable settlement. The town engineer may require tests or other information to verify the placement and cover of filled materials.
 - h. The proposed filling operation shall not result in the creation of any sharp pots, depressions, soil erosion, floating debris, drainage or sewerage problems or other conditions which would impair the use of the property in accordance with these regulations, and further provided that such filling shall result in the land being capable of being put to use in harmony with the general purpose and intent of these regulations.
 - i. All filling operations shall be carried on in such a manner as to prevent the breeding or harboring of rats, insects, or other vermin.
 - j. The finished grades of the filled area shall be periodically bulldozed or otherwise treated so as to cover the filled area with topsoil to a depth of at least four inches. At the completion of spreading the topsoil it shall be immediately harrowed or raked to establish a seed bed and shall be seeded with grass, permanent pasture mixture or other approved fast growing vegetation, repeated as necessary until the area is stabilized. The requirements of this section may be waived or modified, in whole or in part, by the commission.
 - k. No filling operation shall be permitted within 20 feet of an existing or approved street except to conform to the approximate grade.
 - l. Filling operations shall not interfere with public utilities systems and shall not create or aggravate any conditions detrimental to public health and safety.
 - m. Access drives to the filling area shall be so arranged as to minimize danger to traffic and nuisance to surrounding property. Access drives shall be provided with a dustless surface which shall be maintained in good conditions at all times.

- n. Fencing and screening shall be erected, as necessary to protect pedestrians, vehicles and adjoining property during the period the filling operation is being conducted and where necessary after its completion.
- 4. *Revocation of permit.* If, at any time after the issuance of the permit under the provisions of this section and prior to the completion of the work thereunder, the commission finds that the work of filling is not in accordance with the application or permit issued thereon, the commission shall order the applicant to cease the operation, and following a duly noticed public hearing, may revoke the permit.
- 5. *Bonding of filling operation.* The commission may require a bond in accordance with Section XIII.A.12.
- 6. *Established filling operations.* Legally established filling operations in actual operation may continue if within 60 days after the effective date of these regulations pertaining to filling [May 4, 2000] the owner of such existing filling operation shall present plans to the commission showing the extent of filling contemplated, and the commission approves said plan subject to such conditions as may be in the best interests of the town in harmony with these regulations.

D. Environmental and performance standards. The use of land, buildings, and other structures shall be conducted in accordance with the following performance standards. All applicants for site plan approval under these regulations shall demonstrate that the use they propose shall conform to the following standards:

- 1. *Particulate matter and smoke.* No offensive dust, dirt, fly ash or smoke shall be emitted into the atmosphere. In no case shall dust be emitted in excess of one cubic centimeter of settled matter per cubic meter of air. Smoke or other air contaminants shall not be discharged into the atmosphere from any single source of emission for a period or periods aggregating more than three minutes in any one hour which is (1) as dark or darker in shade than that designated as No. 2 on the Ringlemann Chart as published by the United States Bureau of Mines, or (2) of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke designated as No. 2 on the Ringelmann Chart.
- 2. *Odors, gases and fumes.* No noxious, toxic, or corrosive fumes or gases shall be emitted. Offensive odors noticeable off the premises 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," Copyright 1951, as amended, by the Manufacturing Chemists Association, Inc., Washington, D.C.
- 3. *Water pollution.* No discharge into any watercourse, wetlands or storm sewers shall be permitted except in accordance with applicable local, state and federal requirements. Discharges shall also include, but not limited to, construction site waste materials, litter, sanitary waste and concrete truck washout liquids.

4. *Vibrations.* No vibrations noticeable outside the property line from which it originates shall exceed the standards of the U.S. Bureau of Mines, Bulletin No. 442.
5. *Hazardous, toxic, radioactive and similar or analogous materials.*
 - a. No hazardous, toxic, radioactive or similar or analogous materials shall be permitted except as the same shall be kept and maintained at all times in strict compliance with all applicable local state and federal requirements. The term "hazardous, toxic, radioactive and similar materials" shall include, but not be limited to, all substances, compounds or materials which appear on any list of hazardous, toxic, flammable, explosive, corrosive, poisonous, noxious or other similar or analogous substances promulgated by any governmental body as the same may be from time to time amended, and the levels or amounts of such substances which are used as bases by the applicable governmental agency for determining the toxicity, radioactivity, corrosivity and the like of such materials shall prevail in determining whether or not this paragraph shall apply. In making such determination the commission shall employ experts, specialists or consultants as it may deem necessary or desirable and may in addition require such studies, analysis or certifications from the person or entity which desires to store, process, reprocess, manufacture, refine, market, use, sell, offer for sale or dispose of such materials as the commission in its absolute discretion deems necessary to process a permit for such activity. Any operation of any kind involving any such materials shall require a special permit from the Commission and shall, in addition to any requirements set forth therein, comply with all the requirements set forth in Section XIII, including the necessity for a public hearing, which shall not be waived.
 - b. The storage, processing, reprocessing, manufacturing, refining, marketing, using, selling, offering for sale or disposition of any such materials shall be limited in all cases to the industrial or commercial zones.
 - c. This section shall apply to all substances or materials which possess the characteristics of hazardous, toxic, radioactive, flammable, explosive, corrosive, poisonous, noxious or other similar or analogous materials as defined in any state or federal statute or regulation but which have been specifically exempted from such definition by action by either of such governments for whatever reason.
 - d. In the event the Commission grants a permit for the storage, processing, reprocessing, manufacturing, refining, marketing, use, selling or offering for sale or disposition of any such materials, it may in its discretion require a bond from the applicant or its successors or assignees to be maintained during the entire period of such operation in the amount that the commission shall deem sufficient to insure against all risks arising out of, or in any way connected with, such activity including, but not limited to, claims for damages or personal

injury, costs of closer and monitoring, repairs and any reconstruction necessary to reflect changes in applicable technology.

SECTION XI. SPECIAL REGULATIONS

- A. New buildings on small lots.** A permit may be issued for the erection of a structure in any district in which such uses are permitted excluding those uses permitted by special permit only, on a lot of record for which valid adoption of these regulations, or of any amendments thereof if said lot conformed with the zoning regulations in effect at the time of creation, notwithstanding that the area or dimensions of such lots or parcel are less than that required for the district in which such parcel or lot lies, provided that all building setbacks and other requirements are complied with, except as provided in Section XI.A.1. below, and provided such lot or parcel does not fall within the provisions of Section IV.C.2.

1. On any nonconforming lot, as defined herein, which does not have sufficient width to permit conformance to the width requirements, a permit may be issued for the use of such lot with side yards provided in accordance with the following standards:

<i>Frontage</i>	<i>Minimum Side Yard Width</i>
Less than 55 feet	5 feet, but the sum of both yards not less than 33.5 percent of lot width
55 feet and over, but less than 75 feet	8 feet, but the sum of both yards not less than 33.5 percent of lot width
75 feet to 124 feet	10 feet, but the sum of both yards not less than 33.5 percent of lot width
125 feet and over, but less than 175 feet	20 feet but the sum of both yards not less than 33.5 percent of lot width
175 feet and over, but less than 250 feet	40 feet but the sum of both yards not less than 40 percent of lot width

- B. Sale of alcoholic beverages.** All places where alcoholic beverages are sold or dispensed for consumption on the premises or sold for consumption off the premises, unless otherwise stated in these regulations, shall be subject to location approval by the Zoning Board of Appeals.

1. No building or premises, prior to the effective date of these regulations, which is not the site or location of a business where alcoholic beverages are sold or dispensed for consumption on the premises or sold at retail for consumption off the premises shall be used, and no building shall be erected or structurally altered which is arranged, intended or designed for the sale or dispensing of alcoholic beverages to be consumed on the premises or for the sale of alcoholic beverages to be consumed off the premises:
 - a. If any public entrance to such building or premises where alcoholic beverages are sold or dispensed for consumption on the premises shall be within a 1,500-foot radius from any public entrance to any other building or premises where alcoholic beverages are sold or dispensed for consumption on the premises;
 - b. If any public entrance to such building or premises where alcoholic beverages are sold for consumption off the premises shall be within a 1,500 foot radius from any public entrance to any other building or

- premises where alcoholic beverages are sold for consumption off the premises;
- c. If any public entrance to such building or premises is within 500 feet of any part of any lot used or reserved to be used for the purpose of a public school, a duly organized school other than a public school, church, hospital, place of worship, or a library, whether said institution is supported by public or private funds; or
 - d. If said building or premises is located in a residential district.
2. The 1,500 foot radius restriction in Section XI.B.1.a above shall not apply to any club, winery or brew pub. As used in Section XI.B. of these regulations, the word "club" shall be as defined in the State Liquor Control Act and Regulations. The 1,500 foot radius restriction as stated above in Section XI.B.1.b above shall not apply when any sale of beer or ale for consumption off the premises is part of a bonafide grocery business located in a business or industrial district. The 1,500-foot radius restriction as stated above in Section XI.B.1.a shall not apply to buildings in which alcoholic (liquor, wine or beer) is sold under a restaurant or hotel liquor permit; provided, however, that any restaurant or hotel must meet the definition of the State Liquor Control Act and Regulations, Section 30-21 Hotel and Section 30-22 Restaurant.
 3. The provisions of these regulations shall not be deemed to be retroactive except that any place where the sale or dispensing of alcoholic beverages for the consumption on the premises or the sale of alcoholic beverages for consumption off the premises ceases to be used for such purpose for a period of 30 days, such use shall not be resumed except in conformance with these regulations.
 4. When in its judgment that the public convenience and welfare will not be substantially or permanently injured, the Zoning Enforcement Officer may grant temporary and conditional permits in compliance with the provisions of Section XI.B.1. (except Section XI.B.1.d.) of not more than two weeks for the sale or dispensing of alcoholic beverages for consumption on the premises used by a club; provided that applicants for such permit show that the sale of such alcoholic beverages under such permit shall not result in noise or disturbance on the premises so as to injure the health and comfort of others. For special events longer than two weeks, the Zoning Board of Appeals must approve.
 5. If the ZEO determines that a club has ceased to comply with any and all of the requirements above set forth, he or she shall notify the ZBA. After public notice and hearing, if the ZBA shall determine that such club no longer complies with the requirements of these regulations, the Board shall revoke the permit of such club and the sale or dispensing of alcoholic beverages for consumption on the premises of such club shall thereupon become a prohibited use. The Board shall forthwith certify to the State Liquor Control Commission that the further sale or dispensing of alcoholic beverages for consumption on the premises is prohibited by these regulations, and may take such further action as it may deem appropriate in order to abate such violation.

6. The Zoning Enforcement Officer may issue a temporary permit for the sale of alcoholic beer or wine during special occasions with a duration of less than two weeks in clubs, community halls or other places of indoor or outdoor assembly.
7. The ZBA may grant a permit in any district, subject to conformance to additional standards as provided in these regulations for permitted special uses, for the sale of alcoholic beverages in the clubhouse of any golf course.
8. The ZBA may grant permission with such restrictions as it may impose, for the sale of beer or wine at the Willow Brook Park Stadium, owned by the City of New Britain, and located in the Town of Berlin.
9. No portion of any building in any zoning district shall be used for the sale of alcoholic liquor under a café and/or nightclub permit.

C. Agriculture.

1. *Definitions:*

- a. *Agriculture:* A farm, nursery, greenhouse, or cold storage plant, including those buildings and structures used for agricultural operations. It shall be permitted as a principal use in the R-21, R-43, R-86 and MR-1 and MR-2 Zones. It is also permitted as a Special Permit use in the POD Zone upon approval by the Planning and Zoning Commission. It may be permitted as a Special Permit use in the R-11 and R-15 Zones if the use is found by the Planning and Zoning Commission to be compatible and not a nuisance to surrounding properties.
- b. *Agritainment:* Events and activities that allow for recreation, entertainment and tourism in conjunction with agriculture support and services directly associated with on-going agricultural activity on site.
- c. *Cold Storage Plant:* A place to store food/crops, food/crops processed or waiting to be processed. No more than 50 percent of the floor area of any Cold Storage Plant may be used by someone other than the farm owner or resident of the premises.
- d. *Farm.* A parcel or parcels of land used and operated in active pursuit of agricultural activities such as growing and harvesting crops and other plants, the raising and keeping of livestock or fowl but excluding the raising of animals for laboratory use or for their fur. A farm must be a cumulative minimum of ten (10) acres in total, with all parcels under the same ownership. For a parcel to count towards the ten (10) total acres required to be considered a farm, such parcel must be a minimum of three (3) acres. All farms must follow the latest edition of the CT DEEP Manual of Best Management Practices for Agriculture.
- e. *Greenhouse (Residential):* A structure that has been developed with the primary use being an accessory structure to a residential use where plants/crops are produced for the consumption of the owner of the property. It must comply with all the setback and height requirements of the Zone for accessory structures.

- f. *Greenhouse (Commercial Farm)*: a structure that has been developed with the primary use being to grow plants and crops for a commercial farm and primarily for profit. It must comply with all requirements for Farm Accessory Structures.
 - g. *Hobby Farm*: A property that has been developed with the primary use being a residential structure. Any crops or plants raised are for the general use of the property owner with none to very little grown for profit. Farm stands are not permitted unless approved by the Planning and Zoning Commission per §XI.C.6.a. The raising and keeping of livestock or poultry/fowl is not permitted.
 - h. *Livestock and Fowl*: Animals such as cattle, horses, sheep, goats and poultry that are raised for farm purpose.
- 2. *Accessory Buildings*. All accessory buildings or structures used for agricultural purposes shall conform to ½ of the front, side and rear principal setbacks for the zone in which the agriculture operation takes place, except for any pen or enclosure used for the keeping of livestock or fowl must meet the required principal setbacks of the zone. Livestock that is a normal grazing animal may be permitted to graze to the property line provided that proper fencing is in place and that the grounds are kept in such a way to not be a nuisance to nearby properties. The total floor area of all buildings used for any of the above purposes shall not exceed ten percent of any parcel. No single building shall exceed 5000 square feet, nor have a horizontal dimension greater than 100 feet, except that these dimensions may be increased to 10,000 square feet and 200 horizontal feet if the building is set back at least 300 feet from all property lines. The maximum height for all agriculture buildings is 35 feet.
- 3. *Fencing*. For land that has been deemed a farm by these regulations, Section IV B 7 shall be disregarded in lieu of this section. Fences for the protection of crops and livestock/fowl may have a height of up to eight (8) feet and must be set back at least ten (10) feet from the front property line provided that no sight distance has been impaired for traffic, and located up to the side and rear property lines. Fences shall be maintained in good condition and suitable for the purpose for which they are being erected.
- 4. *Permitted Uses*. The following uses shall be permitted for all lands by these regulations to be a farm:
 - a. The raising of crops and other plants for profit.
 - b. Agritainment. Events such as corn mazes, hay rides, seasonal spooky hay rides or mazes, and petting zoos (domestic farm animals).
 - c. Weddings and Receptions up to three (3) a year. This does not included the establishment of a permanent wedding venue.
 - d. Pick Your Own Fruit.
 - e. Cut Your Own Tree.
 - f. Sugarhouses with no tours or special events.
 - g. The processing of produce such as canning, making syrup, flash freezing, provided it is done by the farm owner or his/her designee.

- h. The raising and keeping of livestock and poultry according to Section XI C 8.
- 5. *Special Permit Uses.* The following uses may be permitted for all lands deemed by these regulations to be a farm provided they meet the criteria of a Special Permit as determined by the Planning and Zoning Commission in accordance with Section XII:
 - a. Wedding and Reception Venues.
 - b. Other Special Events not listed above such as bar and bat mitzvahs, anniversary parties on the grounds of the farm.
 - c. Farm to Table Events.
 - d. Winery subject also to Section XI.CC.
 - e. Teaching Kitchens for Canning and other directly related farming cooking activities to be located in an accessory kitchen.
 - f. Farm Stands subject to Section XI.C.6 a. (Farm Stands may be permitted on non-farm lands if they can meet the criteria set out in XI.C.6.a).
 - g. Farm Stores subject to Section XI.C.6.b and are only permitted on öfarmsö.
 - h. Public and Private Horse Stables, including Equestrian Training.
 - i. Agritainment not listed in Permitted Uses must be evaluated on a case by case basis.
 - j. (Commercial) Catering Kitchens to be used by farm owner or to be rented.
 - k. Sugarhouses with tours and/or special events.
 - l. Commercial Barbeque Pits.
 - m. Commercial making of Butter, Cheese or other Dairy Products.
- 6. *Farm Stands and Farm Stores:*
 - a. Farm Stands. Farm Stands may be permitted after a Special Permit Approval by the Planning and Zoning Commission in accordance with Section XII. They are permitted on Hobby Farms. The Farm Stand cannot exceed 250 square feet and must be located on property with contiguous frontage of at least 100 feet on a public street. Adequate parking must be proven before the stand is permitted. Only produce from the property on which the stand is located may be sold except that the stand may sell up to 10% of other local Berlin produce. Items allowed to be sold are fruits, vegetables, honey, syrup, and home-made canned goods. The safety of the patrons and property owners will be of consideration in the approval of the location of the stand. The Farm Stand must be set back at least 25 feet from all property lines. Farm Stands must close at sunset. No additional exterior lighting will be permitted.
 - b. Farm Stores. Farm Stores are only permitted to be located on properties deemed to be öfarmsö and only after approval as a Special Permit by the Planning and Zoning Commission in accordance with Section XII. The Farm Store cannot exceed 1500 square feet in size and the outside of the building must have a residential or agricultural

architectural appearance with windows and roofline peaks. The materials used to create the Farm Store must be at least 40 percent of non-metal using such products as wood, cement fiber board, brick, or stone or stucco. The Farm Store must be located on a property with at least 100 feet of contiguous frontage on a public street. Adequate parking must be provided at 1 space per 500 square feet of gross floor area plus one space for each worker on the largest shift, with a minimum of five (5) spaces. The store must be set back at least 50 feet from all property lines. Lighting for safety and visibility purposes will be considered but all parking lot lighting must be dark sky compliant. The safety of the patrons and property owners will be of consideration in the approval location of the Store. The Farm Store may sell any product relating to agriculture except that alcohol will be restricted to the regulations of the State of Connecticut. Examples of products that would be appropriate for a Farm Store include produce, cooked or raw meat, jams/jellies, home-made canned goods, honey, plants, wreaths, and Christmas Trees. The Farm Store must sell at least forty (40) percent of items produced on the property on which it is located or property in Berlin under the same ownership.

7. *Signs.* One permanent non-internally illuminated sign shall be permitted for each farm having a maximum size of six square feet in area and designed to reflect the rural character of the area. The Zoning Enforcement Officer may grant a permit for the erection of off site signs (not on Town Property or Rights of Way) for special events associated with an agricultural operation that are located off site, provided that all signs shall be of a consistent design approved by the Commission, no sign shall exceed six square feet in area, the signs shall be up for a maximum of 30 days and removed within 48 hours of the end of the event and shall have written permission of the owners of the property on which such sign is erected. No more than three (3) such events that have signs will be permitted per year on any one farm.
8. *The Keeping of Animals.* The keeping of livestock and poultry shall be permitted on properties deemed as Farms by these regulations. All livestock and poultry shall be kept in such a way to follow the Connecticut DEEP's Manual of Best Management Practices for Agriculture (latest edition). Pens and enclosures must meet the setbacks established in Section XI C 5. Factory Farms, slaughterhouses or stockyards are not permitted uses for farms.

D. Conversion of certain existing industrial and education buildings.

1. *Purpose.* The commission, subject to the approval of a special permit in accordance with Section XII, may permit the conversion of existing multistory buildings served by a public water supply and sanitary sewer and erected before 1950 which because of their functional design are no longer considered efficient by contemporary standards for manufacturing uses, educational uses, or other public facilities, but would lend themselves subject to proper safeguards and appropriate standards for conversion to office and/or residential use. A multistory building for the purposes of this section is a

building that has at least 2 stories above ground level and that has at least 40% of its gross floor area, less basement and attic, above the first floor. It is hereby found and declared that these regulations are necessary for the protection of these buildings and surrounding areas and that their protection is essential to the maintenance of a balanced community of sound neighborhoods. The Commission may require a bond in accordance with Section XIII.A.12.

2. *Permitted uses.* A building referred to may be converted to any of the following purposes:
 - a. Residences, none of which shall be permitted to be located below ground level, subject to the following standards:
 - i. Minimum lot area per dwelling unit (areas covered by lakes, rivers, or wetlands shall not count as the basis for allowable dwelling units): 2,000 square feet.
 - ii. Minimum usable open space per dwelling unit: 250 square feet.
 - iii. Minimum off-street parking spaces: two spaces per each dwelling unit.
 - iv. Minimum floor areas for dwelling units (efficiency units shall exceed ten percent of all units to be provided):

For an efficiency unit	650 sq. ft.
For a 1-BR unit	775 sq. ft.
For a 2-BR unit	900 sq. ft.
 - v. All active recreation areas shall not be less than ten feet from any building or less than ten feet from any lot line.
 - vi. Parking areas and driveways shall be adequately lighted and said lighting shall not be directed onto adjacent properties.
 - vii. Stairways leading to the second or any higher floor shall be located within the walls of the building. Fire escapes shall be located on the rear wall in preference to either side wall and in no case on a front wall or side wall facing a street.
 - viii. Separate entrances, stairways, and/or elevators shall be provided for residents as distinct from any office use in a building to be converted to such use.
 - ix. Refuse collection areas shall be established and conveniently located for all users. The collection areas shall be properly screened with covered receptacles.
 - x. All buildings, structures, and off-street parking areas shall be provided with suitable landscaping, including screening, and/or walls or fencing, as required by the commission to adequately screen such parking areas from adjoining residential areas throughout the year.
 - xi. Rooftop mechanical equipment, other than solar energy panels, shall be concealed, inconspicuous, and architecturally integrated into the structure.
 - b. Congregate senior housing facility, subject to the following standards:

- i. Minimum lot area per dwelling unit (areas covered by lakes, rivers, or wetlands shall not count as the basis for allowable dwelling units): 1,500 square feet.
- ii. Minimum usable open space per dwelling unit: 250 square feet.
- iii. Minimum off-street parking spaces: 1.25 spaces per each dwelling unit.
- iv. Minimum floor areas for dwelling units: 350 square feet.
- v. All active recreation areas shall not be less than ten feet from any building or less than ten feet from any lot line.
- vi. Parking areas and driveways shall be adequately lighted and said lighting shall not be directed onto adjacent properties.
- vii. Stairways leading to the second or any higher floor shall be located within the walls of the building. Fire escapes shall be located on the rear wall in preference to either side wall and in no case on a front wall or side wall facing a street.
- viii. Separate entrances, stairways, and/or elevators shall be provided for residents as distinct from any office use in a building to be converted to such use.
- ix. Refuse collection areas shall be established and conveniently located for all users. The collection areas shall be properly screened with covered receptacles.
- x. All buildings, structures, and off-street parking areas shall be provided with suitable landscaping, including screening, and/or walls or fencing, as required by the commission to adequately screen such parking areas from adjoining residential areas throughout the year.
- xi. All such facilities shall be served by public sanitary sewer and public water supply. The commission may require that sanitary sewer and water mains, along with easements, be dedicated to the town or appropriate sewer authority.
- xii. Fire hydrants shall be installed and located within 500 feet of each building.
- xiii. Additions to existing buildings are permitted according to the following standards:
 - (1) All additions shall be designed to be architecturally compatible with the existing structure.
 - (2) Rooftop mechanical equipment, other than solar energy panels, shall be concealed, inconspicuous, and architecturally integrated into the structure.
 - (3) Maximum building height shall not exceed three stories.
 - (4) Building setbacks shall be in accordance with the underlying zone.
 - (5) The architectural style of the project including additions and accessory buildings shall be subject to approval by the Commission.

- xiv. Occupancy of such facilities shall be consistent with the provisions of Section XI.AA of these regulations. To ensure compliance with this requirement, operators of these facilities shall submit compliance reports consistent with the requirements of Section XI.AA.3.o, of these regulations.
- xv. The common areas shall be of adequate size and location for the number of residents, as determined by the Commission.
- c. Nonresidential uses as follows: Offices or studios of doctors, dentists, architects, artists, designers, accountants, lawyers, engineers, tutors, real estate and insurance agents, brokers, and members of other recognized professions (excluding veterinarians, barber shops, beauty and massage parlors, and other similar uses), together with incidental laboratory and mechanical equipment; government offices; and offices of charitable philanthropic organizations and corporate headquarters. All such offices shall meet the following standards:
 - i. No storage of a stock in trade or sale of commodities on the premises;
 - ii. No visits by the general public as purchasers of goods or as customers as distinguished from patients or clients;
 - iii. No offensive emission of smoke, dirt, dust, vibrations, odors, lights, heat, glares, noise, electrical disturbances or radioactive particles or rays.
- d. Replacement structures as follows: Conversion may include the demolition of existing buildings adjacent to and/or part of the same industrial or educational complex as the converted buildings and the construction of replacement structures for uses allowed in Section XI.D.2. The applicant must demonstrate that, based upon their current physical condition, design, materials, or style, conversion of one or more of the existing buildings is inappropriate in the context of the master plan for redevelopment of the complex. Factors to be considered by the Commission in approving the replacement of existing structures include:
 - i. The extent to which the structures to be demolished have no historic or architectural significance.
 - ii. The extent to which new buildings are compatible with neighboring land uses, enhance the natural and human environment and promote pedestrian safety and sound neighborhoods.
 - iii. The master plan of the overall conversion project and the extent to which the replacement of existing structures contribute to the master plan of the redevelopment of the industrial or educational complex.
 - iv. Furtherance of the goals and objectives contained in the Berlin's Plan of Conservation and Development.
- e. Replacement structures must comply with the following provisions:

- i. The total square footage of the replacement structure does not exceed 25% of the square footage of the building being renovated in the master plan for the industrial or educational complex.
 - ii. The replacement structures comply with all provisions of Section XI.D.2 as they apply to the particular use of the structure and shall be compatible with the master plan for the industrial or educational complex.
 - iii. The architectural style of the structures shall be subject to approval by the Commission.
 - iv. The total square footage of the replacement structure does not exceed the square footage of the buildings being replaced
 - v. The applicant must receive approval from the Planning and Zoning Commission for a construction phasing plan. Such plan shall outline the construction schedule for the structures being converted and constructed. The Planning and Zoning Commission shall review the plan to determine that its implementation is compatible with the master plan for the industrial or educational complex. If during the implementation period the applicant seeks to revise the construction phasing plan, such revision shall be reviewed and approved by the Director of Development Services. The Director shall review the implementation of the phasing plan. If the conversions of the existing industrial and educational buildings require the approval by the State Department of Energy and Environmental Protection of environmental remediation activity, such approval must be received prior to the receipt of a building permit for the replacement structures.
 - vi. The area and bulk requirements of the underlying zone shall apply except as follows: If the minimum parking and loading setbacks require a greater setback when abutting a residential zone and the replacement structure is residential, then the lesser setback shall pertain. In determining the setback requirements of the replacement structures, if such structures abut a zoning district boundary, the requirements of the abutting district shall apply. If structures abut more than one zoning district, the greater of the setback requirements shall apply.
 - vii. The standards listed in Section XI.D.2.a, b and c shall apply in accordance with the use of the replacement structures. Replacement structures used as residences shall comply with Section XI.D.2.a. Replacement structures used as a congregate senior housing facility shall comply with Section XI.D.2.b. Replacement structures used for nonresidential purposes shall comply with Section XI.D.2.c.
3. *Other Provisions.* With the exception of congregate senior housing facilities and replacement structures as provided for in Section XI.D.2.d, the provisions of Section XI.D. are limited to the conversion, modification, and/or alteration of existing buildings and/or structures to the uses above permitted and shall

not be construed as permitting the erection or construction of any new residences on any excess land remaining on the land occupied by the existing building(s) which is left after satisfying the conversion requirements of (a) this section, and (b) of the Connecticut General Statutes for condominiums including any documents necessary to determine the terms of ownership, rights, and responsibilities of prospective owners of the condominium units. Parking areas used for buildings converted or created as replacement structures under Section XI.D shall be subject to the landscaping and lighting requirements of Sections IX.C. and XI.D shall be subject to the landscaping and lighting requirements of Sections IX.C. and IX.B.14. Lighting fixtures shall be suitably shaded and so arranged to not unreasonably disturb occupants of adjacent residential properties. In parking areas located in or abutting residential areas: 1) lampposts shall not exceed a height of fifteen (15) feet; and 2) low lying bollard lighting shall be encouraged. Lighting fixtures and their placement shall be of a design appropriate for the area, and shall be subject to the approval of the Planning and Zoning Commission.

E. Hospitals. A hospital, nursing home, convalescent home, or independent living facility, along with customary accessory structures where permitted shall be subject to special permit and site plan approvals by the commission in accordance with the requirements of Sections XII and XIII. In all zones in which they are permitted, except the commercial core design district, they shall be set back from all property lines at least 100 feet. The maximum building coverage shall not exceed 20 percent and the area of the lot shall be at least five acres. Sites for independent living facilities shall have the required frontage on and principle access from a state highway. Density for independent living facilities shall not exceed seven units per acre. Said facilities shall be subject to the requirements of Section XI.AA.2, a and b of these regulations. A minimum of 40 percent of the units must be dedicated to meet the income and rental requirements of affordable housing, as established by the State of Connecticut pursuant to Connecticut General Statutes §8-30g for this geographic area for the life of the project, with the income standard for affordability established at 60 percent of the median income for the region.

1. *Maximum height.* Notwithstanding the height limitations established elsewhere in these regulations, a hospital structure may be constructed to a height of three stories or 45 feet, which is less.
2. *Distance between structures.* The distance between structures shall be at least twice the height of the taller structure.
3. *Parking setbacks.* Parking areas shall be located at least 50 feet from all property lines and shall be suitably screened and permanently improved for nursing homes or convalescent homes located in the commercial core design districts. Parking areas shall be located at least 25 feet from all property lines and shall be suitably screened and permanently improved.
4. *Signs.* One sign not exceeding 32 square feet in area, not flashing and not lighted by exposed tubes, bulbs or other exposed light sources, announcing the name of the hospital, may be permitted facing each public street.

F. Day camps. Day camps where permitted shall be subject to special permit and site plan approvals by the Commission in accordance with Sections XII and XIII and the following conditions:

1. No campsite shall be less than ten acres in area, and there shall be no more than one camper for every 2,000 square feet of site area, with a maximum of 400 persons permitted in any camp.
2. Improved areas, such as camping or picnic areas and playgrounds or sports areas, shall be located at least 125 feet from all property lines. The commission may require suitable fencing and landscaping around all improved areas.
3. One off-street parking space shall be provided on the site for each member of the camp staff plus one space for every 15 day campers. Parking areas shall be at least 50 feet from side and rear lot lines and 50 feet from the street line, and shall be suitably screened and permanently improved.
4. There shall be no more than one permanent dwelling in any camp, and it shall not be occupied by more than one family.
5. Each camp shall be equipped with toilets and wash basins which drain into a municipal sanitary sewer or an approved septic system in compliance with town and state sanitary codes.
6. No building or structure shall be located closer than 150 feet to any property line.

G. Nursery schools. Nursery schools, where permitted, shall be subject to special permit and site plan approvals by the Commission in accordance with Sections XII and XIII and the following conditions:

1. The lot shall be at least one acre in area, and not less than the minimum lot area for the district in which located.
2. The lot shall contain at least 200 square feet of outdoor play space per child, with a minimum play space of 1,000 square feet. The play space shall be located in side or rear yards but not nearer than 50 feet to any lot line and no nearer than 60 feet to any adjacent residential structure. The outdoor play area shall be suitably fenced and screened to protect the school children and to avoid any nuisance to adjoining properties.
3. The area used for nursery school purposes inside any building shall be on the first floor only and shall not be less than 35 square feet for each child in the school, exclusive of space in cloakrooms, lavatories, storage rooms and hallways. No basement area shall be used for child care or instruction purposes. There shall be least one toilet and one wash basin available for each 15 children.
4. One off-street parking space shall be provided for each teacher and other staff member, plus one space for every five pupils. All parking and loading facilities shall be subject to the provisions of Section IX.B.
5. There shall be no more than one pupil for each 1,500 square feet of lot area and a total of not more than 50 pupils. Any nursery school that is to be operated for more than 50 pupils shall be subject to special permit approval in accordance with Section XII.

H. Child day care centers. Child day care centers, where permitted, shall be subject to site plan and special permit approvals by the Commission in accordance with Sections XII and XIII and the following conditions:

1. There shall be a minimum of 35 square feet of indoor usable space per child as defined by state statutes and regulations. Usable space shall be exclusive of coat rooms, storage areas and hallways.
2. All indoor space used by children shall be on the first floor level.
3. There shall be access to a minimum of seventy-five (75) square feet per child of outdoor space for the number of children using the space at any one time. All outdoor play space shall be enclosed by a wall or fence, a minimum of five feet in height, located in the rear or side yards.
4. One toilet and one sink with hot and cold water shall be provided for every 25 children above five years of age, and one toilet and one sink shall be provided for every 16 children under five years of age.
5. There shall be provided a commercial dishwasher with a sanitizer
6. All indoor space shall be air-conditioned.
7. The building shall have at least one entrance/exit for the handicapped.
8. The facility shall be served by public water and sanitary sewer services.
9. Evidence shall be provided to the ZBA that the applicant is seeking the approval for licensure from the state prior to the issuance of a special permit.
10. Child day care centers shall not be permitted in the R-15 district.

I. Parochial and private schools and colleges. Parochial and private schools and colleges, where permitted, shall be subject to site plan and special permit approvals by the Commission in accordance with Sections XII and XIII and the following conditions:

1. A school or college shall offer a comprehensive curriculum of study, similar to that offered by public schools or colleges. Accessory uses customary to schools or colleges shall also be permitted.
2. The site for any parochial or private elementary school shall have an area of at least five acres, plus one acre for each 100 pupils or major portion thereof, in excess of 200 pupils. Such site shall have a frontage of at least 200 feet on a suitably improved public street.
3. The site of a parochial or private junior or senior high school shall have an area of at least ten acres, plus two acres for each 100 pupils, or major portion thereof, in excess of 250 pupils. Such site shall have a frontage of at least 400 feet on any suitably improved public street. No private or parochial junior or high school shall be used for more than 1,500 students.
4. The site for any parochial or private college shall have an area of at least 20 acres.
5. All buildings shall be located at least 200 feet from street lines and at least 100 feet from all other property lines. Grandstands, gymnasiums, central heating plants and similar buildings shall be set back at least 200 feet from all property lines. The distance between buildings shall be equal to at least twice

the height of the taller building. Total building coverage shall be limited to 20 percent.

6. Dormitories and single-family dwellings shall be permitted as accessory buildings, provided that the minimum area of the site shall be increased by at least 1,000 square feet for each dormitory bed and by at least the minimum lot area of the applicable zoning district for each single-family dwelling. Use of such dormitories and dwellings shall be limited exclusively to students, guests, teachers or other members of the staff of the school or college, and such dormitory or dwelling shall not subsequently be sold or rented as a private residence, or for any other use, unless the building and any required lot surrounding it shall meet all regulations of the district in which it is located.
7. All parking and loading facilities shall be provided in compliance with Section XI.B.
8. The school or college site shall contain suitably designed and improved outdoor playground or playfield areas of a size as recommended by the standards of the state board of education. Playground or playfields shall be located no closer than 50 feet to any property line. The Commission may require suitable fencing, landscaping and screening to prevent any nuisance to surrounding properties and to protect the students attending school. The Commission may also require conformance to any standards that exist or may be established for schools by the Connecticut Department of Education.

J. Private, nonprofit riding club. Private, nonprofit riding clubs or schools, or stables which may be used incidentally for boarding or training purposes, where permitted, shall be subject to special permit approval by the ZBA in accordance with Section XII on sites with a minimum size of 20 acres, provided that all applicable standards set forth in these regulations for farms are met, and provided that there shall be no dwelling units in the same building in which horses are housed. Dude ranches shall not be permitted. Indoor riding halls, not larger than 20,000 square feet, shall be permitted, provided they are located at least 400 feet from all property lines and screened by suitable landscaping. For additional information see Section XI C Special Permit Uses.

K. Public utility substations, water filtration plants or pumping stations. Public utility substations, transmitting, switching, distribution or relay stations or water filtration plants and pumping stations, or gas storage facilities for use by a public utility serving the local or regional area, where permitted, shall be subject to special permit approval by the ZBA in accordance with Section XII and the following conditions:

1. Suitable fencing shall be provided to protect the public, and landscaping and planting shall be provided to effectively screen the facility from surrounding property in accordance with Section IX.C.1.
2. All structures shall maintain the yard setbacks of the district in which located, but, in no case, shall these setbacks be less than 25 feet. The Commission may require increased setbacks or attach other conditions in order to prevent any noise nuisance to surrounding property.

3. Operations which would be a nuisance to surrounding property because of smoke, gas, odor, heat or vibration, shall not be permitted in any district.
 4. The ZBA shall waive the minimum lot area requirement in OL, MR and PI districts for public utility substations and shall also require provision of suitable and screened off-street parking space to accommodate maintenance and service vehicles, if necessary.
 5. Minor structures, such as hydrants, telephone or electric poles or towers, pole transmitters or pole transformers, or similar equipment, shall not be subject to this section.
- L. Religious, charitable and eleemosynary institutions.** A religious, charitable or eleemosynary institution, not including institutions for the insane or feeble-minded or correctional institutions, where permitted shall be subject to special permit and site plan approvals by the Commission in accordance with Sections XII and XIII.
- M. *(Deleted)* [Reserved].**
- N. Telephone exchanges.** Telephone exchanges shall be permitted in all districts, subject to special permit approval by the ZBA in accordance with Section XII and the following conditions:
1. There shall be no outdoor service or storage yard and no business office unless otherwise permitted in the district.
 2. Parking spaces shall be located only in side or rear yards and shall be permanently improved.
 3. The building shall conform to the same yard setback requirements applicable to adjoining residences, but no side yard shall be smaller than 25 feet. Said Board shall waive the minimum lot area requirements in PS, OL, MR and PI districts for telephone exchanges.
 4. The ZBA may require suitable fencing, landscaping and screening to protect neighboring properties.
- O. Adult day care centers.** Adult day care centers shall be permitted in the OL office-laboratory district, CCD-1 and CCD-2, commercial core design districts, subject to site plan and special permit approvals by the Commission in accordance with Sections XII and XIII and the following conditions:
1. There shall be at least 40 square feet of program space for each day care participant excluding offices, restrooms and storage areas.
 2. The facility shall be architecturally designed to accommodate mobility limited individuals, including at least one entrance/exit for handicapped.
 3. All space used by the participants shall be on the first floor level.
 4. All indoor space shall be climate controlled.
 5. No overnight or residential use shall be allowed.
 6. There shall be at least one toilet for each 12 participants and toilets shall be equipped for use by mobility limited persons and easily accessible from all areas of the center.
 7. There shall be adequate facilities for bathing patients including those with limited mobility.

8. The facility shall include space and equipment for safe and sanitary handling of food in accordance with local and state health codes and regulations.
9. The facility shall include a rest area, adequate space for special therapies and designated areas to permit privacy and to isolate participants who become ill.
10. Any medications stored on premises shall be in a locked storage area or cabinet.
11. Evidence shall be provided that the applicant is seeking the approval for licensing from the state prior to the issuance of the special permit, if and when such regulations and licensing requirements are formally adopted.

P. Nonprofit civic organizations. The Commission may authorize a special permit in accordance with Section XII, of unlimited duration for the use of a site containing not less than 25 acres in total area by or under the authorization of a nonprofit or civic organization owning such site (a "qualified organization"), for the purpose of conducting events which occur on an annual basis, subject to the satisfaction of the conditions set forth in this section.

1. Any qualified organization may apply for a special permit hereunder for such site by submitting an application to the commission, accompanied by each of the following unless waived in whole in part by the zoning commission:
 - a. A list of events proposed to be conducted at the site. Such list shall describe each event in reasonable detail including the approximate date thereof, the expected hours of operation, the estimated number of people to be in attendance and, if appropriate, traffic control procedures.
 - b. A site plan prepared by a professional engineer, architect or land surveyor and prepared in accordance with Section XIII, showing the location and use of all existing and proposed buildings parking areas, recreation areas and ingress and egress from the site.
 - c. Evidence of the organization's status as a nonprofit or civic organization.
2. Within 65 days after the receipt of an application for a special permit, the Commission shall hold a public hearing on such application.
3. Each special permit granted pursuant to this section shall continue in full force and effect from year to year, without the need for any reapplication or public hearing thereon, provided that will respect to each calendar year after the granting of the special permit, the organization shall submit to the Commission within 120 days (or such shorter period as the commission may allow, but not less than 65 days) before the scheduled commencement of the first event in such year, a list of all events for such year, substantially in the form required above. No further action shall be required with respect to all events previously authorized under the special permit unless in the opinion of the Commission, the type of the event has materially changed since its initial authorization, and the special permit shall be deemed to authorize the conduct of such events during such calendar year. If a previously authorized event has been omitted from an annual filing or will not be held in any calendar year, the organization shall be entitled to add such event to the annual list for the

immediately following year, without the need for any further authorization from the Commission. If any event has been omitted for two consecutive years, the organization shall seek reauthorization to conduct such event in any subsequent year pursuant to the following section.

4. If the organization desires to extend the special permit to additional events, the organization shall submit an application to the Commission at least 120 days (or such shorter period as the Commission may allow, but not less than 65 days) before the scheduled date for the proposed event describing the proposed event. The organization may include such description in its annual filing, in which case, it shall be deemed to have made an application for such additional event(s). If more than 250 persons are expected to attend such event, within 65 days after receipt of such application, the commission shall hold a public hearing on such application. If less than 250 persons are expected to attend such event, the ZEO shall issue a certificate of zoning compliance for such event, provided that the application submitted shall be deemed to satisfy the provisions of this section.
5. If the organization proposes to add any new buildings or additions in excess of 300 square feet to existing buildings, construct new parking areas, or add additional means of ingress or egress from the site, the organization shall submit to the Commission a new site plan for approval.
6. The granting of any special permit under this section shall not alter or expand the uses permitted in the zone in which the site lies, but shall merely permit the temporary use of such site for the event(s) subject to the special permit. Also, the organization shall be entitled to use the site consistent with these regulations for all matters not requiring a special permit.
7. The organization shall pay a fee for an application in accordance with the town's fee schedule. No fee shall be paid in connection with each annual list of events submitted in accordance with Section XI.P.3 above.

Q. Housing for elderly persons. The purpose of this section is to promote the public health, safety and general welfare of the community by providing decent, safe and sanitary housing units for elderly persons (as defined in the Connecticut General Statutes § 8-113a(m)) at reasonable rents, to ensure housing facilities specially adapted for elderly persons as a public use in the public interest, and to allow housing for elderly persons within the town in accordance with the appropriate standards, conditions and safeguards as hereinafter set forth in this section. In order to afford the opportunity to the Berlin Housing Authority to provide "Housing for Elderly Persons" under Connecticut General Statutes § 8-112a et seq. (chapter 128, part VI), housing for the elderly where permitted as a municipal use shall be subject to site plan and a special permit approvals by the Commission in accordance with the requirements of Sections XII and XIII, subject to the following standards, conditions and safeguards set forth below:

1. *Permitted uses.* Construction of residential dwelling units for the elderly under this section shall be permitted for detached dwellings, semidetached dwellings and attached dwellings such as apartments, garden apartments and townhouses, but not for hotels, motels, rooming houses, boarding houses and

- lodging houses or tourist homes. No elderly housing unit shall have more than two bedrooms and not more than 50 percent of elderly housing units shall be two-bedroom units. Rooms with closets shall be construed to be bedrooms.
2. *Accessory uses.* Necessary accessory buildings, structures and uses including community buildings, facilities for maintenance, administration, off-street parking, storage facilities, and those facilities necessary to the operation of utility systems serving the development, may be permitted.
 3. *Location.* All residential buildings shall be connected to public sewer and public water. All sites shall have access to an improved public road.
 4. *Site area.* Each site shall have a minimum lot area of four acres. For each efficiency unit, the lot area shall be not less than 2,800 square feet, for each one-bedroom unit the lot area shall be not less than 3,200 square feet, and for each two bedroom unit the lot area shall be not less than 3,800 square feet. For each accessory building the lot area shall be not less than 5,000 square feet.
 5. *Setbacks.* Setbacks for buildings and other structures shall be at least 50 feet from front and rear property lines. Side yards shall not be less than 20 feet.
 6. *Height.* The maximum building height shall be 40 feet or 3 stories, whichever is less. (*See definitions of Building Height*)
 7. *Dwelling unit design.* Each dwelling unit shall be designed and constructed to provide the necessary features that contribute to the safety, convenience and aid to the residents.
 8. *Recreation area.* Suitably equipped and adequately maintained recreation and open space shall be provided. A minimum of 150 square feet of usable open space shall be provided per dwelling unit. Recreation areas shall be well designed to impart a sense of containment or security and to provide group privacy.
 9. *Landscaping and screening.* All buildings, structures and off-street parking areas shall be adequately screened from adjoining streets and properties with suitable landscaping and/or walls or fencing.
 10. *Off-street parking.* There shall be provided at least 1.25 parking spaces for each dwelling unit.
 - a. Walks, ramps and driveways shall be designed to meet ADA requirements and to prevent slipping or stumbling. Handrails and ample places for rest shall be provided. Gradients of walks shall not exceed five percent and two percent across slope.
 - b. All parking areas and active recreation areas shall be not less than ten feet from any building or 30 feet from any front lot line and 10 feet from any rear and side lot lines. Open parking areas, including access ways and driveways, shall be paved with hard-top surface upon a suitable subgrade in accordance with sound engineering design practices and town standards. The pavement area shall be adequately drained so as to prevent excessive accumulation of water, snow, and ice.

- c. There shall be provided a safe and convenient system of drives, service access roads and walks, designed with such items as handrails and ramps. Such facilities shall be adequately lighted.
11. *Refuse areas.* Refuse and recycling areas shall be established and conveniently located for all units. The collection areas shall be properly screened and supplied with covered receptacles.

R. Gasoline filling stations. The location of gasoline filling stations, where permitted, shall be subject to the approval of the ZBA and be limited to the retail sale of motor fuels, lubricants and other motor vehicle supplies and parts, the accessory parking and storage of motor vehicles as hereinafter limited, and minor repairs and service activities, not including body and fender work or limited repairs as specified in Connecticut General Statutes § 15-51, chapter 246, and also subject to site plan approval by the Commission in accordance with Section XIII and to the following conditions:

1. No more than one motor vehicle for every 1,000 square feet of lot area shall be stored outside at any time, and there shall be no outdoor storage of partially dismantled or wrecked motor vehicles. The ZBA may also limit the amount of overnight parking and require suitable fencing to protect surrounding properties.
2. The site of a gasoline filling station shall have frontage of at least 100 feet on a public street and shall have a depth of at least 100 feet, except where larger dimensions are required for a particular zoning district. Gasoline filling stations designed to serve trucks larger than five-ton capacity shall have a lot width of at least 300 feet.
3. Fuel pumps shall be set back from the street line at least 25 feet. All other buildings and structures, except underground storage tanks, shall be set back at least 45 feet from the street line, ten feet from each side line, and 20 feet from the rear lot line, unless larger front or side yards are required for a particular zoning district. All buildings and structures shall be setback at least 50 feet from the side lot line of a contiguous lot in a residence district. A suitably landscaped area of at least ten feet wide or a six feet high stockade type wooden fence, with finished side facing any residence district shall be maintained between a gasoline filling station and a contiguous lot in a residence district. Such landscaping or fencing shall not be located closer than ten feet to the street line. Maximum building coverage shall be limited to 50 percent of the site area.
4. There shall be not more than one driveway for each 50 feet of street frontage. Such driveways shall not be more than 35 feet wide and not less than 20 feet wide at the curb line; shall be no closer together than 15 feet at the curb line and shall be at least 20 feet from any intersection of public streets. All driveways, parking or standing areas shall be permanently improved with a paved surface.
5. Storage tanks for gasoline or other motor vehicle fuels shall be located underground in compliance with pertinent local and state codes and regulations.

6. A gasoline filling station shall be located at least 500 feet from any building or place of public assembly such as a church, hospital, library, school, community house, playground or theater, provided, however, that this standard shall not apply if the gasoline station shall have been established prior to any such place of assembly. No gasoline filling station shall be erected near any building or premises used for such purposes on any part of a lot within a radius of 1,500 feet of any part of any lot used or proposed to be used for the within stated purposes. There shall be no outdoor display of motor vehicle accessories, tires, or any other merchandise, except that motor oil for servicing motor vehicles on the premises may be displayed on racks, designed therefore, immediately adjacent to the service station building or the filling pumps. There shall be no dumping of waste materials, such as grease or oil, except in a closed underground receptacle at a place and of a design approved by the ZBA. Debris and trash shall be deposited in receptacles maintained therefore.
7. There shall be no residence or sleeping quarters maintained in any gasoline filling station.
8. The sign provisions of Section IX.A shall apply except that small credit card, direction, telephone or similar public convenience signs shall not count towards the permitted sign area.
9. As an accessory use the limited sale of retail, convenience items shall be permitted at a gasoline filling station, subject to parking required and the following conditions:
 - a. At filling station(s), which operate with motor vehicle repair licenses and provide repair services, all food shall be pre-packaged and there shall be no food preparation on-site, with the exception of beverages, which may be prepared subject to the approval of the town health department.
 - b. At filling stations which do not offer repair services, food may be prepared with the approval of the town health department.
 - c. At filling stations which operate with motor vehicle repair licenses and provide repair services, as an accessory use, a maximum of 500 square feet of space may be utilized for the display of retail merchandise within the station and retail, convenience merchandise shall not be displayed or advertised outside the filling station building.
 - d. At filling stations which do not offer repair services, as accessory use, a maximum of 2,000 square feet of space may be utilized for the display of retail merchandise within the station and retail, convenience merchandise shall not be displayed or advertised outside the filling station building.
 - e. A minimum of three accessory parking spaces shall also be provided. Said spaces shall be in addition to parking required for the pump areas and shall be for the convenience of patrons.
10. *Repair or service garages.*
 - a. A motor vehicle repair or service garage, where permitted, shall be subject to the same standards and requirements set forth in these

regulations for gasoline filling stations with the exception of the 1,500-foot distance requirement in Section XI.R.6 and the following:

- i. Major repair work, including body and fender work, the sale of new or used motor vehicles, and the display thereof, shall be permitted.
 - ii. All outdoor areas used for the repair or storage of vehicles to be repaired shall be screened from streets and adjoining properties.
 - b. In order to reduce traffic hazards, the ZBA shall require sufficient unobstructed space between the garage and the street line to enable vehicles approaching or leaving the public highway to do so safely.
11. As an accessory use to a gasoline filling station, an unattended car wash shall be permitted, subject to approval of a special permit by the Commission and to the following conditions and standards:
 - a. The car wash shall be limited to one bay with a maximum of four coin-operated vacuums.
 - b. The car wash shall be equipped to recycle water to minimize the use of water and equipped with water treatment facilities.
 - c. All wastewater, after treatment, shall be discharged into a sanitary sewer system.
 - d. The property shall have a water supply sufficient to support the car wash.
 - e. There shall be sufficient unmarked stacking or queuing spaces in front of the entrance of the car wash facility which do not interfere with on-site or off-site traffic flow. There shall be a sufficient length of driveway space between the car wash exit and any point of internal traffic circulation on the premises.
 - f. The car wash shall be equipped with a drain system in the car wash exit driveway to maximum capture of water drip-off from washed vehicles.
 - g. The operation hours of the car wash shall be limited to the hours between 7:00 a.m. and 11:00 p.m.
 - h. The applicant shall demonstrate to the satisfaction of the Commission that lighting, buffer areas, noise levels, environmental controls including waste water recycling, sludge and sediment handling, and internal vehicular circulation shall be adequately provided for and or controlled, and that there are no adverse traffic impacts on public roads, to ensure conformance with the standards applicable to special uses required by the provisions of Section XII. Failure to properly maintain all controls shall be grounds for the Commission to revoke the permit.

- S. **Home occupations or professional offices for resident occupants.** One home occupation or professional office may be conducted as an accessory use in residential districts subject to compliance with the following:

1. Such use shall be conducted only by the resident occupant(s) of buildings constructed as single-family residences.
2. There shall be no more than one nonresident person employed on the premises, including partners, associates, part-time and full-time employees and independent contractors.
3. Such use shall not occupy an amount of finished floor space in excess of one-third of the total floor area of the residence building.
4. All products sold on the premises shall be made on the premises, except for the sale of items which are incidental to the provision of the permitted service, or are sold by mail order or electronic means.
5. There shall be no mechanical or structural fabrication, assembly or processing of any products or items, except that which shall be incidental to the permitted accessory use.
6. There shall be no outside storage and no display, advertising or other visible evidence of such use from the lot or building in which it is located.
7. Receipt of a certificate of zoning compliance from the ZEO.

T. Accessory dwelling units.

1. *Purpose.* The purpose of accessory dwelling units is to increase the supply of rental housing units; to provide for more flexible use of the existing housing stock; and to encourage household life cycles to correspond more closely with neighborhood life cycles, thereby promoting neighborhood stability.
2. *Applicability.* An owner of a single-family dwelling unit which is more than five years in age, is served by public water and sanitary sewers or is served by a well and/or septic system that is capable of serving the proposed additional unit as determined by the health director and is located in the MR-1, R-86, R-43, R-21 and R-15 zoning districts may established an accessory dwelling unit within the principal structure, subject to a special permit from the Commission and the following conditions.
 - a. The owner of the property shall reside on the premises.
 - b. The occupancy of the accessory dwelling unit shall not exceed two persons, and shall be limited to persons of at least 55 years of age. The age restriction shall be waived if the owner files a covenant in the land records which states that the accessory unit shall not be rented at a cost which exceeds 30 percent of 80 percent of the area median income for a two person family as determined by the U.S. Department of Housing and Urban Development. The costs of the housing shall be determined in accordance with Section V.A.9.
 - c. An accessory dwelling unit may be created only through internal conversion of the principal structure. However, minor additions may be made to the building if the square footage added constitutes no more than 150 square feet. In no case may exterior stairs be added to the structure.
 - d. Additional entrances resulting from the creation of an accessory dwelling unit shall not face the same side of the lot as the existing entrance to the principal dwelling.

- e. Where garage space is converted to living space, garage doors shall be replaced with materials consistent with the exterior of the rest of the house, and the driveway immediately adjacent to the former garage door shall be modified so as to eliminate the appearance of a drive leading to a solid wall.
- f. Smoke detectors shall be installed in both the principal and accessory dwelling units. Installation is to be verified by the fire marshal prior to the issuance of a certificate of occupancy.
- g. The applicant shall provide off-street parking spaces for each dwelling unit in accordance with Section IX.B.
- h. Applications for special permit shall be made (to) the Commission on forms provided in the office of the town planner. The application shall include copies of a plot plan showing the location of the dwelling and any proposed expansion, the proposed floor plan, existing and proposed off-street parking, the location of existing and proposed entrances, a list of all abutting property owners, and an application fee as required by the town fee schedule.
- i. The accessory apartment shall be a minimum of 400 square feet in area, but not more than 700 square feet in area. The area of the principal dwelling shall not be reduced to less than 900 square feet.
- j. After receipt of the application, all abutting property owners shall be notified by the applicant by certificate of mailing, time and place of the public hearing.
- k. Special permits for accessory apartments shall become void if construction has not started within one year of issuance.
- l. The owner of each structure shall submit by January 31 of each year, certification on a form provided by the ZEO that they continue to live in one of the units. Failure to submit certification or misrepresent their occupancy will result in forfeiture of the special permit.

U. Garden supply centers. Garden supply centers shall be permitted in residential zones on the following state highways; Route 5 and 15, Route 160 east of Routes 5 and 15, Route 364 and Route 71; subject to site plan and special permit approvals by the commission, in accordance with Sections XII and XIII and the following conditions:

- 1. There shall be no adverse impact on the neighborhood.
- 2. All lot and bulk requirements of the R-43 zone shall be applicable.
- 3. All principal buildings shall be residential in character and have a pitched roof.
- 4. All lots shall be at least one acre in size.
- 5. All properties shall maintain a 30-foot buffer from adjacent residential properties.

V. Leaf composting facilities. Leaf composting facilities shall be permitted in residential zones, subject to site plan and special permit approvals by the Commission in accordance with Sections XII and XIII and the following conditions:

1. Selection of the process methodology shall be recognized by the state Department of Energy and Environmental Protection (DEEP): aerated static pile in vessel methods, or the windrow and turn.
2. The facilities capacity of stored leaves shall not exceed 10,000 cubic yards per acre.
3. The leaf processing area may consist of an earthen or paved pad. The pad shall exhibit a minimum grade of two percent where processing takes place.
4. Buffer requirements from an adjacent principal residential structure shall be maintained at a minimum of 250 feet.
5. Buffer requirements from an adjacent property shall be maintained at a minimum of 100 feet.
6. Buffer requirement from any watercourse or surface body of water shall be maintained at a minimum of 100 feet.
7. The facility shall provide storage under roof for its equipment used in the operation of composting.
8. The facility shall maintain access to a water supply which will be sufficient for fire control and the wetting of leaves.
9. The facility shall maintain adequate off-street parking for each employee at a minimum of one space per employee.
10. Each applicant shall provide evidence that he or she has submitted a completed leaf composting registration form to the DEEP's waste management bureau's planning and standard division.
11. Leaf composting facilities shall be permitted only on parcels of ten or more acres.
12. Leaf composting operations shall not be permitted within five feet of the seasonal high water table or bedrock as measured from ground level.

W. Motels.

1. The site for each motel shall be at least four acres in area and shall have a frontage of at least 300 feet. No dimensions of a motel site shall be less than 250 feet. A motel site shall be suitably landscaped and all driveways and parking areas shall be permanently improved.
2. The maximum horizontal dimension of any motel building shall not exceed 200 feet.
3. The total interior floor area of each motel dormitory unit, inclusive of bathroom and closet space, shall not be less than 300 square feet.
4. Distance between buildings shall not be less than 50 feet, except that this distance may be reduced to 25 feet where no driveway passes between buildings.
5. An office and lobby shall be provided for each motel.
6. Motel units with kitchen facilities shall not exceed 30 percent of the total number of units erected.

X. *(Deleted)* [Reserved].

Y. Adult entertainment.

1. *Purpose.* The intent of this section is to regulate uses that have been proven to adversely affect neighborhood children, community improvement efforts, retail trade, commercial and residential property values, particularly when several of such uses are concentrated in a small area of the community. The primary purposes of these regulations are to prevent a concentration of these uses in any one area, to minimize any adverse impacts, and to protect and preserve the quality of Berlin's neighborhoods, commercial districts, property values and the quality of urban life through effective land use planning.
2. *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:
 - a. Adult arcade means any establishment where one or more still or motion picture projectors, slide projectors or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific anatomical areas or specified sexual activities.
 - b. Adult cabaret means any nightclub, bar, restaurant or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:
 - i. Persons who appear nude or seminude;
 - ii. Live performances that are characterized by the exposure of specified anatomical areas; or,
 - iii. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities.
 - c. Adult books means any books, magazines, periodicals, pamphlets, or other printed materials that depict, display or describe specified anatomical areas or specified sexual activities.
 - d. Adult entertainment means:
 - i. Any exhibition of any adult-oriented motion picture, live performance, display or dance of any type that has a significant or substantial portion of such performance any performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers, when such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect; or,
 - ii. Any amusement machine that is regularly used for presenting material that is characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons thereof.

- e. Adult minimotion picture theater mean any enclosed building with a capacity of 50 or less persons regularly used for showing films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical area or specified sexual activities, or observation by patrons therein.
- f. Adult motion picture theater means any enclosed building with a capacity of more than 50 persons regularly used for showing films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons therein.
- g. Adult novelties means:
 - i. instruments, devices, toys or paraphernalia that are designed for or marketed primarily for stimulating human genital organs, sexual arousal or sadomasochistic use;
 - ii. instruments, devices, gag gifts, toys or paraphernalia that depict, display or are shaped in the form of specified anatomical areas; and
 - iii. oils, lotions, gels or creams that are designed for or marketed primarily for use upon specified anatomical areas and intended for stimulating human genital organs, sexual arousal or as an aid to enhance or promote specified sexual activities.
- h. Adult oriented store means any establishment having:
 - i. a substantial or significant portion of its stock in trade in adult books, adult videos, or adult novelties or any combination thereof;
 - ii. Any portion of its stock in trade in adult books, adult videos or adult novelties and in conjunction therewith has rooms, designated areas or facilities for the presentation, observation or use by patrons of any item sold or rented in such establishment. For the purposes of this definition, factors indicating that a "substantial or significant" portion of a business is devoted to the sale or rental of such items include without limitation any one or more of the following criteria:
 - (1) Twenty percent or more of all inventory consists of such items at any time;
 - (2) Twenty percent or more of all the merchandise displayed for sale consists of such items at any time;
 - (3) Twenty percent or more of the stock in trade consists of such items at any time;
 - (4) Twenty percent or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) is devoted to such items at any time;

- (5) Twenty percent or more of the sales, measured in dollars over any consecutive ninety-day period, is derived from such items;
 - (6) Twenty percent or more of the number of sales transactions, measured over any consecutive ninety-day period, is of such items; or,
 - (7) Twenty percent or more of the dollar value of all merchandise displayed at any time is attributable to such items.
- i. Adult theater means any theater, concert hall, auditorium or similar commercial establishment that regularly features persons who appear nude or seminude or who appear in live performances that are characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons therein.
- j. Adult videos means films, motion pictures, videocassettes, DVDs, software, slides or other photographic reproductions that depict, display or describe specified anatomical areas or specified sexual activities.
- k. Church means any groups, synagogue, mosque, temple or building that is used primarily for religious worship and related religious activities.
- l. Employee means any and all persons, including independent contractors, who work in or at or render any service directly related to the operation of a sexually oriented business.
- m. Entertainer means any person who provides adult entertainment within a sexually oriented business, whether or not a fee is charged or accepted for such entertainment and whether or not such entertainment is provided as an employee or independent contractor.
- n. Escort means any person who, for any form of consideration, agrees or offers to act as a social companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- o. Escort agency means any person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- p. Inspector means the town manager, chief of police, fire marshal, chief building official, director of health, zoning enforcement officer, their agent or representative, or any town or state employee designated to make inspections for public safety, fire code, building code, public health, zoning purposes, violations of this article, or for violations of other laws and ordinances of the town or state.
- q. Licensed premises means any premises that requires a sexually oriented business license pursuant to this article, including any building, parking areas and all other portions of the property of which the license has control.

- r. Licensee means any person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on an application for a license.
- s. Live adult entertainment means any live performance by a person who appears nude or seminude or any live performance that is characterized by the exposure of specified anatomical areas.
- t. Massage parlor means any establishment having a fixed business where any person engages in or carries on, or permits to be engaged in or carried on, any method of pressure on, or friction against, or stroking, kneading, rubbing, taping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electric apparatus or appliance with or without any supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice. The definition of massage parlor shall not include the practice of massage:
 - i. In any state-licensed hospital, nursing home, clinic, medical office or rehabilitation facility;
 - ii. By a state-licensed physician, surgeon, chiropractor, osteopath, physical therapist, or massage therapist;
 - iii. By any registered nurse, licensed practical nurse or technician working under the supervision of a state-licensed physician, surgeon, chiropractor, osteopath, physical therapist, or certified massage therapist who shall be present on the licensed premises during the time the service is rendered;
 - iv. By trainers for any amateur or professional athlete or athletic team or school athletic program; or
 - v. By any state-licensed barber or beautician with regard to the massaging of the neck, face, scalp and hair for cosmetic or beautifying purposes.
- u. Masseur means any person who, for any form of consideration, performs massage activities as described in the previous definition of this section.
- v. Minor means any person under the age of 18 years.
- w. Nude model studio means any place where a person, for any form of consideration, regularly appears nude or seminude or displays specified anatomical areas to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. A nude model studio shall not include a modeling class operated by an accredited public or private school or college.
- x. Nudity means:
 - i. The appearance of human bare buttocks, anus, genitals, pubic region or the areola or nipples of the female breast; or
 - ii. A state of dress that fails to opaquely and fully cover human buttocks, anus, genitals, pubic region or areola or nipple of the female breast.

- y. Operator means any person operating, owning, managing , conducting or maintaining a sexually oriented business.
- z. Public building means any building owned, leased or otherwise held by the United States, the state, the town, any other town, any fire district, any school district, or any other agency or political subdivision of the United States or the state, which building is used for government purposes.
- aa. Public park and recreation area means public land that has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, golf course, basketball or tennis courts, pedestrian or bicycle paths, open space, wilderness areas, or similar public land within the town that is under the control, operation, or management, or operation of the town, any other town, or the state.
- bb. School means any public, private or parochial educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, middle schools, junior high schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, alternative schools, junior colleges, colleges and universities. School includes the school grounds, but does not include any facility used primarily for another purpose and only incidentally as a school.
- cc. Seminude means a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered y supporting straps or devices.
- dd. Sexual activities is not intended to include any medical publications or films or bona fide educational publication or films, nor does it include any art or photography publications that devote at least 25 percent of the lineage of each issue to articles and advertisements dealing with subjects of art or photography. Nor does this definition apply to any news periodical that reports or describes current events and which, from time to time, publishes photographs of nude or seminude persons in connection with the dissemination of the news. Nor does this definition apply to publications or films that describe and report different cultures and which, from time to time, publish or show photographs or depictions of nude or seminude persons when describing cultures in which nudity or seminudity is indigenous to the population.
- ee. Sexual encounter establishments means a business or commercial establishment that, for any form of consideration, offers a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas. A sexual encounter establishment shall not include an establishment where a state-licensed medical practitioner, psychologist, psychiatrist, or similar professional person engages in medically approved and recognized sexual therapy.

- ff. Sexually oriented business means:
 - i. An adult arcade, adult oriented store, adult cabaret, adult minimotion picture theater, adult motion picture theater, adult theater, escort agency, massage parlor, nude model studio or sexual encounter establishment;
 - ii. Any premises to which the public, patrons, or members are invited or admitted and wherein an entertainer provides adult entertainment, or which premises are so physically arranged as to provide booths, cubicles, studios, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures or wherein an entertainer provides adult entertainment, when such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect; or,
 - iii. Any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.
- gg. Specified anatomical areas means:
 - i. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or,
 - ii. Human male genitals in a discernibly turgid state, even if completely opaquely covered.
- hh. Specified sexual activities means:
 - i. Showing of human genitals in a state of sexual stimulation or arousal;
 - ii. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;
 - iii. Fondling or touching of another person's genitals, pubic region, buttocks or female breasts;
 - iv. Lap dancing; or,
 - v. Excretory functions as part of or in conjunction with any such activities.

(Ord. No. 5-00, paragraph 2, 6-20-2000) Cross references:

Definitions generally, paragraph 1-2.

- 3. *Applicability.* All Sexually Oriented Business shall only be permitted in the General Commercial (GC) and Berlin Turnpike (BT) zoning districts, subject to a special permit and site plan approval in accordance with Section XII and XIII and the requirements of this section, and only after approval of a Sexually Oriented Business License.
- 4. *Separation Requirements.* All regulated uses identified in this section shall be subject to the following separation restrictions:

- a. No sexually oriented business shall be permitted on a site that is less than 1,500 feet from any other site containing a sexually oriented business;
 - b. No sexually oriented business shall be permitted on a site that is less than 1000 feet from any site containing a church, school, public building, public park or recreation area;
 - c. No sexually oriented business shall be permitted on a site that is less than 250 feet from any residentially zoned land as defined in the town's zoning regulations;
 - d. No sexually oriented business shall be permitted within the same building, structure or portion thereof that is used for residential purposes or that contains another sexually oriented business; and,
 - e. All distances contained in this section shall be measured by taking the nearest straight line between the respective lot boundaries of each site.
5. *Sign and exterior display requirements.* No adult uses shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas, from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

Z. Wireless communication facilities.

- 1. *Purpose.* The intent of this section is to make provisions to permit the location of wireless communication towers, antennas and facilities in Berlin while protecting neighborhoods and minimizing the adverse visual and operational effects of wireless communications facilities. More specifically, the purposes are:
 - a. To encourage the joint use of any new or existing towers;
 - b. To accommodate the need for wireless communications antennas while regulating their locations and number;
 - c. To encourage creative design measures to minimize adverse visual effects of wireless communications facilities through proper design, siting and vegetative screening;
 - d. To avoid potential damage to adjacent properties from tower failure or from falling ice through engineering and careful siting of towers;
 - e. To site facilities below visually prominent ridge lines so as not to interfere with environmentally sensitive areas;
- 2. *Preference.* The order of preference for facility locations shall be:
 - a. On existing structures such as buildings, smokestacks, water towers and ground signs;
 - b. On existing or approved towers;
 - c. On property within industrial, general commercial, and planned office residential districts which has been developed, and where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening;

- d. On new towers on bare ground with visual mitigation in general commercial, industrial, and planned office residential districts;
 - e. On new towers on municipally owned land where they would not interfere with the purpose of the property;
 - f. On new towers in the (MR-1, R-86 and R-43) residential districts where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.
3. *Permitted uses.* The following uses which generally pose minimum adverse visual effect shall be deemed permitted uses in all zoning districts as a matter of right, subject to the provisions of these regulations.
- a. Commercial wireless telecommunications sites where the antenna is mounted to existing towers, utility poles, water towers, light standards, bridges or other structures not classified as buildings, provided the following standards are met:
 - i. No changes are made to the height of each structure.
 - ii. No panel antenna shall exceed 60 inches in height and 24 inches in width.
 - iii. No dish antenna shall exceed 36 inches in diameter.
 - iv. All equipment buildings or boxes shall be subject to Section XI.Z.7. of these regulations.
 - v. Antennas shall be camouflaged to the greatest extent feasible.
 - b. Commercial wireless telecommunication facility structure mounted to the rooftop or façade of a nonresidential building, provided the following standards are met:
 - i. These structures include: panel antennas, not to exceed 60 inches in height, 24 inches in width and/or six inches in depth; whip antennae, not to exceed 15 feet in height; and/or dish antennas not to exceed 36 inches in diameter.
 - ii. The shed used for the housing of equipment does not exceed 150 square feet in area nor exceed eight feet in height and/or cabinets used for the housing of equipment shall not exceed an area of 60 inches in height by 60 inches in width by 60 inches in depth.
 - iii. No change is made to the height of existing structure.
 - iv. All telecommunications structures shall be shielded from view from all surrounding streets and driveways used by the general public.
 - v. Shall be of a material, color, and architectural style which matches the exterior of the building or structure.
 - vi. Façade-mounted structures shall not protrude above the building structure and rooftop structures shall not exceed the rooftop by more than 15 feet.
 - vii. Antennas shall be camouflaged to the greatest extent feasible.
4. *Special permit uses.* The following uses shall be permitted, subject to special permit and site plan approvals by the Commission in accordance with Sections XII and XIII subject to the provisions of this section.

- a. Wireless communication facilities on new towers in the R-86, R-43, PR-1, MR-1, POR, POD, PS-A, PS-B, GC, OL, GI, PI zoning districts, and municipally owned land, subject to the following provisions:
 - i. All wireless communication facilities within the R-86, R-43, PR 1 and MR-1 districts shall be located on a parcel with a minimum size of four acres.
 - ii. A wireless telecommunication provider shall collocate on existing communication towers, whenever possible.
 - iii. All structures, excluding the communication tower, associated with wireless telecommunication facilities shall not exceed the height requirements of the zoning district in which the structure is located.
 - iv. All equipment building/boxes or equipment areas shall comply with the minimum zoning property line setbacks for a principal building in the underlying zone, and be as close to the tower as possible.
 - v. Towers shall be structurally designed to provide for collocation by at least three users.
 - vi. The location of all structures associated with wireless telecommunication facilities shall be subject to site plan approval in accordance with Section XI.Z.5 of these regulations.
 - b. Commercial wireless communication sites where the antennas are mounted to existing towers, water towers, light standards, bridges or other structures not classified as buildings, that are not in conformance with the requirements of Section XI.Z.3.a., provided that the requirements of Section XI.Z.6 is adhered to.
 - c. Commercial wireless communication facility structures mounted to the rooftop or façade of a nonresidential building that is not in conformance with the requirements of Section XI.Z.3.b., provided that the requirements of Section XI.Z.6 is adhered to.
5. *Site plan/special permit application requirements.* All applicants shall submit the overall network plan, so the Commission may evaluate how the proposed tower fits within the network and its consistency with the CRCOG plan. The network plan shall include a map showing:
- a. The extent of the provider's planned coverage within the Town of Berlin.
 - b. The service area of the proposed wireless telecommunication site.
 - c. The search radius for the proposed wireless telecommunication site and provide support materials that show the location of tall structures within one-quarter mile radius of the site proposed and that the owners of those locations have been contacted and asked for permission to install the antenna on those structures and denied for other than economic reasons. The applicant must also reference the "Wireless Telecommunication Facilities Guide Plan for the Central Connecticut Region," prepared by the Central Connecticut Regional Planning

Agency, in justifying the need for and/or suitability of the chosen site over suggested sites from this guide.

- d. Existing and approved locations of all telecommunication sites in Berlin, including the applicants.
 - e. Existing towers owned/used by applicant within one-quarter mile of the town's borders.
 - f. The location and service area of the proposed telecommunication site.
Other general requirements:
 - g. A plan showing where and how the proposed antenna will be affixed to a particular building or structure.
 - h. Details of all proposed antenna and mounting equipment including size, color, and material.
 - i. Elevations and dimensions of all proposed shielding and details of materials, including color.
 - j. The elevation and dimensions of all proposed equipment buildings/structures with details of all proposed fencing, including color.
 - k. All proposed landscaping with list of plant material.
 - l. Height of the tower.
 - m. Proximity of tower to residential structures and residential district boundaries.
 - n. Nature of uses on all properties within 500 feet.
 - o. Surrounding topography, within 1,000 feet, at interval not exceeding five feet based on town datum.
 - p. Design of the tower with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - q. A design drawing, including cross section and elevation of the proposed tower.
 - r. A topographic profile showing the proposed tower and its associated equipment from adjoining properties.
 - s. Proposed ingress and egress from the site.
 - t. A soil report shall be submitted to verify the design specifications of the foundation of the tower and anchors for the guy wires, if used.
 - u. The Commission may require that applicants provide simulations of tower locations and impact. Such simulations may entail the tethering of balloons or other devices necessary to visualize the proposed facility.
 - v. The Commission, at its sole discretion, may require the technical expertise and study of an independent third party, selected by the Commission, when reviewing either a special permit or site plan application pertaining to wireless communication facilities. The cost of third party technical studies shall be incurred by the applicant.
6. *Tower and/or antenna standards.* All towers, rooftop mounted antennas, and façade mounted antennas shall be consistent with the following standards:
- a. Towers:

- i. The tower shall be designed and constructed to all applicable standards of the American National Standards Institutes, ANSI/EIA-222-E manual, as amended.
 - ii. The proposed support structure shall be required to accommodate a minimum of three users, including other wireless communication companies and local police, fire and ambulance companies unless it is determined to be technically unfeasible based on information submitted by the applicant.
 - iii. Towers not requiring special FAA painting or markings shall be painted in a noncontrasting blue, gray, or other neutral color or otherwise camouflaged in a suitable manner approved by the Commission.
 - iv. All towers in residential zones and on public lands shall be a monopole design. A monopole tower shall be designed to collapse upon itself.
 - v. No advertising shall be permitted on any tower or antenna. However, appropriate warning or other safety signs may be permitted by the Commission.
 - vi. No lights or illumination shall be permitted unless required by the FCC or FAA, or if the tower is used for other lighting purposes lawfully permitted.
 - vii. The tower shall be surrounded by a fence not more than eight feet in height. If barbed wire is included in the fence, it shall be within the eight-foot height limit.
 - viii. The tower under the antenna shall be the minimum height necessary to satisfy the technical requirements of the proposed telecommunications facility.
 - ix. All towers must comply with setback requirements of the zones in which they exist.
 - x. All towers in residential zones shall not be closer than the height of the tower, plus 25 percent from any property line.
- b. Rooftop-mounted antenna:
- i. Shall be attached to a nonresidential structure or building, which building or structure is the principal building or structure on the lot.
 - ii. Shall be of a material and color which matches the exterior of the building or structure.
 - iii. Shall not exceed a height of ten feet above the highest part of the structure or building, except monopole antennas, which may not exceed a height of 15 feet above the highest part of the structure or building.
 - iv. Panel antennas shall not exceed a height of six feet in height or two feet in width.
 - v. Shall be set back from the roof edge a minimum of ten feet or ten percent of the roof depth, whichever is greater.

- vi. Satellite and microwave dish antennas shall not exceed six feet in diameter and shall be located or screened so as not to be visible from abutting public streets.
 - vii. Shall not occupy more than ten percent of the roof area.
 - viii. Panel and dish antennas in residential zones shall not be visible from adjoining property or public streets.
- c. Façade-mounted antenna:
 - i. Shall be attached to a nonresidential structure or building, which building or structure is the principal building or structure on the lot.
 - ii. Shall project not more than two feet beyond the wall or façade of the structure.
 - iii. Shall not project more than five feet above the cornice line.
- 7. *Equipment building standards.* All accessory buildings associated with wireless communication facilities shall comply with the following:
 - a. Each building/structure shall not contain more than 150 square feet of gross floor area or be more than eight feet in height.
 - b. Shall comply with the setback requirements for accessory buildings for the zone in which it is located and be as close to the tower as possible.
 - c. If located on the roof of a building, shall be designed to blend with the color and design of the building to the extent possible.
 - d. All equipment building/boxes shall be surrounded by a fence and the area landscaped or screened as required by Section IX.C.3. of the zoning regulations.
- 8. *Maintenance and abandonment.*
 - a. The applicant shall submit a detailed maintenance plan including schedule and extent of maintenance. The plan shall cover both the facility site itself and the ingress and egress from the site.
 - b. Abandonment. A bond shall be posted for the cost of dismantling unused towers and its support equipment. Towers unused or abandoned for three months, running consecutively, shall be dismantled and the site restored to a clean state and properly landscaped if necessary.
- 9. *Criteria for approval.* In reviewing and acting upon an application for site plan and/or special permit approval of a wireless communication facility, the Commission shall take into consideration the health, safety and welfare of the public in general and the immediate neighborhood in particular, as well as the following factors:
 - a. The proposed facility is necessary to provide coverage within the town.
 - b. There are no alternate sites which would have less adverse impacts upon the health, safety and welfare of the neighborhood, and be less visibly obtrusive.
 - c. The facility is in conformance with the adopted wireless communications facility plan for the Central Connecticut Regional Planning Agency.

- d. The visual impact of the proposed facility has been mitigated to the maximum extent feasible.
- e. Tower sharing is provided to the greatest extent feasible.
- f. The facility will not have an adverse impact on the visual and environmental characteristics of the ridgelines within the town.
- g. The applicant has all necessary permits and licenses from the Federal Communications Commission.

AA. Adult housing

- 1. *Definitions.*
 - a. Adult dwelling unit. A dwelling unit which fully complies with the provisions of the United States Fair Housing Act as amended, as it pertains to housing for older persons. This includes compliance with any and all rules and regulations promulgated by the United States Department of Housing and Urban Development which govern the implementation of such act.
 - b. Adult housing development. A housing development wherein all dwelling units are restricted to adult dwelling units as defined above that comply with Section AA.2 hereof.
- 2. *Purpose and standards.* The purpose of this section is to provide adult housing options for persons 55 years of age and older. It must be demonstrated that there is a reasonable need within the Town of Berlin for the housing proposed.
 - a. Each adult dwelling unit shall be occupied by:
 - i. At least one person who is 55 years of age or older.
 - ii. A spouse, companion or relative of an occupant who qualifies pursuant to Section AA.2.a.i. above.
 - iii. Occupant who qualifies pursuant to Section AA.2.a.ii. above who survives his or her spouse, companion or relative.
 - iv. Occupant who qualifies pursuant to Section AA.2.a.ii. above whose spouse, companion or relative has entered into a long-term continuing care facility.
 - v. An employee of an occupant who qualifies pursuant to Section AA.2.a.i., ii. or iii. above, who performs substantial duties related to the care of the occupant who qualifies under Section AA.2.a.i., ii. or iii. above.
 - vi. In no event shall any dwelling unit within the development be occupied by a person under the age of 18 years.
 - vii. In Section AA.2.a.iii. and iv. above, in the event of the remarriage or cohabitation by the remaining spouse, all occupants must comply with the occupancy requirements set forth in this section.
 - viii. The Fair Housing Act permits housing intended for persons 55 and older provided that 1. At least 80% of the occupied units are occupied by at least one person who is 55 or older; 2. The community publishes and adheres to policies demonstrating the

intent to be age-restricted; and, 3. The community meets certain rules for verifying the age restrictions of the community. Thus, up to 20% of the units may be occupied by individuals all of whom are under 55 years of age, but not less than 18 years of age.

- b. In no event may an adult dwelling unit be occupied by more than three persons.
 - c. An adult housing development that intends to sell adult dwelling units must be organized as a "common interest community" as defined by chapter 828 of the Connecticut General Statutes, as amended. The constituent documents of the Common Interest Ownership Community shall contain provisions requiring the declarant, in connection with the initial sale of units, and the association, as to all subsequent sale of units, to enforce the declaration which shall incorporate the purpose and standards of the zoning regulations so that at all times the common interest community will qualify for the 55 or over housing for older persons exemption under the Fair Housing Act. Permanent occupancy of any unit shall not be permitted or allowed to continue if such occupancy violates the provisions of the declaration or the zoning regulations or results in the loss of the common interest community's 55 or over housing for older persons exemption under the Fair Housing Act. At the closing of title of each unit being sold by the declarant, the purchaser of said unit will be required to sign a certification or declaration to be used to ensure that the common interest community will qualify for the exemption under the Fair Housing Act and to insure that said purchaser is in compliance with the age restrictions set forth herein. Persons may not transfer, sell, gift, lease, assign, grant, buy, rent or occupy any unit, except for the sale of the unit by the declarant, until such person receives the approval of the board in accordance with the provisions of the declaration.
3. *Zoning requirements.* Adult housing shall be permitted in the PR-1 zone, PI-2 zone, the OT-2 zone, and all other zones where multifamily housing is permitted, subject to special permit and site plan approvals by the Planning and Zoning Commission in accordance with Sections XII and XIII and the following conditions and design requirements:
- a. Density. The maximum number of adult dwelling units per acre is 2.5.
 - b. Grouping. Each development plan shall group the buildings in such a manner as to reflect the existing topography and preserve as much of the natural features as possible. The minimum distance between any two structures shall be 35 feet for two (or more) story buildings and 20 feet for buildings which are less than two-stories. Ingress and Egress for basements other than hatchways shall be only located in the rear of the building unless the building is no more than one story.
 - c. Architectural style. Buildings shall be designed to achieve a residential appearance. All buildings shall have pitched roofs and

have at least one architectural projection per unit. A change in wall plane or separation of walls shall be provided between every unit in a row. Rooflines shall be representative of the units under them and an articulation in roofline shall be provided in every upper unit. Both vertical and horizontal roof articulation is encouraged. Rooftop mechanical equipment, other than solar energy panels, shall be concealed, inconspicuous, and architecturally integrated into the structure. Exterior stairways shall be stylistically consistent with the buildings they serve and shall be architecturally integrated. Buildings shall be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible. All accessory buildings shall have the same architectural style and character as the principal buildings. The architectural style of the development shall be approved by the Commission.

- d. Building size. Each building shall contain no more than nine adult dwelling units per floor and shall be no more than two stories in height, with the interior dimension of the footprint not to exceed 9,500 square feet. The exterior elevation of each building shall not be continuous horizontal planes and shall be broken with setbacks in all instances, to the satisfaction of the Planning and Zoning Commission.
- e. Unit size. The living area of each rental adult dwelling unit, inclusive of bathroom, shall contain a minimum of 600 square feet. The living area of each single-family detached or attached adult dwelling unit, inclusive of bathroom, shall contain a minimum of 1,000 square feet.
- f. Setbacks from interior roads. All residential buildings shall be set back a minimum of 20 feet from the edge of the pavement of interior roads, whether such roads are public or private. For the purposes of this section, interior roads are those to be constructed within and as part of developments within these zones.
- g. Phasing. The Commission may approve a development plan to be completed in phases. The Commission may grant approval limited to each phase of development. Each phase shall be capable of independent existence without the completion of succeeding phases. Buffer and setback requirements shall not apply to the common line between phases of development.
- h. Sewage disposal and water supply. The development shall be served by public sanitary sewer and public water supply. The Commission may require that sanitary sewer and water mains, along with easements, be dedicated to the town or the appropriate sewer authority.
- i. Fire hydrants. Fire hydrants shall be installed and located within 500 feet of each building.
- j. Parking and circulation requirements.
 - i. There shall be at least 1.25 parking spaces for each rental adult dwelling unit and multifamily adult dwelling unit. No parking shall be allowed within a setback. There shall be at least two parking spaces for each owner-occupied single family attached

or detached adult dwelling unit. A single or double garage shall be counted as one or two parking spaces, respectively, of each adult dwelling unit's required parking. No adult dwelling unit parking shall be allowed within a required setback or yard. The Planning and Zoning Commission may require that a minimum of 25 percent of the required parking spaces shall be garages and/or carports.

- ii. Interior road standards. All interior roads shall have a minimum paved width of 24 feet. All interior roads shall remain private roads.
- iii. Adequate pedestrian circulation, including a sidewalk on at least one side, shall be required along any road access connecting with an existing public road and along the major interior roads of the development. The Commission may waive the sidewalk requirement along major interior roads, provided that adequate alternative pedestrian circulation shall be provided.
- iv. Parking facilities for both passenger and service vehicles shall be convenient to building entrances, adequately graded, drained, paved and maintained in all seasons to prevent dust, excessive water flow and congestion of driveways and to promote the safety of residents and visitors.
- v. Driveways shall be arranged in a suitable and convenient traffic pattern and adequately graded, drained and maintained in all seasons to accommodate traffic and to afford satisfactory access to police, firefighting and snow removal equipment.
- vi. All parking shall be screened from view from public streets in accordance with the requirements of Section IX.B.
- k. Open space. Open space shall be provided in accordance with Section VIII.D.3. of the Berlin zoning regulations.
- l. Walking trails. A walking trail shall be provided within the proposed developments. Unpaved walking trails may be counted as open space. Sidewalks may count as walking trails if they provide access to open space, passive recreational opportunities and/or the common facilities.
- m. Common facilities. The development shall have common facilities designed to be compatible, in the judgment of the Commission, with adult housing. Such facilities may include walking paths, sitting areas, benches, clubhouse or community building or other active or passive recreational areas.
- n. Landscaping. The development shall provide adequate landscaping pursuant to the provisions of Section IX.C. of the Berlin zoning regulations, including proper landscaped buffers for all buildings.
- o. Compliance. To ensure compliance with these regulations, the adult housing development applicant and any subsequent owner or assignee or management company employed to manage the adult housing

development shall, upon the granting of the special permit by the Planning and Zoning Commission:

- i. In adult housing rental development or any adult housing development which rents units, incorporate the provisions of XI.AA.2.a. and b in all leases for the rental of adult dwelling units in the development, provided that the language used in said leases is first approved by the Director of Development Services;
 - ii. In all adult housing developments, record restrictive covenants upon the land records incorporating the provisions of Section XI.AA.2.a. and b., which covenants shall run with the land and be binding upon the owners and all occupants of the adult dwelling units in perpetuity, provided that the language used in said covenants is first approved by the town's Director of Development Services;
 - iii. Provide notice to all prospective renters in an adult housing rental development and to all prospective purchasers in an adult housing development that will sell adult dwelling units that occupancy of adult dwelling units is restricted as set forth in XI.AA.2.a. and b.;
 - iv. Provide certification to the Director of Development Services within 90 days of the end of each calendar year, on forms provided by the Director of Development Services, demonstrating that all residents of the adult housing development comply with the restrictions contained in Section XI.AA.2.a. and b; and,
 - v. The covenants and restrictions required by subsections 1 and 2 above may only be modified or amended with the approval of the Planning and Zoning Commission.
4. *Area and bulk requirements.* The following area and bulk requirements shall apply to an adult housing development:

<i>Minimum lot requirements</i>	(same as underlying zone)
<i>Minimum yard requirements</i>	
Front	50
Side	50
Rear	50
<i>Min. parking and loading setbacks</i>	
Side and rear yards	50
Front yards	50
<i>Max. building height</i>	
Stories	2
Feet	35
<i>Detached accessory building</i>	
<i>Minimum distance from</i>	
Principal building	25

Side lot line	50
Rear lot line	50
Front lot line	50
<i>Maximum coverage</i>	
Building coverage	25 percent
Impervious surface	40 percent

BB. Workforce Housing Development (WHD)

1. *Definition. Workforce Housing Development.* A multi-family housing development that qualifies as an assisted housing development as defined in Connecticut General Statutes §8-30g (a)(3).
2. *Purpose and standards.* The purposes of this section are to provide standards for development or redevelopment, on a cooperative basis between the Town and an identified development entity with experience in mixed-income, multi-family workforce housing, on parcels identified by the Town as appropriate for such housing; and to provide dimensional and design standards that will ensure a high-quality residential environment that is compatible with adjacent and neighboring commercial and residential uses.
3. *Zoning requirements.* A WHD housing site development plan shall be approved only on land that has been zoned and for which a site plan has been filed that complies with Section XIII of these regulations and the following conditions and design requirements:
 - a. *Eligible location.* A workforce housing development may be located only on a parcel of land at least five but not more than seven acres; currently zoned BT-1; having access to public water and sewer; having no less than 500 feet of frontage on an existing public street other than the Berlin Turnpike.
 - b. *Density.* The number of dwelling units in the development shall not exceed fifteen (15) units per gross acre, with fractional coverage rounded down to a whole number.
 - c. *Accessory building.* A WHD site development plan may include one accessory building not to exceed 1,500 square feet, one story/20 feet in height, as a resident services building.
 - d. *Grouping.* Each development plan shall group the building in such a manner as to reflect the existing topography and preserve as much of the natural features as possible. The minimum distance between any two residential structures, excluding decks or patios, shall be 75 feet.
 - e. *Architectural style.* Buildings shall be designed to achieve a residential appearance. All buildings shall have pitched roofs and architectural projections per unit. Vertical and horizontal roof articulation is encouraged. Rooftop mechanical equipment, other than solar energy panels, shall be concealed, inconspicuous, and architecturally integrated into the structure. Buildings shall be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible. All

accessory buildings shall have the same architectural style and character as the principal buildings. The architectural style of the development shall be approved by the Planning and Zoning Commission.

- f. Building size. Each residential building shall contain no more than 16 dwelling units and shall be no more than two stories in height, with the interior dimensions of the footprint not to exceed 20,000 square feet. The exterior elevation of each residential building shall not be continuous horizontal planes and shall be broken with setbacks in all instances, to the satisfaction of the Planning and Zoning Commission.
- g. Unit size. The living area of each dwelling unit, inclusive of bathrooms and exclusive of building corridors, if any, shall contain a maximum of 1,200 square feet.
- h. Setbacks from interior roads. All residential buildings shall be set back a minimum of 10 feet from the edge of pavement of interior roads, which shall be private. For the purposes of this section, interior roads are those to be constructed within and as part of developments within the WHD zone.
- i. Landscaped buffers. A WHD site development plan shall include a plan for landscape buffering within the minimum front yard, side yard, and rear yard set forth in Section XI.BB.3.p. of these regulations, in accordance with Section IX.C of these regulations. The applicant shall demonstrate to the satisfaction of the Commission that the proposed landscaping adequately screens mechanicals, dumpsters, parking and ground-level utilities and lighting glare.
- j. Phasing. The Planning and Zoning Commission may approve a development plan to be completed in phases. If so, minimum yard and setback requirements shall not apply to the common line between phases of development.
- k. Fire hydrants. Fire hydrants shall be installed in locations acceptable to the Fire Marshal.
- l. Parking and circulation requirements.
 - i. There shall be at least 2.25 parking spaces for each dwelling unit. No parking shall be allowed within a minimum yard.
 - ii. Interior road standards. All interior roads shall have a minimum paved width of 24 feet.
 - iii. Adequate pedestrian circulation, including a sidewalk on at least one side, shall be required along the interior roads of the development.
 - iv. Parking facilities for both passenger and vehicles shall be convenient to building entrances, adequately graded, drained, paved, and maintained in all seasons to prevent dust, excessive water flow and congestion of driveways, and to promote the safety of residents and visitors.
 - v. Driveways shall be arranged in a suitable and convenient traffic pattern and adequately graded, drained, and maintained

in all seasons to accommodate traffic and to afford satisfactory access to police, firefighting and snow removal equipment.

- m. Private open space. Each residential unit shall be provided with a patio or deck with a maximum of 150 square feet that is directly accessible to the residential unit.
- n. Recreation. A minimum of 10,000 square feet of the total site shall be lawn or landscaping suitable for passive recreation.
- o. Workforce housing requirements. With its site plan application, the developer shall file an Affordability Plan that demonstrates how the Workforce Housing Development will qualify as "assisted housing" in compliance with Connecticut General Statutes §8-30g(a)(3) and sets forth:
 - i. a draft of the covenants and restrictions that will be recorded on the Berlin Land Records and will govern maximum household incomes, maximum rental, and the administration of the Workforce Housing program;
 - ii. identification of the person or entity responsible for administration of the Workforce Housing program;
 - iii. standard for tenant eligibility and calculations of rental amounts for the Workforce Housing Units; and,
 - iv. standards for the issuance of notice of availability of rental units, including an affirmative fair housing marketing plan.
- p. Area and bulk requirements: The following area and bulk requirements shall apply to a workforce housing development:

Minimum front yard, excluding patio	50 feet
Minimum side yard	20 feet
Minimum rear yard	25 feet
Minimum parking space setback from property line	20 feet, in front and side yards, 15 feet in rear yard
Maximum building height	35 feet
Maximum building stories	2.0
Minimum building to building separation	20 feet
Maximum building coverage	25 percent
Maximum impervious coverage	60 percent
Minimum street frontage	500 feet
Minimum lot size	5 acres
Maximum lot size	8 acres

- q. *Approval criteria.* In determining whether to approve a WHD site development plan, the Planning and Zoning Commission shall consider the following criteria:
 - i. The proposed use of the subject site is consistent with the purpose, intent, and provisions of the Town's adopted land use plan, and the proposed use is one which is permitted to be established within the zoning district in which the subject site is located.

- ii. The development and its utilities shall be suitably located, adequately designed, and properly installed to serve the proposed uses, and to protect the environment from adverse air, water, or land pollution.
 - iii. The development of the site shall preserve, to the maximum extent possible sensitive, environmental land features such as steep slopes, wetlands, and large rock outcroppings; shall attempt to preserve public scenic views or historically significant features; and, shall be designed to ensure visual compatibility with structures within view of the site.
 - iv. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with appropriate and orderly development of the area including all adjacent zoning districts in which it is located.
 - v. Loading and parking areas shall be of adequate size for the particular use, and attractively screened from adjoining residential uses, and shall be laid out so as to prevent traffic hazards provided that, at a minimum, the specific provisions of Section IX.B shall be met.
 - vi. As demonstrated by a traffic study, the use shall not have a significant adverse effect on safety in the streets nor unreasonably increase traffic congestion in the area, nor interfere with the pattern of highway circulation.
 - vii. The subject property is suited environmentally for its intended use.
4. *Alternative eligible location and standards.* In addition to the foregoing regulation, a WHD housing site development plan may be located on a parcel of land at least 11 but not more than 13 acres; currently zoned R-43; having access to public sewer and water; and having no less than 1000 feet of frontage on State Route 160/Deming Road. On such an eligible parcel, all regulations and requirements set forth in Section XI.BB.3 above shall apply, with the exception that density shall not exceed 1.5 units per gross acre.

CC. Wineries:

1. *Purpose.* In order to allow for diversity and sustainability of agricultural uses and preserve farm activity and land in Berlin, these regulations will allow for the use of land for a Farm Winery provided such winery will meet the provision of the Liquor Control Act, specifically Section IV 30-16, and any other Federal or State Laws pertaining to alcohol sales, tastings and serving. These Regulations are intended to ensure that Farm Wineries are compatible with the permitted uses in the surrounding area, contribute to the unique community character of Berlin, contribute to the economic viability of Berlin, and to allow for the use of farm land as a part of a Farm Winery. Additionally such Farm Wineries may be permitted to have certain complimentary uses that will help create a viable agricultural endeavor.

2. *Zones.* Farm wineries are permitted as special permit uses in the R-86, MR-1 and MR-2 zones. Does language elsewhere make it clear that the use would be a special permit in the MR zones?
3. *Minimum Bulk Requirements.* A Farm Winery shall be located on a lot or lots having a total minimum area of twenty (20) acres under single ownership and management and located in Berlin. Such twenty (20) acres shall have at least a minimum continuous road frontage of 150 feet on an approved and accepted Town of Berlin Street, or such lot shall be an approved rear lot. The winery must maintain at all times in the Town of Berlin a minimum of ten (10) acres of the winery as either a planted, growing vineyard area or held in abeyance for future planting, while maintaining the minimum requirement of twenty-five percent of all grapes to be grown on the Berlin winery. If construction of a Retail, Tasting or Event Room is to take place as part of the Farm Winery, then a minimum of twenty (20) acres must be under single ownership and merged into one lot to accommodate these uses. The three uses (tasting, retail, or event) may all be on one twenty (20) acre lot, or divided into 3 separate twenty (20) acre lots.
4. *Permitted Uses.* The following uses are permitted if authorized by Special Permit:
 - a. Farm Winery - This use includes the commercial manufacturing of wine on a designated Farm Winery premise from fruit grown on the winery or in Connecticut as per the definition of Farm Winery in these regulations.
 - b. Farm Winery Retail Store ó A Farm Winery Retail Store which is to allow for the sale of wine by the bottle or case(s) can only exist as an accessory use to an actively producing Farm Winery. The hours of operation shall be no greater than Monday through Friday, 11:00 a.m. to 7:00 p.m. and Saturday and Sunday, 1:00 p.m. to 5:00 p.m.
 - c. Tasting and Events Room: A building or a portion of a building located on the Farm Winery may be established for the tasting of wine and for special events. Activities allowed in a wine tasting and event room would include 1) the tasting of wine 2) Special events such as artist receptions and artist exhibitions, wedding and wedding receptions, bar/bat mitzvah, quinceaneras, music entertainment, wine related seminars, wine related meetings and other such events. All such activities shall be located within the tasting/event room building. There may be no more than thirty (30) events per year, with not more than fifteen being outdoors. The winery operator shall submit written notification of Winery Events to the Zoning Officer so that the Zoning Officer can review the event for compliance with all town standards. Such notification shall be made at least fourteen (14) days prior to such an event. Events may be referred to the Police Department or other relevant departments for review. In any circumstance, no such event or tasting shall begin earlier than 10:00 am nor end later than 10:00 pm. For any event described herein, there shall be no more than one hundred twenty five (125) persons in attendance, including any

outdoor patio or porch. The serving of hors d'oeuvres, lite fare menu and pastries are permitted as an accessory use to a tasting/event. Any event over two (2) days must be approved by the Planning Commission as a special event and shall meet the submittal guidelines posted each year in the calendar. Such events may include music, live or otherwise including a DJ. All music must adhere to the following hours: Sunday through Thursday, no earlier than 10:00 a.m. until no later than 8:00 p.m.; and, Friday and Saturday, no earlier than 10:00 a.m. until no later than 10:00 p.m. A Farm Winery shall have a sound absorption plan that complies with the State of Connecticut DEEP noise standards. All speakers and stages must be a minimum of 500 feet from any side or rear property line. Lesser setbacks for the front yard shall be considered based on residential considerations. Temporary tents may be erected for a maximum of two (2) days for any such event. The wine tasting and special events must be conducted at least partially in a building constructed for such use. Pre-packaged finger food and hors d'oeuvres may be served. Full dinners may be served if served by a licensed caterer. All food must be approved by the Central Connecticut Health District.

- d. Outdoor Patio or Porch Areas. Appurtenant to tasting and event rooms, outdoor patios or porches may be allowed as part of the event or tasting room. They may not exceed 50 percent of the floor area of either the event or the tasting room and must be attached to the event or tasting room. Any patio must be enclosed by a fence or gate.
 - e. Only one caretaker, tenant or resident house may be permitted in association with each winery, provided a residential use is permitted within the zone. The residence shall remain separate from the retail or tasting room. A second dwelling may exist on a separate parcel once the minimum of a twenty (20) acre parcel has been met.
 - f. Except for the buildings used specifically and only for the manufacturing of wine or storage of equipment, a Farm Winery may have up to 2,000 square feet (gross floor area) devoted to Tasting, Retail, and Events. The owner may determine the allotment of the 2,000 square feet among the three uses.
5. *Farm Vineyard and Winery Parking.* A minimum of 30 permanent parking spaces is required for a winery/vineyard. The applicant shall provide additional temporary parking spaces at a rate of one space for every three (3) occupants, up to the 150 maximum numbers of guests during special events, or the facility must provide a shuttle service to the location. In keeping with the agricultural purpose and to help maintain the aesthetic nature, the Commission may allow portions of the temporary parking spaces to be maintained as lawn parking. The Commission may require reinforced pavers in grass areas for portions of the proposed temporary parking. Permanent parking spaces shall be paved or approved gravel parking. Compliance with ADA regulations/parking is mandated.

6. *Farm Winery Signage.* Such winery may have one ground sign. Additionally the winery may have one wall sign per approved publicly entered building (not including a residence, accessory structures, etc) of up to four (4) square feet for each sign. Such signs may not be internally illuminated. Any ground sign shall be no taller than ten feet in height and shall be located a minimum of ten (10) feet from the front and side property lines.
7. *Landscape Buffering.* The Planning and Zoning Commission may require additional landscaping, buffering and screening as part of Special Permit approval to minimize impact on adjacent property owners.
8. *New Structures.* Proposed new structures shall reflect or accentuate existing farm structures with historical and/or architectural characteristics. Natural materials are encouraged. Consideration will be given to the use of the building such as whether or not the building is for the storage of equipment or for the winery, tasting or event buildings.
9. *Bulk Requirements.* Structures shall meet the same requirements as other structures in the same zone. The wine production building, tasting room, retail room, and event room shall all be considered principal structures.
10. *Traffic/Neighborhood Impacts.* Traffic resulting from such facility shall have a negligible impact on town roads. The Commission may require a traffic study prepared by a traffic engineer to help determine impact on the town roads. The Commission shall consider the current traffic volumes, the percentage increase that will result from the project, and the quality of the roads that will serve the facility. The Commission may hire an independent traffic engineer to review any traffic study.
11. *Noise.* All events shall comply with the State of Connecticut DEEP noise standards. The Planning and Zoning Commission, as part of the Special Permit application, may require the installation of a noise monitoring system that attenuates the amplified sound when decibel levels exceed State standards. Upon continuous complaints by the public, the Commission may require the monitoring of events and require the Winery Owner to further address sound abatement.
12. *Application Process.*
 - a. The applicant shall follow the guidelines for Special Permit/Site Plan approval. The required Statement of Use shall include the following information:
 - (i) The proposed uses for the property;
 - (ii) The proposed hours of operation for each use proposed; and,
 - (iii) The anticipated periods/seasons (approximate dates) the uses will occur for each proposed use.
 - b. The required site plan shall show the following information:
 - (i) The areas devoted to farming versus farm tourism and all other information required as noted in the regulations for a site plan approval;
 - c. When new buildings and/or structures are to be constructed or modifications made to the exterior of any existing buildings or

structures, architect prepared floor plans and building elevations shall be required.

13. *Other Considerations.* Such uses shall be considered as other commercial uses and trash disposal shall be the owner/tenant responsibility. Any lighting shall be full cut off and shall have zero spillover to the adjacent properties. At all times the winery shall remain in accordance with the State Liquor Control Regulations and more specifically in regards to the serving of food and age requirements.

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SECTION XII. SPECIAL PERMITS

- A. Purpose.** Uses for which conformance to additional standards is required by these regulations shall be deemed to require a special permit from the Commission, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of these regulations. Uses requiring a special permit are declared to possess characteristics of such unique and special form that each specific use shall be considered on its individual merits on a case-by-case basis.
- B. Application procedure.** All applications for a special permit shall be made to the commission on a form prepared by it. In addition, any special permit approved by the commission shall require a site plan application to be submitted and approved in accordance with the provisions of Section XIII prior to the issuance of a building permit. The applicant may choose to submit the site plan application concurrently with, or subsequent to, the special permit application. To be complete and acceptable for Commission review, the application shall include all the following documents or items of information:
1. *Statement.* A written narrative, signed by the applicant, and by the owner if different from the applicant, describing the following in sufficient detail to determine compliance with these regulations:
 - a. The nature and extent of the proposed use or occupancy;
 - b. The number of persons to occupy or visit the premises on a daily basis, including the parking and loading requirements for their use; and
 - c. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
 2. *Required information.* All information required for site plan approval in accordance with Section XIII.A.6.
 3. *Application approval.* Copies of all applications for approvals or for waiver of approvals from any local, regional, state or federal agency or department to which a referral has been made or which has jurisdiction over any aspect of the proposed development, and all actions or comments from such agencies. Where such action or comments from local, regional, state or federal agencies or departments have not been made or completed or are unavailable for any reason by the time the Commission is ready to decide whether to issue the special permit, the Commission may conditionally approve the special permit subject to approval by such other agencies and departments of the proposed development in exactly the same form as when approved by the Commission for the issuance of the special permit.
 4. *Special permit uses involving high traffic generators.*
 - a. All applications for a special permit involving the construction of more than 50 dwelling units, 100 parking spaces, or 25,000 square feet of gross floor area, or any development which, in the commission's judgment, would generate high levels of traffic, shall be accompanied by a traffic study evaluating the impact of the proposal on streets serving and/or affected by the development.

- b. At a minimum, the study prepared by a traffic engineer shall include data and information on existing and projected average daily vehicle trips on nearby roads, peak hour traffic, adequacy of road rights-of-way and travelways, existing roadway capacity, traffic accidents, the traffic impact on the existing roads within 500 feet of the development site, traffic lights and intersections, and recommendations for safe pedestrian and vehicular circulation, including provisions for safe sidewalks and crosswalks for pedestrians. Where applicable, the applicant shall include the written recommendations of the Connecticut Department of Transportation.
5. *Environmental impact analysis.* All applications for special permits meeting the criteria of Section B.4.a. above shall include environmental information for the purpose of compiling a complete environmental impact analysis. The commission may require environmental information for other applications where deemed appropriate. The environmental statement shall address at least the following:
- a. The likely impact of the proposed development on the characteristics of the surrounding neighborhood addressing such issues as congestion on public streets, harmony with surrounding development and effect on property values, and overall neighborhood stability.
 - b. How the proposed development is consistent with the objectives of the town's Plan of Conservation and Development.
 - c. The extent to which any sensitive environmental features on the site may be disturbed and what measures shall be taken to mitigate these impacts. Consideration shall be given to steep slopes, (including erosion control), wetlands, drainage ways and vegetation and any other land feature considered to be significant.
 - d. The impact of the proposed development on the water supply, sanitary sewer and storm drainage system of the town and an indication of improvements that may be necessitated by the project.
 - e. Analysis of vehicular and pedestrian traffic impact on the street system and proposed methods of handling situations where the street system is found to be inadequate.
 - f. Analysis of how the proposed project will affect various town services such as police, fire, schools and recreation.
 - g. Adverse impacts which cannot be avoided.
 - h. Alternatives to the proposed action.
 - i. Mitigation proposed for adverse impacts.
 - j. Known or suspected environmental contamination on the site.
6. *Additional information.* At any time during its consideration of an application for a special permit, the Commission may require the submission by the applicant of such additional information as the Commission deems necessary to determine compliance of the proposed use with these regulations including, but not limited to, information regarding soils, storm drainage, sanitary sewerage, water supply, streets or traffic circulation.

7. *Application fee.* The application fee shall be as established by town ordinance.

C. Process.

1. *Public hearing and notice.* The Commission shall hold a public hearing on all applications for a special permit and shall publish a notice of said hearing in a newspaper of general circulation, all in accordance with the requirements of the Connecticut General Statutes.
2. *Referrals.* To assist with its consideration of an application for a special permit, the Commission may refer such application to any department, agency or official it deems appropriate, to review and comment upon those technical matters which are the concern or responsibility of such department, agency or official.
3. *Notification to property owners.*
 - a. The applicant shall prepare and submit a list of the names and mailing addresses of the owners of all land included within the application and of all properties 500 feet or less distant therefrom, all as shown on the most recent records on file in the town tax assessor's office (or the actual owners of record if otherwise known to the applicant.)
 - b. The applicant shall mail notification of said pending application to at least one owner of each such property not more than 15 days nor less than ten days before the date set for the public hearing, by transmitting the text of the public hearing notice as provided by the Commission.
 - c. Evidence of such mailing, in the form of United States Post Office certificates of mailing, shall be submitted to the Commission's office along with a copy of the above list of property owners, not less than five calendar days prior to the hearing date.
 - d. The Commission shall deny a special permit application if the applicant has failed to comply with any of the required notice and hearing procedures.
4. *Posting of property.*
 - a. A minimum of one such sign shall be posted facing each street on which the subject property has frontage. There shall be a minimum of two signs posted on corner and through lots, one facing each street. In those cases where the subject property does not have frontage on or is not otherwise readily visible from a street, the sign shall be posted in a location deemed suitable by the ZEO.
 - b. Such sign or signs shall be prepared and posted by the applicant. The cost of the sign or signs shall be borne by the applicant.
 - c. Such sign or signs shall be posted at least ten days before the public hearing and shall be removed within five days after completion of the hearing. It shall be the responsibility of the applicant to replace any signs removed prior to the hearing.
 - d. Such sign or signs shall be posted no more than five feet from the street line and shall be visible and readable from the street for the entire time of the required posting.

- e. Signs posted on any property which is the subject of a special permit application shall be a minimum size of two feet by two feet. Printed lettering shall be black on a white or yellow background. The wording and size of lettering shall be as follows:

NOTICE OF HEARING [1-inch letters]
 THIS PROPERTY [1-inch letters]
 FROM _____
 PURPOSE _____
 PLACE _____
 DATE _____

NOTE: Capital letters shall be one inch high
 Lower case letters shall be three- fourths-inch high.

5. *Technical and Legal Assistance.* The Town of Berlin Planning and Zoning Commission may require additional assistance (including but not limited to Engineering and Legal assistance) in evaluating an application submitted in accordance with these regulations if it finds that the nature and intensity of the development may have a significant impact on the site and its surrounding areas and that the Town staff will not be able to complete its review of an application in the time period prescribed by Connecticut General Statutes.

The expense of the additional assistance shall be estimated by the Planning and Zoning Commission, based on a preliminary estimate prepared by a qualified party or expert, and the estimated cost of reviewing the application times one hundred-fifty percent (150%) shall be paid by the applicant and deposited with the Commission or its designated agent. Such deposit shall be made prior to review of the application and/or submission.

Upon completion of the review and final action by the Planning and Zoning Commission on the application, the Town shall determine the costs incurred for the review and refund the excess monies to the applicant. Applicants shall not be responsible for costs incurred for assistance which exceed one hundred-fifty percent (150%) of the Commission's estimate.

D. Considerations.

1. *Special permit considerations.* In evaluating a special permit application, the Commission shall take into consideration the health, safety and welfare of the public and shall prescribe reasonable conditions and safeguards as set forth in these regulations to ensure the accomplishment of those considerations and the following objectives.
 - a. *Consistency with Town Plan.* The proposed use of the subject site is consistent with the purpose, intent and provisions of the town's adopted land use plan, and the proposed use is one which is permitted to be established within the zoning district in which the subject site is located, subject to approval of a special permit

- b. Appropriate Utilities and Improvements. The development and its utilities shall be suitably located, adequately designed, and properly installed to serve the proposed uses, and to protect the environment from adverse air, water, or land pollution.
- c. Preservation of Important Features. The development of the site shall preserve sensitive environmental land features such as steep slopes, wetlands, and large rock outcroppings; shall attempt to preserve public scenic views or historically significant features; and shall be designed to ensure visual compatibility with structures within view of the site.
- d. Appropriate Location and Size. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with appropriate and orderly development of the area including all adjacent zoning districts in which it is located.
- e. Appropriate Loading and Parking. Loading and parking areas and drives shall be of adequate size for the particular use, and attractively screened from adjoining residential uses, and shall be laid out so as to prevent traffic hazards provided that, at a minimum, the specific provisions of Section IX.B shall be met.
- f. Adequate Streets and Highways. The use shall not have a significant adverse effect on safety in the streets nor unreasonably increase traffic congestion in the area, nor interfere with the pattern of highway circulation.
- g. Suitable Location For Use. The location and size of the site, the nature and intensity of the operations involved in or conducted in connection with the use, and the location of the site with respect to streets giving access to it are such that the use shall be in harmony with the appropriate and orderly development in the district in which it is located.
- h. Appropriate Design. The design elements of the proposed development will be attractive and suitable in relation to the site characteristics, the style of other buildings in the immediate area, and the existing and probable future character of the neighborhood in which the use is located.
- i. Appropriate Landscaping and Screening. The location, nature and height of buildings, walls, and fences, planned activities and the nature and extent of landscaping on the site will be such that the use shall not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
- j. Emergency Preparedness. The proposed use or activity shall provide easy accessibility for fire apparatus and police protection and is laid out and equipped to further the provision of emergency services.
- k. Long Term Viability. Adequate provision has been made for the sustained maintenance of the proposed development (structures, streets, and other improvements).

1. **Purposes of Regulations.** The proposed use will be in accordance with the purposes of these Regulations.
2. **Conditions and safeguards.** The Commission, in approving a special permit, may impose such restrictions and conditions as appear to the Commission to be reasonable in order to accomplish the objectives set forth in Section XII.D. above. Any conditions or safeguards, attached to the granting of a special permit, shall attach to the land and restrict its use as long as the special permit use shall still be in operation. These conditions and safeguards shall continue in force regardless of any change in ownership of the property. The conditions and safeguards may concern, without limitation, the location of structures; their size and layout; the distribution of and relationship between uses and structures; vehicular and pedestrian circulation; parking; open space; landscaping and screening; signs and lighting; the design and architectural treatment of all structures; and the maintenance of improvements to the property. The Commission may require, as a condition of special permit approval, that the applicant provide a guarantee in the form of a performance bond in accordance with Section XIII.A.12.

E. Following approval.

1. **Expiration of special permits.** A special permit shall be deemed to authorize one particular special use and shall expire if the special use shall cease for more than six consecutive months for any reason.
2. **Amendments or modifications.** Applications for special permit amendments shall be made in the same manner as the original application. The amendment application shall be complete as for an original application, except that any item of information or detail on a plan that is not changed from the previous application may be indicated as "no change." At the Commission's discretion, where the changes made in the amended application are minor, the Commission, without a public hearing, may approve an application for an amendment that includes only the new or changed items of information, together with a written statement that no other aspects of the previously filed application have been changed.
3. **Substantial construction within two years.**
 - a. If substantial construction has not taken place on the buildings or structures on the site within two years from Commission approval of the special permit, the special permit shall become null and void. Substantial construction shall mean the completion of at least 50 percent of all foundation structures and at-grade slabs. If the special permit for said construction is declared null and void by the Commission, the remaining construction shall be suspended until a new special permit is approved.
 - b. The Commission, upon request of the applicant prior to the expiration date, may extend for additional one year periods the time period noted in Section XII.E.3.a. above if the Commission determines that governmental approvals have been delayed through no fault of the applicant. In addition, if any delay in substantial construction occurs

due to strikes, riots, acts of God, shortages of labor or material, war, or any other such cause beyond the control of the applicant, the Commission, after substantiation by the applicant of the cause and of the attributable delay time, may include that delay time in calculating the time period between the approval of the special permit and substantial construction.

- c. The Commission, upon request of the applicant, may also approve a staging timetable for the start of construction or the establishment of a use, provided that such a staging timetable shall include all portions of the proposed development, and the approval of such staging program shall take precedence over other provisions established herein.
4. *Revocation of special permits.* Whenever the Commission shall find, in the case of any special permit granted pursuant to the provisions of this section, that any of the terms, conditions or restrictions upon which such approval was granted are not being complied with, the Commission shall notify the applicant in writing of the specifics of the noncompliance and shall provide reasonable opportunity for the applicant to comply. If after such notification and specified time period for compliance, unless there is full compliance with the Commission's notification, the Commission may rescind and revoke such special permit after giving due notice by certified mail to the owner of record of the property involved, the mortgagee of record, and the applicant of record for said special permit. Furthermore, whenever the use or uses permitted by a special permit shall be abandoned, the approval of such permit shall be considered rescinded and revoked. Continuation of a use for which a special permit approval has been rescinded and revoked shall constitute a violation of these regulations.

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SECTION XIII. SITE PLANS

A. Requirements and procedures.

1. *Purpose.* The site plan approval process is intended to ensure that all aspects of industrial, commercial and multifamily residential development in the town, as well as other specialized uses, comply with the requirements and standards of these regulations and that adequate provision is made in such developments for vehicular and pedestrian access and circulation, parking, landscaping, buffers, signage, lighting, drainage, utilities, and other aspects of the proposed development and use of the land.
2. *Authority.*
 - a. Site plan approval shall be obtained from the Commission prior to the establishment, expansion or change of any use of land and/or structure which requires a special permit. Such site plan approval shall be obtained concurrently with or subsequent to the granting of the special permit.
 - b. Site plan approval shall be obtained from the Commission prior to the establishment, expansion or change of any use of land and/or structure which is permitted by right and requires site plan approval. Such site plan approval shall be obtained prior to the issuance of a building permit, including a permit for a building foundation.
3. *Preapplication procedure.*
 - a. Preapplication conference. Prior to submission of a formal site plan application, the applicant may meet with town staff to discuss the application requirements and review preapplication plans.
 - b. Preapplication plan. A preapplication plan may be submitted to the Commission and/or to town staff for the purpose of preliminary discussion. The plan may be general in nature but should be sufficiently clear to indicate all proposals. Any comments or suggestions on the preapplication plan by the Commission or town staff shall not be construed as a form of approval and shall not be binding upon the Commission should a subsequent application for the site be officially filed.
4. *Application procedure.*
 - a. All applications for site plan approval shall be submitted in writing to, and in a form prescribed by, the Commission. The Commission shall adopt administrative procedures therefore including, but not limited to, application forms, fees, map submission requirements, number of copies, and filing deadlines. Failure to comply with the application submission requirements of these regulations shall be grounds for the Commission to deny such application.
 - b. Exceptions: Upon written request by the applicant, the Commission may waive or modify one or more of the map submission requirements of the site plan application if:

- i. The proposed improvement or development will not affect existing parking, circulation, drainage, building relationships, landscaping, signs, lighting or any other consideration of site plan approval; or
 - ii. The information required is unnecessary for the particular application and the lack of such information would not impair the Commission's determination as to the site plan's conformance with these regulations.
- 5. *Site plan requirements.* All site plans shall be prepared in accordance with the following general requirements:
 - a. The site plan shall be based upon an accurate and up-to-date class A-2 survey of the property prepared in accordance with the standards as defined in the "Code of Recommended Practice for Standards of Accuracy of Surveys and Maps," as prepared and adopted by the state board of registration, as may be amended. The survey map shall be certified, signed and sealed by a land surveyor. If a separate survey map is used, a copy shall be attached to the site plan.
 - b. The site plan shall be prepared, signed and sealed by an engineer, architect and/or landscape architect, whichever shall be appropriate.
- 6. *Required information.* All site plan applications shall include the following information:
 - a. General information.
 - i. Name and address of the applicant and owner of record as listed on the town's land records, and applicant's interest in property.
 - ii. Date, north arrow, and numerical and graphical scale.
 - iii. A key map showing the subject property in relationship to adjoining and nearby streets, at a scale of one inch equals 800 feet.
 - iv. A table or chart indicating the proposed number or amount and type of uses, lot area, lot width, yards, building height, coverage, floor area, parking spaces, landscaping, open spaces, wetlands and other elements as they relate to the requirements of these regulations.
 - b. The property.
 - i. The boundaries and area of the property and names, lot and block numbers of all abutting owners, including those across abutting streets.
 - ii. Location, width, and purpose of all existing and proposed easements and rights-of-way on the property.
 - c. Buildings and uses.
 - i. Location, dimensions, area, height and setbacks of all existing and proposed buildings, signs, fences, and walls.
 - ii. Location of all existing and proposed uses and facilities not requiring a building such as, but not limited to, swimming pools, tennis courts, light standards, tanks, transformers and dumpsters.

- d. Parking, loading and circulation.
 - i. Location, arrangement, and dimensions of proposed automobile parking spaces, aisles, vehicular drives, fire lanes, entrances, exits, and ramps.
 - ii. Location, arrangement, and dimensions of proposed loading docks, loading and unloading areas.
- e. Signs and lighting.
 - i. Location, size, height, orientation and plans of all proposed signs.
 - ii. Location, size, height, orientation and design of all proposed outdoor lighting.
- f. Utilities.
 - i. Location and design of all existing and proposed sanitary sewers, water supply facilities, septic tanks, leaching fields and refuse collection areas, as well as other underground and aboveground utilities.
 - ii. All proposed utilities shall be located underground.
- g. Stormwater management. The design of any proposed development shall include a stormwater management plan which shall be shown on, or accompany the site plan. The applicant shall be fully responsible for constructing adequate facilities for the control, collection, conveyance, and acceptable disposal of storm water, or other surface or subsurface water which may be detrimental to health, safety, and convenient use of any portion of the property. Means of water dissipation other than rip-rap shall be used.
 - i. The site's stormwater runoff system (piping and catch basins) shall be sized to accommodate runoff from a 25-year design storm. Cross culverts and basins shall be sized to accommodate runoff from a 100 year design storm.
 - ii. The system shall be designed so as to prevent runoff from parking lots, roofs, and access drives from flowing into the street.
 - iii. If the system shall be tied into the town's street drainage system, the applicant shall secure from the town the necessary permits to make such connection.
 - iv. All drainage facilities shall be designed by a registered professional engineer and be subject to the review by the town engineer and final approval by the Planning and Zoning Commission.
 - v. The design of stormwater management systems shall be determined by local conditions including the general terrain, soil type, steepness of slope, existing ground cover, and any other relevant factors.
 - vi. Open drainage systems, including retention ponds, detention ponds, culverts, drainage swales, or impounded water courses

- shall be visually screened from view from adjacent properties and public rights-of-way.
- h. Topographic map. The topographic map shall illustrate the existing and proposed conditions of the property and shall illustrate the following information:
 - i. The boundaries and area of the property.
 - ii. Location, width, and purpose of all existing and proposed easements and rights-of-way on the property.
 - iii. Existing and proposed contours with intervals of two feet, referred to NGV datum.
 - iv. Location of all existing wooded areas, watercourses, wetlands, rock outcrops, and other significant physical features, and, where appropriate, the wetlands boundary, the flood hazard area, the aquifer boundary, slopes over 15 percent, and stream encroachment lines.
 - v. The approximate amount of earth and rock products to be filled or removed from the site.
 - i. Master phasing plan. In cases where the applicant wishes to develop in stages, an overall site and staging plan (master phasing plan) indicating ultimate development for the entire property shall be submitted at the same scale as the official site plan. The Commission's special permit approval shall state those aspects of the overall site and staging plan that it has approved, and no other aspects may be constructed, erected, or altered without receipt and approval of a new or revised special permit.
 - j. Architectural plans. The applicant shall submit preliminary architectural drawings for all proposed developments in the Planned Shopping B Zone district. For proposed developments in all other zoning districts which require site plan approval, the applicant shall submit preliminary architectural drawings which show exterior wall elevations, rooflines, and façade materials of proposed buildings and structures.
 - k. Open space and landscaping plan. The open space and landscaping plan shall illustrate the existing and proposed landscape development of the property and shall include the following information:
 - i. Size, arrangements, uses and dimensions of all open spaces on the site.
 - ii. Location, general layout, type and size of buffers or landscape areas, plant material, fencing, screening devices, decorative paving, or other materials proposed.
 - iii. Location of existing trees with a trunk caliper of more than six inches measured three feet above ground except in densely wooded areas where the foliage line shall be indicated.
 - iv. Location of all existing watercourses, wetlands, rock outcrops and other significant physical features.

- l. Erosion and sediment control plan. All applications shall contain the information required by Section X.A.
 - m. Off-site information. The Commission may require the applicant to submit off-site information including, but not limited to, the location of: buildings, parking areas and curb cuts on adjoining properties, including those across the street; traffic lights and controls, public trees, catchbasins, manholes, hydrants, utility poles and utility lines located in adjacent streets, and zoning district boundary lines.
 - n. Impact analysis. In those cases where the Commission believes that public facilities or the environment may be adversely affected by the proposed development, the Commission may require the applicant to submit an environmental impact analysis of the development in accordance with the requirements of Section XII.B.5.
 - o. Additional information. During its consideration of an application for site plan approval, the Commission may require the submission by the applicant of such additional information as the Commission deems necessary to determine compliance of the proposed site plan with these regulations.
 - p. Environmental contamination. If there is reason to believe that the subject site contains environmental contaminants due to past use and/or known history, the Planning and Zoning Commission may request any information that it deems relevant as to the extent of the environmental contamination, and its potential impact upon public health.
7. *Referrals.* To assist with its consideration of an application for site plan approval, the Commission may refer the plan to any department, agency or official it deems appropriate, to review and comment upon those technical matters which are the concern or responsibility of such department, agency or official.
8. *Procedure.* The Commission may hold a public information meeting or public hearing on an application for site plan approval. If a public hearing is to be held, the Commission shall publish notice of said hearing in a newspaper of general circulation in accordance with the requirements of the Connecticut General Statutes.
9. *Standards for approval.* In reviewing and acting upon an application for site plan approval, the Commission shall take into consideration the health, safety and welfare of the public in general and the immediate neighborhood in particular, as well as the following factors:
 - a. The general conformity of the site plan with the intent of the town's Plan of Conservation and Development; however the Plan of Conservation and Development shall not take precedence over specific provisions of these regulations;
 - b. The arrangement of buildings, structures and uses on the site;
 - c. The adequacy of design of the interior vehicular circulation system to provide safe and convenient access to all structures, uses, parking spaces and loading spaces;

- d. Provision for sidewalks for safe pedestrian movement within and adjacent to the site;
 - e. The adequacy of access for fire, police and ambulance services;
 - f. The adequacy of design of the storm drainage system to accommodate any increase in stormwater runoff and to minimize soil erosion and sedimentation;
 - g. The adequacy of water, sewer and other public facilities to accommodate the development;
 - h. The location, intensity and direction of outdoor lighting and the proposed times for its use;
 - i. The size, location and type of any outdoor storage facilities, including dumpsters;
 - j. The size, location and type of signs, and their appropriateness to the neighborhood; and
 - k. The adequacy of the landscaping treatment, including any buffers and other screening.
 - l. That the site contains no environmental contaminants that would endanger the users or inhabitants of the site, or if environmental contaminants exist, that remediation of these contaminants is in conformance with relevant state and federal standards, and that no hazard to health will result.
10. *Conditions and safeguards.* In granting site plan approval, the Commission may attach such conditions and safeguards as may be required to protect the public health, safety and general welfare and to ensure continued compliance with these regulations.
11. *Phasing.* In cases where the development of the property is proposed to be undertaken in phases, the Commission may grant site plan approval limited to each phase of development. Each phase shall be capable of independent existence without the completion of succeeding phases. Buffer and setback requirements shall not apply to the common line between phases of development.
12. *Bonding requirements.*
- a. Posting of performance bond.
 - i. As a condition of site plan approval, the Commission may require that the applicant post with the town a performance bond to guarantee satisfactory completion of all proposed site improvements (excluding buildings) shown on the approved site plan.
 - ii. An itemized estimate of the cost of the site improvements shall be prepared by the applicant, including a separate inflation factor for the estimated construction period, and shall be submitted to the town engineer and the town planner for approval.
 - iii. The bond shall be posted with the town for an initial period of 24 months unless an extension of time shall be requested by the applicant and granted by the Commission.

- b. Reduction of performance bond. Upon the completion of at least 25 percent, 50 percent and/or 75 percent of the cost of the bonded site improvements, the applicant may request in writing a reduction of the bond. The Commission shall cause the site to be inspected by the zoning enforcement officer, the town engineer, and/or other appropriate town officials to determine if the portion of the required site improvements for which the reduction is being requested has been satisfactorily completed in accordance with the approved site plan. Based upon these findings, the Commission may authorize the reduction of such bond.
 - c. Release of performance bond/posting of maintenance bond. Before the release of a performance bond the Commission:
 - i. Shall require the applicant to submit "as-built" drawings in accordance with Section XIII.A.18.
 - ii. May require that the applicant post a maintenance bond to be retained for a period of 18 months after vegetative cover and plantings have been installed in order to guarantee the survival of landscaping and to ensure any other relevant improvements.
 - d. Form of bond. Performance and maintenance bonds required under this section shall:
 - i. Be in a form and with surety satisfactory to the Commission; and
 - ii. Be in the form of cash; a surety bond from a surety company licensed to conduct business in Connecticut; a certified check payable to the Town of Berlin; a savings passbook in the name of the Town of Berlin to be held in escrow by the town, together with a letter from the applicant stating that the passbook is being provided in accordance with the approved site plan and may be drawn against by the town, if necessary; or an irrevocable letter of credit from a bank chartered to conduct business in Connecticut.
- 13. *Expiration of site plan.* All site improvements in connection with an approved site plan shall be completed within the time period specified in the Connecticut General Statutes. Failure to complete all site improvements within such period shall result in automatic expiration of the approval of such site plan.
- 14. *Amendments.* All site improvements shall be carried out in strict compliance with the site plan approved by the Commission. Minor amendments to the approved site plan may be approved only in writing by the town planner upon the written request of the applicant. All other amendments or modifications to the site plan shall require the approval of the Commission.
- 15. *Continuance.* All conditions and improvements shown on the approved site plan shall remain with the site and continue in force as long as the use indicated on the approved site plan shall be in operation, regardless of any change in ownership of the property.
- 16. *Certificate of zoning compliance.*

- a. A certificate of zoning compliance shall be issued by the ZEO after all the site improvements have been completed in accordance with the approved site plan.
 - b. If the site improvements cannot be completed because of weather, or if an alteration does not require the vacating of the premises or if a portion of a building or development is ready for occupancy before the completion of the entire building or development, or for other pertinent reasons, a conditional certificate of zoning compliance may be issued by the ZEO for a period not to exceed 180 days, provided that a portion of the posted bond shall be retained in an amount sufficient to cover the cost of completing the remaining site improvements or, if necessary, a new bond shall be posted. Upon satisfactory completion of the remaining site improvements and the written request of the applicant, the Commission shall then release the bond.
17. *Certificate of occupancy.* A certificate of occupancy shall not be issued by the building official until the ZEO has determined that the site improvements have been completed in accordance with the approved site plan and has issued an unconditional certificate of zoning compliance.
18. *As-built drawings.*
 - a. No certificate of zoning compliance or certificate of occupancy shall be issued until as-built drawings have been submitted to the ZEO and town engineer and are determined by them to be in substantial compliance with the approved site plan.
 - b. The as-built drawings shall:
 - i. Be prepared at the same scale as the site plan by an engineer and/or surveyor, as appropriate;
 - ii. Show the actual installation of all site improvements, the exact location of buildings, and other required items at a level of detail at or exceeding that of the approved site plan;
 - iii. Include a certification as to substantial compliance with the approved site plan; and
 - iv. List or show all deviations from the approved site plan.
 - c. The ZEO shall submit all as-built drawings which substantially deviate from the approved site plan to the Commission for its determination of acceptance or need for plan amendment.
19. *Technical and Legal Assistance.* The Town of Berlin Planning and Zoning Commission may require additional assistance (including but not limited to Engineering and Legal assistance) in evaluating an application submitted in accordance with the regulations if it finds that the nature and intensity of development may have a significant impact on the site and its surrounding areas and that Town staff will not be able to complete its review of an application in the time period prescribed by the Connecticut General Statutes. The expense of the additional assistance shall be estimated by the Planning and Zoning Commission, based on a preliminary estimate prepared by a qualified party or expert, and the estimated cost of reviewing the application

times one hundred-fifty percent (150%) shall be paid by the applicant and deposited with the Commission or its designated agent. Such deposit shall be made prior to review of the application and/or submission.

Upon completion of the review and final action by the Planning and Zoning Commission on the application, the Town shall determine the costs incurred for the review and refund the excess monies to the applicant. Applicants shall not be responsible for costs incurred for assistance which exceed one hundred-fifty percent (150%) of the Commission's estimate.

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SECTION XIV. ADMINISTRATION

- A. Interpretation of these regulations.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum or maximum requirements adopted for the promotion of the public health, safety, and welfare. These regulations are not intended to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to law, relating to the use of lots, buildings or structures; nor are these regulations intended to interfere with, abrogate or annul any easements, covenants or other agreement between parties; provided, however, that where these regulations impose a greater restriction upon the use or height of buildings or structures, or require larger yards, courts, or other open spaces than are imposed or required by existing provisions of law or ordinance, or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of these regulations shall control.
- B. Enforcement.** These regulations shall be enforced by the ZEO who is hereby empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereon in violation of any provisions of these regulations or, when the violation involves grading or filling of land or the removal of earth, to issue in writing a cease and desist order to be effective immediately. The owner or agent of a building or premises where a violation of any provision of these regulations has been committed or exists; or the lessee or tenant of an entire building or an entire premises where such violation has been committed or exists; or the owner, agent, lessee or tenant of any part of a building or premises in which such violation has been committed or exists, or the agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation exists, shall be subject to penalties in accordance with the provisions of Connecticut General Statutes § 8-12.
- C. Penalties.** Any person who:
1. Having been served by the ZEO with an order to discontinue any such violation, fails to comply with such order within 15 days after such service; or
 2. Having been served with a cease and desist order with respect to a violation involving grading or filling of land or removal of earth, fails to comply with such order immediately; or
 3. Continues to violate any provision of these regulations in the manner named in such order shall be subject to penalties in accordance with the provisions of Connecticut General Statutes § 8-12, as amended.
- D. Zoning permits.**
1. *Permit required.* No building or structure shall be erected, constructed, enlarged, altered or moved, or excavation made therefore, or work begun thereon, or use made of any land or premises, until a certificate of zoning compliance therefore has been issued by the ZEO. A zoning permit shall be

required in addition and prior to the issuance of a building permit. Except upon a written authorization of the ZBA, under circumstances as set forth in Section XIII, no zoning permit shall be issued for any building, structure or use which, when constructed, altered, expanded, moved or established, would be in violation of any of the provisions of these regulations. No zoning permit shall be issued for a use subject to special permit approval or site plan approval, except in full accordance with all conditions and requirements of such approvals.

2. *Application.* Application for a zoning permit shall be made in duplicate to the ZEO. Such application shall contain or be accompanied by the following:
 - a. Five copies of a plot plan, drawn to scale and certified substantially correct by a registered land surveyor, showing the actual shape, dimensions and area of the lot to be built upon, the actual size and location on the lot of any building(s) proposed to be built and any existing building(s) or structure(s) that are to remain, the existing and intended future use to be made of the proposed improvements and the premises, and such other information with regard to the subject property and neighboring properties as may be necessary to determine and provide for the proper enforcement of these regulations. One copy of the plan shall be returned to the applicant and one copy shall be forwarded to the building official subsequent to action by the ZEO. In the case of application requiring special permit or site plan approval, the plan approved by the Commission shall be deemed adequate to fulfill this requirement.
 - b. Proof of approval by any other official or agency whose approval is required for such proposed structure or use, other than the building official.
3. *Action on application.* The ZEO shall issue a zoning permit upon determination that the proposed development is in accord with these regulations. The ZEO shall disapprove any application for a development which is not in accord with these regulations and shall state his reasons for such disapproval in writing.
4. *Time period.* A zoning permit shall be valid as the basis for the issuance of a building permit for a period of six months from the date of issuance thereof. Such permit may be extended by the ZEO for an additional period of six months if applied for and if the ZEO determines that there have been no material changes with respect to the proposed application and that it would still comply with all provisions of these regulations.
5. *Foundation survey.* In the case of an application involving a building or structure, the applicant, upon completion of the foundation walls of the building or structure, shall be required to submit to the ZEO an A-2 survey prepared by a land surveyor showing the actual location of such foundation walls on the lot. No building or structure thereafter shall be constructed above the foundation walls until said foundation survey has been approved by the ZEO as complying with the pertinent provisions of the zoning permit and these regulations.

6. *Permit invalid.* Any permit issued on the basis of false information supplied by the applicant shall be null and void.

E. Zoning amendments.

1. *Authority.* The commission, either on its own initiative or by the petition of others, may amend these regulations or the zoning map, in accordance with the provisions of the Connecticut General Statutes.
2. *Application.* All petitions requesting an amendment to the zoning regulations and/or zoning map shall be submitted in writing to, and in a form prescribed by, the Commission. The Commission may deny a zoning petition for incomplete information having been submitted.
3. *Referrals.*
 - a. Any proposed amendment to the zoning map or zoning regulations affecting the use of a zoning district any portion of which is within 500 feet of the town line shall be referred by the Commission to the appropriate regional planning agency, as required by the Connecticut General Statutes.
 - b. To assist with its consideration of any petition to amend these regulations or the zoning map, the Commission may refer such petition to any department, agency or official it deems appropriate, to review and comment upon those technical matters which are the concern or responsibility of such department, agency or official.
4. *Notification to property owners.* On proposals for amending the zoning map, the applicant shall submit to the Commission the names and addresses of the current property owners (as shown on the tax assessor's records) within a 500 feet radius of the boundaries of the subject property and said property owners shall be notified of the scheduled public hearing by certified mail by the applicant. Evidence of such mailings shall be provided by the applicant to the Commission at least five days prior to the public hearing on the subject property. Notification to the property owners shall not be required for amendments to the zoning map which would affect large areas of the town encompassing multiple properties when initiated by the Commission.
5. *Public hearing.* The Commission shall hold a public hearing on all proposed amendments to these regulations or to the zoning map, shall decide thereon, and shall give notice of its decisions as required by the provisions of the Connecticut General Statutes.

F. Posting of property.

1. Except as otherwise specified in Sections XIV.F.4. and XIV.F.5. below, a notice of hearing sign or signs shall be posted on any property which is the subject of a public hearing before the Commission or Zoning Board of Appeals.
 - a. A minimum of one such sign shall be posted facing each street on which the subject property has frontage. There shall be a minimum of two signs posted on corner and through lots, one facing each street. In those cases where the subject property does not have frontage on or is

not otherwise readily visible from a street, the sign shall be posted in a location deemed suitable by the ZEO.

- b. Such sign or signs shall be posted no more than five feet from the street line and shall be visible and readable from the street for the entire time of the required posting.
 - c. Such sign or signs shall be posted at least ten days before the public hearing and shall be removed within five days after completion of the hearing. It shall be the responsibility of the applicant to replace any signs removed prior to the hearing.
 - d. Such sign or signs shall be prepared and posted by the applicant. The cost of the sign or signs shall be borne by the applicant.
2. Signs posted on any property which is the subject of a zone change shall be a minimum size of four feet by five feet. Printed lettering shall be black on a yellow background. The wording and size of lettering shall be as follows:

NOTICE OF HEARING	[3 inch letters]
CHANGE OF ZONE THIS PROPERTY	[3 inch letters]

FROM_____	NOTE: Capital letters shall be one inch high. Lowercase letters shall be three-fourths inch high.
TO_____	
PLACE_____	
DATE_____	

3. Signs posted on any property which is the subject of an application to come before the Commission or the ZBA for other than a zone change shall be a minimum size of two feet by two feet. Printed lettering shall be black on a yellow background. The wording and size of lettering shall be as follows:

NOTICE OF HEARING	[1 inch letters]
THIS PROPERTY	[1 inch letters]

FROM_____	NOTE: Capital letters shall be one inch high. Lowercase letters shall be three-fourths inch high.
PURPOSE_____	
PLACE_____	
DATE_____	

4. Applications to the ZBA for yard variances shall not require the posting of a sign. In lieu thereof, the applicant shall notify by a certificate of mailing those property owners whose lots abut the subject property. Appeals to the ZBA in accordance with Section XV.A.1. also shall not require the posting of a sign.
5. Amendments to the zoning map initiated by the Commission shall not require posting of a sign.

SECTION XV. ZONING BOARD OF APPEALS

A. Powers and duties. The Zoning Board of Appeals (ZBA) shall have all the powers and duties prescribed by Connecticut General Statutes §8 chapter 124 and by Connecticut General Statutes §14 Chapter 250, and by these regulations, which powers and duties are summarized and more particularly specified below. None of the following provisions shall be deemed to limit any of the authority of the ZBA that is conferred by general law.

1. *Appeals.* The ZBA shall have the authority to hear and decide upon any appeal where it is alleged that there is an error in the order, requirements, decision or determination of the ZEO. No question of hardship shall be involved in such an appeal, and the action of the ZBA thereon shall be limited to the question of whether or not, and to what extent such order, requirement, decision, or determination was a correct interpretation of the subject provision of these regulations.
2. *Variances.* The ZBA shall have the authority to vary or adjust the strict application of these regulations in only those cases where the unusual size, shape or topography of a lot or other unusual physical conditions pertaining to it or to any building situated thereon make it impossible to strictly apply a specific provision of these regulations to such lot without resulting in exceptional difficulty or unusual hardship, so that substantial justice shall be done and the public health, safety and welfare secured.
3. *Location of motor vehicle uses.* The ZBA shall have the authority to hear and decide upon all requests for certificates of approval for motor vehicle sales, services and repair uses in accordance with the Connecticut General Statutes. Such authority shall not supersede the Commission's authority to hear and decide upon requests for special permits for such uses.
4. *Use variances.*
 - a. No use variance shall be granted by the ZBA which would permit:
 - i. A use prohibited either implicitly or explicitly by these regulations.
 - ii. The expansion of a nonconforming use;
 - iii. The number of dwelling units on a lot to exceed the maximum allowed in the zone in which the lot is located; or
 - iv. A use otherwise allowed by special permit in the zone in which the use is located.
 - b. Use variances may be granted by the ZBA only in the GI and PI zones and only if there is no other reasonable use of the land.
 - c. All appeals and applications to the ZBA shall be taken within 15 days of the date of an adverse decision. All such appeals and applications shall be in writing, on forms prescribed by the ZBA, and each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provisions of the regulations involved, and shall exactly set forth as the case may be, the interpretation that is claimed, the details of the adjustment that is

applied for, and the grounds for which it is claimed that the same should be granted, or the use for which a special permit is sought.

B. General rules.

1. *Appeals.* All appeals to the ZBA from an order, requirement, decision or determination of the ZEO shall be taken within 15 days of such action by the ZEO. Such appeals shall be made in writing on a form prescribed by the ZBA and shall be accompanied by a filing fee to cover the cost of processing the appeal.
2. *Application.* All applications for variances shall be submitted in writing in a form prescribed by the ZBA. The ZBA may deny an application for incomplete information having been submitted.
3. *Referrals.* To assist with its consideration of an appeal or application, the ZBA may refer such appeal or application to any department, agency or official it deems appropriate, to review and comment upon those technical matters which are the concern or responsibility of such department, agency or official.
4. *Public hearing.* The ZBA shall hold a public hearing on all appeals and applications for variances, shall decide thereon, and shall give notice of its decision in accordance with the provisions of the Connecticut General Statutes.
5. *Variance.* No variance shall be granted by the ZBA unless it finds:
 - a. That there are special circumstances or conditions, fully described in the findings of the ZBA, applying to the lot or structure for which the variance is sought, which are peculiar to such lot or structure and do not apply generally to lots or structures in the neighborhood and which have not resulted from any willful act of the applicant subsequent to the date of adoption of the regulation from which the variance is sought, whether in violation of the provisions herein or not;
 - b. That, for reasons fully set forth in the findings of the ZBA, the aforesaid circumstances or conditions are such that the particular application of the provisions of these regulations would deprive the applicant of the reasonable use of the lot or structure, that the granting of the variance is necessary for the reasonable use of the lot or structure, and that the variance as granted by the ZBA is the minimum adjustment necessary to accomplish this purpose;
 - c. That the granting of the variance shall be in harmony with the general purposes, and intent of these regulations and the town's Plan of Conservation and Development and shall not be injurious to the neighborhood or otherwise detrimental to the public health, safety and welfare; and
 - d. That the granting of the variance is not based upon the nonconformity of neighboring lots, uses, buildings or structures, nor upon a financial or economic hardship.
6. Whenever the ZBA grants a variance, it shall include in its minutes as part of the record the reason for its decision, the specific provision of these

regulations which was varied, the extent of the variance and the specific hardship upon which its decision was based.

7. In exercising any of its authority, the ZBA may attach any conditions and safeguards as may be required to protect the public health, safety and general welfare, and to ensure ongoing compliance with these regulations. Violation of such conditions and safeguards shall be deemed to be a violation of these regulations.
8. Any variance granted by the ZBA shall become effective upon its filing by the applicant in the office of the town clerk and in the town's land records.
9. Any variance granted by the ZBA which is not recorded within one year from its effective date shall be null and void.
10. If the ZBA denies a variance, it shall not be required to hear an application for the same variance or substantially the same variance for a period of six months after the date of denial, unless the circumstances associated with the application have substantially changed. A change in ownership of property or any interests therein shall not be deemed a substantial change.
11. No appeal or variance shall be granted that could alter, revise or otherwise change any of the conditions attached to the granting of a special permit by the Commission, if such conditions are more restrictive than otherwise provided for in these regulations or if such conditions do not refer to specified standards in these regulations.
12. Prior to the public hearing for any variance, a notice of hearing sign shall be posted on the subject property in accordance with the provisions of Section XIV.F.
13. Prior to the public hearing for any variance, the applicant shall notify all current property owners within a 250-foot radius of the boundaries of the subject property in accordance with the provisions of Section XIV.E.4.
14. *Technical and Legal Assistance.* The Town of Berlin Zoning Board of Appeals may require additional assistance (including but not limited to Engineering and Legal assistance) in evaluating an application submitted in accordance with the regulations if it finds that the nature and intensity of development may have a significant impact on the site and its surrounding areas and that Town staff will not be able to complete its review of an application in the time period prescribed by Connecticut General Statutes. The expense of the additional assistance shall be estimated by the Zoning Board of Appeals, based on a preliminary estimate prepared by a qualified party or expert, and the estimated cost of reviewing the application times one hundred-fifty percent (150%) shall be paid by the applicant and deposited with the Board or its designated agent. Such deposit shall be made prior to review of the application and/or submission.
Upon completion of the review and final action by the Zoning Board of Appeals on the application, the Town shall determine the costs incurred for the review and refund the excess monies to the applicant. Applicants shall not be responsible for costs incurred for assistance which exceed one hundred-fifty percent (150%) of the Board's estimate.

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SECTION XVI. VALIDITY AND EFFECTIVE DATE

- A. If any provision of these regulations is adjudged by a court of competent jurisdiction to be invalid, the effect of such decision shall be limited to the provision expressly stated in the decision to be invalid, and all other provisions of these regulations shall continue to be valid and fully effective.
- B. If any provision of these regulations is adjudged by a court of competent jurisdiction to be invalid as such provision applied to a particular building, other structure or lot, the effect of such decision shall be limited to the particular building, other structure or lot, and the general application of such provision to other buildings, structures or lots shall not be affected.
- C. The effective date of these regulations shall be February 8, 2018.