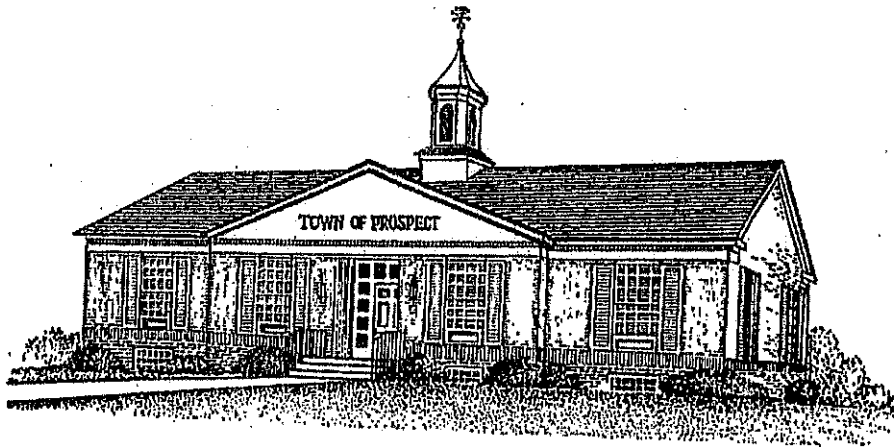


TOWN OF PROSPECT,  
CONNECTICUT

**ZONING  
REGULATIONS**



**January 1, 2017**

**TOWN OF PROSPECT, CONNECTICUT**  
**ZONING REGULATIONS**

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**First adopted:** September 26, 1962

**As amended to:** January 1, 2017

# ZONING REGULATIONS

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## **PREAMBLE**

The Planning & Zoning Commission of the Town of Prospect, County of New Haven, State of Connecticut, hereby adopts and enacts these Regulations as the Zoning Regulations of the Town of Prospect. These are adopted under authority of the General Statutes of Connecticut as amended. All regulations in effect prior to the adoption of these regulations unless otherwise amended or deleted are inclusive with these regulations.

The Zoning Regulations for the Town of Prospect were initially adopted on September 26, 1962. Since that time, the Regulations have been amended on numerous occasions to satisfy revisions to the Statutes governing municipal planning and zoning, reflect the policies, goals and standards of The Town of Prospect's Plan of Conservation and Development, and as a result of public comment and individual applications for amendments to the Regulations.

These Regulations became effective January 1, 2017 subsequent to a series of public hearings that were held for the purpose of public review and comment.



# **ARTICLE 1 AUTHORITY, TITLE & INTENT**

## **Section 1.1 Authority and Title**

The Planning & Zoning Commission of the Town of Prospect, County of New Haven, State of Connecticut, hereby adopts and enacts these Regulations as the Zoning Regulations of the Town of Prospect. These are adopted under authority of Chapter 124 of the 1958 Revision of the General Statutes of Connecticut as amended.

## **Section 1.2 Intent**

It is the intent of these Regulations to further the purposes set forth in Section 8-2 of the aforementioned statutes and more particularly to guide the growth and development of the Town of Prospect in accordance with a comprehensive plan. This includes the promotion of beneficial and convenient relationships among 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 population and mode of living, and future needs for various types of development, and to achieve the purposes described as follows:

- 1.2.1** To provide adequate light, air and privacy.
- 1.2.2** To prevent the overcrowding of land and undue concentration of population.
- 1.2.3** To facilitate the adequate provision for transportation, water, sewage, schools, parks and other public requirements.
- 1.2.4** To provide for the beneficial circulation of traffic throughout the Town, having particular regard to the avoidance or lessening of congestion in the streets.
- 1.2.5** To secure safety from fire, panic, flood and other dangers.
- 1.2.6** To protect and conserve the existing character of all parts of the Town, and thereby aid in maintaining their stability and value, and to encourage the orderly and beneficial development of all parts of the Town.
- 1.2.7** To provide a guide for public policy, and action that will facilitate economical provisions of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the Town.
- 1.2.8** To minimize conflicts among uses of land and buildings and to bring about the gradual conformity of uses of land and buildings throughout the Town to the comprehensive plan herein set forth.

## **ARTICLE 2 GENERAL PROVISIONS**

### **Section 2.1 Scope and Application**

Effective upon adoption of these regulations, all new construction or development and every change, enlargement or relocation of use of land or structures and every reconstruction or structural alteration of existing buildings shall conform to these regulations.

These Regulations shall not prohibit the continuance of any non-conforming use, building or structure existing at the time of adoption of these Regulations. Such non-conforming uses shall be subject to requirements set forth in Section 2.4 of these Regulations.

All uses and activities shall conform to the zone definition established and controlled by this regulation. The principal use shall be contained in one structure; however accessory structures are permissible. Only one principal use is allowed per lot.

#### **2.1.1 Separability**

If any section, clause, provision, or portion of these Regulations shall be held to be invalid or unconstitutional by any court of competent jurisdiction such holding shall not affect or impair any other section, clause, provision or portion of the regulations.

#### **2.1.2 Repealer**

All zoning regulations previously adopted for the Town of Prospect, are hereby repealed.

#### **2.1.3 Effective Date**

The zoning regulations shall not become effective until a hearing has been held in compliance with Chapter 124, Section 8-3 of the General Statutes of the State of Connecticut and adoption by the Planning and Zoning Commission. The effective date of these Regulations shall be after publication of notice of such adoption as provided in Chapter 124, Section 8-3 of the General Statutes of the State of Connecticut.

## **Section 2.2 Definitions**

For the purpose of these Regulations, certain words and terms shall have the meanings as listed below. Words in the present tense include the future, the singular includes the plural and vice versa, and the word "person" includes a partnership or corporation. In case of conflicting interpretations of these Regulations, the interpretation of the Planning and Zoning Commission shall control. For purposes of clarification, select definitions have been illustrated graphically. These graphics have been included in Appendix A for reference.

Abutting: Having a common border with, or being separated from such a common border by a right-of-way, alley or easement.

Affordable Housing: Housing for which persons and families pay thirty percent or less of their annual income, where such income is less than or equal to 80% of the area median income for the municipality in which such housing is located, as determined by the United States Department of Housing and Urban Development and defined in CGS §8.3g as amended.

Accessory Living Unit (Apartment): A separate, self-contained living unit within and subordinate to an existing single-family residence with provision for an additional kitchen and living area not common to the primary residence.

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Adjacent: Touching or contiguous.

Antenna: A device used to collect or transmit telecommunications or radio signals. Examples include panels, microwave dishes and single pole devices (whips).

Antenna Height: The vertical distance measured in feet from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used to calculate height.

Apartment: A room or suite of rooms, with toilet and culinary accommodations, used or designed for use as a residence by an individual or a family, located in a building containing two or more such rooms or suites or located in a building devoted primarily to nonresidential use.

Applicant: An individual, firm, association, syndicate, partnership, corporation or the official agent thereof, having recorded title to the land or building, or sufficient proprietary interest to seek development or use of the premises.

**Application:** An application shall consist of a completed form and fee as prescribed by the Commission including all necessary and required documents/Department approvals.

**Arborist:** An individual trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees. This definition shall also incorporate the term urban forester.

**Aquifer:** Mapped Level A recharge area of the Indian Field wells.

**Awning:** A roof-like cover, often of fabric, metal or glass, designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door, or the like.

**Balloon, Advertising:** A nonporous bag of light material filled with heated air or a gas lighter than air so as to rise and float in the atmosphere and intended to be flown in the air at the end of a cable, wire, or rope for the purposes of advertising or otherwise attracting attention to a commercial enterprise or event.

**Banquet Facility:** An establishment operated for profit and not open to the general public that provides on site preparation and serving of food, beverages and general amenities for large group functions such as weddings, school graduations, business and club meetings.

**Basement:** A story in a building located partly underground, but having less than one-half of its clear floor to ceiling height below the average level of finished grade adjoining the exterior walls of the building. For floodplain management purposes, a basement is any area of the building having its floor subgrade (below ground level) on all sides.

**Berm:** An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes.

**Bond:** A Performance Bond, Maintenance Bond, or Erosion and Sedimentation Control Bond as defined herein which may be in the form of a certified check payable only to the Town of Prospect, a certificate of deposit, a letter of credit or a pledge of a federally insured savings or money market account.

**Erosion and Sedimentation Control Bond:** Financial assurance in favor of the Town provided by a developer to secure the installation and maintenance of all erosion and sedimentation control measures shown on the Erosion and Sedimentation Control Plan, as required by Town Regulations or the Commission and as reviewed and approved by the Director of Public Works or its agent.

**Maintenance Bond:** Financial assurance in favor of the Town provided by a developer subsequent to the issuance of a Certificate of Completion by the Director of Public Works or its agent pursuant to Section 11.4.7h, to secure the

maintenance of required public improvements for one year or such shorter length of time as set forth in the Certificate of Completion.

**Performance Bond:** Financial assurance in favor of the Town provided by a developer to secure completion of all public or other improvements required to be bonded pursuant to a Site Plan or special permit approval (“bonded improvements”)

**Buffer Strip:** A strip of land along a property line or zone line abutting properties zoned residential, which shall be free of any building or use other than existing natural woody growth and appropriate landscaping and screening of suitable type, density and height and which may be a part of the minimum yard requirements, and at the discretion of the Planning and Zoning Commission may be within a Residential District.

**Building:** Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals, materials, or vehicles.

**Building, Accessory:** A building which is clearly incidental or subordinate to, customarily in connection and located on the same lot with the principal building or use; and the cubic footage and floor area of such accessory building do not exceed 50% of same of the principal building.

**Building Area:** The aggregate of the maximum horizontal cross section area enclosed by the walls of all buildings on a lot, together with the area enclosed by the columns of all covered porches and similar roofed structures.

**Building Frontage:** Those building elevations that face upon a road or a parking area between the building and the road.

**Building Height:** The distance measured from the average level of the ground surrounding the building to the highest point of the building.

**Building Height Within A Flood Hazard Area:** The vertical distance measured from the average level of the finished grade adjacent to the exterior walls of the building to the mean height between eaves and ridge for gable, hip and gambrel roofs, or to the highest point of any other type of structure. The vertical distance measured shall include all portions of a building situated below the regulatory flood protection elevation and all portions of basements or cellars that extend above the finished grade adjacent to the building.

**Building Line:** A line parallel to the street line at a distance equal to the required setback.

**Building, Principal:** A building in which is conducted the main or principal use of the lot on which said building is located.

**Building Setback Line:** The line within a lot defining the minimum required horizontal distance between the principal building or use to be erected and an adjacent street or lot line.

**Business Office:** A place of business where office and clerical duties are performed.

**Camp Trailer:** A trailer which is currently registered with the Motor Vehicle Department as a Camp Trailer, and which is for travel, recreational and vacation use only. This includes camper bodies not registered by the Connecticut Department of Motor Vehicles.

**Campground:** Any lot on which may be located two or more cabins, tents, other accommodations of a design or character suitable for seasonal or other temporary recreational living purposes, including a day camp but not a mobile home park, boarding or rooming house, tourist home, hotel or motel.

**Car Wash Facility:** A car washing and cleaning establishment equipped to wash automobiles, pick-up trucks and small vans. The car wash equipment shall be fully automatic with systems capable of complete recycling of all wash waters utilized on site. Such a facility will be fully attended during hours of operation.

**Certificate of Approval for Acceptance:** If no maintenance bond has been provided, a certificate, issued by the Director of Public Works or its agent in response to a written request from a developer, stating that the public improvements have performed as required during the maintenance period set forth in the Certificate of Completion and are in a condition satisfactory for Town acceptance; or, if a maintenance bond has been provided, stating that the improvements are in a condition satisfactory for Town acceptance subject to the developer's obligation to continue to maintain the improvements for one year or other shorter period of time as listed in the Certificate of Completion.

**Certificate of Completion:** A certificate, issued by the Director of Public Works or its agent in response to a written request from a developer, stating that the public or other bonded improvements have been completed in accordance with the final approved plans, subject to any required maintenance period.

**Church:** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a recognized and legally established religious body organized to sustain public worship.

**Civic Center:** An area developed with a substantial concentration of public and governmental buildings or uses.

**Club:** An association of persons which is the owner, lessee or occupant of an establishment operated solely for a recreational, social, fraternal, religious, political or athletic purpose whose activities are confined to the members and guests, are not extended to the general public, and include the establishment so operated; but does not

include such clubs, the chief activity of which is a service customarily carried on primarily for business or gain.

Commercial Vehicle: Any truck, trailer, van or other equipment on wheels used in the operation of a commercial activity. This term includes automobiles, vans, mini-vans and pickup trucks even if such vehicles feature a company name, slogan or logo. Construction equipment and farming equipment of any type are included in this definition.

Community Center: A building used as and providing a place of meeting for religious, fraternal, social and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Construction, Start of: Includes substantial improvement, and means the date the building permit was issued, provided the improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the excavation for a basement, footings, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Convalescent and Nursing Home: A building or group of buildings intended and designed solely for the temporary care of the aged or infirm with a full-time medical staff.

Convenience Store: Any retail establishment offering for sale a limited line of groceries and household items and may also sell gasoline; does not include auto service stations or vehicle repair shops.

Cornice: Any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roofline, including eaves and other roof overhang.

Curb Cut: The providing of vehicular ingress and/or egress between property and an abutting public street.

Date Of Receipt: Means the day of the next regularly scheduled meeting of the Commission immediately following the submission to the Commission or its agent or 35 days after such submission, whichever date shall first occur.

Day Care Center, Adult: A facility in which are received three (3) or more adults, age 55 or older, who are frail or moderately handicapped and who stay for a period of more than one (1) hour, but not exceeding fifteen (15) hours during any day each week, with no overnight accommodations, irrespective of compensation or reward.

Day Care Center, Child: A building or portion thereof, licensed by the State Department of Health, having facilities and all necessary personnel for the supplementary care for more than twelve (12) related or unrelated children outside their own homes on a regular basis for a part of the twenty-four (24) hours in one or more days in the week

Day Care Home, Adult Group: A dwelling in which a permanent occupant of the dwelling, licensed by the State Department of Health, provides for the care of four (4) or fewer elderly and/or functionally impaired adults, not all of whom are related by blood or marriage, for a portion of a 24-hour day.

Day Care Home, Child: A dwelling in which a permanent occupant of the dwelling, licensed by the State Department of Health, provides for the supplementary care of six (6) or fewer children, not all of whom are of common parentage or related by blood or marriage, for a portion of a 24-hour day.

Day Care Home, Group: A dwelling in which a permanent occupant of the dwelling, licensed by the State Department of Health, provides for the supplementary care for not less than seven (7) nor more than twelve (12) related or unrelated children on a regular basis for a part of the twenty-four (24) hours in one or more days in the week.

Deposit (Earth Excavation): To fill or alter by the addition of earth materials and/or fill existing swamps, wetlands, water courses or other bodies of water, or to change, by filling or re-grading, existing contours and elevations.

Design Standards: A set of guidelines regarding the architectural appearance of a building, or improvement, that governs the alteration, construction, demolition, or relocation of a building or improvement.

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

Diameter At Breast Height: The diameter of a tree measured at a point four and one-half feet above grade.

Direct Glare: Direct glare is defined as the visual discomfort resulting from insufficiently shielded light sources in the field. One should "see the effect, not the light source".

Direct Light Emissions: Light emissions visible above a height of 5 feet at the subject property line. A bulb, a reflective device, a refractive lens device, a globe, or diffuse panel shall be considered a direct light emission source.



**Disturbed Area:** An area where vegetation, topsoil, or overburden has been removed, exposing the soil to erosion; or an area where topsoil, spoil or other material has been stockpiled; or in an area rutted or otherwise disturbed by construction activities.

**Drive-In Establishments:** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to either serve patrons while in the motor vehicles or else intended to permit consumption in the motor vehicle of food or beverage obtained by a patron from said business establishment. (e.g. restaurants, service stations, cleaners, banks, theaters, etc.)

**Dwelling Unit:** A building or a part of a building containing complete housekeeping facilities for one family. Accommodations or transient lodging in a motel or hotel shall not be considered to be a "dwelling unit".

**Earth Materials:** Natural soil, loam, sand, gravel, clay, rock, or other excavated natural material

**Earth Processing:** Alteration of earth materials excavated on site, including mixing with earth materials or other approved materials imported to the site using authorized processing equipment, including but not limited to screening and crushing and production of concrete, asphalt and other earth materials products.

**Erosion:** Means the detachment and movement of soil or rock fragments from the land surface by water, wind, ice or gravity.

**Excavate:** To sever from the earth's surface or to remove earth materials from the ground.

**Existing Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of street, and either final site grading or the pouring of concrete pads) is completed before February 23, 1977, the effective date of the floodplain management regulations adopted by the community.

**Expansion to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Façade:** The exterior wall of a building exposed to public view or that wall viewed by persons not within the building, extending from grade to the top of the parapet, wall or eaves, and including the entire width of the building elevation.

**Family:** One or more persons related by blood, marriage, or adoption, occupying and maintaining a single housekeeping unit. A family may also include domestic help and gratuitous guests. As an alternate, a family may consist of a group of not more than three persons unrelated by blood, marriage or adoption, maintaining a common household.

**Farm:** A tract of land containing five (5) acres or more, used in whole or in part for agricultural purposes, excluding raising of fur bearing animals and swine for commercial use, slaughter house and fertilizer manufacture.

**Federal Emergency Management Agency (FEMA):** Federal agency that, in addition to carrying out disaster response and recovery activities, oversees the administration of the National Flood Insurance Program (NFIP).

**Firing Range:** An area designed and improved to encompass firing stations or firing lines, target areas, berms and baffles, and other related components.

**Firing Ranges Facility:** A public or private facility, including individual firing ranges, surface danger zones, safety fans or shortfall zones, structures, parking areas, and other associated improvements, designed for the purpose of providing a place for the discharge of various types of firearms or the practice of archery.

**Flag, Business:** A flag displaying the name, insignia, emblem, or logo of a commercial entity.

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland waters and/or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Frequency:** The average frequency statistically determined for which it is expected that a specific flood level or discharge may be equaled or exceeded.

**Flood Insurance Rate Map (FIRM):** The official map on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS):** The official report provided in which the Federal Emergency Management Agency (FEMA) has provided flood profiles, as well as the Flood Insurance Rate Map (FIRM) and the water surface elevation of the base flood.

**Floodplain:** The land area susceptible to inundation by water as a result of flooding.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

**Floor Area:** The area measured in square feet of each floor of the building or buildings in which the principal use of the lot is conducted, provided that in a building used as a residence, only those areas which are finished and contain heat, light and ventilation

adequate for human habitation shall be included. Floor area shall not include the area devoted to garages, outside staircases, elevators, or any portion of the building incapable of being used for said principal use or uses, accessory thereto.

Foot-Candle: The illuminance on a surface of one square foot in area on which there is uniformly distributed a light flux of one lumen.

Full Cut-Off Type Fixtures: A luminary or light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a 90 degree, horizontal plane from the base of the fixture. Full cut-off fixtures must be installed in a horizontal position as designed, or the purpose of the design is defeated, and disability glare will result.

Garage, Commercial: Any lot, building or part thereof, used for the storage, service or repair of motors, or motor vehicles for remuneration, including any rental, lease or sale of motor vehicles.

Garage, Private – Attached: An attached portion of a main building used or designed to be used for the parking and storage of motor vehicles.

Garage, Private – Detached: A detached accessory building which is capable of providing access to motor vehicles and used or designed to be used for the parking and storage of motor vehicles.

Garage, Vehicle Repair and/or Service: A commercial garage or gasoline station used for repairing, overhauling, removing, adjusting, replacing, assembling or disassembling any parts of any motor, engine, or vehicle.

Gasoline Station: Any lot, building or part thereof, used for the sale of gasoline or motor vehicle fuel that may include facilities for lubrication, washing, or otherwise servicing vehicles, but not including painting of vehicles.

Golf Course: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards.

Grade: The level of the finished surface of the ground or pavement at a stated location.

Grading: Any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition. Does not include normal cultivation associated with a Farm.

Grocery: An establishment, commonly known as a supermarket (not including convenience stores), engaged in the retail sale of a variety of canned and dry foods, fresh fruits and vegetables, or meats, poultry, and fish, and may include a variety of disposable nonfood products.

Groundcover: Any shrub, plant or grass that does not attain a mature height of more than one foot. Such plants shall be characterized by a growth habit in which the shrub, plant or grass spreads across the ground to connect with similar plants forming a continuous vegetative cover on the ground.

Gross Building Area: The sum of the gross horizontal areas of the several floors of all buildings enclosed by walls on the property excluding parking decks and basement areas used for storage, loading and unloading or for housing of mechanicals or central heating and air conditioning equipment.

Gunsmith Activities: Activity of person(s) who repairs, modifies, designs, and/or rebuilds firearms.

Habitable Floor: Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used for commercial and/or industrial storage purposes is not a "habitable floor".

Health Club: A facility with exercise equipment and a trained staff where members receive instruction and training in cardiovascular and strength programs.

Home Occupation: A use customarily conducted for compensation only by occupant(s) of a single family residence that is performed/carried out entirely within a principal single family residential structure, is clearly incidental and subordinate to the principal single family use and requires no modification of the lot, external structural renovation or outdoor storage to accommodate said home occupation.

IES: Illuminating Engineering Society of North America, an organization that establishes standards for the lighting industry.

Impervious Surface: Any hard-surfaced, man-made area that does not readily absorb or retain water including, but not limited to, building areas, parking and driveway areas, graveled areas, sidewalks and paved recreational areas.

Imported Materials (Earth Excavation): Earth materials returned to a permit area as excess materials produced by permitted excavation activities, or as authorized by any permit issued in accordance with Earth Excavation Regulations.

Improvement, Substantial: Any repair, reconstruction or improvement of a structure, which equals or exceeds 50 percent of the square footage of the structure either:

- (1) Before the improvement or repair is started, or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "improvement, substantial" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or

- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Intermediate Processing Facility: means a facility where glass, metals, paper products, batteries, household hazardous waste, fertilizers and other items are removed from the waste stream for recycling or reuse.

Isolux Diagram: A graphical representation of points of equal luminance connected by a continuous line. Such diagrams are convenient for making point luminance determinations, and are provided by the manufacturer of the luminaire under consideration.

Junk Vehicles: Vehicles not fit for highway use and are not registered with the Connecticut Department of Motor Vehicles, which are stored or parked outdoors.

Junkyard: Any place in or on which old material, glass, paper cordage or other waste or discarded or second-hand material which has not been a part, or is not intended to be a part, of any motor vehicle, is stored or deposited. It includes also any business and place of storage or deposit, whether in connection with another business or not, which has stored or deposited more than one unregistered motor vehicle which is no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage or other waste or discarded second-hand material which has been a part, or is 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. Said terms shall also include any place of business or storage or deposit of motor vehicles or parts 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 burn material which are parts of motor vehicles or to cut up the parts thereof.

Landfill: Any land or premises, with or without structures, used for the deposit of clean fill materials for the purpose of disposing of said materials or for the filling and improving upon the land for development purposes.

Landscaped Buffer: An area of landscaping separating two distinct land uses, or a land use and a public right-of-way, and acts to soften or mitigate the effects of one land use on the other.

Landscaping Plan: A plan, drawn to scale, showing dimensions and details for vegetating a property, or a portion of a property, including maintenance and protection measures.

Legal, Non-Conforming Lot: Any lot legally existing in accordance with the zoning regulations in effect at the time the lot was created, which has been made non-conforming by subsequent adoption of zoning regulations or amendments thereof.

Such a lot may be non-conforming with the present zoning district regulations for any prescribed lot requirements, such as lot area, width or depth.

Legal, Non-Conforming Structure: A structure or building legally existing on the effective date of these regulations or any amendment thereto which does not conform to the zoning district regulations for any prescribed structure or building requirements, such as front, side or rear yards; building height; building area or lot coverage; lot area per dwelling unit; dwelling units per building; parking and loading spaces, etc.

Legal, Non-Conforming Use: A use, whether of a building, structure or lot, legally existing on the effective date of these regulations or any amendments thereto which does not conform to the use regulations of the zoning district in which it is located.

Library: A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

Light Trespass: Any form of artificial illumination emanating from a light fixture or illuminated sign that penetrates the adjoining property.

Line of Sight: A visual path emanating from an average eye level adjudged to be five feet above the ground level.

Livery Service: A business licensed by the Connecticut DOT that provides sedans, vans and limousines, and drivers for those vehicles for transportation of people.

Lot: One or more contiguous parcels of land under single ownership or control, designated by its owner, at the time of filing an application for Zoning Permit, as a tract to be used, developed, or built upon as a unit. It may or may not coincide with the deed description thereof filed for record or the boundaries of the same as shown on a map thereof filed for record or otherwise, and it may subsequently be subdivided into two or more lots, provided all such lots conform to all Regulations of the zoning district in which it is located.

Lot, Corner: A lot at the intersection of two or more streets or a lot whose street lot lines have an interior angle of less than 135 degrees at the intersection of the two lines. A lot abutting on a curved street shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees. No portion of a main building or accessory use shall be less than 50 feet from the property line of the street, road or way on which it abuts and 50 feet from any property line which does not abut a street, road or way. (See Figure 1 & Figure 4)

Lot, Flag: A lot not fronting or abutting a public roadway and where access to the public roadway is limited to a narrow access easement. (See Figure 1)

Lot, Interior: A lot other than a corner, rear, flag or through lot. (See Figure 1)

Lot, Rear: A lot, the major portion of which lies to the rear of another lot that separates it from a public street, which is connected to a public street via a private accessway of required width. Any lot which does not satisfy the minimum lot width, measured along the right-of-way line of a public road or measured along the minimum front building setback line, shall be considered a rear lot. Each rear lot shall have fee simple ownership of an access way, which is a minimum of twenty-five (25) feet in width throughout, extending from the lot to the public road. No rear lot shall be permitted to be located to the rear of another rear lot (stacking) unless the access ways of the rear lots front on different streets. The minimum lot size for a rear lot shall be 2.0 times the minimum lot size requirement of the underlying zone. (See Figure 1)

Lot, Through: A lot, other than a corner lot, having frontage on two streets. (See Figure 1)

Lot Area: The gross horizontal area contained within the property lines of the lot.

Lot Depth: The mean distance from the front line of the lot to the rear lot line measured in the general direction of the side lines of the lot.

Lot Frontage: The total distance along which a lot abuts a street line.

Lot Line: A boundary line of a lot.

Lot Line, Front: A lot line that abuts a street line or the lot nearest a street line. (See Figure 2)

Lot Line, Rear: The lot line that is generally opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot comes to a point at the rear, the "rear lot line" shall be deemed to be a line parallel to the front lot line, not less than ten feet long, and lying wholly within the lot and farthest from the front lot line.

Lot Line, Side: A lot line that is neither a front lot line nor a rear lot line, and which extends from the street toward the rear in a direction approximately perpendicular to the street. (See Figure 2)

Lot Width: The distance, measured in a straight line, connecting the points of intersection of the building line with the side lot lines.

Lumen: A unit of measure of the quantity of light that falls on an area of one square foot every point of which is one-foot from the source of one candela. A light source of one candela emits a total of 12.57 lumens.

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

**Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Manufacturing:** Any process whereby the nature, size or shape of articles is changed, or whereby articles are assembled or packaged in quantity.

**Medical Facility:** Any facility, wherein medical treatment or diagnosis is rendered including but not limited to outpatient services and diagnostic testing.

**Minimum Buildable Area:** A contiguous area containing at least 18,000 square feet and bounded by four sides with no side less than 100 feet in length and no angle less than 45 degrees. No wetlands, watercourses, or water bodies shall be present within the Minimum Buildable Area. No more than 25 percent of the Minimum Buildable Area shall contain slopes in excess of 25 percent. Slopes shall be measured from existing topography prior to grading. The Minimum Buildable Area shall be capable of being drawn entirely within the boundaries of a lot and behind the minimum front setback line. All structures greater than 150 square feet shall be located entirely within the Minimum Buildable Area. The Minimum Buildable Area shall apply only to the RA-1 & RA-2 Zones.

**Minimum Square:** A square with sides of the length designated for the zone in which it is being applied and which must be capable of being drawn entirely within the boundaries and behind the minimum front setback line of a lot in said zone. Minimum Square shall apply only to the CP zone. The Minimum Square for the CP zone is 150 feet on all sides.

**Mixed Use Development:** A single building containing more than one type of land use, or a single development of more than one building and land use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas.

**Mobile Home:** A reasonably transportable unit without motive power, suitable for year-round occupancy and provided with equipment, plumbing, heating, electricity and refrigeration.

**Mobile Home Park:** A parcel of land that has been planned for the placement of two or more mobile homes.

**Natural Features:** Components and processes present or produced by nature, including soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life and wildlife.

**New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the



manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after February 23, 1977, the effective date of floodplain management regulations adopted by Prospect.

Non-conforming: Any use of land or structure which does not conform to one or more of the applicable zoning district requirements of the land or structure on the date of adoption of these Regulations or as a result of subsequent amendments to them.

Nursery School: An establishment licensed by the State of Connecticut having facilities and all necessary personnel for the care, guidance and/or supervision of seven or more children between the ages of two and six not of common parentage on a regular basis for a part of the 24 hours in one or more days of the week.

Off-Street Parking Space: An on-the-lot space (garage or outdoor) having the dimensions of not less than 9 feet in width and 18 feet in length.

Off-Street Loading Space: An on-the-lot space for the temporary parking of a commercial vehicle while loading or unloading merchandise or material. Such space shall be not less than fourteen (14) feet in width, fourteen (14) feet in height if covered, and 50' in length. Trucks or trailers occupying such a space shall be located entirely on the lot and shall not extend into the sidewalks or the street.

Open Space: The portion of the ground space on the same lot and contiguous to the principal building which is either landscaped, or developed and maintained for recreation or conservation purposes. Open space shall not include those portions of a lot that are utilized for off-street parking or loading, driveway or building purposes.

When the Commission in accordance with these regulations identifies the portion of a site that shall remain as open space, such open space should serve one or more of the following functions:

- a) Natural Resource Protection, such as habitat protection for plants and animals, streambelt or riparian corridor protection, or the provision of greenbelt linkages, forest land, agricultural land and fisheries;
- b) Outdoor Recreation, including parks, playgrounds, beaches, and trails for active recreation, and nature preserves for passive recreational uses, serenity and sites that contribute to quiet experiences;
- c) Protection of Public Health and Safety, such as floodplains, inland wetlands, unbuildable areas or areas with limitations for development including steep slopes, high water table or shallow depth of bedrock;
- d) Promotion and Maintenance of Community Character, such as the development of greenbelts, open space dedication related to development, scenic vistas, and appropriate buffer strips;
- e) Protection of Historic or Archeological Sites, such as historic structures and grounds;

Organization, Charitable: A non-profit organization that is supported primarily by charity and whose principal function is the performance of charitable works or religious activities.

Organization, Private Non-Profit: Any person(s), partnership, association, corporation or other group whose activities are conducted for civic or humanitarian motives, or for the benefit of others, and not for the gain of any private individual or group and may include, but shall not be limited to, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, athletic, or medical activities.

Outdoor Light Fixture: An electronically powered illuminating device, which is permanently installed outdoors, including but not limited to devices used to illuminate any site, architectural structure, or sign.

Outpatient Surgical Facility: A building or portion of a building containing medical offices and facilities for providing surgical services to patients on an outpatient basis, where such services generally require a stay of less than 24 hours.

Overlay Zone: A mapped area to which a uniform set of regulations serving a particular purpose applies, as a supplemental to base zone regulations.

Parcel: Any legally described piece of land of any size that may or may not be subdivided or improved.

Parking Lot: An area other than a street used for the parking of registered vehicles.

Permit Area (Earth Excavation): The limits of the area within the premises for which a permit or permits exist or are requested for excavation, storage area, and processing of earth materials.

Plot Plan: A schematic representation of a lot, drawn to scale, showing the actual measurements of the size, and location of existing structures or structures to be erected, the location of the lot in relation to abutting streets, and other such information.

Portable Storage Container: Any container larger than 600 cubic feet designed for the temporary storage of personal property which is typically rented to owners or occupants of property for their storage use and which is delivered and/or removed by truck trailer.

Premises (Earth Excavation): Within an earth excavation district, the entire area of land owned by the applicant or permittee and identified as one piece of property by the Prospect Tax Assessor's Office within which the permit area is proposed.

Primary Dwelling: An unconverted portion at an existing single-family residence where all living areas, kitchen, entrance, and lot on which it is situated is used in common.

Professional and Business Offices: Offices of doctors, dentists, attorneys, real estate agents, insurance agents, accountants, brokers, engineers, architects, landscape architects, studios of artists, photographers, musicians, offices for data processing, telephone answering services, or any other offices deemed by the Commission to be professional and/or business offices.

Public Charitable Institution: Any partnership, association, corporation or other group whose activities are conducted for selfless, civic, or humanitarian motives, or for the benefit of others, and not for the gain of any private individual or group, and for which said institution receives financial support from a governmental entity or other public organization. Such institution may include, but shall not be limited to, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, athletic, or medical activities.

Public Improvements: Any improvements required to modify existing and/or construct proposed streets, sidewalks, and storm water drainage structures; lighting, landscaping, and proposed lot grading in connection with such features; public utilities when constructed within a proposed Town right-of-way including water supply and sanitary sewerage facilities; or other development or installations shown on an approved Site Plan which are proposed for acceptance by the Town of Prospect.

Recreation Facility, Commercial Indoor: A commercial facility conducted fully indoors which is designed and equipped for the conduct of sports or other leisure time activities as a business and open to the public for a fee. Recreation Facility, Commercial Indoor facilities include motorized go-kart tracks, gymnastic facilities, BMX tracks, skating rinks, billiards, laser tag facilities, bowling alleys, archery ranges, firing ranges, tennis courts, miniature golf courses, golf driving ranges, batting cages, arcade amusement centers, radio control hobby raceway tracks, and other similar indoor recreation activities **but do not include** horse or dog racing tracks or other similar type uses.

Recreation Facility, Commercial Outdoor: A commercial facility wholly or partially conducted outdoors which is designed and equipped for the conduct of sports or other leisure time activities as a business and open to the public for a fee. Recreation Facility, Commercial Outdoor facilities include tennis courts, ball fields, swimming pools, basketball courts, play grounds, bocce ball courts, skating rinks, laser tag, paintball fields, speed ball fields, golf courses, golf driving ranges, miniature golf courses, archery ranges, skate board parks, firing ranges, batting cages, radio control hobby raceway tracks, and other similar outdoor recreation activities **but do not include** motorized vehicle or motorcycle tracks, horse or dog racing tracks or other similar type uses of outdoor recreation.

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

Recycling: means the processing of solid waste to reclaim material from such waste.

Recycling Facility: means lands and appurtenances thereon and structures where recycling is conducted, including but not limited to, an intermediate processing facility.

**Redemption Center:** means any facility established to redeem empty beverage containers from consumers or to collect and sort empty beverage containers from dealers and to prepare such containers for redemption by the appropriate distributors.

**Religious Institution:** A church or place of worship or religious assembly with related facilities such as the following in any combination: rectory or convent; meeting hall, offices for administration of the institution, licensed child or adult daycare, playground, cemetery.

**Restaurant:** A commercial establishment open to the public where food and beverages are prepared, served and consumed primarily within the principal building.

**Retail:** The buying or selling of goods or merchandise directly to the consumer for their personal consumption or use

**Right-of-Way:** An area of land not on a lot that is dedicated for public or private use to accommodate a transportation system for allowing the free passage of people and goods. Right-of-ways include, but are not limited to, highways, streets, roads, private roads, rail lines, and sidewalks.

**Rock Quarry:** An earth excavation operation within an Earth Excavation (EE) District that involves removal of solid rock materials by any means.

**Rubbish Removal Service:** A private business that utilizes empty containers stored on site for off-site containment and transferring of bulky materials such as construction debris, household furniture, lumber, metal, etc. from a private or public property to a municipal landfill for disposal, or to a private business for recycling.

**School, Parochial:** A private school maintained by a religious body or organization for the purpose of elementary and/or secondary instruction.

**School, Private:** A school that is established, conducted, and primarily supported by a nongovernmental agency or organization.

**School, Private Non-Profit:** Any private educational facility owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

**School, Public:** Any educational facility owned and operated by a governmental entity.

**Screen or Screening:** Either (a) a strip at least four feet wide, densely planted (or having equivalent-natural growth) with shrubs or trees at least four feet high at the time of planting of a type that will form a year-round 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.

**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:** The horizontal distance from any street or lot line to any building, structure or use, measured in a straight line from and perpendicular to such street or lot line and extending as a vertical plan upwards to infinity.

**Shelter, Fall-Out:** A structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fallout, air raids, storms, or other emergencies.

**Sign:** Any illustration, insignia, lettering, picture, neon tube, string of lights, display banner, pennant, flag or other device, however made, displayed, painted, supported or attached intended for the purpose of advertisement, identification, publicity or notice, visible from any street or from any lot other than the lot on which the device is located.

**Sign Area:** The area within the shortest line that can be drawn around the outside perimeter of a sign (See Article 8).

**Sign, Banner:** A sign having characters, letters or illustrations applied to cloth, paper, flexible plastic or fabric of any kind, with only such material for backing.

**Sign, Commercial Advertising or Off-Premises:** Any sign owned or operated by any person, firm or corporation engaged in the business of outdoor advertising for compensation for the use of such signs.

**Sign, Directional:** A sign with an area of not over two square feet indicating the direction or route of an establishment.

**Sign, Directly Illuminated:** Any sign designed to give forth any artificial light directly (or through any transparent or translucent material) from a source of light within such sign.

**Sign, Directory:** A sign or group of signs attached to a building or freestanding which identifies the business, owner, address, or occupation of a group of businesses, but contains no advertising.

**Sign, Double-Face:** A sign containing the same advertisement on both sides of the supporting structure.

**Sign, Flashing:** Any directly or indirectly illuminated sign on which the artificial light is not stationary, or constant in intensity and color, at all times when in use.

**Sign, Ground Or Freestanding:** A sign supported by one or more uprights or braces in or above the ground.

**Sign, Height Of:** The vertical distance between the curb level and the top of a sign.

**Sign, Indirectly Illuminated:** A sign illuminated with a light so shielded that no direct rays there from are visible elsewhere than on the lot where said illuminated sign is located. If such shielding is defective, such sign shall be deemed to be a directly illuminated sign.

**Signs, Number of:** For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

**Sign, Off Premise:** A sign advertising a use not conducted on the premises or a product not sold on the premises where the sign is located.

**Sign, On Premises:** A sign advertising a use conducted on the premises where the sign is located.

**Sign, Political:** A sign identifying and urging voter support for a particular election issue, political party, or candidate for public office.

**Sign, Projecting:** A sign that is affixed to an exterior wall of any building and extending more than 15 inches beyond the building walls or parts thereof.

**Sign, Temporary:** Any sign not intended for permanent display. Examples of temporary signs include but are not limited to, any sign, display board, handbill, poster, banner, sandwich board, pennant, streamer, whirligig, valance or advertising display constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other light materials (with or without structural frame).

**Sign, Wall:** A sign which is affixed to the exterior walls of any building and projecting not more than 15 inches from the building wall or parts thereof. Wall signs shall also include illuminated signs erected inside window display area of a building.

**Site (Telecommunication Facilities):** The total lease area that will accommodate the Wireless Communication Facility.

**Site Plan:** A document or group of documents containing sketches, text, drawings, maps, photographs, and other materials intended to present and explain certain elements of a proposed development, including physical design, siting of buildings and structures, interior vehicle and pedestrian access, the provision of improvements, and the interrelationship of these elements.

**Soil:** Means the unconsolidated mineral or organic material on the immediate land surface that serves as a natural medium for the growth of plants.

**Soil Erosion & Sediment Control Plan:** Means a plan and narrative that explains and illustrates the measures that will be taken to control erosion and sediment problems during construction. The plan has a written portion known as a narrative and an illustrative portion known as a map or site plan.

**Solid Waste:** Unwanted or discarded material including municipal solid wastes, bulky wastes, and non-hazardous industrial processing wastes. Solid waste does not include septage and sludges, agricultural and mining wastes, or hazardous wastes.

**Special Permit:** Authorization by the Planning and Zoning Commission for a particular land use in a zoning district in which such use is not permitted as of right. Such authorization may include specific conditions that must be satisfied in order for the land use in question to receive a Special Permit.

**Stealth Tower (Telecommunication):** A stealth communication tower is designed in such a way that the structure is not readily recognizable as telecommunications equipment. Stealth towers may be placed within flagpoles or church steeples, constructed to blend into the surrounding environment and designed as an integral part of the site.

**Storage:** A space or place where goods, materials, or personal property is placed and kept for any period of time.

**Storage Area (Earth Excavation):** An area within the permit area in which the applicant proposes to stockpile excavated materials and/or approved fill materials and/or to locate any equipment and structures.

**Storage Building:** An accessory building where materials, such as building materials, equipment, such as garden equipment or other personal property is stored.

**Streamer, Advertising:** Any long, narrow, wavy strip of cloth, paper, flexible plastic or fabric of any kind attached to a building, vehicle or other property fixture along only one side of its length or width, and having characters, letters or illustrations applied to it for the purposes of attracting public attention to a commercial enterprise or event.

**Street:** Any existing way, or town highway, or a way shown (a) on a subdivision approved by the Planning and Zoning Commission, or (b) on a subdivision duly filed and recorded in the office of the Town Clerk of the Town of Prospect prior to June 1, 1958 provided such way shall have been suitably improved to the satisfaction of the Mayor after June 1, 1958.

**Street line:** The right-of-way easement line or taking line of any public or private street.

**Streetscape:** The visual image of a street, including the combination of buildings, parking, signs, street trees and landscaping, and other hardscape and street furniture.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attached to something having location on the ground. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

**Structural Alteration:** Any change in or addition to the structural or supporting members of a building, such as bearing walls, columns, beams or girders.

**Tag Sales:** The sale of personal property, typically used items such as clothing, furniture, household or small items owned by family members living at the property where the tag sale is being held. Tag sales shall include garage sales, yard sales and estate sales. Tag sales are not intended for the resale for profit of previously purchased items. Items acquired for resale are specifically excluded from this definition. (See Section 5.8 Tag Sales)

**Tanning Salon:** A business utilizing florescent lamps that produce controlled proportions of ultraviolet rays to create a natural looking body tan.

**Temporary Wireless Communications Facilities:** A Wireless Communication Facility designed for use for a limited period of time such as while a permanent wireless telecommunications facility is under construction, rehabilitation or restoration or during a special event.

**Tower:** A structure that is intended to support equipment used to transmit and/or receive telecommunications or radio signals. Examples include monopoles and lattice construction steel structures.

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

**Unregistered Vehicles:** Vehicles not having the required State of Connecticut registration to travel public roads - stored or parked outdoors.

**Unightly Material:** Garden equipment, excavation equipment, commercial equipment, industrial equipment, appliances, furniture or debris or waste or other products stored outdoors which are not actively being utilized for their intended purpose, such as for construction or repair of a structure on the lot.

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

**Use:** The specific purpose for which a lot or a building is designed, arranged, intended to be used, or for which it is or may be occupied or maintained. The terms permitted use, special use, or its equivalent shall not be deemed to include a non-conforming use, as defined herewith.

**Use, Accessory:** A use of land, buildings or structures which is clearly incidental to, and customarily in connection with, and located on the same lot with the principal building or use.



Use, Permitted: A use permitted in a zoning district without the need for special administrative review and approval, upon satisfaction of the standards and requirements of these Zoning Regulations.

Utility Trailers: Trailers used for private residential multi-purposes and may include transport of snowmobiles and all terrain vehicles.

Vehicle: Any motor vehicle as defined by the General Statutes of the State of Connecticut, as amended.

Vehicles Actively Being Restored or Repaired: Vehicles for which there is noticeable continuous progress in making the vehicle roadworthy as may be determined by the Land Use Inspector and Commission.

Vehicles Involved In Restoration: Vehicles involved in the process of repair or restoration - stored or parked outdoors.

Vehicle, Recreational: Any towed or self-propelled residence, coach, trailer, or truck body converted for residential occupancy primarily designed or utilized for seasonal and/or vacation use.

Wetlands: Any wetland as defined by State Statutes.

Wireless Communication Facilities: The equipment and structures used to receive or transmit telecommunications or radio signals and transmitting those signals to another wireless site, and other communication source or receiver, or to a central switching computer.

Wholesale: The buying or selling of goods or merchandise in bulk or large quantities to those actively involved in the trades for the purposes of resale of said goods or merchandise directly to the consumer for their use.

Yard, Front: An open, unoccupied space extending across the full width of the lot between the front wall of the principal building and the street line. The depth of the required front yard shall be measured horizontally from and perpendicular to the nearest point of the front lot line toward the nearest part of the building on the lot.

Yard, Rear: An open, unoccupied space extending across the full width of the lot between the most rear principal building and the rear lot line. The depth of the required rear yard shall be measured horizontally from and perpendicular to the nearest part of the rear lot line toward the nearest part of the principal building on the lot. (See also Lot line, Rear).

Yard, Side: An open, unoccupied space between a principal building and the side lot line extending from the front yard, to the rear yard. The width of the required side yard shall be measured horizontally from and perpendicular to the nearest point of the side lot line toward the nearest part of the principal building on the lot.

## **Section 2.3 Establishment of Districts**

The Town of Prospect is hereby divided into the following zoning districts:

### Symbol

RA-1	Residential 1-Acre District
RA-2	Residential 2-Acre District
B	Business District
IND -1	Industrial - Manufacturing 1 District
IND -2	Industrial - Manufacturing 2 District
EE	Earth Excavation District
CP	Commerce Park District

### **2.3.1 Zoning Map**

The areas and boundaries of the zoning districts as established and shown on the map entitled "Town of Prospect Connecticut Zoning Map" is hereby made a part of these Regulations. This map is to be maintained on file in the Office of the Town Clerk and included in these Regulations.

### **2.3.2 District Boundaries**

The following rules shall apply in interpreting boundary lines of districts shown on the Zoning Map, Town of Prospect:

- 2.3.2.1** Boundaries indicated as approximately following the center lines of rights-of-way shall be construed to follow such center lines.
- 2.3.2.2** Boundaries indicated as approximately following recorded lot lines shall be construed as following such lot lines.
- 2.3.2.3** Boundaries indicated as following shore lines, defined as common line of demarcation between water bodies and the land, shall be construed to follow such lines, and in the event of the natural change in the shore line shall be construed as moving with the natural actual movement of the shore line; boundaries indicated as approximately following center lines of streams, rivers, lakes, or other bodies of water shall be construed to follow such natural center lines.
- 2.3.2.4** Boundaries indicated as parallel to or extensions of features indicated in sections 2.3.2.1 through 2.3.2.3 shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

- 2.3.2.5** Where physical or other features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by sections 2.3.2.1 through 2.3.2.4 above, the Planning and Zoning Commission shall interpret the district boundaries.

## **Section 2.4 Nonconformities**

Within the districts established by these Regulations or amendments that may later be adopted, there exist uses, structures or lots that were lawful before these Regulations were passed or amended, but which would be noncomplying under the terms of these Regulations. Such uses, structures and lots are termed nonconformities. It is the intent of these Regulations to permit these nonconformities to continue until they are removed.

### **2.4.1 Change in Plans**

To avoid undue hardship, nothing in these Regulations shall be deemed to require a change in the plans, construction or designated use of any structure for which a required Zoning Permit has been issued prior to the effective date of adoption or amendment of these Regulations provided actual construction, which is defined as the placing of construction materials in a permanent position and fastening in a permanent manner, is begun no later than 6 months after such effective date and diligently prosecuted to completion within one year following such existing building has been substantially begun preparatory to rebuilding. Such activity shall be deemed actual construction provided that work shall be carried on and completed within one year.

### **2.4.2 Nonconformity Of Conforming Use With Area And Bulk Requirements**

In determining whether or not a nonconformity exists with regard to yard, frontage and other area requirements all contiguous land, except approved subdivision lots, owned or controlled by the lot owner and not devoted to another principal use shall be included, and if the nonconformity can be avoided thereby the lot must be increased to the size necessary to avoid the nonconformity. If there is no contiguous land to prevent the existence of a nonconformity, then buildings and structures which are nonconforming or are on nonconforming lots may be erected, altered, enlarged, maintained, replaced or rebuilt in accordance with sections 2.4.2.1 through 2.4.2.3 below. Such erection, alteration, enlargement, maintenance, replacement or rebuilding may be carried out as a matter of right and does not require a variance, although the requirements of Zoning Permits apply equally to such activities as they would if such activities were proposed for a conforming lot or structure.

#### **2.4.2.1 Nonconformity of Yards, Minimum Floor Area and Height**

Any building or structure in which a conforming use is conducted and which has been made nonconforming as to front, side or rear yard dimensions, height or minimum floor area by virtue of these Regulations or the amendments thereto may be enlarged, altered, maintained, replaced or rebuilt notwithstanding any such nonconformity, provided that such action shall not increase the degree of said nonconformity, that said building shall comply with all the other provisions of these Regulations for the zone in which it lies, and, where yards are involved, that the lot on which the building or structure is located has not been reduced in size since the adoption of zoning regulations so as to cause or increase the nonconformity due to the regulations applicable at the time of the reduction.

#### **2.4.2.2 Nonconformity as to Lot Area, Width, Minimum Buildable Area and Minimum Square**

Nonconformity of any improved or unimproved lot with the provisions of these Regulations concerning minimum lot area, minimum frontage, minimum buildable area in residential zones or minimum square in the Commerce Park (CP) zone shall not prevent the erection, enlargement, alteration, maintenance, replacement or rebuilding on such lot of a building or structure which as so erected, enlarged, altered, maintained, replaced or rebuilt shall comply with all of the other provisions of these Regulations for the zone in which it lies, provided that the nonconformity was not self-created, i.e. that the nonconformity did not result from a sale or transfer of contiguous land which made the lot nonconforming (or increased the nonconformity) as to area, frontage, minimum buildable area or minimum square requirements in effect on the date that the sale or transfer was made.

#### **2.4.2.3 Nonconformity of Approved Subdivision Lot**

Nonconformity of any lot as to minimum lot area, minimum width at the front lot line, minimum buildable area or minimum square contained in a subdivision approved by the Prospect Planning and Zoning Commission prior to February 23, 1977, shall not prevent the erection, enlargement, alteration, maintenance, replacement or rebuilding on such lot of a building or structure which, as so erected, enlarged, altered, maintained, replaced or rebuilt shall comply with all of the other provisions of these Regulations for the zone in which it lies. (This section shall apply even when the same owner owns or controls an adjoining lot in 'such subdivision.)

#### **2.4.3 Change in Use**

No lot on which a nonconforming use has been conducted shall be used for any other use that does not conform to the requirements of these Regulations unless such new use could be considered more conforming to these Regulations than the nonconforming use already existing.

#### **2.4.4 Expansion of Nonconforming Structure**

No nonconforming structure shall be expanded above the level at which such structure existed on the date on which it became nonconforming by virtue of these Regulations. No structure which does not conform to these regulations regarding building height, percentage of lot coverage and front yard, rear yard and side yard setback requirements shall be enlarged unless such enlarged portion conforms to the regulations applying to the district in which it is located. No nonconforming structure may be extended to any property not owned by the owner of the nonconforming structure on the date on which it became nonconforming by virtue of these Regulations.

#### **2.4.5 Casualty To Building Containing Nonconforming Use**

When a building in which a nonconforming use is conducted is damaged or destroyed by fire, explosion, act of God or catastrophe not brought about by or on behalf of the owner, it may be rebuilt or restored and used for said nonconforming use provided that the rebuilt or restored building covers no greater area, has no greater cubic content, and is at least as conforming as to location on the lot as was the building damaged or destroyed.

#### **2.4.6 Discontinuance of Nonconforming Use**

Once a nonconforming use has been abandoned for a twelve month period, neither it nor any other nonconforming use shall thereafter be reestablished. Replacement by a conforming use shall occur when that portion of the lot or building formerly devoted to a nonconforming use is used for a conforming use. Where a nonconforming use has not been actively conducted for a period of one year for whatever reason except the reconstruction of a building or structure in which it was conducted because of casualty loss, then it shall be presumed abandoned and a permit will be necessary before any use is made of said premises. If the owner of said premises desires to resume said presumptively abandoned nonconforming use, he may apply to the Planning & Zoning Commission which shall conduct a hearing and determine whether or not said nonconforming use was abandoned. The burden of proof shall be upon the applicant to show that the use was not in fact abandoned.

### **Section 2.5 Wetlands**

Whenever a zoning or Special Permit is sought for use of land designated as inland wetlands, approval of the activity by the Prospect Inland Wetlands Commission shall be required prior to or concurrently with the granting of the zoning or Special Permit requested. Where action on such a zoning or Special Permit is required by a certain date and approval by the Prospect Inland Wetlands Commission has not been obtained by that date, failure to have such approval shall be grounds for denial of the zoning or Special Permit.

## ARTICLE 3 DISTRICT REGULATIONS

### Section 3.1 Uses By District

The uses listed in the following schedule are permitted or prohibited in the various districts in accordance with the following designations or procedures. Unless specifically permitted in the following table, the use shall be deemed to be prohibited throughout the Town.

Specific development controls can be found in the District Use Sections following.

“N” means not permitted use in zone.

“Y” means a use permitted as a matter of right.

“SP” means a use permitted subject to obtaining a Special Permit from the Planning and Zoning Commission.

Home Occupations (see definition) are regulated under Section 5.4 of these regulations

LAND USES	ZONING DISTRICTS						
	RA-1	RA-2	B	IND-1	IND-2	CP	EE
Amusement Enterprise: (Pool, Bowling, Theater, Dancing Hall and other similar uses)	N	N	SP	N	N	N	N
Auction / Pawn Shop, Second Hand Store	N	N	SP	N	N	N	N
Auto & Truck Sales Area & Store (including Repairs & Autobody)	N	N	SP	SP	N	N	N
Auto & Truck Assembling & Remodeling	N	N	N	SP	N	N	N
Auto Transportation Services	N	N	SP	SP	N	N	N
Bakery (Storefront)	N	N	Y	N	N	SP	N
Bakery (Wholesale)	N	N	N	SP	N	SP	N
Bank (No Drive-Thru)	N	N	Y	N	N	SP	N

LAND USES	ZONING DISTRICTS						
	RA-1	RA-2	B	IND-1	IND-2	CP	EE
Bank (With Drive-Thru)	N	N	SP	N	N	SP	N
Banquet Facility	N	N	SP	N	N	N	N
Boat Sales and/or Service, Assembly and Remodeling	N	N	SP	SP	N	N	N
Bottling Plant & Distribution	N	N	N	SP	SP	SP	N
Building Materials: Storefront	N	N	Y	N	N	N	N
Building Materials: Wholesale (Limited to 10% Storefront Sales)	N	N	N	SP	SP	N	N
Bus: Handicapped, Elderly Transportation, Charter and Livery Service	N	N	SP	SP	SP	N	N
Business Office	N	N	Y	SP	N	N	N
Campground <i>S</i>	SP	SP	N	N	N	N	N
Canine Day Care	N	N	N	SP	SP	N	N
Carpet Cleaning Works	N	N	N	Y	Y	N	N
Carpenter, Woodworking Shop	N	N	SP	SP	SP	N	N
Car Wash Facility	N	N	SP	N	N	N	N
Car Rental Service	N	N	Y	SP	SP	N	N
Cemetery (No Crematories) <i>S</i>	SP	SP	N	N	N	N	N
Church <i>S</i>	SP	SP	SP	N	N	N	N
Convalescent Home, Nursing Home <i>S</i>	SP	SP	SP	N	N	N	N
Day Care Center, Adult	N	N	SP	N	N	SP	N
Day Care Center, Child	N	N	SP	N	N	SP	N

LAND USES	ZONING DISTRICTS						
	RA-1	RA-2	B	IND-1	IND-2	CP	EE
Day Care Home, Adult Group	SP	SP	SP	N	N	N	N
Day Care Home, Child	SP	SP	SP	N	N	N	N
Day Care Home, Group	SP	SP	SP	N	N	N	N
Drug Store / Pharmacy (No Drive-Thru)	N	N	Y	N	N	N	N
Drug Store / Pharmacy (With Drive-Thru)	N	N	SP	N	N	N	N
Dwelling: Single Family	Y	Y	Y	N	N	N	N
Earth Material: Stockpiling and Processing	N	N	N	SP	SP	N	N
Earth Removal: Mineral or Organic Materials Removed for Commercial and/or Industrial Use	N <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	N <sup>1</sup>	SP
Factory: For Manufacture of Concrete & Clay Products	N	N	N	SP	N	N	N
Farm	Y	Y	Y	Y	Y	SP	N
Feed Store	N	N	SP	N	N	N	N
Fire Station <i>5</i>	SP	SP	SP	SP	SP	SP	N
Fuel/Petroleum Products: Manufacture, Sales, Storage & Distribution	N	N	N	SP	N	N	N
Funeral Home	N	N	Y	N	N	N	N
Gasoline and Service Station: Motor Vehicle Fuels	N	N	SP	N	N	N	N
General Contractors, Service and Equipment	N	N	SP	SP	SP	N	N
General Contractors, Service and Equipment (with Outdoor Storage)	N	N	N	SP	SP	N	N
Greenhouse: Commercial <i>5</i>	SP	SP	Y	Y	Y	N	N

<sup>1</sup> Earth removal, filling or grading in association with site development in accordance with a subdivision or re-subdivision plan is regulated by Zoning Permit as provided for in Section 4.11.



LAND USES	ZONING DISTRICTS						
	RA-1	RA-2	B	IND-1	IND-2	CP	EE
Gunsmith Activities	N	N	Y	N	N	N	N
Health Club	N	N	Y	N	N	SP	N
Junkyard	N	N	N	N	N	N	N
Laboratory, Research & Development	N	N	SP	SP	SP	N	N
Laundry, Dry Cleaning (Pick Up)	N	N	Y	SP	SP	N	N
Laundry, Dry Cleaning (Processing)	N	N	N	Y	Y	N	N
Livery Service	N	N	Y	SP	SP	N	N
Lodge or Club <i>5</i>	SP	SP	SP	N	N	N	N
Manufacture & Assembly	N	N	N	Y	SP	SP	N
Medical Facility	N	N	SP	N	N	SP	N
Medical Marijuana Dispensary Facility	N	N	SP	N	N	N	N
Medical Marijuana Production Facility	N	N	N	SP	SP	N	N
Municipal Buildings <i>5</i>	Y	Y	Y	Y	Y	SP	N
Nursery School <i>5</i>	SP	SP	Y	N	N	N	N
Nurseries: Retail	N	N	SP	SP	SP	N	N
Nurseries: Wholesale	N	N	SP	SP	SP	SP	N
Personal Services: (Tailoring, Custom Dress Making, Tanning Salon, Hair Cutting, Shoe Repair and other similar uses)	N	N	Y	N	N	N	N
Parks, Playgrounds, Recreational Facilities <i>5</i>	SP	SP	N	SP	SP	SP	N
Police Station <i>5</i>	SP	SP	SP	SP	SP	SP	N

LAND USES	ZONING DISTRICTS						
	RA-1	RA-2	B	IND-1	IND-2	CP	EE
Processing: Food (excluding Fat, Fish, Poultry, Meat, Vinegar)	N	N	N	SP	N	SP	N
Professional Offices and Services – Greater than 2,500 sq. ft.	N	N	SP	N	N	SP <sup>2</sup>	N
Professional Offices and Services – 2,500 sq. ft. or Less	N	N	Y	N	N	N	N
Prospect Public Works: Processing & Storage of Highway Materials, Equipment & Repair, Operations, Facilities, Buildings <sup>5</sup>	N	Y	Y	Y	Y	N	N
Public Schools <sup>5</sup>	Y	Y	N	N	N	N	N
Public Utility Substation	SP	SP	SP	SP	SP	SP	N
Recreation Facility, Commercial Indoor	N	N	SP	SP	SP	N	N
Recreation Facility, Commercial Outdoor <sup>5</sup>	SP	SP	SP	SP	SP	N	SP
Redemption Center	N	N	N	SP	N	N	N
Restaurant (No Drive-Thru)	N	N	Y	N	N	N <sup>3</sup>	N
Restaurant (With Drive-Thru)	N	N	SP	N	N	N	N
Retail Services - more than 2,500 sq. ft.	N	N	SP	N	N	N	N
Retail Services - 2,500 sq. ft. or less	N	N	Y	N	N	N	N
Rubbish Removal Service	N	N	N	Y	N	N	N

<sup>2</sup> Shall be greater than 5,000 Square Feet

<sup>3</sup> May be allowed by Special Permit if accessory to primary use

<sup>5</sup> One detached sign not to exceed twenty-four (24) square feet in area shall be allowed subject to all other applicable provisions and limitations contained in these regulations. When a sign is requested for a use permitted by Special Permit (SP), said sign must be shown on a Site Plan and approved by the Planning and Zoning Commission.

	<b>ZONING DISTRICTS</b>						
<b>LAND USES</b>	<b>RA-1</b>	<b>RA-2</b>	<b>B</b>	<b>IND-1</b>	<b>IND-2</b>	<b>CP</b>	<b>EE</b>
Trade Services - 3,000 sq. ft. or less	N	N	Y	Y	Y	N	N
Trade Services - more than 3,000 sq. ft.	N	N	SP	SP	SP	N	N
Veterinary Hospital	N	N	SP	SP	SP	SP	N
Warehouse - Indoor Storage	N	N	SP	Y	Y	SP	N
Wholesale: Fish, Meat & Frozen Foods	N	N	N	SP	SP	N	N
Wood Products: Mulch, Chips, Firewood	N	N	N	SP	SP	N	N

ACCESSORY LAND USES	ZONING DISTRICTS						
	RA-1	RA-2	B	IND-1	IND-2	CP	EE
Accessory Living Units	Y	Y	Y	N	N	N	N
Home Occupation	Y <sup>4</sup>	Y <sup>4</sup>	Y <sup>4</sup>	N	N	N	N
Private Greenhouses, Barns, Swimming Pools, Tennis Courts	Y	Y	Y	Y	Y	SP	N
Outdoor (Open) Storage - Height shall be no more than 50% of height of the primary building and shall be screened by either landscaping or fixed fencing of at least 6 feet in height.	N	N	SP	SP	SP	SP	N
Roadside Stand - Local Produce Only <sup>5</sup>	SP	SP	SP	N	N	N	N
Storage Tanks: Above Ground (Residential Use - up to 250 gallons by right without Special Permit)	SP	SP	SP	SP	SP	SP	N
Towers - 25' maximum from ground: (Communication, Receiving & Transmitting Antennas & Discs)	Y	Y	Y	Y	Y	Y	N
Towers - Higher than 25': (Communication, Receiving & Transmitting Antennas & Discs)	SP	SP	SP	SP	SP	SP	SP

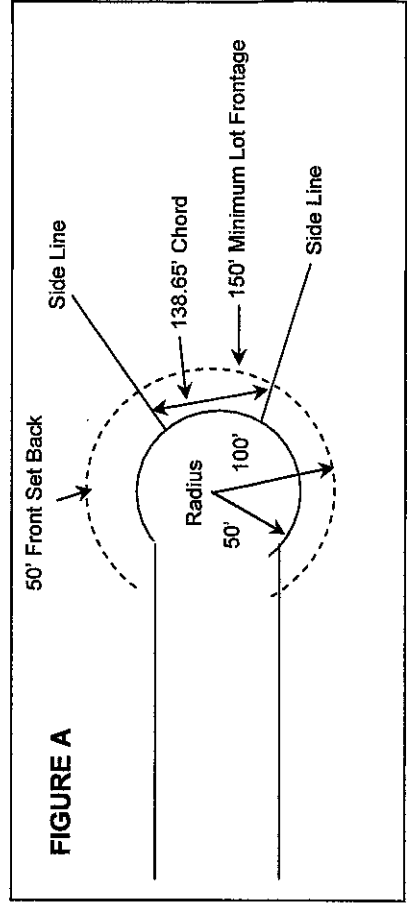
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<sup>4</sup> May require Public Hearing

# TABLE OF GENERAL BULK REGULATIONS

Zone	General Use Application <sup>1</sup>	Minimum Lot Area	Maximum Percentage of Lot Area Covered by Structures (Lot Coverage)			Minimum Frontages <sup>3</sup>	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Maximum Height	Minimum Floor Area
			Building Alone	Impervious Surfaces <sup>2</sup>							
RA-1	Single Family Detached	40,000 <sup>4</sup> SF	15%	30%	150 Ft	50 Ft	25 Ft.	50 Ft.	35 Ft.	960 SF	
RA-2	Single Family Detached	80,000 <sup>4</sup> SF	15%	30%	200 Ft.	50 Ft.	25 Ft.	50 Ft.	35 Ft.	960 SF	
B	Business	20,000 SF	35%	70%	100 Ft.	50 Ft.	25 Ft.	40 Ft.	35 Ft.	None	
IND-1	Industrial	40,000 SF	35%	70%	150 Ft.	50 Ft.	25 Ft.	40 Ft.	35 Ft.	None	
IND-2	Industrial	40,000 SF	35%	70%	150 Ft.	50 Ft.	25 Ft.	40 Ft.	35 Ft.	None	
CP	Commerce Park	80,000 <sup>5</sup> SF	35% (Minimum)	70%	200 Ft.	50 Ft.	25 Ft.	40 Ft.	35 Ft.	None	
EE	Earth Excavation	--	--	--	--	--	--	--	--	--	

1. See specific district use regulations for additional requirements (Sections 3.2 – 3.8).
2. Includes any hard-surfaced, man-made area that does not readily absorb or retain water including, but not limited to, building areas, parking and driveway areas, streets, graveled areas, sidewalks and paved recreational areas.
3. On lots served by a permanent cul-de-sac, the length of an ARC measured from side line to side line with the radius of 50 feet greater than the cul-de-sac radius shall measure 150 feet to meet the minimum frontage requirement. (The measurement shall be 138.65 feet on the chord) Another acceptable method for determining the ARC is to measure the distance between the lot side lines at the minimum 50 feet street setback line (See Figure A).
4. Minimum Buildable Area Regulation applies.
5. Minimum Square is 150 feet on all sides.



## ANY HOUSE BUILT IN OTHER THAN RESIDENTIAL AREAS MUST CONFORM TO ALL RESIDENTIAL REQUIREMENTS

## **Section 3.2 Residential 1-Acre (RA-1) District**

### **3.2.1 Purpose**

The purpose of the Residential 1-Acre (RA-1) District is to provide single-family detached dwellings on individual lots having a minimum area of 40,000 square feet.

### **3.2.2 Permitted Uses**

Specific uses are permitted or prohibited in the RA-1 District in accordance with the designations or procedures stated in Section 3.1. Unless specifically permitted in Section 3.1, the use shall be deemed to be prohibited throughout the Town.

### **3.2.3 Lot Sizes and Areas**

**3.2.3.1** Each lot shall have an area of at least 40,000 square feet and a width of at least 150 feet measured at the required front yard setback.

**3.2.3.2** Each lot shall contain a Minimum Buildable Area, which is defined as a contiguous area containing at least 18,000 square feet and bounded by four sides with no side less than 100 feet in length and no angle less than 45 degrees. No wetlands, watercourses, or water bodies shall be present within the Minimum Buildable Area. No more than 25 percent of the Minimum Buildable Area shall contain slopes in excess of 25 percent. Slopes shall be measured from existing topography prior to grading. The Minimum Buildable Area shall be capable of being drawn entirely within the boundaries of a lot and behind the minimum front setback line. All structures greater than 150 square feet shall be located entirely within the Minimum Buildable Area.

### **3.2.4 Yards**

**3.2.4.1** Each lot shall have a front yard setback of not less than 50 feet.

**3.2.4.2** Each lot shall have two side yard setbacks of at least 25 feet.

**3.2.4.3** Each lot shall have a rear yard setback of not less than 50 feet.

**3.2.4.4** Corner lots shall have two 50 foot front yards as shown in Figure 4 in Appendix A.

**3.2.4.5** Permitted accessory structures shall follow all yard setback requirements in accordance with Article 5.

### **3.2.5 Lot Coverage**

**3.2.5.1** The maximum percentage of lot area covered by all buildings shall not exceed 15% of the area of the lot.

**3.2.5.2** The maximum percentage of lot area covered by impervious surfaces including buildings, parking lots, and loading areas shall not exceed 30% of the area of the lot.

### **3.2.6 Maximum Height**

No building or structure shall exceed 35 feet in height.

### **3.2.7 Minimum Floor Area**

Minimum floor area shall not be less than 960 square feet. Finished basements can be included in computing minimum floor area for residential use only where the average height of the finished portion thereof, measured from floor to finished ceiling, is above the average finished grade of the ground adjoining the building.

### **3.2.8 Maximum Floor Height**

No floor providing living space in a residential building, including attics that are finished and heated, shall be more than 21 feet above average ground level.

### **3.2.9 Minimum Required Off-Street Parking & Loading**

All off-street parking and loading shall comply with requirements outlined in Article 6.

### **3.2.10 Accessory Uses**

Fences and walls not exceeding three feet in height in any front yard nor six feet in height in any side or rear yard may be erected without a zoning permit. All other accessory uses and structures shall comply with requirements outlined in Article 5.

### **3.2.11 Farms**

Stables, manure pit or piles to be located a minimum of 200 feet from any lot lines.

## **Section 3.3 Residential 2-Acre (RA-2) District**

### **3.3.1 Purpose**

The purpose of the Residential 2-Acre (RA-2) District is to provide single-family detached dwellings on individual lots having a minimum area of 80,000 square feet.

### **3.3.2 Permitted Uses**

Specific uses are permitted or prohibited in the RA-2 District in accordance with the designations or procedures stated in Section 3.1. Unless specifically permitted in Section 3.1, the use shall be deemed to be prohibited throughout the Town.

### **3.3.3 Lot Sizes and Areas**

**3.3.3.1** Each lot shall have an area of at least 80,000 square feet and a width of at least 200 feet measured at the required front yard setback.

**3.3.3.2** Each lot shall contain a Minimum Buildable Area, which is defined as a contiguous area containing at least 18,000 square feet and bounded by four sides with no side less than 100 feet in length and no angle less than 45 degrees. No wetlands, watercourses, or water bodies shall be present within the Minimum Buildable Area. No more than 25 percent of the Minimum Buildable Area shall contain slopes in excess of 25 percent. Slopes shall be measured from existing topography prior to grading. The Minimum Buildable Area shall be capable of being drawn entirely within the boundaries of a lot and behind the minimum front setback line. All structures greater than 150 square feet shall be located entirely within the Minimum Buildable Area.

### **3.3.4 Yards**

**3.3.4.1** Each lot shall have a front yard setback of not less than 50 feet.

**3.3.4.2** Each lot shall have two side yard setbacks of at least 25 feet.

**3.3.4.3** Each lot shall have a rear yard setback of not less than 50 feet.

**3.3.4.4** Corner lots shall have two 50 foot front yards as shown in Figure 4 in Appendix A.

**3.3.4.5** Permitted accessory structures shall follow all yard setback requirements in accordance with Article 5.



### **3.3.5 Lot Coverage**

**3.3.5.1** The maximum percentage of lot area covered by all buildings shall not exceed 15% of the area of the lot.

**3.3.5.2** The maximum percentage of lot area covered by impervious surfaces including buildings, parking lots, and loading areas shall not exceed 30% of the area of the lot.

### **3.3.6 Maximum Height**

No building or structure shall exceed 35 feet in height.

### **3.3.7 Minimum Floor Area**

Minimum floor area shall not be less than 960 square feet. Finished basements can be included in computing minimum floor area for residential use only where the average height of the finished portion thereof, measured from floor to finished ceiling, is above the average finished grade of the ground adjoining the building.

### **3.3.8 Maximum Floor Height**

No floor providing living space in a residential building, including attics that are finished and heated, shall be more than 21 feet above average ground level.

### **3.3.9 Minimum Required Off-Street Parking & Loading**

All off-street parking and loading shall comply with requirements outlined in Article 6.

### **3.3.10 Accessory Uses**

Fences and walls not exceeding three feet in height in any front yard nor six feet in height in any side or rear yard may be erected without a zoning permit. All other accessory uses and structures shall comply with requirements outlined in Article 5.

### **3.3.11 Farms**

Stables, manure pit or piles to be located a minimum of 200 feet from any lot lines.

## **Section 3.4 Business (B) District**

### **3.4.1 Purpose**

The purpose of the Business (B) District is to enhance the quality of new development or redevelopment along the Rt. 68 and Rt. 69 corridors and to provide for commercial and office uses in a manner that respects compatibility with surrounding uses.

### **3.4.2 Permitted Uses**

Specific uses are permitted or prohibited in the B District in accordance with the designations or procedures stated in Section 3.1. Unless specifically permitted in Section 3.1 or deemed appropriated by the Commission, the use shall be prohibited throughout the Town.

### **3.4.3 Lot Sizes and Areas**

Each lot shall have an area of at least 20,000 square feet and a width of at least 100 feet measured at the required front yard setback.

### **3.4.4 Yards**

**3.4.4.1** Each lot shall have a front yard setback of not less than 50 feet.

**3.4.4.2** Each lot shall have two side yard setbacks of at least 25 feet.

**3.4.4.3** Each lot shall have a rear yard setback of not less than 40 feet.

**3.4.4.4** Permitted accessory structures shall follow all yard setback requirements in accordance with Article 5.

### **3.4.5 Lot Coverage**

**3.4.5.1** The maximum percentage of lot area covered by all buildings shall not exceed 35% of the area of the lot.

**3.4.5.2** The maximum percentage of lot area covered by impervious surfaces including buildings, parking lots, and loading areas shall not exceed 70% of the area of the lot.

### **3.4.6 Maximum Height**

No building or structure shall exceed 35 feet in height.

### **3.4.7 Minimum Required Off-Street Parking & Loading**

All off-street parking and loading shall comply with requirements outlined in Article 6.

**3.4.8 Exterior Lighting Requirements**

Exterior lighting shall be provided as required in Article 7.

**3.4.9 Landscaping, Screening and Buffer Area Requirements**

Landscaping and screening areas shall be provided as required in Article 9. An adequate buffer strip, in accordance with Article 9 shall be provided adjacent to any Residential District. Said buffer strip shall be equal to or greater than 10% of the average lot width for side yards or average lot depth for rear yards, whichever is applicable but not less than 20 feet; except that the Commission may substitute, for a required 10 foot buffer, appropriate fencing or landscaped berm of suitable type and height which shall be installed and maintained by the applicant to effectively screen the use from adjoining Residential Districts.

**3.4.10 Signs**

All signage shall comply with requirements outlined in Article 8.

**3.4.11 Site Plan Requirement**

For all uses in B zones, site plan review, and approval by the Planning and Zoning Commission in accordance with Article 11 is required before any Zoning Permit is issued.

**3.4.12 Miscellaneous**

**3.4.12.1** All permitted outdoor open storage shall be screened by a minimum six (6) feet high visual obstruction composed of either vegetation or fixed fencing, meeting the definition of screening in these regulations and shall be no more than 50% of height of the primary building.

**3.4.12.2** An unobstructed emergency access way a minimum 15 feet wide shall be maintained for passage of fire equipment and other emergency vehicles. The access way is to be located from the front street line to and around all structures, and to further be kept free of all obstructions including parked vehicles.

## **Section 3.5 Industrial - Manufacturing 1 (IND-1) District**

### **3.5.1 Purpose**

The purpose of the Industrial – Manufacturing 1 (IND-1) District is to provide for a broad range of industrial and commercial uses in a setting that will not have environmentally objectionable influences on adjoining residential and business districts.

### **3.5.2 Permitted Uses**

Specific uses are permitted or prohibited in the IND-1 District in accordance with the designations or procedures stated in Section 3.1. Unless specifically permitted in Section 3.1 or deemed appropriated by the Commission, the use shall be prohibited throughout the Town.

### **3.5.3 Lot Sizes and Areas**

Each lot shall have an area of at least 40,000 square feet and a width of at least 150 feet measured at the required front yard setback.

### **3.5.4 Yards**

**3.5.4.1** Each lot shall have a front yard setback of not less than 50 feet.

**3.5.4.2** Each lot shall have two side yard setbacks of at least 25 feet.

**3.5.4.3** Each lot shall have a rear yard setback of not less than 40 feet.

**3.5.4.4** Permitted accessory structures shall follow all yard setback requirements in accordance with Article 5.

### **3.5.5 Lot Coverage**

**3.5.5.1** The maximum percentage of lot area covered by all buildings shall not exceed 35% of the area of the lot.

**3.5.5.2** The maximum percentage of lot area covered by impervious surfaces including buildings, parking lots, and loading areas shall not exceed 70% of the area of the lot.

### **3.5.6 Maximum Height**

No building or structure shall exceed 35 feet in height.

### **3.5.7 Minimum Required Off-Street Parking & Loading**

All off-street parking and loading shall comply with requirements outlined in Article 6.

### **3.5.8 Exterior Lighting Requirements**

Exterior lighting shall be provided as required in Article 7.

**3.5.9 Landscaping, Screening and Buffer Area Requirements**

A buffer zone landscaped in accordance with Article 9 and free of all structures including, without limitation, parking lots, shall be maintained on all yards that abut a residential zone. The buffer zone shall be at least 100 feet in depth of which 10 feet shall consist of trees and shrubs of which at least 30% shall be evergreen and 60% shall be a minimum of six (6) feet high. Where an industrial zone is across the street from a residential zone, the 100 feet shall be measured from the street line on the industrial zone side.

**3.5.10 Signs**

All signage shall comply with requirements outlined in Article 8.

**3.5.11 Site Plan Requirement**

For all uses in IND-1 zones, site plan review, and approval by the Planning and Zoning Commission in accordance with Article 11 is required before any Zoning Permit is issued.

**3.5.12 Miscellaneous**

**3.5.12.1** All permitted outdoor open storage shall be screened by a minimum six (6) feet high visual obstruction composed of either vegetation or fixed fencing, meeting the definition of screening in these regulations and shall be no more than 50% of height of the primary building.

**3.5.12.2** Where an industrial zone is across the street from a residential zone, the 100 feet shall be measured from the street line on the industrial zone side.

**3.5.12.3** An unobstructed emergency access way a minimum 15 feet wide shall be maintained for passage of fire equipment and other emergency vehicles. The access way is to be located from the front street line to an around all structures, and to further be kept free of all obstructions including parked vehicles.

## **Section 3.6 Industrial - Manufacturing 2 (IND-2) District**

### **3.6.1 Purpose**

The purpose of the Industrial – Manufacturing 2 (IND-2) District is to provide for a broad range of industrial and commercial uses in a setting that will not have environmentally objectionable influences on adjoining residential and business districts.

### **3.6.2 Permitted Uses**

Specific uses are permitted or prohibited in the IND-2 District in accordance with the designations or procedures stated in Section 3.1. Unless specifically permitted in Section 3.1 or deemed appropriated by the Commission, the use shall be prohibited throughout the Town.

### **3.6.3 Lot Sizes and Areas**

Each lot shall have an area of at least 40,000 square feet and a width of at least 150 feet measured at the required front yard setback.

### **3.6.4 Yards**

**3.6.4.1** Each lot shall have a front yard setback of not less than 50 feet.

**3.6.4.2** Each lot shall have two side yard setbacks of at least 25 feet.

**3.6.4.3** Each lot shall have a rear yard setback of not less than 40 feet.

**3.6.4.4** Permitted accessory structures shall follow all yard setback requirements in accordance with Article 5.

### **3.6.5 Lot Coverage**

**3.6.5.1** The maximum percentage of lot area covered by all buildings shall not exceed 35% of the area of the lot.

**3.6.5.2** The maximum percentage of lot area covered by impervious surfaces including buildings, parking lots, and loading areas shall not exceed 70% of the area of the lot.

### **3.6.6 Maximum Height**

No building or structure shall exceed 35 feet in height.

### **3.6.7 Minimum Required Off-Street Parking & Loading**

All off-street parking and loading shall comply with requirements outlined in Article 6.

### **3.6.8 Exterior Lighting Requirements**

Exterior lighting shall be provided as required in Article 7.

### **3.6.9 Landscaping, Screening and Buffer Area Requirements**

**3.6.9.1** A buffer zone landscaped in accordance with Article 9 and free of all structures including, without limitation, parking lots, shall be maintained on all yards that abut a residential zone. The buffer zone shall be at least 100 feet in depth of which 50 feet shall consist of trees and shrubs of which at least 30% shall be evergreen and 60% shall be a minimum of six (6) feet high.

**3.6.9.2** A buffer zone landscaped in accordance with Article 9 and free of all structures including, without limitation, parking lots, shall be maintained on all yards that abut a Commerce Park zone. The buffer zone shall be at least 100 feet in depth of which 10 feet shall consist of trees and shrubs of which at least 30% shall be evergreen and 60% shall be a minimum of six (6) feet high.

**3.6.9.3** Where an industrial zone is across the street from a residential zone, the 100 feet shall be measured from the street line on the industrial zone side.

### **3.6.10 Signs**

All signage shall comply with requirements outlined in Article 8.

### **3.6.11 Site Plan Requirement**

For all uses in IND-2 zones, site plan review, and approval by the Planning and Zoning Commission in accordance with Article 11 is required before any Zoning Permit is issued.

### **3.6.12 Miscellaneous**

**3.6.12.1** All permitted outdoor open storage shall be screened by a minimum Six (6) feet high visual obstruction composed of either vegetation or fixed fencing, meeting the definition of screening in these regulations and shall be no more than 50% of height of the primary building.

**3.6.12.2** Where an industrial zone is across the street from a residential zone, the 100 feet shall be measured from the street line on the industrial zone side.

**3.6.12.3** Access to the IND-2 zone shall only be permitted from Scott Road.

**3.6.12.4** Vehicle access to uses within the IND-2 zone shall be limited one access drive per property.

**3.6.12.5** An unobstructed emergency access way a minimum 15 feet wide shall be maintained for passage of fire equipment and other emergency

vehicles. The access way is to be located from the front street line to an around all structures, and to further be kept free of all obstructions including parked vehicles.

### **Section 3.7 Earth Excavation (EE) District**

#### **3.7.1 General**

These Regulations shall be construed and applied to promote their purposes and policies, which are as follows:

- 3.7.1.1** To regulate and control the excavation, deposition, and removal of soil, loam, sand, gravel, clay, rock or any other natural earth material (hereinafter, collectively or individually, earth materials) from land or premises within designated Earth Excavation Districts in the Town of Prospect;
- 3.7.1.2** To control and regulate excavation, removal and deposition of earth materials so as to prevent, outside of Earth Excavation Districts; damage to property; the creation of any safety or health hazard including without limitation, noise, odor, soil erosion, stagnant water, water and air pollution; and excessive drainage runoff to the public or to owners of adjoining property; and to preserve land values of premises and historic value of structures, archeological features, landscape features, and scenic landmarks situated within the Town of Prospect and to provide for the quiet use and enjoyment thereof;
- 3.7.1.3** To preserve the vegetation and other natural growth on premises situated within the Town of Prospect for the purpose of preventing erosion by wind or water;
- 3.7.1.4** To ensure that the existing topography of areas of the Town of Prospect is not altered in a permanent manner inconsistent with the goals and recommendations of the Town of Prospect Plan of Conservation and Development, as may from time to time be amended; and
- 3.7.1.5** To accomplish such other purposes as permitted by the Connecticut General Statutes.

#### **3.7.2 Applicability & Approval Procedure**

##### **3.7.2.1 Applicability**

These Earth Excavation Regulations shall be applicable to any new or expanded operations, as of the approval date of these regulations, which undergo excavation and deposition of earth materials and to the processing of



earth materials for commercial purposes within duly designated Earth Excavation Districts within the Town of Prospect. All permitted operations in effect prior to the approval of these regulations shall be required to follow the renewal procedure outlined in Section 3.7.4.7.

### **3.7.2.2 General Procedural Requirements**

Any new or expanded earth excavation operation in the Town of Prospect shall abide by the following procedural requirements: 1) obtain zone change approval as regulated under Article 14 to establish or expand an Earth Excavation District; 2) obtain a Special Zoning Permit as regulated under Article 12, which grants approval for the use within the Earth Excavation District; 3) obtain an Earth Excavation Permit as regulated under Section 3.7, which establishes approval for the operation within an Earth Excavation District.

### **3.7.3 Permit Required**

Before any excavation or deposition or processing of earth materials subject to these Earth Excavation Regulations is commenced or continued, the owner and/or any other person, firm or corporation (hereinafter referred to as "applicant" or "permittee") claiming a right to excavate, deposit or process earth materials from or on premises shall obtain an Earth Materials Permit from the Planning and Zoning Commission of the Town of Prospect.

#### **3.7.3.1 Duration**

Each permit issued hereunder shall be valid for a period of two years or for such shorter period of time as may be requested by the applicant or determined appropriate by the Commission based on a Long Term Mining and Reclamation Plan submitted in accordance with Section 3.7.7 of these regulations or unless suspended or revoked due to permit violations.

#### **3.7.3.2 Denial of Permit Application**

The Commission may deny any permit application, if:

**3.7.3.2.1** The applicant has previously failed to complete any required restoration of premises under any permit issued prior to the effective date of these Regulations in accordance with the provisions of prior applicable regulations governing said permits, as set forth in Section 3.7.9.1 of these Earth Excavation Regulations, or has failed to restore the premises in accordance with these Earth Excavation Regulations; or

**3.7.3.2.2** The applicant has previously violated, and failed to correct such violation to the satisfaction of the Commission, these or any prior Earth Excavation Regulations, ordinances of the Town of Prospect pertaining to earth materials, or any conditions of a previously issued Earth Materials Permit; or

**3.7.3.2.3** The issuance of the permit would result in the violation of any other section of these Earth Excavation Regulations, any provision of the Prospect Zoning Regulations, or any other regulation, code or ordinance of the Town of Prospect, or any statute or regulation of the State of Connecticut or of the United States, including, but not limited to, those relating to the conservation of natural resources.

### **3.7.4 Application Procedure**

Each applicant for a permit shall submit to the Commission four (4) complete sets of the following data, maps and plans, and other information necessary to define and explain the proposed activities. On written request of the applicant, the Commission may waive any of the required submittals for permit renewal applications if the Commission is satisfied that documentation provided with a previous permit application for the same premises reflects conditions existing at the time of the application for permit renewal as confirmed in writing by the applicant. Each applicant shall file a summary of the application with the Conservation Commission and Inland Wetlands Commission at the time of submittal. The Commission may direct that application materials be provided by the applicant to other Prospect agencies or placed on file in the Prospect Public Library.

#### **3.7.4.1 Application**

An application, in such form as the Commission may prescribe, shall contain the following information.

**3.7.4.1.1** A deed description and property line survey of the premises on which the proposed excavation or deposition is to occur, which description shall include the volume and page reference of the recorded deed on the land records of the Town of Prospect.

**3.7.4.1.2** If the person, firm or corporation claiming a right to excavate from or deposit or process earth materials on the premises is other than the owner of record, a brief description of the nature of the interest granted to the applicant under which the right to work is claimed, which description shall identify the nature of the interest (e.g., leasehold, easement, license), the scope of the interest, and its term. A notice of any such interest, if not the lease, easement or other agreement itself, must be filed on the land records of the Town of Prospect prior to the date of issuance of the Earth Materials Permit.

**3.7.4.1.3** A detailed statement describing the existing premises, the proposed excavation and all associated processing and materials management, and the purpose and duration of the proposed work, consisting of the following information:

- 1) A statement of A) the acreage of the entire premises, B) the acreage of the permit area for which a permit is requested, and C) the acreage of all land restored under prior permits and to be restored in accordance with these regulations, as shown on the map required by Section 3.7.4.1.9;
- 2) A statement of the types of earth materials to be excavated, deposited and processed, and in the case of deposition a statement of the volume (cubic yards), source and types of materials that have been deposited on the permit area or the premises during any previous permit terms, the location within the permit area and the condition of the area to be filled;
- 3) A calculation of the number of cubic yards of material to be excavated and/or deposited within the area for which a permit is requested and a statement as to how the calculation was made;
- 4) Where on-premise processing of earth materials excavated from the premises is permitted by these Regulations, a description of any equipment and/or structures to be erected on the premises, including muffler and other noise abatement systems, to perform such processing in order to provide a clear indication of the nature and extent of such permitted processing;
- 5) An inventory list of all equipment, including processing equipment, to be used to carry out the proposed work, including an estimate of the number of vehicles to be used solely to transport material to or from the premises;
- 6) A statement of the provisions to be made to prevent and to control any potential nuisance conditions which might result from the proposed work, including but not necessarily limited to blasting, dust, noise, truck traffic, material processing, and concrete and asphalt production, as applicable.
- 7) A statement and supporting documentation regarding potential impact, if any, of any change in surface or groundwater levels or water quality that may be caused by the proposed activities including impacts on public and/or private wells and wetlands habitats;
- 8) Calculations of changes to velocities and volumes of water in watercourses within 2000 feet of any discharge from an Earth Excavation District property resulting from any proposed or existing permitted activities;
- 9) Certified water quality tests for all watercourses abutting or crossing the premises, taken at the upstream and downstream borders of the property;
- 10) Documentation of compliance with the noise monitoring required by Section 3.7.6.19, consisting of tests of noise levels at all property boundaries that are adjacent to residential zones conducted in May and October during normal business hours;

11) A description of any potential threats to populations or habitats of any species identified as endangered, threatened, or of special concern by the Connecticut Department of Environmental Protection caused by proposed or existing permitting activities and provisions to prevent or mitigate any such losses;

12) An archeological survey prepared by a professional archeologist or a report from the State of Connecticut archeologist, including identification of known sites of historic or archeological significance.

13) A description and photographs of any ridgeline or other defining landscape feature proposed to be removed in a permit application; and

14) Any additional information that the Commission may deem necessary to evaluate the application and to carry out the purposes set forth in Section 3.7.1.

**3.7.4.1.4** A description of any revisions to the latest Long Term Mining and Reclamation Plan, submitted in accordance with Section 3.7.7 of these regulations, for the subject premises made necessary by permitted activities subsequent to the latest Plan filing or by proposed activities.

**3.7.4.1.5** A site reclamation and restoration plan for the Permit Area showing proposed final contours, landscaping, reclamation materials stockpiles, and proposed reclamation and restoration work during the term of the permit if applicable.

**3.7.4.1.6** If blasting is proposed as part of a permit application, a plan for monitoring weather conditions for production blasts, including plans to schedule blasting well enough in advance to take advantage of the days when air shock is likely to be at a minimum and to avoid blasting on days during times of unstable air masses and temperature inversions when air shock is more likely to occur.

**3.7.4.1.7** A list of all current and required permits issued by any responsible authority other than the Town of Prospect for any activity on the subject premises and the status thereof and a list of any outstanding notices of violation, citations, or other enforcement action by any such responsible authority including a status report on any such conditions.

**3.7.4.1.8** The names and signatures of the owner and the applicant.

**3.7.4.1.9** Survey maps and plans and/or such other graphic documentation in such form as the Commission may require to carry out the purposes of these Regulations prepared by a Connecticut registered licensed surveyor (and by a Connecticut licensed professional engineer if engineering expertise and analysis is required and by a Connecticut licensed landscape architect or other qualified professional for visual impact assessments and restoration

plans) all of which documentation shall be identified as part of the application. The survey maps and plans shall be drawn to a scale appropriate to the size of the premises and/or permit area and the nature of the proposal and may be consolidated as appropriate. The Commission may require additional maps and plans at other scales. Maps and plans shall show the following.

1) The entire premises owned by the owner, and within said premises, the proposed permit area, the exterior limits of which having been determined by measurements from fixed reference points along the boundary lines of the premises. In addition, the area of the designated permit area shall be expressed in terms of acreage or square footage.

2) The names of all property owners within 1,000 feet of the proposed Earth Excavation District, including those separated from the Earth Excavation District by a road or watercourse.

3) The location, elevation and extent of all existing and proposed roads, highways, storm drainage, drainage ponds, water courses and bodies, swamps, wetlands, wells and septic systems on and within 200 feet of the permit area and existing and proposed improvements to ensure proper drainage and to avoid pollution of wetlands and groundwater.

4) A Restoration Plan, if applicable, for the proposed permit period comporting with Section 3.7.7 of these regulations.

5) The location on the premises and description of wooded areas and natural vegetative communities, areas identified on the most recent Connecticut Department of Environmental Protection Natural Diversity Database Map of State and Federal Listed Species and Significant Natural Communities, unique geological features, rock outcrops, existing buildings and structures, and existing and proposed ground cover and vegetation.

6) For rock quarries, such evidence, in the form of boring logs, data from monitoring wells or deep test pits, hydrogeological analyses, or otherwise, sufficient to demonstrate the feasibility of the proposed excavation and deposition to the proposed contour elevations within the permit area, the availability of sufficient water for any proposed water bodies, and the potential effect of excavation on ground water levels, wetlands and watercourses, and public and/or private wells within one-half mile of the permit area.

7) Existing contours and elevations, identifying where final grades have been established, and proposed final future contours and elevations in and within 200 feet of the permit area at two-foot intervals or at such intervals as deemed appropriate by the Commission in order to adequately evaluate the

application; existing contours may be interpolated from ten-foot contours of U.S. Geologic Survey maps, if same are applicable to the premises; contours of the bottom of water bodies or courses to be altered or created shall also be shown.

8) A permanent benchmark or point existing in the permit area in a location safe from disturbance for the duration of the permit, with a designation of its elevation.

9) Delineation of all completed restoration areas, including calculation of land area restored in accordance with these regulations.

10) Existing and proposed vehicular access to the permit area and any proposed work roadways within the premises.

11) The location and square footage of all storage area(s) within which the applicant proposes to stockpile reserve topsoil and fill and excavated or processed materials, and/or to locate any equipment and structures.

12) A soil erosion and sediment control plan prepared in accordance with the provisions of Section 4.14 of these Prospect Zoning Regulations.

13) Delineation of fences as required by Section 3.7.6.12 of these Earth Excavation Regulations.

14) Such other data as the Commission may conclude is necessary in order to carry out the purposes of these regulations.

#### **3.7.4.2 Release of Encumbrance**

Proof that written notice of the excavation has been given to the holders of any mortgages or other encumbrances on the property as recorded with the Town of Prospect and a written statement from the Tax Collector of the Town of Prospect certifying that all taxes levied against the premises have been paid in full and that there are no unreleased tax liens encumbering the same.

#### **3.7.4.3 Fee**

**3.7.4.3.1** A base permit fee is required as prescribed by the Town of Prospect Zoning & Subdivision Fee Schedule. If determined necessary by the Commission to obtain specialized technical review to fully and properly review and evaluate the application, the fees for such technical review shall be paid by the applicant within ten (10) days of the Town's written notice of the actual or estimated fee. The applicant's failure or refusal

to deposit the actual or estimated fee shall be grounds for denial of the application. Any fees paid in excess of actual technical review costs shall be refunded to the applicant.

**3.7.4.3.2** Upon issuance of an Earth Materials Permit, and prior to commencing any permitted activities, the permittee shall pay a monitoring and inspection fee of \$10.00 per 1,000 cubic yards of earthen material excavation approved by said permit or such lesser amount as determined by the Commission. If the commission determines that it is necessary to obtain technical review to fully and properly review and evaluate compliance with Prospect's Zoning Regulations and any conditions of permits issued, the fees for such technical review shall be paid by the permittee within ten (10) days of the Town's written notice of the actual fees.

**3.7.4.4 Liability Insurance**

Evidence by way of an insurance binder shall be provided that shows that the applicant has sufficient liability insurance naming the Town of Prospect as an additional insured for any liability resulting from the permitted operations. Such evidence shall be reviewed and approved by the Town Attorney prior to the issuance of a permit.

**3.7.4.5 Right of Entry for Correction of Violations**

The owner of the premises and the applicant shall provide a written agreement that permits the Town of Prospect or its designee to enter upon the premises and to perform all work necessary to correct and abate any violations of these Regulations of which the permittee has been given notice and opportunity to be heard and has then failed to correct within the required time. Such right of entry shall continue for such time thereafter as is required for the Town or its designee to remedy such default.

**3.7.4.6 Notice of Hearings**

In all earth excavation permit applications requiring public hearings, the applicant shall notify by mail (Certificates of Mailings) all adjoining property owners, according to the current Grand List, within one thousand (1,000) feet of the perimeter of the permit area at least seven (7) days in advance of the initial public hearing. The notice shall include a brief description of the application along with the date, time, and location of the public hearing. The applicant shall submit to the Commission all Certificates of Mailings and a list of all property owners as evidence of compliance with this requirement. Additionally, the applicant shall provide notice to the Prospect Inland Wetlands Commission and the Prospect Conservation Commission.

#### **3.7.4.7 Renewal Procedure**

Renewal applications containing all required documentation shall be submitted at least 60 days but not more than 90 days prior to the expiration of the existing permit. The Commission may renew a permit for the premises upon payment of the required permit fee; the filing of a new bond and the other documentation required under Section 3.7.4; the filing of a statement of the number of cubic yards of earth material which have been removed and/or deposited under the existing permit and the filing of updated application, map, and plan information required by these Earth Excavation Regulations or written request for waiver of such filing requirements, provided the Commission finds that:

- 3.7.4.7.1** The permitted work is being diligently performed by the permittee. A failure by the permittee to actively work the area covered by the permit for a period of six months (excluding November, December, January, February and March) shall be prima facie evidence that the work authorized has been completed or abandoned, and the burden shall be on the applicant to show why the permit should be renewed;
- 3.7.4.7.2** The permittee has taken steps to restore those portions of the permit area where work is completed and has made provisions to assure that restoration can be effected in accordance with the original plan and these Regulations;
- 3.7.4.7.3** There are no violations of any Town of Prospect, State of Connecticut, or United States regulations, ordinances or statutes pertaining to the earth excavation activities at the premises for which corrective action has not been completed by the applicant or for which a plan for such actions has not been approved by the applicable regulatory authority;
- 3.7.4.7.4** The renewal will not extend the permit period beyond the applicant's estimated completion date as specified in the Long Term Mining and Reclamation Plan submitted pursuant to Section 3.7.7; and
- 3.7.4.7.5** All reclamation activities required by any previous permit have been completed to the Commission's satisfaction.

#### **3.7.5 Suspension, Revocation, Transfer, or Extension of Permit**

A permit issued under these Regulations may be suspended, revoked, transferred or extended as set forth below.

##### **3.7.5.1 Failure to Work**

The failure of any permittee to actively work the permit area for a period of six months (excluding the months of November, December, January, February and March) without the prior written approval of the



Commission, shall be cause for revocation of a permit. Such revocation shall become effective 30 days after the mailing of notice to the permittee and owner, unless the permittee sooner proves to the Commission that the area has been actively worked during such six-month period, or provides written assurances satisfactory to the Commission that work will be resumed and continued. The failure of the permittee thereafter to actively work the area in accordance with such written assurance shall be grounds for revocation without further notice.

#### **3.7.5.2 Violations of Regulations**

Any permit issued under these Earth Excavation Regulations may be suspended or revoked by the Zoning Enforcement Officer or the Commission when there has been a violation of any provision of these Regulations or any permit issued there under, provided that notice of said violation has been given to the permittee together with an order to comply therewith within 21 working days as set forth in said order, and the permittee has failed to comply with said order. Such permit shall be reinstated upon demonstration of compliance to the Commission's satisfaction. Upon revocation of a permit, restoration of the entire permit area in accordance with Section 3.7.6.16 of these Regulations shall begin within 90 days of such revocation and proceed on the schedule included in the original conditions of approval.

#### **3.7.5.3 Transfer of Permit**

Any permit issued under these regulations may be transferred only after approval by the Commission, which may require submittal of any or all of the information required for permit applications, including a revised Long Term Mining and Reclamation Plan, before approval of any transfer.

#### **3.7.5.4 Extension of Permit**

If the Commission is unable for good cause to act on a pending permit renewal application within the time limits prescribed by Connecticut General Statutes for Zoning Special Permit hearings, the Commission may grant an extension of the Earth Materials Permit currently in effect for up to two additional 30 day periods, provided there are no pending enforcement actions or violations of any permits issued by the Town of Prospect in connection with the premises or earth excavation activities within the premises.

### **3.7.6 Earth Excavation Standards**

Any earth materials activities subject to these Earth Excavation Regulations shall be conducted in compliance with the following standards in addition to any conditions contained in any approved permit.

#### **3.7.6.1 Location of Operation**

No excavation, deposition, processing, or other disturbance of pre-existing ground cover, other than approved restoration and reclamation activities, shall occur on the premises outside the permit area. The permit area shall be worked in conformance with the approved plans and these Regulations.

#### **3.7.6.2 Depth Above Ledge**

Except in rock quarries, no excavation shall be made lower than three feet above ledge, or such greater distance above ledge as may be required to permit the re-graded site to meet the proposed final contours at slopes not exceeding the maximum provided by these regulations.

#### **3.7.6.3 Relationship of Permit Area to Existing Features**

No excavation or fill shall be made that would reduce the final elevation below flood plain, change the area of the flood plain, or expose ground water without specific prior approval of the Commission, which shall be given only when, by proper analysis, it is determined that no pollution or silting of existing water courses, or increased flood or erosion hazards, or other effect on water supply or purity will result and any necessary Permits have been issued by the Prospect Inland Wetlands Commission. Within any rock quarry, to the greatest extent practical, any quarrying of rock which will affect existing ridge lines, or create temporary exposed cliffs, or create other permanent topographical features, shall be done in a manner or adequately mitigated to assure compatibility with the Plan of Conservation and Development for the Town of Prospect, as determined by the Commission. Any earth material excavation permitted by these regulations shall, to the greatest extent possible, be done in a manner or adequately mitigated to preserve historic and archeological sites used for prehistoric and historic occupation, subsistence, industry, trade, agriculture, burial and other cultural purposes, to assure compatibility with the Plan of Conservation and Development, as determined by the Commission.

**3.7.6.4 Setback of Excavation**

No excavation conducted under an Earth Materials Permit issued pursuant to these Earth Excavation Regulations shall be made below the grade of any abutting highway within 150 feet thereof, unless approved by the Commission, or below the grade of any adjoining property at the property line within 50 feet thereof, or within 150 feet of any dwelling existing at the date the permit is issued without the written approval of the abutting owner of private property or of the owner of the dwelling to be affected and the approval of the Commission.

**3.7.6.5 Slopes During Excavation**

Except in rock quarries, no slopes having a grade greater than one foot vertical to two feet horizontal shall be created during excavation within 150 feet of any property not owned by the applicant or any street line unless the operator shall demonstrate to the reasonable satisfaction of the Zoning Enforcement Officer that material to re-grade the slope in accordance with Section 3.7.6.16 is available on the premises and the slope is so re-graded within 60 days after excavation of the slope is commenced.

**3.7.6.6 Reuse and Development**

Excavation shall result in final grades and final rock quarry floor elevations that permit reasonable reuse and development as described in the Long Term Mining and Reclamation Plan filed in accordance with Section 3.7.7 of these Earth Excavation Regulations.

**3.7.6.7 Runoff and Erosion Controls**

At all stages of work, proper stormwater drainage and erosion/sedimentation controls shall be provided to prevent excessive runoff and stagnant water, silting of streams or other water bodies, and damage to public or private property, streams, roads or drainage facilities.

**3.7.6.8 Equipment**

No equipment directly or indirectly engaged in the excavation, processing, or transporting of earth materials shall be operated on the premises other than that listed in the application for a permit and approved by the Commission. No vehicles or equipment not used in connection with the work covered by the permit shall be operated, parked, repaired or serviced within the permit area. No processing machinery shall be erected, maintained or operated within 300 feet of any property or street line or such other distance as the Commission may establish as a condition of any Earth Materials Permit. Any processing machinery shall be used only to process earth material excavated from the permit area, earth materials and imported materials stockpiled on the respective earth excavation district prior to [effective

date of these regulations], and imported materials as necessary for contractual obligations with any public entity or as demonstrated necessary for production purposes and specifically authorized in a permit.

### **3.7.6.9 Time of Operation**

The following hours of operation shall apply to permitted earth materials activities subject to these regulations:

**3.7.6.9.1** Drilling, blasting, rock crushing, screening, and washing: 8:00 A.M. to 5:00 P.M. Monday through Friday, except holidays.

**3.7.6.9.2** Production of asphalt, concrete, and other materials as authorized by a permit issued in accordance with these Earth Excavation Regulations and transportation of materials within the premises and off-site: 6:30 A.M. to 7:00 P.M. Monday through Friday and 7:00 A.M. to 5:00 P.M. Saturday, except holidays. Preheating of production equipment may begin 30 minutes before the applicable start time.

**3.7.6.9.3** Maintenance and repair of processing and manufacturing facilities and vehicle repairs and maintenance outside of buildings: 6:30A.M. to 9:00 P.M. Monday through Friday and 7:00 A.M. to 5:00 P.M. Saturday, except holidays.

**3.7.6.9.4** Vehicle repairs within buildings: 5:00 A.M. to 10:00 P.M. Monday through Saturday.

**3.7.6.9.5** For the purposes of this Time of Operation, holidays are defined as New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.

### **3.7.6.10 Tree Protection**

All trees outside the permit area shall be protected from damage.

### **3.7.6.11 Pollution Controls**

Adequate provision shall be made for the muffling of sound and vibration; for soil erosion and sedimentation controls; and the prevention of dissemination of dust, including the treatment of all on-premise access routes with calcium chloride or similar material. Adequate provisions must be made to prevent the discharge of any pollution control chemicals, anti-sticking agents, sediment, oil, or other pollutants into any wetlands. The Commission may require water quality tests during the permit year as a condition of approval.

**3.7.6.12 Warning Signs and Fencing**

Adequate provisions shall be made for warning signs and security fencing as may be necessary or required, all subject to the approval of the Zoning Enforcement Officer or Commission.

**3.7.6.13 Stockpile of Arable Soil**

No arable topsoil existing within the permit area shall be removed from the premises until an amount adequate, in the opinion of the Zoning Enforcement Officer, to conform to these regulations has been stockpiled at the storage area on the premises. Arable topsoil shall be separately stockpiled from subsoil and other fill material. All arable topsoil stockpiled for a period of more than 30 days shall be seeded with annual ryegrass.

**3.7.6.14 Depth to Water Table**

No excavation shall be made below the normal groundwater table, or soil contours changed, which results in a permanent lake or pond or drainage ditch, unless expressly approved by the Commission.

**3.7.6.15 Securing Loads**

It shall be the responsibility of the permittee to ensure that vehicles removing earth materials from the premises are so loaded and/or secured, including load covers, that there will be no spillage or release of such materials within the Town of Prospect. The permittee shall be liable for the cost of cleaning any earth material spillage or repairing any damage to a road or roads of the Town of Prospect caused by improper loading or securing of loads.

**3.7.6.16 Restoration of Excavated Areas**

All reclamation and restoration approved as a condition of any permit shall be completed within the permit period. The remainder of the premises, including the permit area, except for the storage area, processing area and circulation routes, shall remain either undisturbed land or shall be graded to the proposed final contours and elevations and be otherwise restored, seasonal planting factors considered, pursuant to the Long Term Mining and Reclamation Plan. Within 90 days (excluding from said period the months of November, December, January, February and March) of the completion of the work authorized or the expiration or revocation of the permit, whether initial or renewed, the area of excavation, deposition, or disturbed ground shall be restored in accordance with the Long Term Mining and Reclamation Plan and the following standards, which may be waived or modified for good cause by the Commission.

**3.7.6.16.1 Finished Slopes:** Reclamation areas shall be refilled, if necessary, with earth materials. Re-grading shall be to the final contours and

elevations shown in the approved plans with slopes (measured from final lower elevation to final upper excavated elevation), not to exceed an average of one foot vertical in two feet horizontal or to such a lesser slope necessary for soil stability, safety of reasonable reuse and development of the land but yet with sufficient grade to ensure adequate drainage, and sufficient diversity in land form to provide a more natural condition. Re-grading may include terracing or shelving and the development of vertical rock faces as determined appropriate by the Commission. Rolling topography should be developed and sloped areas shall not exceed two-hundred (200) feet of continuous length (measured perpendicular to the contours) without a reverse bench or terrace, a change in grade (percent slope) or change in aspect (slope direction). Compaction of fill materials shall be based on calculations developed by a qualified engineer.

**3.7.6.16.2** Drainage Swales: Adequate drainage swales of gradual contour shall be provided as needed to create positive flow. Minor depressions or detention areas may be developed to create diversity in landscape form and for stormwater management purposes as deemed appropriate by the Commission.

**3.7.6.16.3** Debris Removal: All loose boulders of less than 10 cubic yards and all debris shall be buried or removed from the site. Within any rock quarry, upon completion of the work in a specific area authorized by a permit, all natural debris and loose rock shall be buried or removed from the site.

**3.7.6.16.4** Vegetation Restoration: A layer of arable topsoil, which shall be substantially free of stones, shall be spread evenly over the entire area to a minimum depth of four inches over reclaimed substrate or to a depth determined by the Commission to be necessary to support vegetation growth over natural substrate. Such cover soils shall be non-compressed and then fertilized, limed and seeded with a perennial grass/ground cover and maintained until the ground shall be stabilized with a dense cover in accordance with the provisions hereunder specified and there exists no danger of erosion as determined by the Commission or Zoning Enforcement Officer. Restoration shall be done in accordance with the following:

- 1) The amount of fertilizer and lime to be applied shall be determined by the soil test prepared and/or approved by the U.S.D.A. Natural Resource Conservation Service.
- 2) Grass/ground cover seed used shall be fresh and be in conformance with soil testing determinations with respect to

liming, fertilizing, and watering. Seed composition and the application rate shall be based on sieve analysis and soil testing as performed by the permittee at a certified testing lab. Seeding shall be done as recommended by the seed manufacturer.

- 3) Areas specifically proposed to include trees as a part of the restoration plan shall provide a minimum of two and one-half (2 ½) feet of earth material from the proposed grade to the ledge. Tree restoration shall include a combination of deciduous and evergreen trees and shrub species and shall identify the number, species type, size (height and caliper) and general locations of the planting. The plan shall also include a management plan narrative for general maintenance purposes including fertilizer type and application rate, liming rate, mulching and a watering and pruning schedule.
- 4) Trees to be used in restoration shall be young trees indigenous to the area. Size of the trees, planting density, and species type shall be approved by the Commission.
- 5) Soil erosion and sedimentation control provisions meeting the requirements of Section 4.14 of these Prospect Zoning Regulations shall be incorporated in all restoration projects.

**3.7.6.16.5** Repairs: If the seeding or planting fails in whole or in part, the area shall be re-seeded, replanted and re-mulched until all eroded or uncovered areas have been re-seeded and repaired to the satisfaction of the Commission.

**3.7.6.17 Restoration Adjacent to Water Bodies**

Areas shown as existing or proposed water bodies on the approved plans shall be considered restored when and to the extent that they have been excavated to the approved depth and all shore lines, other than those remaining within the permit area, have been re-graded to a slope not exceeding one foot vertical and two feet horizontal, and have been stabilized to the satisfaction of the Commission.

**3.7.6.18 Failure to Work and Restore Site**

The failure of a permittee, without the prior written approval of the Commission, to actively work the area covered by the permit for a period of six months (excluding the months of November, December, January, February and March) shall be prima facie evidence that the work authorized by the permit has been completed, and the burden shall be upon the permittee to prove to the contrary. Any failure to initiate restoration within the 90-day period following completion, expiration or revocation of the permit, such as to reasonably insure

complete restoration by the end of said 90-day period (seasonal planting excepted) shall be a separate violation of these regulations.

### **3.7.6.19 Blasting**

Any blasting permitted in conjunction with a permit or renewal permit for a rock quarry shall comply with all applicable State regulations.

#### **3.7.6.19.1 Blasting notice, Monitoring and Damage Complaint Procedures:**

- 1) Permittee shall provide the Town Land Use Office with notification at least 24 hours prior to any anticipated production blast and shall notify other individuals requesting such notification of a production blast.
- 2) All production and test blasts shall be monitored with air pressure, seismic, and decibel meters at no fewer than five (5) sites for each blast.
- 3) Permittee shall notify, in writing, any property owner who has filed a complaint pursuant to Section 3.7.6.21 of these Earth Excavation Regulations of the availability of a pre-blast survey and how to request such survey. Upon such request, permittee shall conduct or arrange for a pre-blast survey, which shall determine the condition of the dwelling or structure and document any existing damage and other physical factors that could reasonably be affected by the blasting. A written report of the survey shall be prepared and signed by the person who conducted the survey. A copy of the report shall be provided to the property owner requesting the survey. In event that a permittee believes that a property owner is remote in location from any Earth Excavation District and is using this procedure in a manner inconsistent with the intent of these regulations, the Commission may waive the requirement that the permittee provide a pre-blast survey to such property owner;
- 4) The permittee will assume all costs of repair/replacement due to damages to any structures and/or wells located within one-half (1/2) mile of an Earth Excavation District for which a permit has been issued if it is determined by a registered professional engineer, selected by the homeowner from a list compiled by the Commission and approved by the permittee, that in the engineer's professional opinion it is more probable than not, that the damages to the structure or well in the



engineers professional opinion was caused by blasting conducted in accordance with such permit. Permittee will also pay for the cost of the engineering study.

**3.7.6.20 Operations and Compliance Monitoring**

If required as a condition of any permit issued under these Earth Excavation Regulations, a permittee shall submit reports which shall include some or all of the following, as specified in any Commission approval.

**3.7.6.20.1** On April 7 of each permit year and quarterly thereafter, a compliance report as detailed in conditions of approval consisting of:

- 1) a complaint log and response report in accordance with Section 3.7.6.21;
- 2) a blasting log;
- 3) a tabulation of truck traffic;
- 4) delineation of overburden stockpiles and soil and erosion controls therefore;
- 5) a description of all restoration work;
- 6) a report identifying the amount, type, and source of any clean earth materials imported onto the premises for reclamation;
- 7) a calculation of material excavated; and
- 8) such other information as the Commission may specify in any conditions of approval.

**3.7.6.20.2** An Earth Materials Permit Progress Report on October 1 of each year during which any excavation activity occurs, consisting of the following:

- 1) a topographic survey of the premises, showing topography, structures, roads, drainage systems, wetlands, Zoning District boundaries, permit area boundaries, and property ownership boundaries;
- 2) a report, signed and sealed by an engineer or surveyor registered and licensed to practice in the State of Connecticut regarding the progress of the excavation, including the amount of material

removed and existing contours in the area excavated in the previous one year period;

- 3) a listing of all addresses for which pre-blast surveys were conducted and the dates thereof; and
- 4) a report detailing restoration activities for the prior one-year period and describing all reclaimed areas including soil conditions and soil stability, survival rates of all plantings, and other information that may be requested by the Commission.

#### **3.7.6.21 Complaints**

All activities subject to these Earth Excavation Regulations shall comport with the following complaint procedures.

**3.7.6.21.1** All permittees shall maintain a local or toll-free telephone number for complaint referrals;

**3.7.6.21.2** A log of all complaints received shall be maintained and filed with the Town Land Use Office, consisting of the date and time of the event, the nature of the complaint, a description of any physical damage identified, and an explanation of any actions taken in response by the permittee.

### **3.7.7 Long Term Mining and Reclamation Plans for Earth Excavation District Premises**

No application for an Earth Materials Permit shall be accepted by the Commission unless a Long Term Mining and Reclamation Plan has been submitted as provided in this Section. Commencing September 15, 2003 and subsequently every six (6) years on September 15, any holder of a permit for earth excavation on premises within an Earth Excavation district shall submit a Long Term Mining and Reclamation Plan for such premises containing the following information:

**3.7.7.1** Estimates of remaining amounts of earth materials subject to removal, including results of boring tests conducted in a grid pattern determined by the Commission over all Earth Excavation District property subject to future excavation;

**3.7.7.2** Estimated completion date for removal of earth materials identified in Section 3.7.7.1, above, including identification of economic and other assumptions used to develop such projections;

**3.7.7.3** Long term restoration and reclamation goals for the next six-year period, developed in consultation with the USDA Natural Resources

Conservation Service. Such goals shall comport with the standards in Section 3.7.6.16 of these regulations, unless alternative design standards are approved by the Commission.

- 3.7.7.4** Estimate of the final date (subject to any modification approved by the Commission and made public in writing) by which complete restoration of the premises shall be accomplished;
- 3.7.7.5** Status and condition of previously reclaimed areas;
- 3.7.7.6** Anticipated need for importation of fill materials for reclamation over the next six-year period;
- 3.7.7.7** Conceptual designs for post-completion restoration of the premises for potential reuse; and
- 3.7.7.8** Any other information requested by the Commission in previous permits or monitoring reports.

### **3.7.8 Bonding**

#### **3.7.8.1 Performance Bond**

Prior to commencement of any excavation activities authorized under these Earth Excavation Regulations, the permittee shall post a performance bond with the Town in an amount and form satisfactory to the Town Attorney, to secure to the Town the permittee's compliance with Town of Prospect's Zoning Regulations and any conditions of approval of an Earth Materials Permit.

**3.7.8.1.1** The permittee shall submit cost calculations for all drainage systems, sedimentation and erosion controls, and any other actions identified in conditions of approval as requiring bonding.

**3.7.8.1.2** The performance bond shall be calculated to include the cost calculations in Section 3.7.8.1.1, above, plus \$10,000 per acre of permit area for reclamation and restoration.

#### **3.7.8.2 Insufficient Bond**

If for any reason the performance bond is insufficient to pay all costs of actions covered by the bond, and the permittee does not complete such actions to the satisfaction of the Commission, the permittee shall remain liable for the costs in excess of the performance bond and such excess costs shall become a lien against the premises.

#### **3.7.8.3 Bond Forfeiture**

If the Commission, after providing written notice to the permittee, and an

opportunity to be heard, finds that the permittee has violated these Zoning Regulations and/or permit conditions, and has failed to cure such violations within the time established by the Commission, then the Commission may determine that the permittee's bond shall be forfeited; whereupon the Town of Prospect shall be authorized to enter on the property to take all action necessary to cure any such violation and to expend bond funds for such action. Any excess of the amounts paid over, after deduction of all disbursements required to abate the violation, shall be returned to the permittee.

#### **3.7.8.4 Bond Release**

Upon completion of the work authorized by a permit and the restoration of the premises pursuant to these Earth Excavation Regulations, the permittee may file with the Commission an application for a return of the permittee's bond, together with a written statement from the Tax Collector of the Town of Prospect certifying that all taxes levied against the premises and the machinery, equipment, and vehicles used or located thereon, and subject to assessment in the Town of Prospect, have been paid in full. If the Commission is satisfied that the work and restoration have been completed as required by the permit and these Regulations and that all the taxes have been paid in full, the bond shall be returned to the permittee, but otherwise the bond shall remain in full force and effect.

#### **3.7.9 Miscellaneous**

##### **3.7.9.1 Existing Operations**

Each permit issued under the Earth Removal, Filling and Regrading Regulations dated March 17, 1993, as amended, shall continue in effect, and shall be governed by those regulations until the expiration of such permit, unless sooner revoked for violation of other provisions of the applicable regulations. All legally permitted facilities, site development, and completed restoration activities involving properties subject to these Earth Excavation Regulations shall continue as originally permitted whether such permit conditions conform or do not conform to these Earth Excavation Regulations, subject to the operational standards of these Earth Excavation Regulations.

##### **3.7.9.2 Modification of Plans After Approval**

If, during the conduct of work or restoration of the premises, special circumstances unforeseen at the time of the application are encountered, the Commission may grant modifications to the approved plan that, in the opinion of the Commission, are reasonably necessary to complete the work within the intent of these Regulations. No request for modification shall be considered if the applicant is in violation of the provisions of these Regulations.

**3.7.9.3 Separability**

Each word, phrase, clause, subsection or section capable of being separated from other words, phrases, clauses, subsections or sections without loss of essential meaning is hereby declared to be separable. If any such word, phrase, clause, subsection or section of these Regulations or the application thereof to any person or property is held invalid, such invalidity shall not affect the validity of the remainder of these Regulations or their application to other persons, property or situations.

**3.7.9.4 Inspection**

Members of the Commission or its agents shall at all times have reasonable access to premises on which permitted activity is being performed for the purpose of inspection and determination of compliance with these Regulations.

**3.7.9.5 Superseding of Existing Regulations**

Except as stated in Section 3.7.9.1 above, the Earth Removal, Filling and Regrading Regulations dated March 17, 1993, as amended, and any other previous ordinances pertaining to earth materials, excavation or deposition are hereby superseded.

## **Section 3.8 Commerce Park (CP) District**

### **3.8.1 Purpose**

The purpose of the Commerce Park Zone is to provide the Town of Prospect business and industrial development in a park-like setting to encourage higher quality buildings consistent with the Plan of Conservation and Development. Such development should constitute well-planned, functional and aesthetically pleasing environments for a prosperous business community, and should, by design, be compatible with abutting zones and uses.

### **3.8.2 Permit Required**

All applications for development within the CP zone shall require a Special Permit in accordance with Article 12 of the Prospect Zoning Regulations.

### **3.8.3 Permitted Uses**

Specific uses are permitted by Special Permit or prohibited in the CP district in accordance with table of uses found in Section 3.1. Operations and uses, which are neither specifically prohibited nor specially authorized, may be permitted in a specific case if operational plans and specifications are submitted to and approved in writing by the Prospect Planning and Zoning Commission. Approval or disapproval of such operational plans and specifications shall be based upon the effect of such operations or uses on other property subject to these regulations. In general, permitted uses include the following categories:

- 1) Light Manufacturing.
- 2) Warehouse/Distribution: Warehousing is limited to 50% of floor space.
- 3) Research and Development related to manufacturing.
- 4) Offices for depository institutions, non-depository credit institutions, insurance carriers, holding or other investment offices, business management and related services or miscellaneous business services, provided that such facilities that involve direct business or service to the general public shall be accessory to the primary use.
- 5) Daycare and support services.
- 6) Elderly Housing and Planned Congregate Elderly Housing may be allowed within the CP district by Special Permit, in accordance to Article 12 herein. All applications submitted for Elderly Housing or Planned Congregate Elderly Housing shall meet the requirements of Sections 4.1 and 4.2 respectively, with the exception of minimum lot size. The minimum lot size for Elderly Housing or Planned Congregate Elderly Housing within the CP district shall be determined pursuant to Section 3.8.5 herein.

### **3.8.4 Prohibited Uses**

The following uses are expressly prohibited the CP District:

- 1) Slaughterhouses, meat packing, distillation of bones, offal or dead animal rendering or dumping.
- 2) Blast Furnaces or smelting of copper, iron, lead, tin or zinc.
- 3) Coal or petroleum distillation or derivation of by-products.
- 4) Manufacturer of cement, lime, gypsum or plaster of Paris, or chlorine, or carbolic, hydrochloric, nitric, picric or sulfuric acid.
- 5) Manufacturer or storage of explosives.
- 6) Fertilizer manufacturer.
- 7) Fat rendering in the manufacturer of tallow, grease and oil.
- 8) Refining and recovery of products from fish, animal refuse, or offal.
- 9) Petroleum gas manufacturer or storage by others, other than a public utility, except that the storage for distributing purposes and the distribution of liquified petroleum gas may be permitted by the Zoning Board of Appeals, provided that the standards established by the National Board of Fire Underwriters, NBFU pamphlet 58 and 59, and applicable state laws, including revisions, are complied with. Nothing shall prevent the storage for use on the premises of liquified petroleum gas when installed and used in accordance with applicable Connecticut State Laws.
- 10) Junkyards.
- 11) Auto related uses.
- 12) Retail establishments.
- 13) Similar uses to the above (items 1-12) which are dangerous by reason of fire or explosion, or injurious, noxious, or detrimental to the neighborhood because of emission of dust, fumes, odor, smoke, waste, noise, vibrations, or because of other objectionable features.

### **3.8.5 Lot Sizes and Areas**

Each lot shall have an area of at least 80,000 square feet and a width of at least 200 feet measured at the required front yard setback. The minimum square on the lot shall not be less than 150 feet on all sides.

### **3.8.6 Yards**

**3.8.6.1** Each lot shall have a front yard setback of not less than 50 feet.

**3.8.6.2** Each lot shall have two side yard setbacks of at least 25 feet.

**3.8.6.3** Each lot shall have a rear yard setback of not less than 40 feet.

### **3.8.7 Lot Coverage**

**3.8.7.1** The minimum percentage of lot area covered by all buildings shall not be less than 35% of the area of the lot.

**3.8.7.2** The maximum percentage of lot area covered by impervious surfaces including buildings, parking lots, and loading areas shall not exceed 70% of the area of the lot.

### **3.8.8 Maximum Height**

No building or structure shall exceed 35 feet in height.

### **3.8.9 Maximum Floor Area**

Maximum floor area shall not exceed 40% of the lot area.

### **3.8.10 Minimum Required Off-Street Parking & Loading**

All off-street parking and loading shall comply with requirements outlined in Article 6. In addition to the requirements and standards contained in Article 6, the following shall apply:

**3.8.10.1** No more than 25% of the required parking area shall be located in the front yard area.

**3.8.10.2** No lot having less than 300 feet of street frontage shall have more than two driveway entrances and/or exits on each street abutting the lot. Lots with more than 300 feet of street frontages may have up to one driveway entrance and/or exits for each 300 feet of additional street frontage.

### **3.8.11 Exterior Lighting Standards**

Exterior lighting shall be provided as required in Article 7.

### **3.8.12 Landscaping, Screening and Buffer Area Requirements**

Landscaping, screening and buffer areas shall be provided in accordance with Article 9. A buffer zone landscaped and free of all structures including, without limitation, parking lots, shall be maintained on all yards that abut a residential zone. The buffer zone shall be at least one-hundred (100) feet in depth of which



10 feet shall consist of trees and shrubs of which at least 30% shall be evergreen and 60% shall be a minimum of six (6) feet high.

### **3.8.13 Signs**

All signage shall comply with requirements outlined in Article 8.

### **3.8.14 Development Standards**

**3.8.14.1** Fences and walls not exceeding three feet in height in any front yard nor six feet in height in any side or rear yard may be erected without a zoning permit. No fence or wall exceeding three (3) feet in height shall be constructed closer than thirty (30) feet from the curblineline of a fronting street. No fence or wall shall exceed a height of six (6) feet unless otherwise approved by the Commission. Walls and fences between buildings and fronting streets are discouraged, but when necessary shall require written approval by the Planning and Zoning Commission. All fences and walls shall be designed as integrated parts of the overall architectural and site design. All materials shall be durable and finished in textures and colors complementary to the overall architectural design.

**3.8.14.2** A building not exceeding 300 square feet in floor area and a height of 15 feet and used solely as a guard house, gate house or security building may extend to within 10 feet of any street line.

**3.8.14.3** All permitted outdoor open storage shall not exceed 15% of the lot area and shall be screened by a minimum six (6) feet high visual obstruction composed of either vegetation or fixed fencing, meeting the definition of screening in these regulations and shall be no more than 50% of height of the primary building.

**3.8.14.4** It is desired to limit the occupancy of businesses that will consume large amounts of water. Any tenants who will require water for processing will be required to submit water usage estimates for processing, water conservation measures to mitigate water consumption and require low flow plumbing fixtures where appropriate.

#### **3.8.14.5 Screening of Exterior Mechanical Equipment:**

1) Exterior components of plumbing, processing, heating, cooling and ventilating systems shall not be directly visible from a height of 5 feet above the ground or ground floor elevations at a distance closer than 500 feet from the closest building wall.

2) In the case of roof-mounted equipment, building parapets should be of such as height as to hide the equipment, so that screening devices are not required. If the building parapets cannot provide the required screening, the

mechanical equipment shall be screened by an unobtrusive screening device that will appear as an integral part of the overall architectural design.

3) Any devices employed to screen exterior components of plumbing, processing, heating, cooling, and ventilating systems from direct view shall appear as integrated parts of the architectural design and, as such, shall be constructed of complementary and durable materials and finished in a texture and color scheme complementary to the overall architectural design.

4) Any exterior components of plumbing, processing, heating, cooling, and ventilating systems and their screening devices which will be visible from upper floors of adjacent buildings shall be kept to a visible minimum, shall be installed in a neat and compact fashion, and shall be painted such a color as to allow their blending with their visual backgrounds.

5) No exterior components of plumbing, processing, heating, cooling, and ventilating systems shall be mounted on any building wall unless they are integrated architectural design features, and in any case shall be permitted only with the written approval of Planning and Zoning Commission.

#### **3.8.14.6 Screening of Exterior Electrical Equipment and Transformers:**

1) Transformers that may be visible from public view shall be screened with either plantings or a durable noncombustible enclosure (of a design configuration acceptable to the utility company). Where possible, it is recommended that refuse containers and transformers be integrated into the same enclosure.

2) Transformer enclosures should be designed of durable materials with finishes and colors, which are unified and harmonious with the overall architectural theme.

3) Exterior-mounted electrical equipment shall be mounted on the interior of a building wherever possible. When interior mounting is not practical, electrical equipment shall be mounted in a location where it is substantially screened from public view. In no case shall exterior electrical equipment be mounted on the street side or primary exposure side of any building.

4) Exterior-mounted electrical equipment and conduits shall be kept to a visible minimum, where visible shall be installed in a neat and orderly fashion, and shall be painted to blend with their mounting backgrounds.

**3.8.14.7 Utilities and Communication Devices:**

- 1) All exterior on-site utilities including, but not limited to, drainage systems, sewers, gas lines, water lines, and electrical, telephone, and communications wires and equipment, shall be installed and maintained underground.
- 2) On-site underground utilities shall be designed and installed to minimize the disruption of off-site utilities, paving, and landscape during construction and maintenance, and shall be of such a design as not to place excessive burdens upon off-site utility systems during the course of use.
- 3) No antenna or device for transmission or reception of any signals including, but not limited to, telephone, television, and radio, shall be placed on any device so that it is visible from five (5) feet above the ground or ground-floor level at a distance of five hundred (500) feet in any direction, unless specific written approval is granted by the Planning and Zoning Commission.
- 4) Temporary overhead power and telephone facilities are permitted during construction.

## ARTICLE 4 SUPPLEMENTARY REGULATIONS

### **Section 4.1 Elderly Housing**

Planned Residential Developments designed exclusively for Elderly Persons may be established in any Residential (RA-1 or RA-2) or Commerce Park (CP) zone, and as a single parcel with a minimum of 5 acres. All other residential regulations shall prevail, provided:

- 4.1.1** Not more than eight living units for each acre (44,000 sq. ft.).
- 4.1.2** No building shall contain more than eight living units.
- 4.1.3** At least 15% of the number of dwelling units permitted under subsection 4.1.1 shall be dedicated as affordable housing units in accordance with Section 8-30g of the *Connecticut General Statutes*. "Affordable Housing" means housing for which persons and families pay thirty percent or less of their annual income, where such income is less than or equal to 80% of the area median income for the Waterbury Primary Metropolitan statistical Area, in which such housing is located, as determined by the United States Department of Housing and Urban Development. The applicant shall provide a clear method of determining the maximum sale for the units as well as purchaser income eligibility requirements in accordance with Section 8-30g of the *Connecticut General Statutes*.
  - 4.1.3.1** (a) All affordable housing units shall be evenly distributed throughout the development.
  - 4.1.3.2** (b) If an affordable housing development is undertaken in phases, then any affordable housing units shall be built in an amount that is equal to at least 30% of the total number of dwellings within each development phase.
  - 4.1.3.3** (c) Dwelling units established as "affordable" shall remain affordable for forty years after the initial occupation of the development.
  - 4.1.3.4** (d) An "Affordability Plan" as defined in Section 8-30g-7 of the *Connecticut General Statutes* shall be submitted as part of the application for an elderly housing development containing a percentage of the total units as designated affordable. The plan shall include at a minimum those items cited in (1) through (6) of 8-30g-7 and Section 8-30g (b)(1) and of the *Connecticut General Statutes*.
  - 4.1.3.5** The developer, owner or manager shall provide annual certification to the Land Use Officer that the development continues to be in compliance with the deeds containing covenants or restrictions which require that dwelling units are sold at, or below, prices which will preserve the units as housing for which persons and families

pay thirty percent or less of income, where such income is less than or equal to eighty percent of median income.

- 4.1.4** Units may be constructed with one, two or three bedrooms: one bedroom units must have a minimum of 800 sq. ft.; two bedroom units must have a minimum of 1,000 sq. ft.; three bedroom units must have a minimum of 1,200 sq. ft. and shall not exceed 50% of the total units.
- 4.1.5** The ratio of one and two bedroom units will be at the discretion of the builder.
- 4.1.6** The maximum number of persons in each unit will be three in a two bedroom unit, and two in a one bedroom unit.
- 4.1.7** The minimum age of the head of household to be 55. One person under the age of 55, other than head of the household, will be allowed to live in a unit. Age does not apply to the permanently handicapped.
- 4.1.8** One unit per development may be occupied by a full-time resident custodian.
  - 4.1.8.1** A separate community building, including kitchen area and other necessary facilities as deemed by the Commission, conveniently located, but not connected to any living unit, must be constructed with floor space of 25 sq. ft. per unit to a minimum of 1200 sq. ft. To be completed before any unit is occupied. The community building shall be completed when at least 50% of the units are occupied by renters or by sale.
  - 4.1.8.2** Connecting sidewalks 4 ft. wide must be installed, ramp access to be included.
  - 4.1.8.3** Adequate sewerage facilities must be installed as required by Chesprocott Health District, the Water Pollution Control Authority, or the State of Connecticut.
  - 4.1.8.4** Adequate water and storm drainage must be included.
  - 4.1.8.5** Facilities, including a master bedroom with toilet, sink and bath/shower, laundry and a full kitchen shall be located on the first floor with a maximum floor height of 24' above ground level. Additional facilities may be located on the second floor as desired.
  - 4.1.8.6** Buildings shall be a minimum of 40 ft. apart.
  - 4.1.8.7** Each dwelling unit shall be provided with its own separate entrances directly from the outside.
  - 4.1.8.8** Not less than 1000 sq. ft. of permanent usable open space per dwelling unit shall be provided for outdoor activities. Not less than 60

sq. ft. of private outdoor space immediately adjacent to each dwelling shall be provided.

- 4.1.8.9** Required paved vehicular areas, wetlands, and private outdoor space shall not be considered permanent usable open space.
- 4.1.8.10** Such Planned Residential Development for the Elderly shall be served by an approved private street constructed to the Town of Prospect road specifications and designed so as to discourage through traffic.
- 4.1.8.11** No building shall exceed a length of 150 ft. and no exterior wall of any building shall exceed 50 ft. in length, in an unbroken plane, without an offset of at least 2 ft.
- 4.1.8.12** All buildings are to be of single consistent architectural style for harmony and appearance.
- 4.1.8.13** An applicant applying for approval of a Planned Residential Development Designed Exclusively for Occupance by Elderly Persons, shall submit a Plan of Development and Special Permit application for the proposed Planned Residential Development Designed Exclusively for Occupance by Elderly Persons at the time an application is filed for said change.
- 4.1.8.14** Prior to a final approval, a preliminary plan may be submitted with a Plot Plan showing buildings, road, parking and location layout. In addition, sewerage disposal provisions shall be included, showing test results and approval in writing by the Water Pollution Control Authority or Health District, depending upon the sewage disposal method proposed. This preliminary plan may be approved, disapproved or modified, as seen fit by the Commission. This preliminary approval does not guarantee final approval.
- 4.1.8.15** No other use, except the approved use, shall be allowed on the parcel of land approved for a Planned Residential Development Designed Exclusively for Occupancy by Elderly Persons. Said approved use shall be developed in compliance with the Commission approval.
- 4.1.8.16** Separate unit ownership is permitted. The developer may also provide provide units for rent, or may have a combination of rental and private ownership units.
- 4.1.8.17** A minimum of 5% of the units will be constructed to accommodate the handicapped.
- 4.1.8.18** Adequate street lighting must be installed as required in Article 7. Each lamp post shall not be more than 150 ft. apart on either side of the street.

- 4.1.8.19** Washer and dryer hookups must be provided in each unit.
- 4.1.8.20** Smoke and fire alarms must be installed in each unit connected to the Office of Development and the Fire Department.
- 4.1.8.21** Provisions for individual air conditioning units must be provided. Window installations are prohibited.

## **Section 4.2 Planned Congregate Elderly Housing**

### **4.2.1 Purpose**

A Planned Congregate Elderly Housing Zone may be established by the Planning and Zoning Commission in order to provide opportunities for increasing the quality of life for elderly citizens. The creation of a Planned Congregate Elderly Development Zone may be authorized in any residential district if the Commission deems that a need exists for such a zone, that the zone is beneficial to the Town and its residents and if the following criteria has been demonstrated.

- 4.2.1.1** The parcel of land, containing twenty (20) acres or more and of such shape and proportion as to provide adequate buffering, is to be developed in such a manner that the use of the land, buildings, and site improvements form an integrated and harmonious design unit, consistent with the character of the Town, the orderly development of the neighborhood and the purpose of these Regulations.
- 4.2.1.2** The design of the development with respect to location, orientation, structure, texture materials, landscaping and other features is compatible with needs of the inhabitants and the neighborhood.
- 4.2.1.3** The site is accessible directly from a state highway or major arterial road that provides safe ingress and egress without disruption of existing traffic patterns, with adequate sight lines and turning radii. Adequate services such as fire protection, water, sanitary disposal system, storm water drainage shall be demonstrated for the site. Additional road improvements, if deemed necessary, shall be provided at the Owner's expense.
- 4.2.1.4** The development demonstrates particular design merit in respect to meeting the social, physical, psychological and aesthetic needs of the elderly and physically handicapped.
- 4.2.1.5** The physical facilities are so designed as to provide residents and non-resident daycare attendees with convenient access to all common facilities, which may include but are not limited to central dining and kitchen, activity and craft rooms, beauty parlor, medical office, convenience shop, management office, snack bar, adult day care and recreational areas. The services offered herein are intended to be used solely for bonafide residents, guests of residents and non-resident daycare attendees. Common facilities building must be completed

before Certificates of Occupancy for residential units will be issued.

- 4.2.1.6** The development shall be specifically designed for the elderly. The minimum age of the head of household in to be 55. One person under the age of 55, other than head of household, shall be allowed to live in a unit. Age does not apply to the permanently handicapped.

## **4.2.2 Technical Standards**

### **4.2.2.1 Density**

- 4.2.2.1.1** The maximum density shall be eight (8) dwelling units per acre.
- 4.2.2.1.2** Wetlands or watercourses in excess of twenty percent (20%) of the lot shall not be used in computing compliance with density of lot area limitations.
- 4.2.2.1.3** Areas of a lot having a vertical gradient in excess of twenty-five percent (25%) shall not be used for purposes of computing compliance with density or lot, area requirement.
- 4.2.2.1.4** The parcel of land to be considered for PCED shall have a square of five hundred (500) feet and a minimum access of fifty (50) feet to a state highway or Prospect town road.

### **4.2.2.2 Building Standards**

- 4.2.2.2.1** Residential buildings shall be designed to provide a diversity of housing options to accommodate people of varying physical and economic conditions.
- 4.2.2.2.2** Larger, assisted living buildings should be clustered toward the center of the site with direct internal connections to the commons facility, while the smaller independent living units should be located nearer the property line to provide a harmonious transition to the neighborhood.
- 4.2.2.2.3** Residential buildings may contain the following unit types:
1. Studio units with a minimum of four hundred (400) square feet.
  2. One bedroom units with a minimum of five hundred fifty (550) square feet.
  3. Two bedroom units with a minimum of six hundred fifty (650) square feet.



**4.2.2.2.4 Residential buildings shall be classified as:**

1. Independent Living Buildings; which are designed for the fully ambulatory, shall each contain no more than four (4) dwelling units.
  - a. No building shall exceed one hundred twenty (120) feet in length.
  - b. Minimum distance between buildings shall be the average height of adjoining structures, but not less than twenty-five (25) feet.
  - c. Maximum building height shall be thirty-five (35) feet.
  - d. The entrance to each unit shall be directly from the outside.
  - e. All entrances shall be accessible to the physically handicapped.
  - f. Four (4) feet wide sidewalks shall connect all units to the commons building.
  - g. Washer and dryer hook-ups shall be provided in each unit.
2. Assisted Living Buildings, which are designed for the less mobile, shall each contain no more than twenty-four (24) dwelling units.
  - a. No building shall exceed one hundred and fifty (150) feet in length, not including connectors.
  - b. Maximum building height shall be thirty-five (35) feet.
  - c. Each building shall be connected to each other and to the Commons Building. The enclosed connector shall be recessed a minimum of ten (10) feet from the face of adjoining buildings and so designed as to maintain the appearance of individual buildings.
  - d. The entrance to each building and each unit therein shall be accessible to the physically handicapped.
  - e. A minimum of five percent (5%) of the dwelling units shall be constructed to accommodate the handicapped, or such greater number as may be required by Federal or State Law.
  - f. Conveniently located common laundry facilities shall be provided in each building.

#### **4.2.2.2.5 General:**

1. Each unit shall have a "Call for Aid" system as specified under National Safety Regulations.
2. All units shall be centrally air conditioned or provisions shall be made for individual air conditioners. Window installations shall not be permitted.
3. Fire protection, including smoke and fire alarms conforming to all state and local regulations, shall be installed in all dwelling units as well as all common areas.
4. All common areas shall be fully accessible to the physically handicapped. Each floor shall be connected by a passenger elevator and every transition in level shall be made with a ramp conforming to state and local codes.
5. No single bedroom unit shall be occupied by more than two (2) persons and no two bedroom unit shall be occupied by more than three (3) persons.

#### **4.2.2.3 Site Standards**

**4.2.2.3.1** The principal access road within the project boundary shall be privately maintained by the owner, shall not exceed a grade of ten percent (10%), at any given point shall have a width of twenty-four (24) feet excluding any parking or loading spaces and shall be constructed with a cross section, subgrade, base course and surface course as required for local residential streets under the Prospect Subdivision Regulations or any standards incorporated therein. The number of access roads shall be kept to a minimum and in no case shall they be located closer than three hundred (300) feet apart.

**4.2.2.3.2** Setbacks: No building or portion thereof shall extend within less than seventy-five (75) feet of a public street line or within fifty (50) feet of any property line.

#### **4.2.2.3.3 Coverage and Bulk:**

1. The aggregate lot coverage of all buildings and other structures shall not exceed fifteen percent (15%) of the lot area of the lot.
2. The aggregate lot coverage of all buildings, structures and paved areas shall not exceed thirty percent (30%) of the lot area.

**4.2.2.3.4** Parking and Loading:

1. At least one and one half (1-1/2) off-street parking spaces shall be provided for each independent living unit.
2. At least one (1) off-street parking space shall be provided for each assisted living unit.
3. One (1) off-street parking space shall be provided for each employee of the congregate facility during the largest daily workshift period. There should also be one (1) parking space for every three (3) non-resident adult day-care attendee.
4. At least one (1) guest off-street parking space shall be provided for every four (4) assisted living units.
5. At least one (1) off-street loading space twelve (12) feet x fifty-five (55) feet with a minimum vertical clearance of twelve (12) feet shall be provided for service to the "Commons" building.
6. Parking Design:
  - a. Standard parking spaces shall measure a minimum of nine (9) feet by twenty (20) feet.
  - b. Parking spaces for the handicapped shall be provided of a size and quantity as may be required by Federal or State law.
  - c. No vehicle parking or loading space shall be located directly on, or require backing into the principal access road.
  - d. No parking shall be located within a setback area or buffer.

**4.2.2.3.5** Sanitary System: A sanitary disposal system complying with all government regulations and receiving all necessary permits from the Department of Environmental Protection, Chesprocott Sanitation Department, Water Pollution Control Authority and all other agencies having jurisdiction over such matters, before the project approval becomes effective, such that a building permit may be issued for any work. No Zoning Permit shall be issued until plans for such system have received all such approvals.

**4.2.2.3.6** Community Water System: A community water supply system complying with all government regulations and receiving all necessary permits from the Water Pollution Control Authority, Department of Public Utility Commission

and the Department of Public Health and all other agencies having jurisdiction over such matters before the project approval becomes effective, such that a building permit may be issued for any work. No approval of any construction or any project is effective and no Zoning Permit shall be issued until the Zoning Enforcement Officer is in receipt of documentation establishing that the Connecticut Department of Public Health, Water Pollution Control Authority and the Department of Public Utility Control have approved such community water supply system, and has also received documentation establishing that such public water supply system will have an adequate supply for its present users, the proposed use, building or structures and all future users for whom water from the system has been committed.

**4.2.2.3.7** Site Utilities: All site utilities shall be buried underground with no visible overhead lines. All roadways, parking lots and connecting sidewalks shall be illuminated to provide safe passage and so designed to eliminate glare to abutting properties.

**4.2.2.3.8** Drainage: Substantially all storm water that is collected in the stormwater collection system shall be routed through detention facilities that are designed to avoid any increase in the rate of runoff from the area served by such systems upon completion of the construction. Such drainage shall also be designed to protect water courses and wetlands from pollution, erosion and sedimentation, to avoid amount of discharge and time of concentration of flow beyond the capacity of downstream drainage channels, and to avoid downstream flooding.

**4.2.2.3.9** Landscaping: Wherever possible existing natural vegetation is to be retained except in areas disturbed for the construction of buildings, site development and landscaping. All parking areas with more than ten (10) spaces shall be landscaped and screened by evergreen shrubs and trees from neighboring properties. Facilities for solid waste collection and storage shall be located in enclosures having a design and materials compatible with the overall design of the project.

**4.2.2.3.10** Open Space: Open space for active and passive activities as well as buffer areas from abutting properties shall be provided to the largest extent possible. In no case shall the usable open space be less than the following:

1. Not less than one thousand (1000) square feet of permanent usable open space per dwelling unit shall be provided for common outdoor activities.

2. Not less than sixty (60) square feet of private outdoor space shall be provided immediately adjacent to each dwelling unit. This space may be in the form of a balcony or grade level terrace.

#### **4.2.3 Submission Requirements**

Requests for approval of a Planned Congregate Elderly Development (PCED) shall be submitted in writing and shall be accompanied by the following:

##### **4.2.3.1 Report**

A written report specifically setting forth how the PCED meets the purpose and criteria of Section 4.2.1; ten (10) copies shall be submitted.

##### **4.2.3.2 Site Development Plans**

A Site Development Plan, including site plans, architectural plans and other relevant drawings meeting the requirements of Article 11 and Article 12; six (6) copies shall be submitted.

##### **4.2.3.3 Petition Map**

A Map drawn to scale of not less than two hundred (200) feet to the inch covering the area of the PCED and all area within five hundred (500) feet of the proposed change, showing existing and proposed zoning boundary lines, existing property lines and the names of the current property owners as indicated by the Prospect Assessor's records; six (6) copies shall be submitted.

##### **4.2.3.4 Fee**

The petition fee as specified in Article 12

##### **4.2.3.5 Application**

Request for approval of a Planned Congregate Elderly Development constitutes a petition to amend the Regulations in accordance with Article 14.

##### **4.2.3.6 Adoption**

The Planned Congregate Zone may be adopted by the Planning & Zoning Commission with modifications deemed necessary by the Commission to accomplish the purposes of these regulations. The effective date of the zone shall occur upon the fulfillment and implementation of conditions of approval. The Commission may require bonds be posted in amounts sufficient to complete such roads, utilities and sedimentation measures as recommended by a consulting engineer retained by the Town, in such form satisfactory to the Town

Attorney and with security such as cash, a pledge of deposit account or an irrevocable letter of credit.

**4.2.3.7 Time Limits**

Unless otherwise specified by the Commission, the Planned Development shall be completed and a Certificate of Zoning Compliance obtained within five (5) years of the effective date of the zone. The Commission may extend such time periods after a public hearing showing good cause. In the event of failure to commence construction within such time periods, the Planning and Zoning Commission is deemed authorized by the owner of that tract or lot to amend those regulations and the Zoning Map, deleting the PCRD, and establishing in its place a previous or another district.

### **Section 4.3 Adult Day Care Center**

**4.3.1** An Adult Day Care Center may be a use in the Business (B) District and shall be allowed only by Special Permit of the Planning and Zoning Commission, subject to the following conditions:

- 4.3.1.1** There shall be a minimum lot area requirement of one (1) acre.
- 4.3.1.2** A minimum of eight hundred (800) square feet in lot area shall be required for each adult resident.
- 4.3.1.3** The total lot coverage of all structures, including building parking lots, loading, etc. shall comply with the Table of General Bulk Regulations as described in the Prospect Zoning Regulations.
- 4.3.1.4** Off street parking shall be one (1) space provided for each employee, plus the required off street parking of one (1) space for each 300 square feet of gross floor area.
- 4.3.1.5** A planting screen and a six-foot high fence shall screen any outdoor activity area.
- 4.3.1.6** The center shall not provide overnight sleeping accommodations for the clients.
- 4.3.1.7** "Stack-up" spaces for vehicle drop-off and pick-up of clients shall be provided and shall be located on the premises in such a way as not to interfere with ingress and egress from the parking area.
- 4.3.1.8** A portico or canopy shall extend over the entranceways of a building, including any steps or handicap access ramps.
- 4.3.1.9** All other applicable standards, conditions and procedures as required under Section 3.4 – Business (B) District Regulations and Article 12 - Special Zoning Permit of the Prospect Zoning Regulations shall also apply.

## **Section 4.4 Adult Oriented Establishments**

### **4.4.1 Declaration of Policy**

The Planning and Zoning Commission of the Town of Prospect, Connecticut finds:

- 4.4.1.1.** The operation of “adult oriented establishments”, as defined below, in the Town requires special regulation and supervision by the Town to protect, preserve and promote the health, safety and welfare of the patrons, clients or customers and employees of such establishments, as well as the health, safety and welfare of the town’s citizens. Further, protecting order and morality, preserving the character of the Town, and preventing the deterioration of the Town’s neighborhoods, avoiding blight, decreasing crime and juvenile delinquency, promoting retail trade, maintaining property values, and ensuring sanitary and safe public places are desirable objectives of the community and its leaders.
  
- 4.4.1.2.** Statistics and studies performed by a substantial number of cities and towns in Connecticut and elsewhere in the United States indicate that “adult oriented establishments” as defined below, if unregulated, threaten the public health, safety, and welfare by providing an atmosphere conducive to harmful secondary effects including an increase in crime rates, depreciation of property values, and deterioration of community character and quality of life.

### **4.4.2 Purpose and Intent**

- 4.4.2.1** The primary purposes of Section 4.4 are to protect the general health, welfare, safety, way of life and local property values in the Town of Prospect by preventing the concentration of these types of uses in any one area, minimizing any adverse community impacts, and ensuring that these adverse effects will not contribute to the degradation of the surrounding neighborhoods.
  
- 4.4.2.2** It is not the intention of the Planning and Zoning Commission, in enacting this regulation, to deny to any person rights to speech protected by the United States and/or State Constitutions, nor is it the intent of the Planning and Zoning Commission to impose any limitations or restrictions on the content of any communicative materials including sexually oriented films, videotapes, books and/or other materials. Further, by enacting this article, the Planning and Zoning Commission does not intend to deny or restrict the rights of any adult to obtain and/or view any sexually oriented materials protected by the United States and/or State Constitutions, nor does it intend to



restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually oriented materials may have to sell, distribute or exhibit such materials.

#### **4.4.3 Definitions**

For the purpose of this Article, certain words and terms used herein are defined as follows:

##### **4.4.3.1 Accessory Adult Use**

**4.4.3.1.1** An "Accessory Adult Use" is defined as any establishment that has stock in trade for sale, rent, or barter in the following items:

A) Magazines, pamphlets, books, periodicals, video cassettes, DVDs, or films which are distinguished by or characterized by an emphasis on mailers and/or subjects depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas, as defined herein, but which constitute less than forty per cent (40%) of its stock in trade.

B) All other types of adult oriented materials or any types of devices used for sexual stimulation but which constitute less than forty per cent (40%) of its stock in trade.

**4.4.3.1.2** An "Accessory Adult Use" is also defined as any establishment utilized for viewing by motion picture devices or other types of coin operated means, videos, movies or films, which are characterized by or distinguished by their emphasis on matters or subjects depicting or relating to "Specified Sexual Activities" or "Specific Anatomical Areas", as defined herein, but which uses less than forty per cent (40%) of its interior gross floor area as calculated by square footage to sell or display any of the material or subject mailer as described in Section 4.4.3.1.1 above. Hallways, foyers, restrooms, loading docks, storage rooms and other areas not normally utilized to display or sell products are not to be calculated in the gross floor area.

**4.4.3.1.3** An establishment having an Accessory Adult Use shall not be considered an Adult Oriented Establishment.

##### **4.4.3.2 Adult Arcade, Adult Video Arcade**

An "Adult Arcade" or "Adult Video Arcade" is defined as any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion pictures machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so

displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

**4.4.3.3 Adult Bookstore**

An "Adult Bookstore" is any "adult bookstore", "adult novelty store" or "adult video store", or any other establishment that:

- 4.4.3.3.1** contains or has more than forty percent (40%) of its stock in trade for sale, rent, or barter in magazines, pamphlets, books, periodicals, video cassettes, DVDs, or films which are distinguished by or characterized by an emphasis on mailers and/or subjects depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas, as defined herein; or
- 4.4.3.3.2** utilizes more than forty percent (40%) of its interior gross floor area as calculated by square footage to sell or display any of the material or subject matter as described in part (1) above. Hallways, foyers, restrooms, loading docks, storage rooms and other areas not normally utilized to display or sell products are not to be calculated in the gross floor area; or
- 4.4.3.3.3** presents adult materials or entertainment, including movies or films, videocassettes or live entertainment for the purpose of observation or viewing by clients, customers, members, patrons, or members of the public therein which is characterized by or distinguished by its emphasis on mailers and/or subjects depicting or related to Specified Sexual Activities or Specified Anatomical Areas, as defined herein.

**4.4.3.4 Adult Cabaret**

An "Adult Cabaret" is defined as a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

- 4.4.3.4.1** persons who appear in a state of nudity or semi-nudity, or
- 4.4.3.4.2** live performances which are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities, or
- 4.4.3.4.3** films, motion pictures, videocassettes, slides or other photographic reproductions, which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

**4.4.3.5 Adult Entertainment**

- 4.4.3.5.1** Any means or method utilized to exhibit or display any type of adult oriented motion pictures, live performance, display or dance of any type;

#### **4.4.3.5.2**

Entertainment which consists, in substantial or significant portion, of any actual or simulated performances of Specified Sexual Activities or exhibition and viewing of Specified Anatomical Areas, including, without limitation, modeling, removal of articles of clothing or appearing unclothed, pantomime or any other manner of personal services offered to clients, customers, members, patrons, or members of the public.

#### **4.4.3.6 Adult Mini-Motion Picture Theater**

An "Adult Mini-Motion Picture Theater" is defined as an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished by or characterized by an emphasis on mailers or subjects depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas for viewing or observation by clients, customers, members, patrons, or members of the public therein.

#### **4.4.3.7 Adult Motel**

An "Adult Motel" is defined as a hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration which:

**4.4.3.7.1** provide patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction/description of Specified Sexual Activities or Specified Anatomical Areas and which hotel, motel, or similar commercial establishment has a sign visible from any public right of way that advertises the availability of this adult type of photographic reproduction; or

**4.4.3.7.2** offers a sleeping room for rent for a period of time that is less than 10 hours; or

**4.4.3.7.3** allows a tenant or occupant of the sleeping room to subrent the room for a period of time that is less than ten (10) hours.

#### **4.4.3.8 Adult Motion Picture Theater**

An "Adult Motion Picture Theater" is defined as an enclosed building or structure with a capacity of fifty (50) or more persons regularly used for presenting material distinguished by or characterized by an emphasis on matters or subjects depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by clients, customers, members, patrons, or members of the public.

#### **4.4.3.9 Adult Oriented Establishment**

"Adult Oriented Establishment" shall include the following, without limitation, any:

**4.4.3.9.1** "Adult motion picture theater"

**4.4.3.9.2** "Adult mini-motion picture theater"

**4.4.3.9.3** "Adult bookstore"

**4.4.3.9.4** "Adult cabaret"

**4.4.3.9.5** "Adult motel"

**4.4.3.9.6** "Adult video arcade and adult arcade"

**4.4.3.9.7** Any premises to which clients, customers, members, patrons, or members of the public are invited or admitted and which premises are so arranged physically as to provide studios, booths, compartments, rooms, cubicles or stalls separate from the common areas of the premises for the purpose of viewing adult oriented motion pictures.

**4.4.3.9.8** Any premises where an entertainer provides adult entertainment to any client, customer, member, patron, or member of the public in attendance when such adult oriented entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

**4.4.3.9.9** Any premises or any adult entertainment studio that is physically arranged and used as an adult entertainment studio, 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.

#### **4.4.3.10 Employee**

An "Employee" is defined as any and all persons, including independent contractors, who work in or at, or render services directly related to the operation of an Adult Oriented Establishment.

#### **4.4.3.11 Enforcement and Permitting Personnel**

"Enforcement and Permitting Personnel" shall include the zoning enforcement officer, director of health, the chief of police, the fire marshal, their agent or representative, or any Town employee designated to make inspections for fire, public health, safety, or zoning purposes or authorized to issue permits relating to Adult Oriented Establishments.

**4.4.3.12 Entertainer**

An "Entertainer" is defined as any person who provides entertainment within an Adult Oriented Establishment, whether or not entertainment is provided as an employee or independent contractor and whether or not a fee is charged or accepted for such entertainment.

**4.4.3.13 Minor**

"Minor" is defined as a person under the age of eighteen (18) years.

**4.4.3.14 Operator**

An "Operator" is defined as any person, partnership, corporation or other entity operating, conducting or maintaining an Adult Oriented Establishment.

**4.4.3.15 Principal Activity**

"Principal Activity" is defined as a use accounting for forty percent (40%) or more of a business's stock in trade, square footage of display space, floor space or movie display time per month.

**4.4.3.16 Specified Sexual Activities**

**4.4.3.16.1** Showing of human genitals in any state of sexual arousal or stimulation,

**4.4.3.16.2** Fondling or other erotic touching of genitals, buttocks, anus, breast or pubic region,

**4.4.3.16.3** Acts, whether actual or simulated, of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus,

**4.4.3.16.4** Lap dancing,

**4.4.3.16.5** Excretory functions as part of or in connection with any of the activities set forth in subsections 4.4.3.16.1 through 4.4.3.16.4.

**4.4.3.16.6** The term "Specific Sexual Activities" is not intended to include or apply to the following:

- A) bona fide medical publications, films or educational publications,
- B) bona fide art or photography publications that devote at least forty percent (40%) of the lineage of each issue to articles and advertisements dealing with art or photography,

- C) periodicals which report or describe current events and which, from time to time, publish photographs of nude or semi-nude persons in connection with the dissemination of the news,
- D) publications or films which describe and report different cultures and which, from time to time, publish or show photographs or depict nude or semi-nude persons when describing certain cultures in which nudity or semi-nudity is indigenous to the population.

#### **4.4.3.17 Specified Anatomical Areas**

The term "Specified Anatomical Areas" is defined as:

##### **4.4.3.17.1 Less than completely and opaquely covered:**

- A) human genitals and the pubic region,
- B) buttocks,
- C) female breast(s) directly or laterally below the top of the areola;

##### **4.4.3.17.2 Human male genitals in a discernibly turgid state, even if completely opaquely covered.**

#### **4.4.4 Exemptions**

The provisions and conditions of Section 4.4.5 shall not apply to nor prohibit the following uses and activities:

- 4.4.4.1** Treatment by a Connecticut licensed medical professional, chiropractor, osteopath, masseur or masseuse, licensed practical nurse or registered professional nurse,
- 4.4.4.2** Electrolysis treatment by a licensed operator of electrolysis equipment,
- 4.4.4.3** Hospitals, nursing homes, medical clinics or medical offices,
- 4.4.4.4** Barbershops, beauty salons or beauty parlors which offer massage to the scalp, face, neck or shoulders only,
- 4.4.4.5** Athletic facilities of an educational institution including alumni club, philanthropic or charitable institutions,
- 4.4.4.6** Health establishments including commercial and non-commercial clubs, which are equipped and arranged so as to provide instruction, personal service or other activities which can improve or affect a person's physical condition by massage or exercise; or

**4.4.4.7** Physical exercise programs that include aerobics, the martial arts or the use of exercise equipment.

**4.4.5 Location Requirements and Standards**

All Adult Oriented Establishments shall be located in an Industrial (IND-1 or IND-2) Zone by special permit, are prohibited in all other zones, and are subject to the approval of the Planning and Zoning Commission in accordance with the following standards and criteria as set forth in this Section:

**4.4.5.1** Adult Oriented Establishments shall not be located within six hundred (600) feet of any residential zone or within six hundred (600) feet of any adjoining municipality.

**4.4.5.2** Adult Oriented Establishments shall not be located within one thousand (1,000) feet from the property line of any of the following uses:

**4.4.5.2.1** any public, private or parochial school or other educational facility which provides services to individuals under the age of eighteen (18) years,

**4.4.5.2.2** any State licensed day-care center or provider, libraries, public parks, playgrounds, funeral-parlors, cemeteries, dance schools or martial arts schools,

**4.4.5.2.3** any municipal, State or Federal building,

**4.4.5.2.4** any church, convent, monastery, synagogue or other similar place of worship.

**4.4.5.3** Adult Oriented Establishments shall be separated by a linear distance of at least six hundred (600) feet from any other such establishment.

**4.4.5.4** For the purposes of compliance with the above requirement, all linear distances or other dimensions shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building containing or proposing to contain an Adult Oriented Establishment to the nearest boundary of the uses as specified above.

**4.4.5.5** In accordance with the authority provided in Section 8-6 of the Connecticut General Statutes, as amended from time to time, these regulations shall not be varied by the Zoning Board of Appeals to accommodate the location of an Adult Oriented Establishment.

#### **4.4.6 Signs and Exterior Displays**

No use shall be conducted and no sign, banner, display or decoration shall be displayed in any manner on the exterior of or in any window of or other opening on any premises that permits or allows the observation or viewing, from any public way or from any property not registered as an Adult Oriented Establishment, of any type of material depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.

#### **4.4.7 Lighting and Visibility**

**4.4.7.1** All Adult Oriented Establishments shall be well lighted at all times and be physically arranged in such a manner so that the entire interior portion where Adult Entertainment is provided shall be clearly visible from the common areas of the premises.

**4.4.7.2** Visibility of the interior portion of an Adult Oriented Establishment, as described in Section 4.4.7.1 above, shall not be blocked, obscured or concealed at any time by doors, curtains, partitions, drapes or any other type of obstruction whatsoever.

**4.4.7.3** Adult Oriented Establishments shall be equipped with overhead lighting fixtures of sufficient intensity in order to illuminate every place to which persons or patrons are permitted access at an illumination of not less than one (1.0) foot candle per one (1.0) foot as measured at the floor level.

**4.4.7.4** It shall be the responsibility of the Operator, its agent(s) or Employees to ensure that the illumination required by Section 4.4.7.3 above is maintained at all times when any patron is present on the premises.

#### **4.4.8 Hours of Operation**

No Adult Oriented Establishment shall open to do business before 10 a.m., and no Adult Oriented Establishment shall remain open after 1:00 a.m.

#### **4.4.9 Employees and Operators**

**4.4.9.1** No Operator or Employee of an Adult Oriented Establishment shall perform or permit to be performed, offer to perform, or allow patrons, members, clients or customers to perform, any live performance or conduct featuring or including any Specified Sexual Activities.

**4.4.9.2** No Operator or Employee of an Adult Oriented Establishment shall allow or permit any minor to enter into, or in any way loiter in or around, any part of such establishment.

**4.4.9.3** Every act or act of omission by an Employee which constitutes a violation of the provisions of these regulations shall be deemed as an



act or act of omission of the Operator, if such act or act of omission occurred either with the authorization, prior knowledge or approval of the Operator or as a result of Operator's failure to supervise or negligent supervision of the conduct of the Employee.

- 4.4.9.4** The Operator shall be responsible for such act or omission in the same manner as if the Operator caused the omission or committed the act,
- 4.4.9.5** The Operator shall be responsible for the conduct of all Employees while on the premises, including parking areas and all other portions of the property, and any act or omission of any Employee constituting a violation of the provisions of these regulations shall be deemed as an act of omission of the Operator for purposes of determining whether the Operator shall be subject to the penalties allowed by law for the violation of these regulations.
- 4.4.9.6** No person shall be employed in any Adult Oriented Establishment within three (3) years of conviction of any crimes involving moral turpitude, prostitution, obscenity, or other sex-related crime or drug offence in any jurisdiction, unless such conviction has been submitted for appellate review, in which case, employment may be continued until such appeal is sustained.

#### **4.4.10 Inspection of premises**

- 4.4.10.1** All Adult Oriented Establishments shall be available for on site inspections at all reasonable times by Enforcement and Permitting Personnel.
- 4.4.10.2** Inspections shall be conducted by Enforcement and Permitting Personnel pursuant to the provisions of the General Statutes, as amended.

#### **4.4.11 Special Permit Approval**

- 4.4.11.1** Adult Oriented Establishments shall only be allowed by Special Permit in accordance with Article 12 of these Regulations.
- 4.4.11.2** Special Permits for Adult Oriented Establishments shall be issued for a period of one (1) year and may be renewed for additional one (1) year periods provided that the establishment currently complies with, and has during the prior Special Permit period, complied with, the zoning regulations and any conditions imposed in the course of granting any previous Special Permit for the establishment.

## **Section 4.5 Medical Facility**

**4.5.1** Private medical facilities may be a use in the Business (B) District and shall be allowed only by Special Permit of the Planning and Zoning Commission, subject to the following conditions:

- 4.5.1.1** There shall be a minimum lot area of (3) acres.
- 4.5.1.2** The total lot coverage of all structures, including building parking lots, loading areas, etc. shall comply with the Table of General Bulk Regulations as described in the Prospect Zoning Regulations.
- 4.5.1.3** All buildings shall be set back from every adjacent property a minimum distance of (25) twenty-five feet and, in addition, shall be no closer than (50) fifty feet from any adjacent residential property.
- 4.5.1.4** Off street parking shall be provided in accordance with Article 6 of the Prospect Zoning Regulations and shall be located a minimum of (10) ten feet from any adjacent property and shall be screened by a planting screen or suitable fence providing year round screening.
- 4.5.1.5** The site shall be accessible directly from a State highway or major arterial road that provides safe ingress and egress without disruption of existing traffic patterns, with adequate sight lines and turning radii. Additional road improvements, if deemed necessary, shall be provided at the Owner's expense.
- 4.5.1.6** The design of the facility with respect to orientation, structure, texture materials, landscaping and other features shall be consistent with the character of the Town.
- 4.5.1.7** All other applicable standards, conditions and procedures as required under Section 3.4 – Business (B) District Regulations and Article 12 - Special Zoning Permit of the Prospect Zoning Regulations shall also apply.

## **Section 4.6 Camps**

**4.6.1** The operation of a seasonal camp or seasonal day camp for recreational purposes (except for camper trailers or mobile campers which are prohibited) shall be allowed only by Special Permit of the Planning and Zoning Commission. Their operation will be allowed (under Special Permit) dependent upon adherence to restrictions assigned by Special Permit and will include as a minimum:

- 4.6.1.1** No camp shall be operated on a site less than 25 acres in area, with a maximum of 400 people permitted at any camp.

- 4.6.1.2** Improved areas, such as camping or picnic areas and playground or sports areas shall be located at least 125 feet from all property lines. The Planning and Zoning Commission shall require suitable fencing and landscaping around all improved areas.
- 4.6.1.3** There shall be provided on the site one off-street parking space for each member of the camp staff and one space for every five campers. Parking areas shall be at least 5 feet from side and rear lot lines and 50 feet from the street line, and shall be suitably screened and permanently improved.
- 4.6.1.4** There shall be no more than one permanent dwelling in any camp and it shall not be occupied by more than one family.
- 4.6.1.5** In any camp, each structure which is intended for residence, cooking or recreation purposes shall be equipped with toilets and wash basins which drain into an approved septic tank. There shall be at least one toilet and one wash basin for each 15 people with separate facilities for male and female.
- 4.6.1.6** No building or structure shall be located closer than 150 feet to any property line. Temporary structures may be permitted, but shall not cover more than 5% of the site and shall not be more than one story in height. Overnight accommodations for campers or staff members shall be limited to one bed for every 10,000 square feet of site area. Every building which is to be used for sleeping purposes shall have at least 100 square feet of floor area for each bed, including bedroom or dormitory, closets and bathrooms but excluding all other space.
- 4.6.1.7** There shall be at least  $\frac{3}{4}$  of an acre of suitable improved playground or Sports area for every 100 campers, or major portion thereof, with a minimum area of 3 acres.
- 4.6.1.8** No more than 15 persons shall be permitted in any building not of fireproof or semi-fireproof construction.
- 4.6.1.9** Permits shall be issued conditionally for 5 year periods. Before issuance of a permit or a certificate of occupancy a detailed site plan showing buildings, parking, recreational areas, access drives and landscaping shall be approved by the Planning and Zoning Commission.

## **Section 4.7 Agricultural Uses**

### **a) Keeping, Breeding & Raising Of Livestock**

### **b) Commercial Greenhouses**

#### **a) Keeping, Breeding & Raising Of Livestock**

- 4.7.1** A lot of three (3) acres or more, not including an accessway, is necessary for the keeping, breeding and raising of livestock for domestic, non-commercial use.
- 4.7.2** A structure providing shelter is mandatory and shall be a minimum of 100' from all property lines. Plot Plan approval is required and the application for a permit shall be acted upon by the Planning & Zoning Commission. The Commission may, at its discretion, hold a public hearing thereon, with a request for the following information:
- 4.7.2.1** Plot Plan drawn to reasonable scale (need not be prepared by a registered land surveyor or professional engineer);
  - 4.7.2.2** Location and size of corral or fence for animal retention shall be at least 5' from property line;
  - 4.7.2.3** Location and size of shelter in relation to property lines and adjacent residence;
  - 4.7.2.4** Species and number of such species of animals;
  - 4.7.2.5** Statement of purpose of keeping animals;
  - 4.7.2.6** Proposed drainage patterns;
  - 4.7.2.7** Method of organic waste disposal;
  - 4.7.2.8** Proposed method of rodent and pest control;
  - 4.7.2.9** Copy of letter which applicant forwarded to all abutting owners indicating intent.
- 4.7.3** Livestock shall include: horses, cattle, sheep, goats, chickens, ducks, and rabbits. (Refer to Section 4.7.7 through 4.7.9 for keeping, breeding and raising of Swine)
- 4.7.4** The keeping of more than two (2) livestock with an adult weight of over 20 pounds or more than ten (10) livestock with an adult weight of less than 20 pounds shall be considered a farm and must abide by all Zoning Regulations covering the same.
- 4.7.5** Manure pits or piles to be located a minimum of 200 ft. from any lot line.
- 4.7.6** Small animals (rabbits, etc.) or fowl (chickens, ducks, geese, etc.) or a combination totaling not more than ten (10) - a lot of three (3) acres or more is necessary for the keeping, breeding and raising of small animals for domestic,

non-commercial use. All items listed in Section 4.7.2 shall be required. A lot of three (3) acres or more is necessary for the keeping, breeding and raising of swine.

- 4.7.7** A shelter for swine, sties and storage for swill, shall be a minimum of 100 ft. from all property lines.
- 4.7.8** A maximum of 4 swine over 90 days old may be kept solely for the consumption of the family living on the lot on which the swine are kept.
- 4.7.9** Acceptance of Youth Projects shall be decided by the Commission and are to be generally associated with or guided by 4-H, Grange, Scouts, Education or Conservation related organizations.

All Youth Projects shall conform to the requirements of Section 4.7.1 through 4.7.9 and other information the Commission may request such as youth organization guidelines or certification from organization officials.

The permit issued for a Youth Project is for the length of the project as noted in the permit and according to the Youth Project guidelines.

Any change in the proposed activity such as an increase in the number of animals must be approved by the Commission.

The Commission will respond to public complaints and will pursue compliance with the permit as approved when the safety, health and welfare of the community is jeopardized.

#### **b) Commercial Greenhouses**

- 4.7.10** Commercial greenhouses in residential zones shall require Special Permit approval in accordance with Article 12 "Special Zoning Permits"
- 4.7.11** A residential lot of three (3) acres or more, not including an access way, is necessary for the construction and commercial use of a greenhouse.
- 4.7.12** A commercial greenhouse located in a residential zone shall be a minimum of 100' from the front property line and 50' from both side and rear property lines.
- 4.7.13** Commercial greenhouses shall be defined as structures according to these regulations and shall meet the lot coverage requirements per the Table of General Bulk Regulations.
- 4.7.14** Commercial greenhouses shall not exceed 24' maximum height as measured from ground level at the base of the front entry doorway.

## **Section 4.8 Commercial Garages, Gasoline Filling & Service Stations**

- 4.8.1** The erection, conversion or alteration of any premises for use as a commercial garage, service station or filling station shall be allowed only by Special Permit issued by the Planning and Zoning Commission. The operation of such facilities will be allowed dependent upon adherence to restrictions assigned by permit and will include as a minimum:
- 4.8.1.1** No part of the lot or building shall be situated within a five hundred (500) foot radius of any part of a lot used for a school, public playground, hospital, church, theater, youth club, public library or building used for public assemblies.
  - 4.8.1.2** No gasoline, fuel oil or diesel filling appliance shall be located within twenty-five (25) feet of the street line or within twenty-five (25) feet of the side or rear line of the lot on which such filling appliance is located.
  - 4.8.1.3** A lot used for a gasoline or diesel filling station, commercial garage or automobile service or repair station and located within a public water supply watershed shall not be located within fifteen hundred (1,500) feet from any other lot used for a commercial garage or automobile service or repair station also located within the same public water supply watershed.
  - 4.8.1.4** All accessory equipment or merchandise displayed outside shall be no more than 10 feet from the building with the exception that such merchandise shall be permitted to be displayed on the pump island.
  - 4.8.1.5** All channelization islands separating driveway entrances shall be landscaped and maintained utilizing low level bushes and plantings.
  - 4.8.1.6** Compliance with the standards established in Article 12.
- 4.8.2** Prior to the submission of a Special Permit Application the Commission may conduct a preapplication review for the proposed project with the applicant at the applicant's request. Such preapplication review and any results or information obtained from it may not be appealed under any provision of the Connecticut General Statutes, and shall not be binding on the applicant or any authority, commission, department, agency or other official having jurisdiction to review the proposed project.
- 4.8.3** Upon receipt of an application for a Special Permit, the Planning and Zoning Commission shall conduct a hearing in accordance with 8-3c of the General Statutes of Connecticut. Such applicant shall pay the appropriate fees, together with the costs of publication and expenses of such hearing, to the Town of Prospect. No such Special Permit shall be issued unless the Planning and Zoning Commission finds that the applicant meets all provisions of those

Regulations applicable to the proposed use. In acting on said application the Planning and Zoning Commission shall make all of the findings required by Article 12.

#### **Section 4.9 Swimming Pools**

**4.9.1** A Plot Plan drawn to reasonable scale (need not be prepared by a registered land surveyor or professional engineer) shall be submitted to the Land Use Inspector.

**4.9.2** Construction and safety features of swimming pools including but not limited to adequate enclosures, will conform to requirements of the State Building Code as it may be amended from time to time. In addition:

**4.9.2.1** No swimming pool shall be located less than twenty (20) feet from any property line.

**4.9.2.2** All swimming pools must be located behind the front range line of the house.

**4.9.2.3** Method of discharge of water shall be done in a manner that will not create a nuisance to adjoining property.

#### **Section 4.10 Outdoor Storage in Non-Residential Zones**

Outdoor open storage is allowed on the premises pursuant to section 11.5.18.1. Height of said storage shall be no more than 50% of height of the primary building and shall be screened by either landscaping or fixed fencing of at least 6 feet in height.

## **Section 4.11 Earth Excavation, Deposition And Regrading Activities**

### **4.11.1 Purpose**

The following regulations regarding the establishment and continuance of earth excavation, deposition and regrading activities have been developed to insure preservation of public safety and property values. It is necessary to protect the ecological processes which are dependent upon nature, minimize surface runoff of rainfall and meltwater, preserve the groundwater supply and preserve a cover crop on the land to prevent erosion.

The Town of Prospect or its agents shall be exempt from regulations in this section so as not to hinder town-wide activities (earth excavation, deposition and grading) conducted on town owned property or for the benefit of the town on properties owned by others.

### **4.11.2 Earth Excavation, Deposition And Regrading Activities**

The following earth material excavation, deposition and regrading activities, as those terms are defined in Section 2.2 herein, are permitted in any zoning district:

#### **4.11.2.1 Activity Not Requiring a Zoning Permit**

(1) Earth excavation, filling and/or grading, stockpiling of earth material, importation of earth material and/or removal of earth material of one hundred (100) cubic yards or less in volume on any one property in any one calendar year are permitted in all zoning districts.

#### **4.11.2.2 Activity Requiring a Zoning Permit**

(1) Earth excavation, filling and/or grading, processing of earth material for reuse on site, stockpiling of earth material, importation of earth material and/or removal of earth material that exceeds one hundred (100) cubic yards of material and no more than 2% of the total square footage of a parcel measured as cubic yards of earthen material, with a maximum volume of two thousand (2,000) cubic yards in direct connection with construction, alteration or landscaping on a developed lot or on a vacant lot that has not received prior site plan, special permit or subdivision approval shall require a Zoning Permit issued by the Land Use Inspector.

#### Lot area/volume conversions:

Lot Size	Maximum Allowed Volume Cubic Yards of Material
½- Acre (20,000 Sq Ft)	400 Cu Yd (2% of 20,000)
¾- Acre (30,000 Sq Ft)	600 Cu Yd (2% of 30,000)
1- Acre (40,000 Sq Ft)	800 Cu Yd (2% of 40,000)
1½ -Acre (60,000 Sq Ft)	1,200 Cu Yd (2% of 60,000)
1¾ -Acre (70,000 Sq Ft)	1,400 Cu Yd (2% of 70,000)
2-Acre (80,000 Sq Ft)	1,600 Cu Yd (2% of 80,000)
More than 2-Acres	2,000 Cu Yd



A Site Plan prepared by a licensed Surveyor and drawn to scale of not less than one inch equals 40 feet in size, not to exceed 24" x 36" showing existing and proposed contours of the lot and a statement prepared by a licensed, qualified engineer detailing the calculated volume of materials to be excavated, removed or re-graded shall be required. Quantities of earth material exceeding an allowed maximum volume shall require a permit from the Planning & Zoning Commission as required per Section 4.11.

(2) Earth excavation, filling and/or grading, processing of earth material for reuse on site, stockpiling of earth material, importation of earth material and/or removal of earth material in direct connection with construction or alteration on a vacant lot that has received prior Subdivision, Special Permit or Site Plan approval detailing the earth excavation, grading, removal and related activities associated with the development of the project shall be exempt from complying with the quantity limitations as described in Section 4.11.2.2(1). Any separate, additional plot plans for proposed building construction and lot development of individual approved lots within an approved subdivision that describe additional earth disturbance activities resulting in an increase in the volume of disturbed earthen materials from what is shown on the approved Subdivision Plans shall comply with Section 4.11.2.2(1). A Site Plan prepared by a licensed surveyor drawn to scale of not less than one inch equals 40 feet in size, not to exceed 24' x 36' showing existing and proposed contours of the lot and a statement prepared by a licensed, qualified engineer detailing the calculated total volume of materials to be excavated, removed or re-graded shall be required.

(3) Zoning permits issued under this section shall be for the amount of materials excavated, removed, deposited, graded and other related earthen activities on a property for a one-year period. Additional earthen permit applications for a property with an existing, approved one-year permit shall be considered additional to the approved permit for that same one-year period, and if the combination of the proposed activities together results in a total volume exceeding a maximum allowed volume as described in Section 4.11.2.2, then both the original and proposed activities combined shall require Planning & Zoning approval.

(4) Before approval is granted under sub-sections (2) or (3) the Commission may require the applicant to file a bond with the Commission as detailed in Section 11.4.7

### **4.11.3 Earth Excavation, Deposition And Regrading Standards**

**4.11.3.1** No processing of any earth materials removed in accordance with Section 4.11 of these regulations shall be permitted except for on-site use as specifically approved by a Zoning Permit issued pursuant to this Section. Approved processing shall comply with the following unless otherwise specifically authorized by the Zoning Permit:

- (1) A parcel of at least three (3) acres is required for on-site processing of earth materials.

- (2) No processing equipment shall be located within 150 feet of a streetline, a wetland or watercourse or within 100 feet of an abutting property line, unless such abutting property is owned by the owner of the property on which the processing will occur.
- (3) No processing equipment shall be located within 300 feet of any place of assembly. (i.e. schools, churches, etc.)
- (4) No processing equipment shall be operated on Sunday or legal holidays.
- (5) All conveyors and chutes associated with the processing equipment shall, at all times, utilize noise reduction materials such as rubber lining or other noise abatement mitigating materials or procedures approved by the Zoning Enforcement Officer.
- (6) All processing equipment shall utilize muffler systems. Evidence of the same shall be submitted to the commission at the time the application is filed.

**4.11.3.2** Any blasting associated with earth materials excavation under this Section 4.11.3 of these regulations must be specifically authorized by the Fire Marshall.

**4.11.3.3** No topsoil shall be transported from the lot, except that which is excavated from the location of buildings, structures, driveways, sidewalks, terraces and other paved areas on the property as necessary for construction of same and as shown on the Site Plan.

**4.11.3.4** No excavation, deposition, and regrading shall be made that would reduce the final elevation below flood plain, change the area of the flood plain, or expose groundwater unless, after proper analysis, it is determined that no pollution or silting of existing water courses, or increased flood or erosion hazards will result and any necessary permits have been issued by the Prospect Inland Wetlands Commission.

**4.11.3.5** Any excavation, deposition, and regrading which is within 15 feet of the property line must be covered with not less than 4 inches compacted topsoil; graded to a slope of not more than 1 in 3 and be seeded with a permanent type grass or other type of permanent vegetation. The sloped and graded area shall be free of boulders and large stones or anything which would cause an unsightly or dangerous condition.

**4.11.3.6** No earth excavation, deposition, and regrading, or processing activities shall take place after 6:00 PM or before 7:00 AM.

**4.11.3.7** Site restoration, including required buffer strips or other landscaping, shall be shown on the Site Plan and shall be compatible with the adjoining properties and surrounding neighborhood.

**4.11.3.8** Permanent drainage of any earth excavation, deposition, and regrading must be provided to prevent a condition of flooding or erosion to adjoining property. To reduce the amount of erosion, mechanical equipment should work as little as possible in swampy or wet areas. Activity within a designated wetland regulated area shall require approval by the Town of Prospect Inland Wetlands Commission. Only small areas should be exposed, whenever possible to prevent excessive erosion, and existing field sod should be used to control erosion during construction wherever possible. To limit pollution no on-site fueling or servicing of construction equipment will be allowed unless a specific area is set aside with berms to control runoff, and with oil separators installed. Also, adequate dust control will be effected by sprinkler trucks using only drinking quality water, and no chemical or oil type dust control substances. The following is a list of a few methods which may be used to control erosion and sedimentation. Specific methods and correct applications shall be determined by the Connecticut Guidelines For Soil and Sediment Control, Connecticut DEP 2002.

- (1) Sedimentation pools and dams
- (2) Baled hay erosion checks
- (3) Ditch checks
- (4) Temporary culverts
- (5) Jute netting

**4.11.3.9** The Commission may impose a site restoration bond as a condition of approval, in form and amount acceptable to the Town Attorney based on cost calculations provided by the applicant. Such bond shall be in addition to any bond required as a condition of approval of the proposed Site Plan or other permit plans.

**4.11.3.10** The Commission may require evidence of liability insurance naming the Town of Prospect as an additional insured for any liability resulting from the permitted operations.

**4.11.3.11** A Zoning Permit issued pursuant to this Section shall be valid for a period of two years and may be renewed upon re-submittal of a Site Plan application representing current conditions.

## **Section 4.12 Sale of Alcoholic Beverages**

The selling of alcoholic liquor shall be allowed only by Special Permit of the Planning & Zoning Commission and subject to requirements of the Liquor Control Act and Regulations of the Liquor Control Commission - State of Connecticut. (See prohibited uses listed in Article 10). The sale of alcoholic beverages will be allowed (under Special Permit) dependent upon adherence to the restrictions assigned by Special Permit and for the following establishments:

### **4.12.1 Grocery Stores**

The sale of beer, ale or lager for consumption off the premises shall be permitted when part of a bona fide grocery business.

### **4.12.2 Package Stores**

No building or structure shall be erected, altered, or used for the purpose of a package store selling alcoholic liquor if any part of said structure is situated within a two thousand five hundred foot radius in any direction of any lot used for the purpose of package store selling alcoholic liquor, or if any part of said structure is situated within a one thousand foot radius in any direction of any entrance to a church, public school, or meeting place, playground or library. Where there is no entrance, such as to an unfenced playground, measurement shall be taken to the boundary of the lot containing the playground or facility not having an entrance.

### **4.12.3 Lodge And Clubs**

When in its judgment the public convenience and welfare will not be substantially or permanently injured, the Planning and Zoning Commission may grant a Special Permit for the sale of alcoholic liquors upon the premises used by a lodge or club (hereinafter referred to as "club") for club purposes under such restrictions as may by law be provided for a group of persons associated together and recognized by the Liquor Control Commission of the State as a club. In the event that at any time it shall appear to the Commission that a club has ceased to comply with any or all of the requirements above set forth it shall so notify the club; if thereafter, after public notice and hearing, the Commission shall find as a fact that such club no longer complies with the requirements of the Zoning Regulations, the Commission shall revoke the permit of such club and the sale of alcoholic liquors upon the premises of such club shall thereupon become a prohibited use; the Commission shall forthwith certify to the Liquor Control Commission that the further sale of alcoholic liquor on said premises is prohibited by the Zoning Regulations of the Town of Prospect and may take such further action as it may deem appropriate in order to abate such non-conforming use.

## **Section 4.13 Floodplains And Flood Hazard Areas**

### **4.13.1 Purpose**

In order to prevent future loss of lives and property and to protect the ecological, scenic and recreational quality of streambelts, the Flood Hazard Areas are those areas designated as a “special flood hazard areas”, namely Zones A and AE, as identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for New Haven County, Connecticut dated December 17, 2010, accompanying Flood Insurance Rate Maps (FIRM) dated December 17, 2010, and other supporting data applicable to the Town of Prospect, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The special flood hazard areas include any area shown on the FIRM as Zones A and AE, including areas designated as a floodway on a FIRM. Special flood hazard areas are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location.

#### **4.13.1.1 Warning and Disclaimer of Liability**

The degree of flood protection required by this regulation is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration and research. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This regulation does not imply or guarantee that land outside the Special Flood Hazard Area or uses permitted in such areas will be free from flooding and flood damages. This regulation shall not create liability on the part of the Town of Prospect or by any officer or employee thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made thereunder. The Town of Prospect, its officers and employees shall assume no liability for another person’s reliance on any maps, data or information provided by the Town of Prospect.

#### **4.13.1.2 Abrogation and Greater Restrictions**

This regulation is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this regulation and another ordinance, regulation easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **4.13.2 Definitions (See also Section 2.2 (Definitions))**

**Base Flood:** The flood having a 1 percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

**Basement Flood Elevation (BFE):** The elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

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

**Finished Living Space:** As related to fully enclosed areas below the base flood elevation (BFE), a space that is, but is not limited to, heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace.

**Historic Structure:** Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior,

or (2) Directly by the Secretary of the Interior in states without approved programs.

Improvement, Substantial: Any repair, reconstruction or improvement of a structure within a floodplain or flood hazard area, taking place over a one year period, the cost of which equals or exceeds 50 percent of the market value of the structure as determined at the beginning of such one year period either:

- (1) Before the improvement or repair is started, or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "improvement, substantial" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor.

Market Value: The market value of the structure shall be determined by the appraised value of the structure using the cost approach of value method (replacement cost of materials, equipment and labor minus depreciation) prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.

Mean Sea Level (MSL): The North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

New Construction: Structures for which the "start of construction" commenced on or after February 23, 1977, the effective date of a floodplain management regulation adopted by Prospect, and includes any subsequent improvements to such structures.

**Special Flood Hazard Area (SFHA):** The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on the Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, AE, AO, AH, on a FIRM. The SFHA is also called the Area of Special Flood Hazard.

**Start of Construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Variance:** A grant of relief by a community from the terms of the floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

**Violation:** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

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



### **4.13.3 Special Permit Uses**

A Special Permit, as specified in Article 12, shall be required by the Commission for all development within the Flood Hazard Area prior to the commencement of any development activities.

### **4.13.4 Duties and responsibilities of the Commission**

Duties of the Commission shall include, but not be limited to:

**4.13.4.1** Review all permit applications to determine whether the proposed development and building sites will be reasonably safe from flooding and to assure that the permit requirements of this regulation have been satisfied.

**4.13.4.2** Review all permit applications to assure that all necessary federal or state permits have been received. Require that copies of such permits be provided and maintained on file with the permit application.

**4.13.4.3** Obtain, record and maintain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new construction, substantial improvements or repair to a structure that has sustained substantial damage.

**4.13.4.4** Obtain, record and maintain the elevation (in relation to mean sea level) to which the new construction, substantial improvement or repair to a structure that has sustained substantial damage has been flood-proofed to one foot above the base flood elevation.

**4.13.4.5** When flood-proofing is utilized for a particular structure, the Commission shall obtain certification from a registered professional engineer or architect, in accordance with Section 4.13.6.2(b).

**4.13.4.6** Where interpretation is needed as to the exact location of boundaries of the area of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Commission shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this regulation.

**4.13.4.7** Require the applicant to provide base flood elevation data for all proposed development, including manufactured home parks and subdivisions. When the base flood elevation data or floodway data have not been provided in accordance with this Section, the Commission shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this Section.

**4.13.4.8** All records pertaining to the provision of these regulations shall be maintained in the office of the Land Use Inspector.

#### **4.13.5 General Standards:**

In all Flood Hazard Areas the following provisions are required:

**4.13.5.1** New construction, substantial improvements, and repairs to structures that have sustained substantial damage shall be constructed using methods and practices that minimize flood damage, and with materials and utility equipment resistant to flood damage.

**4.13.5.2** New construction, substantial improvements, and repairs to structures that have sustained substantial damage shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

**4.13.5.3** Electrical, heating, ventilation, plumbing, air conditioning equipment, HVAC ductwork, and other service facilities, or any machinery or utility equipment or connections servicing a structure shall be elevated to or above the base flood elevation (BFE) to prevent water from entering or accumulating within the components during conditions of flooding. This includes, but is not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation ductwork, washer and dryer hook-ups, electrical junction boxes, and circuit breaker boxes.

**4.13.5.4** New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

**4.13.5.5** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters. The bottom of the septic system or other form of private on-site subsurface sewerage disposal facility shall be elevated to or above the designated flood hazard elevation and the drainage of said facility is to be away from the flood hazard area. All on-site subsurface sewerage disposal facilities are to conform to the current edition of the State Public Health Code.

**4.13.5.6** On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

**4.13.5.7** In any portion of a watercourse that is altered or relocated, the flood carrying capacity must be maintained. Notify adjacent communities and the Connecticut Department of Environmental Protection (DEP), Inland Water Resources Division prior to any alteration or relocation of a watercourse.

**4.13.5.8** Compensatory Storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by

deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

**14.13.5.9 Equal Conveyance.** Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

#### **14.13.6 Specific Standards**

In Flood Hazard Areas, Zones A and AE, the following construction standards apply:

##### **14.13.6.1 Residential Construction.**

All new construction, substantial improvements, and repair to structures that have sustained substantial damage which are residential structures shall have the bottom of the lowest floor, including basement, elevated to or above the base flood elevation (BFE). Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated to or above the BFE.

##### **14.13.6.2 Non-Residential Construction.**

All new construction, substantial improvements, and repair to structures that have sustained substantial damage which are commercial, industrial or non-residential structures shall: (a) Have the bottom of the lowest floor, including basement, elevated to or above the base flood elevation (BFE); or (b) In lieu of being elevated, non-residential structures may be dry flood-proofed to one (1) foot above the BFE provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and provided that such structures are composed of structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A

registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this section; (c) Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated to or above the BFE.

**14.13.6.3 Fully Enclosed Areas Below The Base Flood Elevation Of Elevated Buildings.** All new construction, substantial improvements, or repair of substantial damage to residential or non-residential structures that include fully enclosed areas formed by a foundation and other exterior walls below the base flood elevation (BFE) of an elevated building, shall be designed to preclude finished living space and be designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls (wet flood-proofing). Designs for complying with this requirement must either be certified by a registered professional engineer or architect, or meet the following minimum criteria listed in sections (a)-(g) below: (a) Provide a minimum of two (2) openings (hydraulic flood vents) having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding. These hydraulic openings must be located on at least two different walls. Only the area (square footage) that lies below the BFE can be used in the calculation of net area of vents required. If the structure has more than one enclosed area, openings must be installed in the exterior walls of each enclosed area so that flood waters can enter directly from the outside; (b) The bottom of all openings shall be no higher than one (1) foot above grade. At least one side of the structure's fully enclosed area must be at or above grade. Fill placed around the foundation walls must be graded so that the elevation inside the enclosed area is equal to or higher than the adjacent outside elevation on at least one side of the building. The finished floor of the enclosed area shall be no lower than the bottom of the foundation openings. The foundation slab of a residential structure, including the slab of a crawlspace, must be set equal to the outside finished grade on at least one side of the building; (c) The openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of flood waters in both directions without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means. Other coverings may be designed and certified by an engineer or approved by the Commission; (d) The area cannot be used as finished living space. Use of the enclosed area shall be the minimum necessary and shall only be used for the parking of vehicles, building access or limited storage. Access to the enclosed area shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The enclosed area shall not be used for human habitation or partitioned into separate rooms; (e) All interior walls, floor, and ceiling materials located below the BFE shall be unfinished and resistant to flood damage; (f) Electrical, plumbing, HVAC

ductwork, machinery or other utility equipment and connections that service the structure (including, but not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation, washers, dryers, electrical junction boxes, circuit breaker boxes and food freezers) are prohibited in the fully enclosed area below the BFE. Utilities or service equipment located in this enclosed area, even if elevated above the BFE in the space, will subject the structure to increased flood insurance rates; (g) A residential building with a structurally attached garage having the floor slab below the BFE is considered an enclosed area below the BFE and must meet the standards of Sections 4.13.6.3(a)-(f). A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters in both directions. Flood openings or vents are required in the exterior walls of the garage or in the garage doors. The human intervention necessary to open garage doors when flooding occurs is not an acceptable means of meeting the openings requirements. In addition to the automatic entry of floodwaters, the areas of the garage below BFE must be constructed with flood resistant materials. Garages attached to non-residential structures must also meet the aforementioned requirements or be dry floodproofed as per the requirements of Section 4.13.6.2.

#### **4.13.6.4 Manufactured Homes and Recreational Vehicles.**

In all Flood Hazard Areas, the following provisions apply:

**4.13.6.4.1** Any manufactured homes to be newly placed, undergoing a substantial improvement or repaired as a result of substantial damage, shall be elevated so that the bottom of the lowest floor is at or above the base flood elevation (BFE). The manufactured home must also meet all the construction standards per Section 4.13.5. This includes flood hazard areas outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood.

**4.13.6.4.2** All manufactured homes within a flood hazard area shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement and hydrostatic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors.

**4.13.6.4.3** All manufactured homes within a flood hazard area shall be installed using methods and practices which minimize flood damage. Adequate access and drainage should be provided. Elevation construction standards include piling foundations placed no more than ten (10) feet apart, and reinforcement is provided for piers more than six (6) feet above ground level.

**4.13.6.4.4** Recreational vehicles placed on sites within a flood hazard area shall either (i) be on the site for fewer than 180 consecutive days, and (ii) be fully licensed and ready for highway use, or (iii) meet all the general standards of Section 4.13.5 and the elevation and anchoring requirement of Section 4.13.6.4.1, 4.13.6.4.2, and 4.13.6.4.3. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

## **14.13.7 Floodways**

**14.13.7.1** Located within flood hazard areas are areas designated as floodways on the community's Flood Insurance Rate Maps (FIRM). Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, no encroachments, including fill, new construction, substantial improvements, repairs to substantially damaged structures and other developments shall be permitted unless certification, with supporting technical data, by a registered professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge. Fences in the floodway must be aligned with the flow and be of an open design.

**14.13.7.2** The Commission may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the municipality's request or not), the community shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing water surface elevation more than one (1.0) foot at any point within the community.

**14.13.7.3** When BFEs have been determined within Zone AE on the community's FIRM but a regulatory floodway has not been designated, the Commission must require that no new construction, substantial improvements, repair to structures which have sustained substantial damage or other development, including fill, shall be permitted which will increase the water surface elevation of the base flood more than one (1.0) foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development.

## **Section 4.14 Erosion & Sedimentation Control**

### **4.14.1 Definitions**

- 4.14.1.1** "Certification" means approval by the Town of Prospect Planning & Zoning Commission or its designated agent that a soil erosion and sediment control plan complies with the applicable requirements of these regulations.
- 4.14.1.2** "Disturbed Area" means an area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.
- 4.14.1.3** "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.
- 4.14.1.4** "Inspection" means the periodic review of sediment and erosion control measures shown on the certified plan.
- 4.14.1.5** "Regulations" means any regulations adopted by a municipality pursuant to Sections 8-2, 8-3 and 8-25 of the General Statutes.
- 4.14.1.6** "Sediment" means solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.
- 4.14.1.7** "Soil" means any unconsolidated mineral or organic material of any origin.
- 4.14.1.8** "Soil Erosion & Sediment Control Plan" means a scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.

### **4.14.2 Activities Requiring A Certified Erosion And Sediment Control Plan**

A soil erosion and sediment control plan shall be submitted with any application for development on any area to be disturbed. No parcel of land to be developed shall be exempt from these soil erosion and sediment control regulations.

### **4.14.3 Erosion And Sedimentation Control Plan**

A soil erosion and sedimentation control plan shall contain proper provision 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. Specific methods and correct applications shall be determined by the Connecticut Guidelines For Soil and Sediment Control, Connecticut DEP 2002.

#### **4.14.3.1** Said plan shall contain, but not be limited to a narrative describing the:

1. Development project

2. Time schedule for:
  - a. All major construction activities indicating the anticipated start and completion of development
  - b. Creating and stabilizing disturbed areas
  - c. Grading operations
  - d. Applying erosion and sediment control measures and facilities onto the land
  
3. A site plan map to reveal:
  - a. Existing and proposed topography
  - b. Proposed area alterations
  - c. Disturbed areas identifying the extent of all proposed clearing and grading activities
  
4. Location of and other detailed information concerning erosion and sedimentation control measures and facilities

#### **4.14.4 Issuance Or Denial Of Certification**

- 4.14.4.1 The Town of Prospect Planning & Zoning Commission or its designated agent shall either certify that the soil erosion and sediment control plan complies with the requirements and objectives of this Regulation or deny certification when the development proposal does not comply with these Regulations.
- 4.14.4.2 Nothing in these Regulations shall be construed as extending the time limits for the approval of any application under Chapter 124, 125A or 126 of the General Statutes.
- 4.14.4.3 Prior to certification, any plan submitted to the municipality may be reviewed by the County Soil and Water Conservation District which may make recommendations concerning such plan, provided such review shall be completed within thirty days of the receipt of such plan.

#### **4.14.5 Conditions Relating To Soil Erosion & Sediment Control**

- 4.14.5.1 Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.
- 4.14.5.2 All control measures and facilities shall be maintained in effective condition to ensure the compliance of the certified plan.



#### **4.14.6 Inspection**

- 4.14.6.1** Municipal inspections during development shall ensure compliance with the certified plan and that control measures and facilities are properly performed, installed and maintained.

### **Section 4.15 Telecommunication Towers**

#### **4.15.1 Purpose**

Whereas the Connecticut Siting Council has exclusive jurisdiction in the siting of telecommunication towers in the Town of Prospect, this regulation establishes standards and requirements to permit the location of wireless communication towers, antennas and facilities in the Town while protecting the public, health, safety, and general welfare of the community;

- 4.15.1.1** To accommodate the need for wireless communications antennas while not unreasonably regulating their location and number;
- 4.15.1.2** To encourage the joint use of any existing or new towers;
- 4.15.1.3** To accommodate wireless communications facilities in accordance with the recommendations made in the 2002 Plan of Conservation and Development through proper design, siting, and vegetative screening;
- 4.15.1.4** To avoid potential damage to adjacent properties from tower failure through careful siting of towers;
- 4.15.1.5** To site facilities below visually prominent ridge lines; and/or
- 4.15.1.6** To reduce the number of antennas or towers needed in the future.

#### **4.15.2 Definitions**

When used in this section, the following words or phrases shall be defined as follows:

- 4.15.2.1** Antenna: A device used to collect or transmit telecommunications or radio signals. Examples include panels, microwave dishes and single pole devices (whips).
- 4.15.2.2** Antenna Height: The vertical distance measured in feet from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used to calculate height.

- 4.15.2.3 Parcel: The legally described piece of land of any size that may or may not be subdivided or improved.
- 4.15.2.4 Site: The total lease area that will accommodate the Wireless Communication Facility.
- 4.15.2.5 Stealth Tower: A stealth communication tower is designed in such a way that the structure is not readily recognizable as telecommunications equipment. Stealth towers may be placed within flagpoles or church steeples, constructed to blend into the surrounding environment and designed as an integral part of the site.
- 4.15.2.6 Temporary Wireless Communications Facilities: A Wireless Communication Facility designed for use for a limited period of time such as while a permanent wireless telecommunications facility is under construction, rehabilitation or restoration or during a special event.
- 4.15.2.7 Tower: A structure that is intended to support equipment used to transmit and/or receive telecommunications or radio signals. Examples include monopoles and lattice construction steel structures.
- 4.15.2.8 Wireless Communication Facilities: The equipment and structures used to receive or transmit telecommunications or radio signals and transmitting those signals to another wireless site, and other communication source or receiver, or to a central switching computer.

#### **4.15.3 Permitted Uses**

Small towers and antenna of all types for television reception and radio use are permitted as a residential accessory use without a Zoning Permit to a height of 25' above grade and at a width no greater than twenty-seven (27) inches for all uses in all residential zoning districts.

#### **4.15.4 General Provisions**

- 4.15.4.1 The following guidelines, standards application requirements, procedures and considerations for approval shall apply to the placement height, setbacks, construction and screening of telecommunications on towers and antennas that may be permitted within the Town of Prospect.
- 4.15.4.2 The proposed support structure shall be designed for additional facilities including other wireless communication companies, local police, fire and ambulance needs, unless it is determined to be

technically unfeasible. The Commission may require independent outside evaluation of such determination at the applicant's expense. The applicant shall defray the cost of such expenditures which payment shall be made prior to the decision on the application by the Commission.

- 4.15.4.3** Antennas shall be located on existing communications towers or structures where available. If no existing towers are available, antennas may be located on new towers, where existing topography, vegetation, buildings or other structures provide the greatest amount of screening. The use of "Stealth" technology is encouraged where feasible. If the equipment is located on the roof of a building, setbacks from the roof edge shall be ten (10) feet or ten (10) percent of the roof depth, whichever is greater.
- 4.15.4.4** The tower fall zone shall be located entirely on the parcel for which the site is approved.
- 4.15.4.5** All applications for a wireless communications tower shall require a Special Permit in accordance with Article 12 of the Prospect Zoning Regulations and shall include the following information and comply with the following requirements and criteria:

#### **4.15.5 Application Requirements**

- 4.15.5.1** A description of the service area for each communication system on the proposed tower location.
- 4.15.5.2** New tower applications shall demonstrate that the service proposed cannot be provided with the equipment added to an existing or other proposed antenna or tower.
- 4.15.5.3** Location of structures in excess of thirty-five (35) feet in height within one-quarter mile of the site.
- 4.15.5.4** Documentation that the owners of such structures in excess of thirty-five (35) feet have been contacted and asked for permission to install an antenna and that such requests have been denied for reasons other than failure to offer sufficient compensation.
- 4.15.5.5** Documentation that the antenna height is the minimum required to function satisfactorily.
- 4.15.5.6** An analysis comparing the site to alternative sites within the proposed service area.

- 4.15.5.7** A soil report complying with the Geotechnical Investigations Manual standards as amended, verifying the design specifications of the tower foundation and anchors for the guyed wires, if used.
- 4.15.5.8** Documentation assuring the proposed tower meets all requirement of the Federal Communications Commission (FCC, Federal Aviation Administration (FAA) and the National Environmental Policy (NEPA).
- 4.15.5.9** Site Plan: A site plan meeting the requirements of Article 11 shall show the following:
- 4.15.5.9.1** A key map showing the location of the proposed Site in relation to the Parcel for which the Site is proposed.
- 4.15.5.9.2** The antenna and/or tower location and guyed wires, above ground wires, cables, ducts and utility and signal cables.
- 4.15.5.9.3** Areas of construction and drainage improvements including the access road to the site.
- 4.15.5.9.4** The boundaries of the tower fall zone.
- 4.15.5.9.5** The location of any existing, approved or proposed buildings or construction adjacent to the site within the tower fall zone.
- 4.15.5.9.6** The following areas on or within the tower fall zone or within five hundred (500) feet of the boundaries of the site, which ever is greater, shall be shown either on the site plan or a separate existing conditions map:
1. Protected and/or sensitive areas.
  2. All inland wetlands and watercourses.
  3. Critical habitats for plants and animals
  4. Historic structures or sites, unusual features, buildings, monuments, or area of local interest.
  5. Permanently protected lands, such as State park and forest lands, land protected by a land trust.
  6. Scenic Roads
- 4.15.5.10** Other Requirements:
- 4.15.5.10.1** Commercial advertising shall not be allowed on an antenna or tower.

- 4.15.5.10.2** Signal lights or illumination shall not be permitted unless required by the FCC or FAA, or otherwise required by law.
- 4.15.5.10.3** All other uses not clearly necessary to the operation/maintenance of the antenna or tower and associated equipment are prohibited, including but not limited to a business office, a maintenance depot or vehicle storage. A related unmanned equipment and/or storage building(s) may be permitted providing it contains no more than 750 square feet of gross floor area and is not more than 12 feet in height.
- 4.15.5.11** Tower Dimensional Rendering: A rendering drawn to scale depicting the tower showing all antenna and wireless facilities with details and dimensions, including any lighting, colors, and accessory elements.
- 4.15.5.12** Landscaping and Screening Requirements: For a new tower a fence with a minimum height of eight (8) feet shall be provided. Existing vegetation on and around the site shall be preserved to the greatest extent possible. A landscaping plan shall be provided to screen building(s), fuel tanks, and other man-made structures and as much of the tower as possible. The plan shall show an evergreen screen surrounding the site. The screen shall be a row of evergreen trees (planted 10 feet on center maximum). The evergreens shall have a minimum height of six (6) feet at planting and be of a type that grows to a minimum of fifteen (15) feet at maturity. The Commission may accept any combination of existing vegetation, topography walls, or evergreen screen requirements.
- 4.15.5.13** Site Plan Map: A site plan prepared by a Connecticut licensed engineer showing construction and drainage improvements, including the access road and construction or drainage improvements, including above ground wires, cables, ducts, utility and signal cables, ducts, utility and signal cables and guying and guy-anchor details. A statement from the applicant indicating that, weather permitting, the applicant will raise a balloon with a diameter of at least three (3) feet to the proposed tower height, at the proposed tower site. Such balloon shall be raised at least three (3) continuous days prior to the date of the public hearing to visualize the proposed facility. Notice of the time of the balloon raising shall be part of the public notification as required per Section 12.7.4.
- 4.15.5.14** A facility maintenance plan describing maintenance needs including frequency of service, personnel needs equipment needs and traffic, noise or safety impacts of such maintenance. A wireless facility not used for six months shall be removed by the facility owner. This removal shall occur within 90 days of the end of such six-month

period. Upon removal, the site shall be restored to its previous appearance and, where appropriate, re-vegetated to blend with the surrounding area.

- 4.15.5.15** Prior to construction of any facility authorized under these Telecommunication Tower Regulations, the permittee shall post a performance bond with the Town in an amount and form satisfactory to the Town Attorney, to secure to the Town the permittee's compliance with Town of Prospect's Zoning Regulations and any conditions of approval of the Special Permit.

#### **4.15.6 Temporary Wireless Telecommunications Facilities**

Temporary wireless telecommunications facilities (as defined in this Chapter) are subject to the following:

- 4.15.6.1** Use of a temporary wireless telecommunications facility requires a zoning permit from the Planning and Zoning Commission.
- 4.15.6.2** Temporary wireless telecommunications facilities are allowed for no longer than seven (7) days use during a special event.
- 4.15.6.3** The maximum height of a temporary telecommunications facility is 50 feet from grade.
- 4.15.6.4** Temporary wireless telecommunications facilities shall comply with all applicable sections of this Chapter.

## **Section 4.16 Canine Day Care Permitted in IND-1 and IND-2 Zone**

**4.16.1** Canine day care facilities may be a use in the Industrial (Ind-1 & Ind-2) zones and shall be allowed only by Special Permit issued by the Planning & Zoning Commission subject, but not limited to, the following conditions:

**4.16.2** There shall be a minimum lot area of (1) acre.

**4.16.3** Hours of operation are limited to Monday through Friday, from 6:00 a.m. to 7:00 p.m.

**4.16.4** One supervisor is required for a maximum fifteen dogs and shall be present at all times. More than 15 dogs shall require an additional supervisor for up to 30 dogs total.

**4.16.5** Dogs attending day care shall be licensed.

**4.16.6** The facility shall provide an outdoor exercise area available to all resident dogs.

**4.16.7** The outdoor exercise area shall be surrounded with fencing at least five (5) feet in height with the addition of canted top section extending inward.

**4.16.8** An individual canine that barks for more than 5 minutes at one time shall be removed to an indoor location capable of substantially muffling the sound.

**4.16.9** The environment (inside and outside) shall be maintained in a sanitary and odor-free condition at all times. Canine waste shall be immediately collected and the area sanitized. Waste shall be contained in a closed container and disposed of off site.

**4.16.10** Interior space shall be provided for all resident dogs and allow a minimum fifty (50) square feet per dog.

**4.16.11** Parking shall comply with Article 6, Section 6.4 of the regulations. Signage shall comply with Article 8, Section 8.4.

**4.16.12** Licensing requirements from the Connecticut Department of Agriculture or other controlling agencies for this facility are the applicant's responsibility to obtain.

**4.16.13** The day to day operations of a Canine Day Care facility are subject to review at the discretion of the Planning & Zoning Commission for compliance with the terms and conditions stated in the Special Permit's *Resolution of Approval*. Verifiable complaints of incessant noise resulting from barking dogs shall be resolved immediately. Continued verifiable noise complaints of barking dogs shall be grounds for revoking Special Permit.

## **Section 4.17 Aquifer Protection Regulations**

The Aquifer Protection Area Regulations effective January 31, 2010 are available in the Town Clerk's and the Land Use Offices.

## **Section 4.18 Medical Marijuana Dispensary and Production Facilities**

### **4.18.1 Definitions:**

**Licensed Medical Marijuana Dispensary Facility:** a place of business where a person licensed as a dispensary pursuant to C.G.S. Section 21a-408h as amended may acquire, possess, distribute and dispense medical marijuana or paraphernalia relating to marijuana to qualifying patients and primary care givers.

**Medical Marijuana Production Facility:** means a secure, indoor facility where the production of medical marijuana occurs for palliative use, including selling, delivering, transporting and distributing such marijuana to medical marijuana dispensary facilities as defined in this section and is operated by a person licensed as a producer pursuant to C.G.S. Section 21a-408i as amended.

### **4.18.2 Applicability:**

Medical Marijuana Dispensary Facilities shall be permitted in a Business District (B) zoning district subject to Special Permit approval in accordance with Article 12 of these Regulations. The dispensing of medical marijuana may only take place on the premises which have been properly permitted to do so and shall further comply with all applicable State of Connecticut laws and regulations.

Medical Marijuana Production Facilities may be permitted by Special Permit in the Industrial 1 (IND-1) and Industrial 2 (IND-2) zoning districts in accordance with Article 12 of these Regulations. Cultivation of medical marijuana plants shall further be conducted in full compliance with all applicable State of Connecticut laws and regulations.



## **Section 4.19 Gateway Overlay Districts**

### **4.19.1 Purpose and Intent**

The Northern Gateway District (“NGD”) and the Western Gateway District (“WGD”)(collectively “Gateway Districts”) are overlay zones. As such, the provisions and regulations of this Section 4.19 shall be applicable to the land within the Gateway District boundaries in addition to the regulations that are applicable to the underlying district(s). The purpose of the Gateway Districts is to encourage development and re-development of uses permitted in the underlying Districts that apply architecturally appropriate and consistent designs that will maintain and promote Prospect’s historic small town aesthetic qualities in these gateway corridors.

### **4.19.2 Boundaries**

The boundaries of the Gateway Districts are hereby established to be those shown on the Town of Prospect, Connecticut, Zoning Map with an effective date of January 15, 2016, as may be amended.

### **4.19.3 Applicability**

a. Within the Gateway Districts, all new constructions, substantial reconstruction, and rehabilitation of property, except as provided below, shall be subject to site plan approval in accordance with the standards of this Section and the standards applying to the underlying District.

The following applications within the Gateway Districts are subject only to permitting as provided for the underlying District:

1. Single Family Dwellings, except for change of use from single family home being converted to a commercial or industrial use, where such use is permitted; and
2. Expansion, reconstruction or rehabilitation of an existing commercial or industrial building by less than 25 percent of the existing floor area.

### **4.19.4 Gateway Overlay District Site Development Standards**

In the Gateway District, Site Plans shall comport with the following site development standards, in addition to the applicable standards of the underlying District and the provisions of Article 11 of these Regulations.

a. Facades and rooflines shall be articulated and/or varied to reduce the appearance of bulk and provide architectural interest.

b. Building materials shall have good architectural character and durable quality and shall be selected for consistency and compatibility among all exterior portions of the building and with surrounding buildings.

c. Building textures and components shall be selected for consistency and compatibility among all exterior portions of the building and with surrounding buildings.

#### **4.19.5 Site Plan Review**

All applications shall be reviewed in accordance with Article 11 of these Regulations. Applications shall demonstrate conformance with the provisions of this Section, Applicable standards of the underlying District, and the provisions of Article 11.

## **Section 4.20 Commercial Outdoor Recreation**

### **4.20.1 Purpose**

This Section provides standards and conditions applicable to the use of property for Commercial Outdoor Recreation to ensure compatibility of such uses and associated development with neighborhoods and surrounding properties and to protect public health, safety, and convenience.

### **4.20.2 Applicability**

Commercial Outdoor Recreation may be permitted in the Residential 1-Acre (RA-1) and Residential 2-Acre (RA-2) Zones, the Business District (B) Zone, the Industrial – Manufacturing 1 (IND-1) District and Industrial Manufacturing 2 (IND-2) District Zones, and the Earth Excavation (EE) District Zone by Special Permit issued by the Planning & Zoning Commission. In all cases, such use shall be subject to conformance with the applicable District Regulations, Special Permit Standards, and the Special Use Standards of this Section.

### **4.20.3 Commercial Outdoor Recreation and Recreation Uses Special Use Standards**

Commercial Outdoor Recreation facilities shall comply with the following Special Use Standards, as applicable.

- (i) Paintball and speedball game fields shall comply with the following standards:
  - 1) the site shall be at least ten acres in area;
  - 2) the total lot coverage of all structures and recreation areas or playing fields shall not exceed forty (40) percent of the total area of the lot;
  - 3) outdoor paintball playing fields shall be located two hundred (200) feet from any adjacent property and/or street line;
  - 4) outdoor speedball playing fields shall be located fifty (50) feet from any adjacent property and/or street line;
  - 5) any outdoor paintball or speedball playing field shall be enclosed with protective screening surrounding the playing field twenty (20) feet in height to prevent capsules from leaving the site;

- 6) warning signage shall be placed every 100 feet along the property lines and be visible from a distance of 50 feet.
- 7) parking shall not be provided in any required yards; and
- 8) no paintball or speedball games shall be played before sunrise or after sunset.

(ii) Golf driving ranges shall comply with the following standards:

- 1) the site shall be at least 15 acres in area with frontage of at least 400 feet;
- 2) the range shall be enclosed on three sides by 6 foot high fencing to protect against accidental access to the range. The range shall further be enclosed with protective screening to prevent golf balls from leaving the site. Such protective screening shall comply with yard setbacks from structures within the district;
- 3) off-street parking shall be provided in accordance with the provisions of Article 6 of these Regulations Off-Street Parking and Loading Regulations;
- 4) any lighting used to illuminate buildings, structures, range stalls, etc. shall be shielded and so arranged as to direct the light away from adjoining properties and public rights-of-way, in addition to the general lighting standards of Article 7 of these Regulations Exterior Lighting Standards;
- 5) all buildings and structures shall be set back a minimum distance of fifty (50) feet from any adjoining property;
- 6) no building or structure shall be located within fifty (50) feet of any street;
- 7) the total building coverage shall not exceed ten (10) percent of the area of the lot;
- 8) one ground sign shall be permitted not to exceed twenty-four (24) square feet in area; and
- 9) accessory uses shall be limited to such golf-related activities as the sale of golf equipment, apparel and accessories, golf instructions, and the sale of refreshments.

(iii) Firing Ranges shall comply with the following standards:

- 1) A Firing Range Site Plan, prepared by a Professional Engineer for the entire range facility which shows the following application information shall be submitted:
  - a. Property lines for any parcel upon which the range facility is to be located, north arrow, plan scale, date and ownership information for the site;
  - b. Complete layout of each range, including, firing stations or firing lines, target areas, shot-fall zones or safety fans, backstops, berms and baffles;
  - c. Location of all Surface Danger Zones associated with the range facility;
  - d. Any other appropriate information related to the specific type of range(s) being proposed
- 2) Firing range facilities shall be designed to contain all of the bullets, shots, arrows or other projectiles or any other debris on the range facility.
- 3) Where not otherwise specified, firing range facilities shall be designed, constructed, operated and maintained in a manner that meet or exceed the guidelines as specified by the "National Rifle Association's (NRA) Range Source Book: A Guide to Planning and Construction", current edition.
- 4) Only the types of firearms, types or ammunition, the length of the range, the width of the firing point or points and physical mitigation measures specified in the determination of the surface danger zone shall be authorized for use on the firing range.
- 5) Access to the firing range facility and firing range shall be secured and controlled, with ingress and egress permitted only during operating hours.
- 6) Operating hours shall be approved by the Planning & Zoning Commission.

(iv) Outdoor Firing Ranges shall comply with the following standards:

- 1) All requirements of Section 4.20.3 (iii)
- 2) The site shall be at least ten acres in area;

- 3) The Firing Range Site Plan required by subsection 4.20.3 (iii) shall also include the following:
  - a. Projected noise level at the property line where the facility is maintained or, in the case of leased land, at the property line of any leased parcel, used for an outdoor firing range.
  - b. Existing and proposed structures; occupied dwellings within one-half (1/2) mile (two thousand six hundred forty (2,640) feet); roads, streets, or other access areas; buffer areas; surface danger zones and parking areas for the outdoor firing range facility.
  - c. A plan outlining its Best Management Practices (BMPs) relating to lead management shall be provided for any proposed outdoor firing range. Said plan shall meet or exceed the guidelines as specified by the "Best Management Practices for Lead at Outdoor Shooting Ranges EPA- 902-B-01-001", current edition.
- 4) The Surface Danger Zone shall be determined by a Professional Engineer using "Department of Army Pamphlet 385-63 Range Safety" standards as they may be amended, the types of firearms, types of ammunition, the length of the range, the width of the firing point or points and physical mitigation measures used in the determination of the surface danger zone shall be specified.
- 5) The Surface Danger Zone shall be contained within the leased boundary line of the range facility on leased land or the property boundary line for non-leased land.
- 6) Noise levels measured at the property line where an outdoor firing range facility is maintained or, in the case of leased land, at the property line of any leased parcel shall not exceed sixty-five (65) dBa when located adjacent to residential and business zoned properties or seventy-five (75)

## **Section 4.21 Performance Standards**

### **4.21.1 Non-Residential Uses**

No land or building shall be used or occupied for non-residential use in any manner as to create any dangerous, injurious, noxious or otherwise objectionable, explosive, radioactive or heat hazard; fire; noise or vibration; smoke, dust, odor or other form of air pollution; excessive heat, cold, dampness, movement of air; electrical or other disturbances; excessive glare, liquid or solid refuse or wastes or condition conducive to the breeding of rodents or insects; or other substances, condition, or elements (all referred to herein as "Dangerous or Objectionable Elements"), in a manner or amount as to adversely affect the surrounding area, provided that any non-residential use except those expressly prohibited by these Regulations in Article 10 may be undertaken and maintained if it conforms to the district regulations, and the regulation of this Section 4.19 referred to herein as "Performance Standards" limiting Dangerous and Objectionable Elements at the point of determination of their existence as provided in this Section.

### **4.21.2 Non-Conforming Uses**

No use established before the effective date of these Regulations and non-conforming as to Performance Standards shall be required to conform herewith.

### **4.21.3 Restriction On Creation Of Dangerous And Objectionable Elements**

Every use subject to Performance Standards shall conform to the restrictions set forth in Section 4.19.4, through Section 4.19.6.

### **4.21.4 Measurement At The Point Of Emission**

The existence of the following Dangerous and Objectionable Elements shall be determined at the location of the use creating same or at any point beyond, and these shall be limited as follows:

#### **4.21.4.1 Fire And Explosion Hazards**

All activities and all storage of inflammable and explosive material at any point shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire fighting and fire prevention equipment and devices.

#### **4.21.4.2 Radioactivity**

No activities which emit dangerous radioactivity at any point are permitted.

#### **4.21.4.3 Smoke**

No emission at any point, from any chimney or otherwise of visible gray smoke darker than no. 1 on the Ringelman Smoke Chart as published by the U.S. Bureau of Mines is permitted.

#### **4.21.4.4 Fly Ash, Dust, Fumes, Vapors, Gasses, And Other Forms Of Air Pollution**

No emission which can cause any damage to health, to animals or vegetation, or other forms of property, or which can cause excessive soiling at any point is permitted.

**4.21.4.5 Liquid Or Solid Wastes**

No discharge at any point into any private sewage disposal system or stream, or into the ground of materials in such a way or to such nature of temperature as can contaminate any water supply, or otherwise cause the emission of Dangerous or Objectionable Elements, except in accord with standards approved by the State Department of Health or State Water Commission or both. An accumulation of solid wastes conducive to the breeding of rodents or insects shall not be permitted.

**4.21.5 Measurement At The Lot Line**

The existence of the following Dangerous and Objectionable Elements shall be determined at the lot line of the use creating the same or at any point beyond said lot line and the following standards shall apply:

**4.19.5.1 Vibration**

The safe standards developed by the U.S. Bureau of Mines recommended in Table 7, U.S. Bureau of Mines Bulletin No. 422 or any revision shall be used.

**4.21.6 Odors**

The standards established as a guide by Table III (Odor Thresholds) in Chapter 5, "Air Pollution Abatement Manual," Copyright 1951, by the Manufacturing Chemist's Association, Inc., Washington, D.C. or any revision thereof shall be used.



## **ARTICLE 5**

### **ACCESSORY USES IN RESIDENTIAL ZONES**

#### **Section 5.1 Purpose**

The purpose of the Accessory Use Regulations is to establish the relationship among the principal and accessory uses and the criteria for regulating accessory uses. Accessory uses are uses which are customarily incidental and subordinate to a permitted principal use.

#### **Section 5.2 Accessory Structures In Residential Zones**

Subject to the restrictions and limitations specified, the following accessory buildings and uses shall be permitted in RA-1 and RA-2 zones. Zone Permits are required for all uses listed below that are separate from a house and must conform to structure setbacks except as provided in Section 5.2.3.2.

The Land Use Inspector reserves the right to require Planning and Zoning Commission Approval. The Commission may, in its discretion, hold a public hearing thereon. The following documents shall be submitted to the Commission at its request, with the application.

- a. Plot Plan drawn to reasonable scale (need not be prepared by a registered land surveyor or professional engineer).
- b. Other considerations as the Planning & Zoning Commission may establish.

#### **5.2.1 Private Garages, Attached**

**5.2.1.1** Total area not to exceed 1,100 sq. ft. or 50% of the living area of the principal residence, whichever is less. A garage area of 480 sq. ft. is permitted regardless of the living area of the principal residence.

**5.2.1.2** May be two stories if second floor is an integral part of principal residence or approved accessory apartment.

**5.2.1.3** All yard setback requirements shall be the same as the underlying zone.

#### **5.2.2 Private Garages, Detached**

**5.2.2.1** Total area not to exceed 800 sq. ft. or 50% of the living area of the principal residence, whichever is less. A garage area of 480 sq. ft. is permitted regardless of the living area of the principal residence.

- 5.2.2.2** Shall not exceed 24 feet maximum height measured from the floor elevation of garage door to the peak of the roof and must meet the main building setback in accordance with the underlying zone requirements.

### **5.2.3 Communication Receiving & Transmitting Antennas & Discs**

- 5.2.3.1** Communication Receiving & Transmitting Antennas & Discs shall have a maximum height of 25'. Height increases above 25 feet may be approved pursuant to Article 12 (Special Zoning Permit).

- 5.2.3.2** Those towers higher than 25', must be located a distance from the property line at least equal to the tower height.

### **5.2.4 Private Greenhouses**

Total area of private greenhouses shall not exceed 450 sq. ft. Greenhouses may have rigid or flexible exterior materials provided the material is transparent. An opaque covering over the transparent exterior may be used temporarily. The principle use of greenhouses is strictly for the purpose of propagating or starting of plants.

### **5.2.5 Detached Storage Buildings, Utility Buildings, Workshops, Hobby Shops, Recreation Rooms And Other Similar Purposes.**

- 5.2.5.1** Area for any one structure regulated under this section shall not exceed 450 sq. ft. When on the same lot as a detached garage, all uses together shall not exceed 1,100 sq. ft. or 50% of the living area of the principal residence, which ever is less.

- 5.2.5.2** Limited to one story not to exceed 15 feet maximum height from average ground level to peak of roof.

- 5.2.5.3** All structures regulated under this section that are 80 sq. ft. or less must not be located less than 15 feet from a property line. Any structure regulated under this section that exceeds 80 sq. ft. and any structure regulated under this section regardless of size that is constructed with a foundation must not be located less than 20 ft. from property line.

- 5.2.5.4** All storage buildings not attached to a dwelling must be located beyond the rear range line of the house.

**5.2.5.5** The exterior of structures regulated under this section must be constructed of rigid materials such as wood, metal or vinyl siding, etc. Canvas structures or structures whose exterior covering is plastic material are expressly prohibited, except when used as temporary structures under Section 4.6 of these regulations.

**5.2.5.6** All storage buildings require Zoning Permits. No Zoning Permit may be issued without health district approval.

**5.2.6 Barns And Agricultural Storage Buildings**

Barns and Agricultural Storage Buildings are allowed on farms (See definition of Farm), provided that they are used for farming purposes; the maximum floor area shall not exceed 5,000 sq. ft.

**5.2.7 Roadside Sales Of Local Agricultural Products**

Operation of a stand, not to exceed 200 sq. ft., for the display and sale, by the occupant of the premises, of agricultural products produced on the premises is allowed pursuant to Article 12 (Special Zoning Permit). Agricultural products produced off-site may also be displayed and sold from said stand. Said stand shall be located a minimum of 30 feet from any side lot line and the existing roadway shoulder.

## **5.2.8 Portable Storage Containers**

### **5.2.8.1 Definition**

Portable Storage Container: Any container larger than 600 cubic feet Designed for the temporary storage of personal property which is typically rented to owners or occupants of property for their storage use and which is delivered and or removed by truck trailer.

- 5.2.8.2** No person shall place a portable storage container on private property without first obtaining a zoning permit for the Land Use Officer. A zoning permit fee is required with the filing of the permit.
- 5.2.8.3** There shall be no more than two (2) portable containers placed on an individual property at any one time. Portable storage containers shall not exceed eight (8) feet in height or 160 square feet in size.
- 5.2.8.4** Portable storage containers shall be placed only in the driveway and be set back a minimum of ten (10) feet from the front property line. No portable storage container shall remain at a site in excess of 14 consecutive days from date of permit.
- 5.2.8.5** Portable storage containers used in conjunction with a construction or remodeling project which has a valid building permit must be removed within (150) days of permit issuance and/or within ten (10) days following the final inspection or issuance of the certificate of occupancy.
- 5.2.8.6** Portable storage containers shall not be permitted for use as a detached, permanent storage building, utility building workshop, hobby shop and other similar purposes as defined under Section 5.2 Accessory Structures in Residential Zones.

## **Section 5.3 Outdoor Storage**

### **5.3.1 Storage Of Commercial Vehicles**

#### **5.3.1.1 Definition**

Commercial Vehicle: Any truck, trailer, van or other equipment on wheels used in the operation of a commercial activity. This term includes automobiles, vans, mini-vans and pickup trucks when such vehicles feature a company name, slogan or logo. Construction equipment and farming equipment of any type are included in this definition.

**5.3.1.2** The storage/parking of one (1) Commercial Vehicle (see definition) not exceeding 11,000 pounds gross vehicle weight is permitted. Storage/parking of Commercial Vehicles exceeding 11,000 pounds is prohibited.

**5.3.1.3** If a lot meets the definition of a Farm (see definition) the storage of one (1) Commercial Vehicle (see definition) not exceeding 20,000 pounds gross vehicle weight is permitted. Said vehicle shall be parked at least two hundred (200) feet from any property line.

### **5.3.2 Storage of Recreational Vehicles and Boats**

**5.3.2.1** Outdoor storage of boats, power or sail, and recreational vehicles such as motor homes, self contained trailers, camper trailers and all terrain vehicles shall not be located closer to the street than the primary structure or shall not be closer than 50 feet to the front property line. Recreational vehicles, boats, or boats on trailers whose height exceeds eight (8) feet shall also not be located less than 20 feet from the side or rear property line.

**5.3.2.2** Boats and recreational vehicles may be parked on a driveway or paved area closer to the street or property line than permitted for not more than 72 consecutive hours prior to leaving the property for recreational use and upon return.

### **5.3.3 Outdoor Open Storage (Unsightly Materials)**

- 5.3.3.1** Outdoor open storage of Unsightly Materials (such as garden equipment, excavation equipment, commercial equipment, industrial equipment, appliances, furniture or debris or waste or other products stored outdoors which are not actively being utilized for their intended purpose, such as for construction or repair of a structure on the lot) is not permitted in RA-1 or RA-2 zones.

### **5.3.4 Junk Vehicles, Unregistered Vehicles, Vehicles Involved in Restoration**

- 5.3.4.1** A maximum of two vehicles unfit for highway use, registered or unregistered may be allowed on a lot for not more than ninety (90) days when being restored or repaired if the two are owned by members of the household and the parts of the two are compatible and being used in the restoration or repair of one of the two. Parts totaling more than one (1) vehicles remaining after ninety (90) days will be determined to be unsightly material. Titles of ownership, registration or Bill of Sale of the vehicle must be readily available upon request.
- 5.3.4.2** A maximum of one (1) unregistered vehicle being restored or one (1) registered vehicle being restored or repaired, or one (1) Unregistered vehicle unfit for highway use owned by a member of the household may be kept on a lot for not more than one (1) year. Title of ownership, registration, or Bill of Sale of the vehicle must be available upon request.
- 5.3.4.3** A maximum of two (2) unregistered vehicles that are fit for highway use may be stored outdoors on a lot for not more than one (1) year if the two are owned by member of the household. Unregistered vehicles fit for highway use that are stored outdoors for more than 30 days shall be located no closer to the street than the primary structure. Title of ownership, registration, or Bill of Sale of the vehicle(s) must be available upon request.
- 5.3.4.4** A combined maximum of two (2) vehicles as described in Sections 5.3.4.1 through 5.3.4.3 shall be allowed to be stored outdoors on a lot at any one time.

## **Section 5.4 Home Occupation**

### **5.4.1 Intent:**

While the Town of Prospect recognizes the desire and / or need of some citizens to use their residence for business activities, it is the intent of these regulations to ensure that a home occupation as an accessory use is so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The standards for home occupations are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood. The home occupation must clearly be incidental and subordinate to the residential use of the main building. It is further the intent of these regulations to eliminate any home occupations that do not conform to the provisions of this Section.

### **5.4.2 Applicability**

These Home Occupation Regulations shall be applicable to any new or expanded home occupation as of the approval date of these regulations. All permitted operations in effect prior to the approval of these regulations shall remain in effect and be required to follow the renewal procedure outlined in Section 5.4.6.19.

### **5.4.3 Permitted Home Occupations**

Permitted home occupations may include the following:

- 5.4.3.1** Offices for professionals such as, but not limited to, architects, financial advisors, clergy, consultants, dentists, doctors, insurance agents, lawyers, accountants, editors, journalists, graphic design, surveyors, sales representatives, and travel agents.
- 5.4.3.2** Instructional services, including music, art and craft classes, and tutoring.
- 5.4.3.3** Babysitting services, day care homes.
- 5.4.3.4** Studios for artists, sculptors, musicians, photographers.
- 5.4.3.5** Trade persons, including tailors, dressmakers, landscapers, plumbers and electricians.
- 5.4.3.6** A home based office for businesses and services rendered electronically.

It is recognized that this list may not be totally inclusive. The Planning and Zoning Commission shall make the determination of whether a proposed occupation is similar to a listed, permitted occupation and issue or deny a Home Occupation Permit in accordance with such determination.

#### **5.4.4 Prohibited Home Occupations**

Prohibited home occupations include the following:

**5.4.4.1** Restaurants, clubs, drinking establishments.

**5.4.4.2** Motor vehicle repair.

#### **5.4.5 Approval Requirements**

##### **5.4.5.1 Home Occupation Permit Approval**

A home occupation located within a residential district that meets all the application requirements and conditions specified in Section 5.4.6 shall require a Home Occupation Permit issued by the Planning and Zoning Commission and shall include a Plot Plan showing the floor area devoted to the home occupation or office and a sufficient area for off street parking as required herein.

#### **5.4.6 Application Requirements and Conditions:**

Home occupations shall be located in a dwelling unit and not in an accessory building and are subject to the following:

**5.4.6.1** The home occupation shall be clearly incidental and subordinate to the residential use of the main building and shall not impair the residential character of the premises.

**5.4.6.2** No more than one (1) home occupation shall be permitted at any residence.

**5.4.6.3** The person or persons conducting the home occupation shall reside in the dwelling unit, and there shall be no more than one (1) non-resident person engaged in the home occupation activity at any time.

**5.4.6.4** The floor area used for the conduct of the home occupation shall not exceed 30 percent of the finished, heated floor area of the main residential structure or 600 square feet, whichever is less.



- 5.4.6.5** Customer / client visits to the home occupation are limited to Monday - Friday and to the hours of 8:00 A.M. through 5:00 P.M. unless otherwise approved by the commission.
- 5.4.6.6** The home occupation shall not generate more than six (6) customers / client visits in any one day and no more than three (3) customers / clients can be present at any one time.
- 5.4.6.7** The home occupation shall not generate more than three (3) students or pupils at any one time, in addition to the resident person and/or employee conducting a home occupation as a teacher.
- 5.4.6.8** The property or the residence where a home occupation is permitted shall not be a place of congregation for employees preparing to disperse to a work site.
- 5.4.6.9** Delivery vehicles used to deliver / pick-up goods are limited to passenger vehicles, mail carriers, and express carriers such as UPS or FedEx vehicles.
- 5.4.6.10** Delivery / pick-up of products and materials related to the home occupation by vehicles other than automobiles shall occur no more than one (1) time per day.
- 5.4.6.11** Commercial vehicles on the premises shall be regulated pursuant to Section 5.3.1. As specified in Section 5.3.1, no more than one (1) commercial vehicle shall be allowed on the premises at any one time. No additional commercial vehicles shall be allowed for an approved home occupation. An exception is granted during times of delivery/pick-up of products and materials related to the home occupation as regulated in Section 5.4.6.9 and Section 5.4.6.10.
- 5.4.6.12** Two (2) parking spaces are required exclusively for the home occupation in addition to the two (2) spaces required for a single-family residence. All parking shall be located off-street and shall maintain the required front yard setback per Article 3.
- 5.4.6.13** The home occupation shall be completely enclosed in the building and shall have no outside storage or display windows. There shall be no evidence of the home occupation outside the dwelling unit except required off street parking.
- 5.4.6.14** No traffic, heat, glare, noises, dust, smoke, odors, vibrations or other conditions that are not consistent with residential use shall be created in consequence of the home occupation nor shall the said home

occupation interference with radio and television reception in the vicinity.

- 5.4.6.15** The Planning and Zoning Commission may hold a Public Hearing with the same notice and procedural requirements as contained in Section 12.7 to consider any request for a home occupation.
- 5.4.6.16** If a public hearing is required the applicant shall send by certificate of mailing, a letter to the owners of record of property located within 200 feet of the perimeter of the lot on which the home occupation is proposed. The letter shall give notice of the essential elements of the proposed application, and the date, time and place of the public hearing. The letters shall be mailed not less than ten (10) days prior to the hearing date. At the public hearing, the applicant shall submit a list of property owners to whom letters were sent with proof of mailing.
- 5.4.6.17** Property of the owner applying for a home occupation shall be in compliance with all other requirements contained in these regulations prior to issuance of Home Occupation Permit.
- 5.4.6.18** Any change in business activities and/or objectives as contained in the Home Occupation Permit will void approval. A new application describing current business or enterprise activities will be required and must be approved by the commission.
- 5.4.6.19** Home Occupation Permits are approved for five (5) years and must be renewed every five (5) years thereafter under the same procedures as applicable to the initial Permit approval. Permits not renewed within five (5) years of approval will be considered as expired and the allowed accessory uses of the home occupation will no longer be permitted. The commission reserves the right to vary the approval and renewal periods on an individual home occupation. The Land Use Inspector has the right to inspect the home occupation and premises to check for compliance with the home occupation regulations.
- 5.4.6.20** The burden of providing complete and accurate information shall be the sole responsibility of the applicant. Any error or misrepresentation may result in voiding or modification of the approval for a home occupation.
- 5.4.6.21** The home occupation will terminate when the applicant no longer resides in the dwelling unit.

## **Section 5.5 Accessory Living Units**

A single family residential dwelling unit in RA-1, RA-2, or B Zones only, may contain one accessory living unit provided that:

- 5.5.1** The accessory living unit shall contain not less than 360 sq. ft. or more than 30% of the total floor area designated as habitable space in the residence.
- 5.5.2** The dwelling containing an accessory living unit must conform to lot square, frontage, area, setbacks and structure height as required by Prospect Zoning Regulations.
- 5.5.3** The dwelling containing an accessory living unit must retain its character and appearance of a single-family dwelling unit and have interior access to and from each unit. A side or rear door may be added, only to comply with building codes. Only one (1) service meter for each utility will be allowed per building lot.
- 5.5.4** A maximum of two family members may reside in any accessory living unit.
- 5.5.5** Residents of the accessory living unit must be related to the principal owner by blood, marriage or adoption, or the accessory living unit must be occupied by the principal owner, provided that if the principal owner occupies the accessory living unit, then the residents of the primary dwelling must be related to the principal owner by blood, marriage or adoption.
- 5.5.6** A minimum of four (4) parking spaces (10' minimum, paved or processed material) must be provided for a residence with an accessory living unit (garage space may be counted). Parking shall be at least five (5) feet from a side Property line and a minimum of twenty-five (25) feet from a street line. (Street curb or gutter is not a street line) Only one, driveway is allowed per lot.
- 5.5.7** Septic and water systems will meet state health code standards.
- 5.5.8** An applicant must obtain a certificate from the Prospect Building Department that the proposed accessory living unit complies with all current building codes.
- 5.5.9** An owner with an existing accessory living unit prior to adoption of this regulation or an owner seeking approval for an accessory living unit shall make application with the Land Use Inspector accompanied with the required fees for the Zoning Permit.
  - 5.5.9.1** The Land Use Inspector shall review the application, required support information and conduct an inspection of the property and dwelling. The Land Use Inspector shall report his findings to the Commission and if the application complies with regulations, a Zoning Permit shall be approved by the Commission.

- 5.5.9.2** Whenever the Commission approves a permit, a notice shall be given identifying the residence including a description of the dwelling, the occupants and the date such a 2-year permit expires.
- 5.5.9.3** A permit may be renewed by making application to the Land Use Inspector who shall review the application, conduct an inspection of the dwelling and property to confirm compliance and report his findings to the Commission. If in compliance, the Commission shall issue a renewal permit for the same as the original permit.
- 5.5.9.4** Failure of an applicant requesting a permit or permit renewal to show proof of family relationship will be reason for refusal to issue a permit.
- 5.5.9.5** Notice of ratification of a permit approval by the Commission shall be filed in the Land Records of the Prospect Town Clerk.
- 5.5.9.6** Occupancy of an accessory living unit not in accordance with these regulations will be subject to enforcement action in accordance with Connecticut General Statutes, Sec. 8-12 of Chapter 124.

**5.5.10** The letting of rooms or furnishing of board by the principal owner or occupant at a dwelling containing an accessory living unit shall not be allowed.

### **Section 5.6 Handicap Access Ramp**

This sometimes required access platform into a home to be placed within the minimum setback requirements for structures if it becomes necessary is permitted. A handicap ramp or similar companionway would be considered "temporary" and a permit issued would state the ramp is to be disassembled when it is no longer needed for normal access into or exit from the home.

### **Section 5.7 Outdoor Wood-Burning Furnaces**

Construction, installation, establishment, modification, operation or initial use of an outdoor wood-burning furnace occurring after July 8, 2005 shall comply with the following conditions per Section 22a-174k of the Connecticut General Statutes:

- (a) Installation of the outdoor wood-burning furnace is not less than two hundred feet from the nearest residence not serviced by the outdoor wood-burning furnace;
- (b) Installation of the chimney of the outdoor wood-burning furnace is at a height that is more than the height of the roof peaks of the residences that are located within five hundred feet of the outdoor wood-burning furnace, which residences are not serviced by the outdoor wood-burning furnace, provided the chimney height is not more than fifty-five feet;

(c) No other materials are burned in the outdoor wood-burning furnace other than wood that has not been chemically treated;

(d) Installation and operation of the outdoor wood-burning furnace is in accordance with the manufacturer's written instructions, provided such instructions do not conflict with the provisions of this section;

(e) The provisions of this section shall be enforced by the municipality affected by the operation or potential operation of an outdoor wood-burning furnace.

### **Section 5.8 Tag Sales**

Tag sales, yard sales, garages sales and similar occasional sales of personal property by the resident of a premise shall conform to the following additional standards and conditions:

**5.8.1** Said sales shall not exceed a total of ten (10) days in any one calendar year. Sales will be allowed to run for a maximum three (3) consecutive days. Items that have been displayed outdoors for the tag sale shall not be left outdoors after the completion of the event.

**5.8.2** Reasonable and adequate parking, appropriate to the nature and duration of the sale shall be available in the area.

**5.8.3** All items for sale that are associated with a tag sale shall be located within the property boundaries of the address in which the tag sale is occurring. No items to be sold at a tag sale shall be placed beyond the property boundary, including public roads, cul-de-sac or sidewalk.

## ARTICLE 6

### OFF-STREET PARKING AND LOADING REGULATIONS

#### **Section 6.1 Intent**

It is the intention of these Regulations that all buildings and uses be provided with a sufficient amount of off-street parking and loading space to meet the needs of persons employed at or making use of such buildings or uses. No permit for the erection or substantial alteration of a building, or for the development of a use, shall be issued unless off-street parking and loading facilities shall have been laid out in a Site Plan in accordance with the appropriate requirements for buildings and uses set forth in this Section and until the drainage plan for such parking and/or loading area, except in conjunction with single family dwellings not located in flood hazard areas, shall have been approved by the Planning and Zoning Commission.

#### **Section 6.2 Zoning Permits**

The Site Plans for any new building or any replacement or reconstruction of any existing buildings, when submitted to the Planning and Zoning Commission for a Zoning Permit in accordance with Article 11 herein, shall show specifically the location and size of the off-street parking and/or loading areas required to comply with this Section, and the means of access to such space from the public streets or highways. The drainage plan of such parking and/or loading area shall be approved by the Land Use Inspector with regard to safety to the area and adjoining properties. The Land Use Inspector shall not issue a Zoning Permit until the drainage plan of such parking and/or loading area has been endorsed with such approval.

#### **Section 6.3 Completion Of Required Parking And Loading Areas**

The use of any property for a principal or accessory off-street parking and/or loading area shall not commence until all work required in connection therewith is either completed or until the Land Use Inspector approves postponement of the improvements, or portion thereof, and accepts satisfactory surety in order to guarantee the completion of such postponed work.

#### **Section 6.4 Off-Street Parking Requirements**

Adequate off-street parking spaces, open or enclosed, shall be provided for any building or use in accordance with the minimum requirements of this Section. Any land that is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these parking regulations. Reasonable and appropriate off-street parking requirements for buildings and uses which do not fall within the categories listed shall be determined in each case by the Commission upon consideration of all factors entering into the parking needs of such use.

## MINIMUM OFF-STREET PARKING REQUIREMENTS

<u>Type of Building or Use</u>	<u>Required Parking Spaces</u>
(1) Residence	2 spaces per dwelling unit.
(2) Elderly Housing in Residential Zones	1.5 spaces per dwelling unit, to be located not more than 150 ft. from the unit.
(3) Congregate Elderly Housing	1) 1.5 spaces per dwelling unit. 2) 1 space per assisted living unit 3) 1 space per employee during the largest daily work shift period. 4) 1 guest space per 4 assisted living units. 5) 1 space 12 x 55 feet with a minimum vertical clearance of 12 feet shall be provided for service to the "Commons" building.
(4) Home occupation or accessory professional office	2 spaces in addition to dwelling requirements.
(5) Places of assembly, including but not limited to churches, auditoriums, theaters and stadiums	1 space for each 4 fixed seats or equivalent gross floor area. Where pews or benches are used as seats, 1 space per 8 linear feet is required.
(6) Food and beverage establishments including, but not limited to restaurants, luncheonettes, soda fountains, clubs (public and private), fraternal organizations and lodges	1 space for each 75 sq. ft. of gross floor area, including outdoor service areas if any.
(7) Taverns, Cafes	1 space for each 75 sq. ft. of gross floor area including outdoor service areas, if any.
(8) Morticians	40-space minimum.
(9) Nursery Schools	1 space per staff member plus 1 space for each 2 students.

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| (10) Hotels, motels and boarding, lodging and rooming houses   | 1 space for each rooming unit, plus required parking for facilities used for eating, drinking, assembly, and other such uses.                           |
| (11) Automotive services, including but not limited to gas stations, auto accessories, auto repair, auto body and paint shop, muffler installation, tire shops and engine and transmission overhaul shops. | 1 space for each 250 sq. ft. of gross floor area; or 3 spaces per bay, lift or equivalent for customer and employee parking only, whichever is greater. |
| (12) Vehicular dealerships including, but not limited to, those that sell new and used: motor vehicles, trailers, watercraft and mobile homes.   | 1 space for each 250 sq. ft. of gross floor area, or 1 space for each 1,500 sq. ft. of open sales display lot area, whichever is greater.               |
| (13) Open or outdoor businesses including, but not limited to, those businesses that sell: building supplies, machinery, equipment, swimming pools, nurseries and garden supplies.                         | 1 space for each 250 sq. ft. of enclosed sales floor area, plus 1 space for each 1,000 sq. ft. of open sales display lot area.                          |
| (14) Appliance, carpet, furniture, electrical, heating and plumbing retail sales   | 1 space for each 500 sq. ft. of gross floor area.   |
| (15) Other retail sales and service establishments   | 1 space for each 250 sq. ft. of gross floor area.   |
| (16) General business and professional offices   | 1 space for each 250 sq. ft. of gross floor area or two spaces for each office or tenant, whichever is greater.   |
| (17) Convalescent, nursing or rest home  | 1 space per four patient beds plus 1 space per employee during the maximum work shift.  |
| (18) Medical Facility  | 1 space for each 250 sq. ft. of gross floor area.   |
| (19) Wholesale and distribution, warehousing and storage, truck terminals and other enclosed storage uses, and manufacturing and industrial establishments   | 1 space for each 750 sq. ft. of gross floor area or 1 space for each employee on the maximum work shift, whichever is greater.                          |



- (20) Schools – Public or Private 1 space per teacher, plus 1 per other staff member on the maximum shift, plus 1 space per each 10 students.
- (21) Schools – Special Events To be determined per the maximum allowed capacity of the designated assembly area or outdoor event.
- (22) Uses Not Listed - The minimum number of parking spaces required for other uses not listed under Article 6 shall be determined by the Commission. Where the minimum number of parking spaces for a particular use is to be determined by the Commission, the Commission shall be guided by the nature, intensity, and mix of the proposed use; including projected attendance, number of employees, visitors or customers, the experience of similar facilities elsewhere, and the location of overflow parking in the event of insufficient spaces.

#### **6.4.1 Drive-In Establishments:**

- 6.4.1.1** A drive-in bank window shall have at least ten waiting positions between the street line and said window for cars approaching and at least two waiting positions for cars leaving said window. Such approach(es) shall be so arranged so as not to conflict with required off-street parking facilities and access thereto.
- 6.4.1.2** An attendant operated or self-service car wash shall have at least ten waiting positions for each bay between the street line and such bay for cars approaching and at least two waiting positions for cars leaving said bays.
- 6.4.1.3** A fast-food drive-through window shall have at least ten waiting positions between the street line and said window for cars approaching and at least two waiting positions for cars leaving said window. Such approach(es) shall be so arranged so as not to conflict with required off-street parking facilities and access thereto.
- 6.4.1.4** A pharmacy drive-through window shall have at least five waiting positions between the street line and said window for cars approaching and at least two waiting positions for cars leaving said window. Such approach(es) shall be so arranged so as not to conflict with required off-street parking facilities and access thereto.

## **Section 6.5 Off-Street Loading Requirements**

Adequate off-street loading berths, open or enclosed, shall be provided for any building or use in accordance with the minimum requirements of this Section. Any land that is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these minimum loading requirements. Reasonable and appropriate off-street loading requirements for buildings and uses which do not fall within the categories listed shall be determined in each case by the Commission upon consideration of all factors entering into the loading needs of such use.

**6.5.1** Every hospital, institution, hotel, retail store, office building, wholesale house, warehouse, or industrial building, or additions thereto, totaling 10,000 square feet or more in floor area hereafter erected or established, shall have on the lot one permanently maintained loading space, and one additional loading space for each additional 16,000 square feet of floor area, or major portion thereof, excluding basements. Except that the Planning and Zoning Commission may determine that optional proposals for providing service entrance areas or space may be allowed. An off street loading space as used herein shall be a space of not less than 14 feet in width, 50 feet in length, and 14 feet in height. All loading spaces shall be designed as to allow vehicles to load and maneuver entirely on the lot and not encroach on the street line.

## **Section 6.6 Space Computations**

When units of measurements determining the number of required parking and/or loading spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one additional space.

## **Section 6.7 Size Of Spaces**

Any off-street parking spaces as used herein shall be a space not less than 9 feet in width and 18 feet in length. A waiting position shall be a 9 ft. by 18 ft. space in a line of approach.

### **6.7.1 Parking Structures**

The Commission may permit smaller parking spaces for any area located within or under a principal building or located within a multi-level parking structure; provided that such parking area shall contain at least three parking spaces. In general, such smaller parking spaces shall not be less than 8 feet in width and 18 feet in length.

### **6.7.2 Attendant Parking**

The Commission may, subject to Special Permit and Site Plan Approval, in accordance with Article 11, herein, permit smaller aisle and spaces for any use which will be served by attendant parking; provided that: (a) such attendant parking is customarily incidental to the principal use; and (b) adequate waiting positions are provided for vehicles approaching and leaving the principal use. In general, such smaller parking spaces shall not be less than 8 feet in width and 18 feet in length.

## **Section 6.8 Multiple Uses And Facilities**

When two or more different uses are located on a single lot, the total amount of parking and/or loading spaces to be provided shall be the sum of the requirements for each individual use on the lot. The Commission may, subject to Site Plan Review in accordance with Article 11, herein, approve the joint use of space by two or more establishments on the same or on contiguous lots where the total capacity of such space is less than the sum of the spaces required for each use; provided that the Commission finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments, and further provided that such approval of such joint use shall be automatically terminated upon the termination of any such establishments.

## **Section 6.9 Location And Ownership**

Required parking and/or loading spaces shall be provided upon the same lot as the principal building or use that they serve. If the Commission determines that it is impractical to provide all or part of the parking spaces on the same lot with the principal building or use, it may permit all or part of the parking spaces to be located on any lot which is within 250 feet of the principal building or use, measured along access ways to the lot. In all such cases, such parking spaces shall be in the same ownership as the use to which they are accessory and shall conform to all the regulations of the Zoning District in which they are located; but in no event shall such parking spaces be located in any Residential District unless the use which the spaces serve are allowed in such Residential Districts. Any such approval by the Commission shall be subject to Special Permit and Site Plan Approval in accordance with Article 11, herein, and shall be recorded in the Land Records of the Town as an encumbrance on the land designated for off-street parking, and such land shall not be released from parking use unless and until alternative space is provided and approved elsewhere.

## **Section 6.10 General Layout And Design**

The general layout and traffic circulation of parking and loading areas shall be designed so as to avoid unsafe conditions and traffic congestion in the streets upon which the area has access and to provide for the safety and adequacy of access for vehicles and pedestrians using the area.

- 6.10.1** Parking spaces and aisles shall be laid out in accordance with the design standards for off street parking as set forth hereinafter. All proposed curb cuts, access drives, and parking areas shall comply with all applicable requirements of the State Department of Transportation.
- 6.10.2** All parking lots for new buildings or existing buildings to be substantially renovated, except as noted below, shall provide parking spaces for handicapped individuals in accordance to Connecticut General Statutes Section 14-253a as amended.
- 6.10.3** Any enclosed loading space shall be located at least 30 feet from any street line and any open loading space shall be so designed that trucks when loading or unloading will not project over any street line.

- 6.10.4** All loading areas shall be designed as to allow all maneuvering to occur on the said lot and not encroach on the street line.
- 6.10.5** Individual parking and loading spaces, maneuvering areas, entrances and exits shall be suitably identified with lines and arrows, as deemed necessary by the Land Use Inspector.
- 6.10.6** No access drive, aisle or maneuvering area shall have a turning radius of less than 20 feet.
- 6.10.7** Where vehicles will be located against sidewalks, fences, walls, required buffer strips, trees, landscaping or similar constructions, a suitable bumper strip shall be provided in such a location that the vehicle cannot overhang or otherwise damage said obstruction.
- 6.10.8** In any parking area containing 20 or more parking spaces, suitable speed bumps at reasonable intervals may be required in order to protect the public safety.
- 6.10.9** In any parking area containing 20 or more parking spaces and two or more parallel aisles, suitable guardrails or esplanades may be required in order to protect the public safety and/or to promote a more aesthetic parking area.

### **Section 6.11 Access Drives**

- 6.11.1** No driveway or access road, to or from any property shall be so located at its juncture with a street as to create a danger or menace to the community or to the convenience or proper use of the adjoining property. No driveway shall provide access through a residential district to a lot located in another Zoning District.
- 6.11.1.1** No driveway approach shall be less than 10 feet in width nor greater than 30 feet in width at the street line.
- 6.11.1.2** No driveway shall be located closer than 25 feet to any street intersection measured along the street lines and shall not be located closer than 5 feet from any lot line. In any nonresidential district, no two driveways on the same lot shall be located closer than 25 feet to each other at their closest limits.
- 6.11.1.3** No lot having less than 200 feet of street frontage shall have more than two driveway entrances and/or exits on each street abutting the lot. Lots with more than 200 feet of street frontages may have up to one driveway entrance and/or exits for each 100 feet of additional street frontage.
- 6.11.1.4** No driveway access onto a lot shall exceed 750 feet in length from street line to the primary structure.
- 6.11.1.5** Driveways serving all lots shall be designed to provide year-round access for emergency and service vehicles and with a final grade that does not exceed twelve (12) percent. A driveway's first 22-feet in from its intersection with a Town Road shall not exceed 5%. Driveways having a grade in excess of 8% shall be paved.

**6.11.1.6** Sight distance for driveways where they intersect the street shall be a minimum of one hundred fifty (150) feet. Sight distance shall be measured from a point 10-feet back from the edge of road pavement at a height of 3.5 feet. The Commission may require a greater sight distance than stated in these regulations as warranted by traffic volume and average operating speed along the intersected street.

**6.11.1.7** A paved driveway apron extending at least 10-feet in from the street edge of pavement shall be installed prior to issuance of a Certificate of Zoning Compliance for any structure being served by the driveway. If the paved apron cannot be installed in a timely manner the applicant or property owner shall provide payment to the Town of Prospect sufficient to fully cover the paving installation costs. The Town will utilize that payment to contract with a paving company to install the apron.

### **Section 6.12 Drainage And Surfacing**

All off-street parking and loading areas, whether open or enclosed, shall be suitably graded, surfaced, curbed, drained and maintained as deemed necessary by the Land Use Inspector and approved by the Town Engineer or consulting engineer to avoid hazards or nuisances of dust, erosion, damage to any buffer strip planting or storm water flow onto public streets.

### **Section 6.13 Buffer Strips And Screening**

All parking areas with more than 5 spaces and/or loading areas shall be bordered on all sides that are contiguous to or across the street from a Residential District, with a suitable buffer strip on which shall be located and maintained appropriate fencing and landscaping of suitable type density and height to effectively screen the parking area and the lights of motor vehicles adjoining residential areas, as deemed necessary by the Land Use Inspector. All landscaping shall be in accordance with Article 9.

### **Section 6.14 Landscaping**

Where 10 or more surface parking spaces are provided on any lot, the lot containing those spaces shall be suitably landscaped in accordance with Article 9.

### **Section 6.15 Grading**

The grade for parking spaces shall not exceed 5%

### **Section 6.16 Lighting**

Necessary lighting of parking areas shall be permitted subject to Article 7 Exterior Lighting Regulations. The Commission may limit the hours of lighting and the number and location of lights for any parking and/or loading area that is subject to Site Plan Approval in accordance with Article 11, herein.

## **Section 6.17 Operation And Maintenance**

Required off-street parking and/or loading facilities shall be maintained with any required markings thereon so long as the building or use that the facilities are designed to serve exists. Required parking areas shall be available to those who make use of buildings and uses for which they are required. Required off-street parking and/or loading areas that after development are later offered to and accepted by the Town, shall be deemed to continue to serve the buildings or uses to meet the requirements for which they were originally approved.

**6.17.1** No motor vehicle sales or service and no motor vehicle storage shall be permitted on any required parking and/or loading areas in any Zoning District.

**6.17.2** In approving any off-street parking and/or loading areas that are subject to Site Plan Approval in accordance with Article 11, herein, the Commission may also require satisfactory evidence that the parking and loading areas including buffer and landscape areas will be maintained in full compliance with these requirements. The Land Use Inspector shall inspect the parking and loading areas on an annual basis. If the areas are not being maintained in accordance with the Site Plan, the owner of record shall be required to improve the property to the level in the Site Plan.

## **ARTICLE 7 EXTERIOR LIGHTING REGULATIONS**

### **Section 7.1 General Purpose**

This regulation of outdoor lighting applies to both permanently installed outdoor light fixtures and temporary installation of lighting for special events (i.e. carnivals, grand openings), and is necessary to prevent misdirected or excessive artificial light, caused by inappropriate or misarranged light fixtures that produce direct glare, light trespass, and is necessary to improve or maintain nighttime public safety, utility and security.

### **Section 7.2 Design Standards**

**7.2.1** Where used for security purposes or to illuminate walkways, and parking lots, only shielded light fixtures shall be used and mounted no higher than 20 feet.

**7.2.2** Where used for commercial and industrial purposes such as in merchandise display area, work areas, platforms, signs, architectural, landscape, or sports or recreational facilities, all light fixtures shall be equipped with automatic timing devices and comply with the following:

**7.2.2.1** Up-lighting is prohibited. Externally lit signs, displays, building and aesthetic lighting must be lit from the top and shine downward. The lighting must be shielded to prevent direct glare and or light trespass. The lighting must also be, as much as physically possible, contained to the target area. Internally lighted signs are acceptable.

**7.2.2.2** Recreational and sports facility lighting shall comply with Illuminating Engineering Society (IES) recommendations and shall be shielded.

**7.2.2.3** All other outdoor light fixtures shall be shielded to prevent misdirected or excessive artificial light.

**7.2.2.4** All outdoor lighting fixtures not necessary for security purposes shall be activated by motion sensor devices, or turned off during non-operating hours. Illuminated signs are excluded from this requirement.

**7.2.3** Foundations supporting lighting poles shall not be less than 24 inches above grade.

**7.2.4** Light fixtures shall not be mounted on the lighting pole higher than 20 feet from grade.

### **Section 7.3 Light Trespass**

All light fixtures shall be designed, installed, and maintained to prevent light trespass, as specified below.

- 7.3.1** At the property line of the originating property (light source), illumination from light fixtures shall not exceed 0.1 foot-candle on residentially zoned property or 0.5 foot-candle on business zoned property, measured in a vertical plane.
- 7.3.2** Exterior light fixtures properly installed and thereafter maintained shall be directed so that there will be no direct glare light emissions.
- 7.3.3** Exterior light fixtures in close proximity to adjacent property may require special shielding devices to prevent light trespass.

### **Section 7.4 Submission Of Lighting Plans**

All applications for subdivisions and site plan reviews shall include a lighting plan. The lighting plan shall include the following items:

- 7.4.1** Location, size, height, orientation, design, and plans for all illuminated signs and outdoor lighting. A detail drawing showing type of fixture and level of wattage shall be provided. For site plans showing a high level of illumination the Commission shall require an Isolux diagram indicating the levels of illumination in foot-candles, at ground level.
- 7.4.2** Show location of all security lighting on the site.
- 7.4.3** Show foundation details and location of light poles when applicable.
- 7.4.4** The hours of operation for the business at the site location shall be indicated.



## **ARTICLE 8 SIGN REGULATIONS**

### **Section 8.1 General Procedure**

No signs or billboards, advertising display or structure poster, or device shall be established, constructed, reconstructed, enlarged, extended, moved or structurally altered except in accordance with these Regulations. It is the intention of these sign regulations to promote the public safety, protect property values, create an attractive business climate and enhance the physical appearance of the community. No sign, except signs exempted from these regulations as identified in Section 8.6 shall be erected or structurally altered unless an application for a Zoning Permit has been approved by the Land Use Inspector, in accordance with Section 13.4, herein. The Land Use Inspector shall act on all sign permit applications within 30 days after receipt exclusive of weekends and holidays. Failure of the Land Use Inspector to approve or deny the application within said period shall constitute approval of the application.

### **Section 8.2 General Requirements**

All signs shall pertain only to goods sold, services rendered and establishments, enterprises, activities, persons, organizations and facilities on the lot where the sign is located.

#### **8.2.1 Location**

No signs shall extend within ten feet of any street line or property line. Any sign attached to a building shall not project above the highest point of the roof of the building or more than four feet above the wall of the building, whichever is higher. No sign allowable for erection as a front exterior wall sign shall project more than one foot from the front wall it is to be attached to, except by Special Zoning Permits requested under Article 12.

#### **8.2.2 Maintenance**

All signs together with their supports, braces, guys, and anchors shall be kept in good repair and in safe condition. The owner of the premises on which a sign is erected shall be directly responsible for keeping such sign and premises around it in a safe, sanitary, neat and clean condition.

Any commercial sign now or hereafter existing which no longer identifies or advertises a bonafide business conducted, product sold, or activity or campaign being conducted shall be taken down and removed by the owner, agent or person having beneficial use of the building, structure, or lot upon which sign is located within 10-14 days of such cessation.

### **8.2.3 Obstructions**

No sign shall be located or maintained so as to be a hazard to traffic or pedestrians, to obstruct any door, window, ventilation system or fire, escape or exits or to cause any other hazard to the public health or safety.

### **8.2.4 Illumination**

Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity and shall be designed, located, erected and maintained only for the purposes of illuminating the subject sign and/or premises. No flashing, intermittent light reflecting device or moving signs or audio sounds, banners, pennants, flags (other than flags, pennants or insignia of governmental units or non-profit organizations) will be permitted. All lighting of signs shall be internal or indirect with the source (bulb, tube, etc.) of illumination not visible from any street, or from any premises on which the sign is located. No radio or television interference shall be caused by said sign. Notwithstanding the foregoing, signs that display time of day and temperature shall be allowed.

### **8.2.5 Height**

No detached sign, which is defined as a sign which is separated from a building or other similar structure on the premises shall exceed height of fifteen (15) feet, except by Special Zoning Permits requested under Article 12. No Special Zoning Permit shall be granted for any sign that exceeds the height of twenty-five (25) feet. In residential districts, such signs shall not exceed a height of six (6) feet as measured from the natural grade.

### **8.2.6 Measurements**

Any sign may be double facing, and only one face shall be counted in determining conformity with these Regulations. All dimensions for signs shall be based on measurements to the outside edge of the sign excluding any structure necessary to support the sign. The area of signs shall be computed from either the outside dimensions of the frame or as the included area of a geometric figure including the outer space of all lettering, whichever is greater.

### **8.2.7 Non-commercial signs**

Signs which are non-commercial in nature i.e. signs that do not advertise a business, service or product, shall be restricted to maximum allowable size of thirty-two (32) square feet. Posting of said signs shall be permitted two (2) months prior to the activity advertised until one (1) week after completion of the activity advertised. The owner of the property on which the sign is located shall be responsible for removal of the sign within the time period specified in this section.

### **Section 8.3 Signs Allowable In RA-1 And RA-2 Zones**

In addition and subject to all other applicable provisions and limitations contained in these regulations, the following signs shall be allowable RA-1 and RA-2 zones:

- 8.3.1** Sign denoting sale, lease or rental, or other improvements not to exceed five (5) square feet in area
- 8.3.2** Real estate signs shall be regulated pursuant to Section 8.7 herein.
- 8.3.3** Other signs shall be limited to directional signs necessary for public safety or convenience and shall be designed and approved only as an integral part of the site plan.
- 8.3.4** Tag sales signs shall be regulated pursuant to Section 8.6.4 herein.

### **Section 8.4 Signs Allowable In Business (B) Zones And Industrial (IND-1 & IND-2) Zones**

In addition and subject to all other applicable provisions and limitations contained in these Regulations, the following on-premise signs shall be allowable in Business and Industrial zones. On-premise signs shall be allowable along each separate street frontage, but no such sign shall be allowed within required side or rear yards adjoining a residential district, nor within the part of any front yard setback within 35 feet of a residential district.

#### **8.4.1 Ground Signs**

There shall be only one (1) detached sign along any front property line in accordance with Section 8.2.1. Said sign shall be anchored or otherwise permanently affixed to the ground.

**8.4.1.1 Business (B) Zones** One detached sign is permitted per lot and/or commercial complex not to exceed twenty-four (24) square feet in area and one wall sign (per Section 8.4.2) for the front or entrance wall of each occupancy. The area of said attached sign shall not exceed ten percent (10%) of the area of the front or entrance wall of the particular occupancy to which it shall be attached. In the case of covered walks and/or interior spaces, one (1) additional sign per occupancy, not in excess of four (4) square feet, may be used to identify the major entrance to the occupancy provided all such signs are of uniform design and construction.

**8.4.1.2 Industrial (IND-1 & IND-2 Zones)** One (1) detached sign per lot and/or industrial complex not to exceed twenty-four (24) square feet in area and one wall sign (per Section 8.4.2) for the front or entrance wall of each occupancy. The area of said attached sign shall not exceed five percent (5%) of the area of

the front or entrance wall or a maximum wall sign not to exceed twenty-four (24) square feet of the particular occupancy to which it shall be attached.

#### **8.4.2 Wall Signs**

The total sign area on a wall shall not exceed 10 percent of the gross area of said wall. The Commission may, as deemed appropriate in its judgment, allow additional wall signs in the same manner as above on a building wall that faces and adjoins an accessory off-street parking structure or lot.

#### **8.4.3 Canopy Signs**

One sign along any building façade viewable from a public street or way, or from a parking area, shall be allowable for each separate use of the building provided that the sign area is included as part of the total allowable sign area for wall signs and provided it is located under a roof over a walkway. No such sign shall exceed 16 square feet.

#### **8.4.4 Window Signs**

Window signs shall not exceed 35% of the total window display area for each building façade viewable from a public street or way, or from a parking area. Any internal wall sign that is clearly visible from the public right-of-way through any window shall count towards the 35% of the total window display area.

#### **8.4.5 Directional Signs**

No more than two traffic, directional or warning signs with no advertising thereon and not exceeding 4 square feet in area, may be located at each driveway entrance or exit, or anticipated hazard area, providing access to any parking, loading or building area.

#### **8.4.6 Directory Signs**

Where directory type signs are permitted, the spaces for individual listings shall be located beneath the part of the sign, if any, generally describing the building, shopping center, etc. and such spaces shall be uniform as to size, shape, and materials used, and no part of a directory type sign shall exceed 10 feet above ground level except by Special Zoning Permits requested under Article 12. No Special Zoning Permits shall be granted for any sign that exceeds twenty-five (25) feet above ground level.

#### **8.4.7 New Business/New Location**

New businesses, which are defined as businesses that have not previously existed within the Town of Prospect, or businesses which have moved from one location to a new location within the Town of Prospect, are allowed to display one (1) temporary detached sign which refers to the business conducted on the property on which the sign is located. Such sign shall not exceed 16 square feet in area and shall not be displayed for a period exceeding thirty (30) days. The owner of the property shall be responsible for removal of such sign within the time period specified in this section.

#### **8.4.8 Other Signs**

Other signs shall be limited to directional signs necessary for public safety or convenience and shall be designed and approved only as an integral part of the site plan.

### **Section 8.5 Commercial Advertising Signs (Billboards)**

**8.5.1** Indirectly illuminated commercial advertising signs (billboards) shall not be allowed.

### **Section 8.6 Signs Excluded From These Regulations**

Provided they are maintained in a safe, sanitary, neat and clean condition, the following signs shall not be subject to Section 8.1 through Section 8.5 hereof:

TEMPORARY SIGN meaning a sign that is:

1. Intended for a temporary period of posting on public or private property;
2. Temporary signs shall include, but are not limited to, any sign, political signs, display board, handbill, poster, banner, sandwich board, pennant, streamer, whirligig, valance or advertising display constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other light materials (with or without structural frame).

#### **8.6.1 Purpose and Findings:**

The Town of Prospect Planning & Zoning Commission is enacting this Regulation to establish reasonable regulations for the posting of temporary signs on public and private property. The Commission finds that temporary signs provide an important medium through which individuals may convey a variety of noncommercial and commercial messages. However, left completely unregulated, temporary signs can become a threat to public safety as a traffic hazard and detriment to property values and the Town's overall public welfare as an aesthetic nuisance. By enacting this Regulation the Commission intends to:

- 8.6.1.1** balance the rights of individuals to convey their messages through temporary signs and the right of the public to be protected against the unrestricted proliferation of signs;
- 8.6.1.2** further the objectives of the Town's comprehensive plan;
- 8.6.1.3** protect the public health, safety, and welfare;
- 8.6.1.4** reduce traffic and pedestrian hazards;
- 8.6.1.5** protect property values by minimizing the possible adverse effects and visual blight caused by temporary signs;

- 8.6.1.6 promote economic development; and
- 8.6.1.7 ensure the fair and consistent enforcement of the temporary sign regulations specified below.

## 8.6.2 Definitions

For the purposes of this Regulation, the following words have the meanings respectively ascribed to them in this Section only, except where the context clearly indicates a different meaning:

- 8.6.2.1 BUILDING LOT means any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record that is recognized and intended as a unit for the purposes of transfer of ownership.
- 8.6.2.2 COMMERCIAL SIGN means a sign which identifies, advertises, or directs attention to a business, or is intended to induce the purchase of goods, property, or service, including, without limitation, any sign naming a brand of goods or service and real estate signs, as further defined below.
- 8.6.2.3 POST means to erect, attach, or affix in any manner, including without limitation nailing, tacking, tying, gluing, pasting, painting, staking, marking or writing.
- 8.6.2.4 PUBLIC RIGHT-OF-WAY means the entire area between property boundaries; which is owned by a government, dedicated to public use, or impressed with an easement for public use; which is primarily used for pedestrian or vehicular travel; and which is publicly maintained, in whole or in part, for such use; and includes without limitation the street, gutter, curb, shoulder, sidewalk, sidewalk area, parking or parking strip, planting strip, and any public way.
- 8.6.2.5 REAL ESTATE SIGN means a sign indicating the availability for sale, rent, or lease of the specific lot, building, or portion of a building upon which the sign is posted.
- 8.6.2.6 CONSTRUCTION sign means a sign identifying the development of land or construction or alteration of buildings. Such signs must be set back at least 10 feet from any street line and may not exceed 32 square feet in area.
- 8.6.2.7 SIGN means any writing, pictorial representation, illustration, decoration (including any material used to differentiate sign copy from its background), landscaping form, emblem, symbol, design, trademark, banner, flag, pennant, captive balloon, streamer, spinner, ribbon, sculpture, statute, or any other figure or character that:
  - (a) Is a structure or any part thereof (including the roof or wall of a building); or

- (b) Is written, printed, projected, painted, constructed, or otherwise placed or displayed upon or designed into landscaping or a structure or a board, plate, canopy, awning, marquee, or vehicle, or upon any material object or device whatsoever; and
- (c) By reason of its form, color, wording, symbol, design, illumination, or motion attracts or is designed to attract attention to the subject thereof or is used as a means of identification, advertisement, or announcement or political or artistic expression or decoration; but
- (d) Landscaping constitutes a sign only to the extent that it is planted, trimmed, graded, arranged or installed in such a manner as to convey an explicit commercial message.

### **8.6.3 Temporary Signs Permitted in All Zones**

Temporary signs shall include, but are not limited to, any sign, political signs, display board, handbill, poster, banner, sandwich board, pennant, streamer, whirligig, valance or advertising display constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other light materials (with or without structural frame). A temporary sign is intended to be displayed for a limited period of time only.

Temporary signs may be posted on property in all zones, subject to the following requirements and those applicable provisions stated elsewhere in the Regulations.

- 8.6.3.1** The total square footage for temporary signs posted on a building lot in a residential zone, in the aggregate, shall not exceed 16 square feet, with no individual sign exceeding 8 square feet. The total square footage for temporary signs posted on a building lot in all other zones, in the aggregate, shall not exceed 32 square feet, with no individual sign exceeding 8 square feet. The total square footage of a sign is measured to include all of the visible display area of one side of the sign.
- 8.6.3.2** No temporary sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant or any other type of street furniture, or otherwise create a hazard, including a tripping hazard.
- 8.6.3.3** A temporary sign shall be designed to be stable under all weather conditions, including high winds.
- 8.6.3.4** No temporary sign shall be illuminated or painted with light reflecting paint.
- 8.6.3.5** A temporary sign shall only be posted with the consent of the property owner or occupant.

#### **8.6.4 Temporary Signs: Time period for posting.**

- 8.6.4.1** Temporary signs advertising a cultural, civic, charitable, educational or entertainment event, or any event operated by a non-profit, social service, educational or religious organization, shall be posted no earlier than 30 days prior to the day of any such event, or the first day of a multiple day event. Such signs shall be removed within three (3) days following the day of the event, or the last day of a multiple day event.
- 8.6.4.2** Temporary signs advertising a commercial sales event or promotion, or any function or event conducted and operated by a commercial enterprise, shall be posted no earlier than seven (7) days prior to the day of a one (1) day event, promotion or function, or the first day of a multiple day event, promotion or function. Such signs shall be removed within one (1) day following the day of the event, promotion or function, or the last day of a multiple day event, promotion or function. One (1) temporary advertising sign may be displayed for a total of ten (10) consecutive days for a sales event or promotion. Such temporary advertising signs are limited to eight (8) separate occasions in one (1) calendar year. Such signs shall not exceed 2-feet in width or 3-feet in height measured from the nearest road or driveway pavement. No sign shall interfere with the visibility or site line required for safe vehicular and pedestrian circulation.
- 8.6.4.3** Temporary signs advertising the grand opening of a commercial enterprise shall be posted for a maximum of 30 days. Such signs shall be posted no earlier than 21 days prior to the date of the grand opening, and shall be removed within fourteen (14) days following the day of the grand opening, with the aggregate of the two time periods not to exceed 30 days.
- 8.6.4.4** Temporary signs advertising a temporary activity or event on a residential property, including, but not limited to, yard sales and tag sales, shall be posted no earlier than one (1) day prior to the day of the activity or event, or the first day of a multiple day event. One (1) sign advertising the sale will be allowed on the property where the sale is occurring and shall be removed immediately upon conclusion of the sales event.
- 8.6.4.5** Temporary signs advertising home improvement or repair services such as remodeling, painting, landscaping activities, etc. which is in progress or that have recently occurred may be posted per the property owner's permission one time on the property where the services were obtained either during and/or following the completion of such work for a maximum total of 14-days. Such sign shall not exceed 4-square feet in area. No sign shall interfere with the visibility or site line required for safe vehicular and pedestrian circulation.



## **8.6.5 Temporary Signs: Removal**

- 8.6.5.1** The person who has posted or directed the posting of a temporary sign is responsible for the removal of that sign in accordance with this Regulation.
- 8.6.5.2** If that person does not remove the temporary sign in accordance with this Regulation then the property owner or occupant of the building lot where the sign is posted is responsible for the sign's removal.
- 8.6.5.3** The Land Use Inspector is authorized to physically remove any temporary signs posted in violation of this Regulation that are not removed in accordance with the provisions above. Temporary signs posted on private property in violation of this Regulation shall be deemed a public nuisance.

## **Section 8.7 Real Estate Signs**

Real estate signs shall conform to the following standards:

### **8.7.1 Individual lots**

On lots that are for sale or for rent, not more than two temporary signs may be erected. These signs may advertise the land or premises and the sale or rental agent. Such signs shall be removed within fourteen (14) days following the sale or rental of such property. The foregoing signs shall not exceed the following sizes:

- 8.7.1.1** A single residential lot: six (6) square feet; an approved subdivision of three (3) to five (5) lots: ten (10) square feet; and an approved subdivision of six (6) or more lots: twenty (20) square feet.
- 8.7.1.2** Commercial or industrial lots: four square feet in area per acre (or fractional acre), not exceeding 20 square feet in area in any commercial district or 30 square feet each in any industrial district.
- 8.7.1.3** Directional signs indicating the location of private real properties or facilities for sale or rent may be erected for open houses, provided that each sign shall not exceed four square feet in area. The sign locations shall not obstruct traffic or traffic visibility and shall be maintained by the applicant for the duration of the activity. Not more than four such temporary signs shall be allowed for a single lot or facility for sale or rent or for subdivision lots or homes for sale.

## **Section 8.8 General Prohibitions**

- 8.8.1** The prohibitions contained in this Section shall apply to all signs in all zoning districts, regardless of designation, within the Town of Prospect.
- 8.8.2** No allowable sign, including canopy signs, shall be located in or project over, any street right-of-way.
- 8.8.3** No sign, artificial light or reflecting device regardless how mobile shall be connected or used with a sign or otherwise located or displayed where such light competes for the attention of the driver of a mechanical vehicle, or may be mistaken for a traffic signal.
- 8.8.4** No sign or advertising device shall be erected or maintained in such a manner as to obstruct or interfere with the free and clear vision on any street, sidewalk, driveway or navigable channel.
- 8.8.5** No sign or advertising device shall be erected or maintained with any lighting or control mechanism that may cause radio or television interference.
- 8.8.6** No illuminated sign or lighting device shall be placed or directed on any property in a manner that would permit the light beams and illumination to be directed or beamed onto a public street or walkway, or onto adjoining properties so as to cause glare or reflection that might constitute a traffic hazard or public nuisance.
- 8.8.7** No animated sign or advertising device shall be allowed.
- 8.8.8** No advertising banner shall be attached to any on-premise light pole, utility pole, tree, or other freestanding vertical site element. Advertising banners shall only be permitted to be attached to building façades, at a minimum height of twelve (12) feet above grade.
- 8.8.9** No advertising balloon, inflatable sign or advertising streamer shall be allowed.
- 8.8.10** No flashing sign or advertising device that creates intermittent or varying light intensity shall be allowed.
- 8.8.11** No projecting sign shall extend more than 15 inches beyond the building walls or parts thereof, except as otherwise provided in these sign regulations.
- 8.8.12** Any sign attached to a building shall not project above the highest point on the roof of the building or more than four feet above the wall of the building, whichever is higher.
- 8.8.13** No sign shall be painted or erected on any fence or retaining wall.
- 8.8.14** No building or part thereof, such as a gable, roof or wall shall be outlined by direct illumination for the purpose of commercial advertising.

**8.8.15** No sign shall be attached to or be erected or maintained in such a manner as to obstruct any fire escape, windows, door or other building opening used for egress and ingress, ventilation or other fire fighting purposes.

## **ARTICLE 9 LANDSCAPING, SCREENING, AND BUFFER AREA REQUIREMENTS**

### **Section 9.1 Purpose**

The following standards are intended to preserve and enhance the character, appearance and natural beauty of the Town of Prospect and to protect property values through preservation of existing vegetation, the planting of new screening and landscaping material, and to accomplish transition or separation between areas of unlike character. Specifically, these standards are intended to reduce excessive heat, glare and accumulation of dust, to provide privacy from noise and visual intrusion, and to prevent the erosion of the soil, excessive run-off of drainage water, and the consequent depletion of the ground water table and the pollution of water bodies, watercourses, wetlands and aquifers.

### **Section 9.2 General Landscaping Requirements**

- 9.2.1** Any portion of a developed lot which is not used for the location of buildings, structures, accessory uses, outside storage areas, off-street parking and loading areas, sidewalks or other paved areas, shall be landscaped in accordance with a landscaping plan. Any area of the lot which will not be disturbed by filling, grading, excavation or other construction activity may be left as natural terrain when having a location, size, shape and existing vegetation that supports the landscaping plan for the lot in such a manner as to minimize storm water runoff, sedimentation and erosion and meets other landscape purposes.
- 9.2.2** Landscaping, trees and plants required by these regulations shall be planted in a growing condition according to accepted horticultural practices and shall be maintained in a healthy growing condition. Any landscaping, trees and plants which shall be shown on an approved site plan and which are in a condition that does not fulfill the intent of these regulations shall be replaced by the property owner during the next planting season for the particular plant or landscaping material. Permanent watering systems shall be encouraged. Species of trees and shrubs planted should be reviewed by a licensed arborist or landscape architect.
- 9.2.3** Maintenance of landscaped areas is the ongoing responsibility of the property owner. Required landscaping must be continuously maintained in a healthy manner. Plants that die must be replaced in kind within six months after receipt of notice to the owner by the Land Use Inspector. Failure to maintain required landscaping shall be enforced in the same manner as any other violation of these Regulations. Pursuant to applicable law, fines shall be levied and orders issued requiring the installation of new plants.
- 9.2.4** All landscaping, trees and planting material located adjacent to parking areas, loading areas, or driveways shall be properly protected from damage by vehicles by barriers, curbs, or other means.

- 9.2.5** To the maximum extent possible, existing trees, vegetation, and unique site features such as stone walls, large boulders or rock outcroppings shall be retained and protected during construction with protective fencing during construction activity. All fencing shall be removed after the ground has been stabilized. If grading is required in their vicinity, trees shall be appropriately welled or mounded to protect them from damage. Tree wells must be of sufficient size to protect the tree roots. Existing healthy mature plant materials, especially trees, if properly located, shall be fully credited against the requirements of these regulations. The Land Use Inspector shall review landscaping plans for appropriateness.
- 9.2.6** Existing trees in good condition that are four inches or greater in diameter at breast height shall be preserved unless approved for removal by the Commission. All trees to be saved shall be tagged prior to any site work.
- 9.2.7** For all new landscaping, an ample variety and quantity of ornamental plants shall be provided, with a few dominant species chosen to create unity and subordinate types interspersed for accent. Variety should be achieved with respect to seasonal changes, species selected, texture, color and size at maturity. The use of native plant species indigenous to the region is encouraged.
- 9.2.8** Landscaping shall serve to integrate the proposed development to the site, with particular consideration for natural topography and existing vegetation. Where terrain is uneven, the Commission will consider and may approve parking areas at different levels. Preservation of existing landscape materials and landforms is desirable.
- 9.2.9** In all residential zones, there shall be a minimum aggregate of seventy-five (75) inches of tree diameter, measured at breast height, for every acre of site area. This minimum shall be met either through the preservation of trees or the planting of additional trees. Any trees planted or retained to meet this requirement must be at least four inches in diameter measured at breast height.
- 9.2.10** Landscape composition shall be complimentary to scale and style of existing and proposed buildings.

### **Section 9.3 Specific Landscaping Requirements**

- 9.3.1** Evergreen trees and large deciduous trees should be spaced using accepted landscaping practices, usually forty (40) feet or more on center.
- 9.3.2** Flowering trees should be spaced using accepted landscaping practices, usually twenty (20) or more feet on center.
- 9.3.3** Evergreen trees shall be a minimum of seven (7) feet in height at the time of plantings; deciduous shade trees shall be a minimum of 2 ½" caliper and ten feet in height at the time

of planting; and flowering trees shall be a minimum of eight (8) feet in height at the time of planting and 2" caliper.

- 9.3.4** Native New England plants, trees and shrubs should be used whenever possible. The incorporation of existing vegetation, particularly large-caliper trees, in all buffer areas and landscaping plans is strongly encouraged.
- 9.3.5** Landscape and buffer areas shall include an adequate mixture of deciduous, coniferous and flowering trees, evergreen and deciduous shrubs and bushes, flowering plants and bushes, and ground cover. A list of suggested species of trees and shrubs shall be available at the Land Use Inspector's office and shall be update and amended, as appropriate.
- 9.3.6** The Commission may modify proposed landscaping plans to require more mature plantings, different species, or alternative design, in order to afford a functional and aesthetically pleasing environment.

#### **Section 9.4 Front Landscape Areas**

The purpose of a front landscape area is to enhance the appearance of the subject property and the street in all non-residential districts, and to provide shade on the adjacent streets and sidewalks.

- 9.4.1** Front landscape areas, where required by these regulations, shall extend across the full width of the lot along the interior side of the front lot line except where driveway entrances and exits are located. This area shall be at a depth that is equal to the front yard setback requirement for the district.
- 9.4.2** Every required landscape area shall be planted with trees (shade or ornamental), shrubbery and ground cover or grass. As a minimum, one deciduous shade tree of at least four inches in diameter at breast height, and a height of twenty (20) feet measured from grade, shall be planted within the front landscape area for each twenty (20) feet or fraction thereof of lot frontage. The spacing of trees or groups of trees shall be appropriate to the species selected.
- 9.4.3** Front yard landscaping shall not obstruct line-of-sight for vehicles entering and exiting the premises, nor shall it obstruct line-of-sight for vehicles traveling on abutting Town or State highway. Existing plant materials may be used to meet all or part of the landscape regulations.

## **Section 9.5 Buffer Areas**

The purpose of the buffer area is to provide privacy from noise, headlight glare, and visual intrusion to any residential district.

- 9.5.1** A buffer area shall be required along and within all boundaries of a lot abutting a Residential Zone. Single-family dwellings shall not be required to provide a buffer.
- 9.5.2** The buffer strip shall be provided and maintained by the owner of the land zoned for business, industrial or housing purposes, other than single-family housing. Trees and shrubs must be replaced as necessary. Failure to maintain such strip shall constitute a violation of these regulations by the owner of the land.
- 9.5.3** The minimum width of all buffer areas is contained in the individual district sections.
- 9.5.4** Buffer areas must comply with all applicable general and specific landscaping requirements provided above.
- 9.5.5** When mature existing vegetation is not being incorporated into the buffer plantings, or when such vegetation comprises a relatively insignificant proportion of the buffer, the buffer area shall be composed of a suitable combination of evergreen, deciduous, and flowering trees and shrubs.
- 9.5.6** Plantings shall be staggered/clustered so that the field of view between abutting residential and non-residential uses shall be obscured visually within one (1) year's time to such an extent that activity on the abutting lot is not immediately apparent.
- 9.5.7** The buffer area may include fencing in order to effectively screen the activity on the lot from the abutting area. Buffer and screening areas with a mixed evergreen component are strongly encouraged. Non-evergreen planting may be included to supplement evergreen planting, but not to take its place.
- 9.5.8** Where the existing topography and/or vegetation provide natural screening, which satisfies the purpose of this regulation, no additional screening may be required.
- 9.5.9** The Commission may allow an alternative landscaped buffer design that meets, or exceeds, the performance level of the buffer. Said alternative buffer shall include trees and shrub plantings, and may include hedges, earthen berms, fencing, or other treatments.
- 9.5.10** The Commission strongly recommends that developers begin installing the entire buffer on a parcel well in advance of planned building activities for the balance of the parcel, as smaller plantings can be utilized. The buffer may then exceed the required specifications at the time a C.O. is requested.

## **Section 9.6 Landscaping of Off-Street Parking Areas**

- 9.6.1** Any lot that contains parking facilities for more than ten cars shall also provide landscaped areas within the parking lot equal to at least ten percent (10%) of the gross parking lot area. Gross parking area shall include the area of parking stalls, aiseways and associated landscaping. This landscaped area shall require landscaped end islands and landscaped center islands within the parking area. Shade trees shall be provided in quantity not less than one tree per five (5) parking spaces. Trees may be located on the site at such a ratio and not necessarily within traffic islands. This provision shall not apply to parking garages or parking decks.
- 9.6.2** In lieu of landscaping requirements for parking garages and parking decks, ten percent (10%) of the footprint area of any parking garage or parking deck shall be added to the balance of the total required area of landscaping for on-site parking facilities. This additional area shall be landscaped in a manner that conforms to Article 9 inclusive.
- 9.6.3** Intermediate landscaped islands measuring 9 feet wide by 18 feet in length shall be provided in parking rows for every 16 spaces. The landscaped area shall require landscaped end islands and landscaped center islands within the parking area. Each island shall have a suitable curb of granite or concrete. This provision shall not apply to parking garages or parking decks.
- 9.6.4** Along any boundary line of an off-street parking area that runs along a sidewalk or street line, a landscaped buffer strip with a minimum width of six (6) feet shall be provided between the parking area and the sidewalk or street line. Said buffer strip shall comply with all applicable landscaping requirements of this Section.
- 9.6.5** Along any boundary line of an off-street parking area that runs along a property line that is not a sidewalk or street line, a landscaped buffer strip with a minimum width of ten (10) feet shall be provided between the parking area and the property line. Said buffer strip shall comply with all applicable landscaping requirements of this Section.
- 9.6.6** Along the entire length of any entrance driveway to an off-street parking area, a landscaped buffer strip with a minimum width of four (4) feet shall be provided between the parking area and the entrance driveway. Said buffer strip shall comply with all applicable landscaping requirements of this Section.
- 9.6.7** Along the entire length or width of any building, along which any parking area or driveway shall terminate or abut, exclusive of any entrances and/or exits, a landscaped buffer strip with a minimum width of five (5) feet, measured from the foundation of the building, shall be provided between the parking area or driveway and the building. Said buffer strip shall comply with all applicable landscaping requirements of this Section.



## **Section 9.7 Bonding**

If site work is to commence during a non-growing period of time, bonding is to be submitted at the time of approval in the form of a certified check payable to the Town of Prospect, a certificate of deposit, a money market account, a letter of credit or a pledge of a federally insured passbook savings or money market account in the amount recommended by the Land Use Inspector. A bond shall not be released until a licensed landscape professional certifies that the installation of landscaping materials meets the approved plans in terms of quantities, sizes, and methods of installation.

## **ARTICLE 10 PROHIBITED USES**

### **Section 10.1 Land Uses**

The following uses are prohibited within the Town of Prospect whether a principal or accessory use:

- 10.1.1** Amusement parks, automobile or motorcycle, snowmobile, dirt bike or all-terrain vehicles (ATV) race tracks, drive-in theaters, junk yards, motor vehicle junk businesses or yards, bars, cafes or taverns, mobile home parks, camper trailer parks, an occupied mobile home, an occupied camp trailer (stationary), dumps (except owned or operated by the Town).
- 10.1.2** Manufacturing processes involving primary production of the following products from raw materials:
  - 10.1.2.1** Asphalt cements, charcoal and fuel briquetting. Chemicals including but not limited to: aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, creosote, hydrogen and oxygen, industrial alcohol, nitrates (manufactured and natural) of an explosive nature, potash, plastic materials and synthetic resins, pyroxilin, hydrochloric, nitric, phosphoric, picric, and sulphuric acids. Coal, coke and tar products, including gas manufacturing explosives, fertilizer, gelatin, glue and sizing made from animal bi-products. Linoleum and oil cloth, matches, paint, varnishes and turpentine. Rubber (natural and synthetic), soaps, including fat rendering, starch.

### **Section 10.2 Manufacturing Processes**

Nitrating of cotton or other material, milling or processing of flour food, or grain, reduction or refining of petroleum products, such as gasoline, kerosene, naphtha, lubricating oil, distillation of wood or bones, reduction and processing of wood pulp and fiber including paper mill operations.

### **Section 10.3 Operations**

Stock yards, animal processing and slaughter houses, and keeping, breeding, and raising of foxes, mink, pigs, or primates for commercial or laboratory purposes (slag piles).

## **Section 10.4 Dangerous Objectionable Elements**

No land or building shall be used or occupied in any manner as to create any dangerous, injurious, noxious or otherwise objectionable, explosive, radioactive, or heat hazard; fire; noise or vibration; smoke, dust, odor, or other form of air pollution; excessive heat, cold, dampness, movement of air; electrical or other disturbances, excessive glare; liquid or solid refuse or wastes or condition conducive to the breeding of rodents or insects; or other substance, condition or elements (all referred to herein as "Dangerous Objectionable Elements"), in a manner or amount as to adversely affect the surrounding area.

Specifically, the following shall be strictly adhered to:

- 10.4.1** Air pollution including emissions of smoke, dust, fumes, odors, and particulates and emissions of sulfur oxide, hydrocarbons, carbon monoxide and nitrogen oxide shall be prohibited if levels exceed requirements established by "Regulations for the Abatement of Air Pollution - Department of Environmental Protection - State of Connecticut."
- 10.4.2** Radioactivity: No activities shall be allowed which emit dangerous radioactivity at any point and which do not conform to regulations as established by the State Health Department.
- 10.4.3** Fire and Explosion Hazards: All activities and all storage of inflammable and explosive material shall be permitted only under direction of the Fire Marshall and shall be undertaken in conformance with Section 402 and 403 of the State Building Code.
- 10.4.4** Noise: No activity will be allowed which causes an increase in noise levels of 10 dB(A) (based upon noise levels exceeded 8% of the time -  $L_{10}$ ) nor any activity which causes ambient levels to exceed 70 dB(A) (based upon noise levels exceeded 8% of the time -  $L_{10}$ ).
- 10.4.5** Liquid or Solid Wastes: No discharge at any point into any private sewage disposal system or stream, or into the ground of material in such a way or to such nature or temperatures as can contaminate any water supply, except in accordance with standards approved by the State Department of Health and/or Department of Environmental Protection - State of Connecticut.

## **Section 10.5 Visibility**

No hedge, fence, except a transparent fence in which the solid area is no more than 5% of the total area of the fence, or wall over two feet high shall be permitted. Neither accessway nor off-street parking space shall be located in a required front yard setback of a corner lot within 20 feet of the corner.

**Section 10.6 Accessing Non-Residential Zones Through Residential Zones**

Under no circumstances shall the access to a parcel or any portion of a parcel zoned for non-residential use cross a parcel or any portion of a parcel zoned for residential use other than by a pre-existing public right-of-way.

**Section 10.7 Vendors**

The sale of any goods or services on a parcel not located within or directly related to the principal or accessory structure as approved by the Planning and Zoning Commission shall be prohibited.

# ARTICLE 11

## SITE PLAN APPROVAL REQUIREMENTS

### **Section 11.1 General**

The use of land, buildings, and other structures that is subject to administrative review and approval of a site plan by the Planning and Zoning Commission and the construction, reconstruction, enlargement, extension, moving or structural alteration of buildings and other structures in connection with such use shall conform to the standards hereinafter specified. The requirements of this section are in addition to other provisions of these Regulations applicable to the district in which the use is to be located.

### **Section 11.2 Standards**

It is the intent of this section to provide for administrative site plan review and approval for the following purposes.

- 11.2.1 Compliance:** To determine compliance with all appropriate regulations.
- 11.2.2 Access:** To regulate vehicular and pedestrian access to the property in such a manner as to avoid undue hazards and undue traffic congestion of any public street.
- 11.2.3 Utilities:** To determine that suitable provision has been made for water supply and sewage disposal in accordance with the standards of the Water Pollution Control Authority, Chesprocott Health District, the Connecticut Departments of Health Services and Public Utility Control.
- 11.2.4 Parking & Loading:** To determine that off-street parking and loading will be suitable designed, paved and drained in such manner as to promote traffic safety and to protect public health.
- 11.2.5 Lighting:** To determine the location, height, design and arrangement of outside lighting in order to avoid glare on any other lot and avoid hazards to traffic on any street.
- 11.2.6 Landscaping:** To provide for permanently maintained landscaping on the lot to accomplish the following purposes:
  - 11.2.6.1** To provide evergreen shrubs or trees to enhance the appearance of the area and required setback from a residence district boundary line. (See specific sections for applicable Regulations).
- 11.2.7 Erosion & Sedimentation Control:** Design and construction of any development including related streets, drainage and other improvements shall be executed in a manner so that such improvements will not cause soil erosion or sedimentation on the property being developed, or on surrounding properties, wetlands or water courses. (See specific sections for applicable Regulations).

### **Section 11.3 Application**

Application for approval of site plan shall be submitted to the Planning and Zoning Commission on forms provided by that Commission along with a Certificate of Zoning Compliance as set forth in Section 13.5 (Certificate of Zoning). In general, except for very minor additions, all development proposals for site plan review will include individual sheets:

- 11.3.1 Title Sheet:** Title sheet with locus map.
- 11.3.2 Site Plan:** A site plan as set forth in Section 11.5 herein
- 11.3.3 Architectural Plans:** Preliminary architectural plans of all proposed buildings, structures, including general exterior elevations, generalized signs. The architectural plans shall be prepared by and bear the seal of an architect or professional engineer licensed to practice in the State of Connecticut.
- 11.3.4 Utility/Grading/Contour Plan** including catch basins, curbs, paving details if necessary.
- 11.3.5 Landscaping & Lighting Plan:** as set forth in Articles 9 and 7 herein.
- 11.3.6 Erosion and Sedimentation Control Plan:** As set forth in Section 4.14 herein.
- 11.3.7 Sanitation Certificate:** A Sanitation Certificate endorsed by the Water Pollution Control Authority and/or Chesprocott Health District.
- 11.3.8 Certificate of Public Convenience:** A Certificate of Public Convenience accompanied by a water supply plan approved by the Connecticut Department of Health Services and Public Utility Control, whenever water is to be supplied by a small water company when applicable.
- 11.3.9 Multiple Building Projects:** For multiple building projects or multi-tenant facilities, a mylar address map shall be provided before obtaining a Zoning Permit.
- 11.3.10 Traffic Study:** The applicant shall be required to submit a traffic study prepared by a licensed traffic engineer with any application which generates 100 or more vehicular trips during the peak hour.
- 11.3.11 Waivers:** The Commission recognizes that each parcel of property is unique in location, dimensions, orientation, topography, etc., and the various factors are variable with relation to each other and to the above characteristics of the property. Therefore, the Commission may waive the submission of such requirements listed above as, in its judgment the Commission finds that such requirements are not necessary after considering the interest of public health, safety and general welfare, provided such waiver shall not be contrary to the Plan of Development nor contrary to the purpose and intent of these Regulations.

## **Section 11.4 Site Plan Procedures**

- 11.4.1 Preapplication Review:** Prior to the submission of an application for Site Plan approval the Commission may conduct a preapplication review for the proposed project with the applicant at the applicant's request. Such preapplication review and any results or information obtained from it may not be appealed under any provision of the Connecticut General Statutes, and shall not be binding on the applicant or any authority, commission, department, agency or other official having jurisdiction to review the proposed project.
- 11.4.2 Application:** Each application for Site Plan approval shall be submitted to the Land Use Inspector or other authorized persons as designated by the Land Use Inspector; henceforth, designated as Reviewing Officer, on a form prescribed by the Planning and Zoning Commission, and shall be accompanied by eight (8) copies of the Site Plan. The applicant shall have all zoning related plans reviewed by the Reviewing Officer at the Land Use Office prior to the applicant distributing said plans to the various Town Departments as required by the Reviewing Officer. If a subsequent review of the application by a Town Department reveals the need to revise a plan, such revisions shall be noted on the title block of the revised plan, with a note indicating the nature of the revision; and then be re-circulated through the Reviewing Officer's office prior to proceeding back to the department requiring the revision. When the applicant receives all required department approvals, the Reviewing Officer will then accept an application form and fee, and will determine whether or not such application can be certified, i.e., that the proposed building construction and uses are in conformance with all applicable provisions of these Regulations and those requirements of this Section regarding Site Plan Review.
- 11.4.3 Acceptance by Commission:** The Commission shall accept certified applications at the next regular meeting after certification or within thirty-five (35) days after certification, whichever is sooner provided the information submitted by the applicant under Section 11.5 is complete to the Commissions satisfaction. In the event any application is not accepted, the applicant shall be notified in writing within 10 days.
- 11.4.4 Commission Action:** In reviewing the application, the Commission shall consider the objectives and standards as set forth in Section 11.6 herein. The Commission shall approve, modify and approve or disapprove the site plan within sixty-five (65) days of the date of acceptance of said application. An extension of one (1) further sixty-five (65) day period for action may be granted with the consent of the applicant. Failure to act within such time period shall be deemed approval. Any disapproval shall include written findings on any site plan element found contrary to either the provisions or intent of these Regulations.
- 11.4.5 Certification of Erosion and Sediment Control Plan:** The Commission shall determine that soil erosion and sediment control plan complies with the requirements of Section 4.14 (Erosion & Sediment Control) herein. Furthermore, site development shall not begin unless the soil erosion and sediment control plan and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional.

All control measures and facilities shall be maintained in effective condition to ensure compliance with the certified plan.

**11.4.6 Certificate of Occupancy:** It shall be unlawful to use or permit the use of any building, structure, until a Certificate of Occupancy has been issued. No Certificate of Occupancy shall be issued for any structure approved as part of a Site Plan until the Director of Public Works or its agent has issued a Certificate of Approval for Acceptance for all public improvements, a Certificate of Completion for other bonded improvements, or until a performance and/or maintenance bond has been filed in accordance with Section 11.4.7, below.

**11.4.7 Bonding:** The Commission may, as a condition of approval of a Site Plan or modified Site Plan, require a financial guarantee in the form of a bond in lieu of the completion of all public and other bonded improvements depicted on an approved Site Plan, in an amount approved by the Director of Public Works or its agent and the Commission as sufficient to guarantee completion of such items specified by the Commission and in conformity with the provisions of these Regulations and the following procedures.

a. Prior to the commencement of any clearing, excavation, or construction the developer shall file an erosion and sedimentation control bond, if required by the Commission, in form and amount acceptable to the Commission and the Town Attorney. The owner or agent of the property subject to a Site Plan approved by the Commission (for the purposes of this Section 11.4, "developer") shall provide a cost estimate for all required erosion and sedimentation control measures shown on Erosion and Sedimentation Control Plan for review and approval by the Director of Public Works or its agent, including a contingency factor of twenty percent of the total estimated costs.

b. In lieu of the completion of all approved public improvements prior to issuance of a Certificate of Approval for Acceptance, or completion of other bonded improvements prior to issuance of a Certificate of Completion, the developer may file a financial guarantee in the form of a bond with the Town to ensure the timely and adequate completion of any approved public improvements. A copy of the plan required under Section 11.5 shall be part of the bond.

c. Bonds shall be one or more of the following financial instruments, and shall be acceptable to the Commission and Town Attorney: a certified check payable only to the Town of Prospect, a certificate of deposit, a money market account, a letter of credit or a pledge of a federally insured passbook savings or money market account. Any such bond shall be subject to the following conditions, as applicable:

1. A letter of credit shall be unconditional and irrevocable and presentable at a banking institution office located in the State of Connecticut.
2. Any bond shall be subject to specific provisions required by the Town Attorney, as authorized by law.



d. The developer shall provide a cost estimate for all required public and other bonded improvements for approval by the Director of Public Works or its agent. Such estimate shall be current as of the date of the bond filing and shall include a contingency factor of ten percent of the total estimated construction/installation costs. Such estimate shall include costs to remediate or repair existing site conditions, if required to complete the bonded improvements, as determined necessary by the Director of Public Works or its agent.

e. For any phased development of a Site Plan, no construction or installation approved for any phase shall commence until all construction and installation of public and other bonded improvements required for the previous phase have been issued a Certificate of Completion by the Director of Public Works or its agent, or a bond for such public improvements has been filed in accordance with these Regulations.

f. For any Site Plan including the development of public improvements to be accepted by the Town, a maintenance bond shall be provided to assure that such improvements are properly installed and functioning for a maintenance period of one year from the date that the Town accepts such improvements, or for such shorter period as indicated on the Certificate of Completion, as provided below.

g. Maintenance bonds shall be in an amount equal to ten percent of the performance bond. If no performance bond was provided, the developer shall provide evidence of the cost of construction of the public improvements, satisfactory to the Director of Public Works or its agent, and the maintenance bond shall be equal to ten percent of such costs.

h. When required public or other bonded improvements are completed according to the approved Site Plan, the developer may submit a written request to the Director of Public Works or its agent for a "Certificate of Completion" indicating that the improvements have been completed in accordance with the approved Site Plan, subject to any required maintenance period. Unless otherwise indicated in the Certificate of Completion, if a maintenance bond has not been provided, public improvements must be properly installed and functioning for a maintenance period of one year from the date of the Certificate of Completion to ensure that they perform as expected and designed. After expiration of the required maintenance period, the developer may submit a written request to the Director of Public Works or its agent for a Certificate of Approval for Acceptance indicating that the public improvements have performed as required during the maintenance period and are in a condition satisfactory for Town acceptance. If a maintenance bond is provided the developer may submit a request for a Certificate of Approval for Acceptance at the same time as a request for Certificate of Completion or any time thereafter, and the maintenance period shall begin to run upon Town acceptance of the public improvements. The maintenance bond covering such public improvements shall not be released until expiration of the one year maintenance period or shorter period specified in the Certificate of Completion.

i. The developer shall keep and maintain all public improvements until they are accepted by the Town and throughout any required maintenance period. Prior to Town acceptance, such maintenance shall include, but not necessarily be limited to day-to-day maintenance such as removal of ice, snow, and debris and cleaning of stormwater drainage structures, as well as repair of all failures in workmanship and materials. After Town acceptance, the developer shall not be responsible for day-to-day maintenance, but shall be responsible for repair of all failures in workmanship and materials for the duration of the maintenance period.

j. A partial or full release of any bond filed under this Section shall be approved, or a written explanation of additional modifications required shall be provided within sixty-five days of a request for release submitted by the developer, which sixty-five day period commences on the date of the next regularly scheduled meeting of the Commission immediately following the day of submission to the Commission or its agent or thirty-five (35) days after such submission, whichever is sooner. Any such request shall include, as applicable, the as-built drawings required by the Prospect "Standards for Road Plans, Design and Construction of Streets and Design and Construction of Drainage Facilities", certification of soil stability by a certified soil scientist, and certification of survival of any required landscaping by a licensed landscape architect. Such release shall be approved by the Commission if the Director of Public Works or its agent provides a Certificate of Completion or Certificate of Approval for Acceptance, as applicable. No more than two (2) partial releases of any portion of any bond shall be approved by the Commission.

**11.4.8 Expiration:** Any approved site plan for which construction has not commenced or which is not otherwise put into effect within a period of five (5) years of the effective date of approval shall become null and void, unless an extension of time is applied for by the applicant and granted by the Commission.

**11.4.9 Change of Use:** For any property where a Site Plan has already been approved and the occupancy changes so that the new occupancy falls under a different part of Section 3.1 (District Regulations) from that use that was previously approved, a Plot Plan drawn to reasonable scale shall be reviewed by the Land Use Inspector or designated agent and the Land Use Inspector shall be allowed to approve administratively such changes (1) if there is no additional exterior construction except for signs on the previously approved property, or (2) if the parking requirements for the new use are the same or less than the previous use, or (3) if the change of use will generate less than 100 vehicle trips during a peak hour. Such approval by the Land Use Inspector shall allow occupancy by the new use immediately. Such action shall be reviewed and, if in accordance with the Zoning Regulations, shall be ratified by the Commission at a scheduled meeting. Any approval by the Land Use Inspector shall state that it is subject to review by the Planning and Zoning Commission.

**11.4.9.1** In the case of any change as described above where either additional parking or any exterior structural alterations, additions or renovations are involved, the Planning and Zoning Commission shall require a new Plot Plan to be submitted

and reserves the right to require a new Site Plan to be submitted as per the procedure under Article 11.

**11.4.9.2** In the case of any change as described above where additional traffic will be generated at a rate of over one hundred (100) vehicle trips during a peak hour, a traffic study prepared by a licensed traffic engineer shall be submitted to the Planning and Zoning Commission.

**11.4.10 Revisions And Extensions:** Any substantial revision as determined by the Commission of an approved site plan application or change of use, and any reconstruction, enlargement, extension, moving or structural alteration of an approved site plan use or any building or structure in connection therewith shall require submission of a new site plan application.

### **Section 11.5 Site Plan Elements:**

Applications submitted shall include a description of all proposed uses including all intended operations, equipment and material; and shall be accompanied by a Site Plan, drawn to scale of not less than one inch equals 100 feet in size, not to exceed 24" x 36", and showing the proposal and all buildings on adjacent lots within 100 feet of the lot lines of the subject lot. In addition to the Site Plan, the application shall also be accompanied by floor and elevation plans for alterations of all existing structures and for proposed structures. All elevations must show location detail of street number to be utilized by the building. Such numbers shall not be located on any door nor shall any number be less than 4 inches tall. Signs, specifications for building construction and materials proposed for flood-proofing, where applicable; and any such other plans as may be required to fully present the proposal, including the following information where applicable shall be shown.

**11.5.1** The name and address of owner or owners of land to be developed, the name and address of the applicant, if other than the owner and the name, original signature and seal, originally stamped or embossed on each sheet of the licensed land surveyor, professional engineer or professional architect, licensed in the State of Connecticut, as may be applicable.

**11.5.2** The date, true north point and graphic written scales.

**11.5.3** A key map of approximately one inch to 400 or 800 feet, showing the existing Zoning Districts of the subject property and abutting properties and street pattern within 500 feet of the site. The north arrow orientation of the key map shall match the north arrow orientation of the site plan.

**11.5.4** The locations and names of owners of record of all abutting property and developments.

**11.5.5** The purpose, locations, dimensions and areas of all existing and proposed rights-of way, easements, reservations and open space areas dedicated to or offered for public use or otherwise set aside, both within and adjoining the site.

- 11.5.6** A complete outline of existing and proposed deed restrictions or covenants applying to the premises.
- 11.5.7** Existing and proposed contour elevations based on actual surveys and referenced to USGS datum shall be shown:
- 11.5.7.1** At each lot corner;
  - 11.5.7.2** Along each lot line at intervening intervals, if such line is 100 feet or more in length, at each five foot change in elevation; and
  - 11.5.7.3** At the approximate location of each foundation corner of all proposed or anticipated principal building or structure.
  - 11.5.7.4** Additional elevations and/or elevations at lesser intervals may be required as deemed necessary or appropriate by the Commission.
- 11.5.8** The location of existing and proposed waterbodies, watercourse, swamps, marshes and wetlands, with the direction of flow and water surface levels, as well as other significant physical features such as wooded areas and rock outcrops and existing trees equal to or larger than 4" in diameter at breast height on the site and in the public right-of-way, identified by their common name.
- 11.5.9** The location of the regulatory flood protection elevation, established wetland boundaries and boundaries of other flood-prone area.
- 11.5.10** Location and design of all existing and proposed flood protection and erosion control works.
- 11.5.11** Location, design, height and setback lines of all existing and proposed buildings and structures, including but not limited to signs, fences and walls.
- 11.5.12** Location, design and setback lines of all existing and proposed uses not within a building or structure.
- 11.5.13** Location and design of all existing and proposed paved areas, sidewalks, streets, curbs, driveways and parking and loading areas (showing the number of stalls provided therewith), with grades, elevations and cross sections, as appropriate.
- 11.5.14** Location and design of all existing and proposed storm drainage in accordance with the EPA Storm Water Phase II Program regulations, as may be amended, sanitary sewage, and water supply facilities and easements, as well as other underground and above ground utilities, with grades, pipe sizes, elevations, points of discharge and hydrants as appropriate.
- 11.5.15** Location and results of percolation test.

- 11.5.16** Location and design of all required buffer strips, landscaping and screening, final site landscaping and/or grading plans. Landscape plans should be prepared, signed and sealed by a licensed landscape architect. Planting plans should include a plant list keyed to the plan with the proposed plants listed by their common and botanical names and specified sizes and quantities, with notes about minimum branch height, root condition and other pertinent information.
- 11.5.17** Location, design and height of external lights and lighted areas, as appropriate.
- 11.5.18** All site plans must show all areas and/or location of the following:
- 11.5.18.1** Outside storage areas or structures. Height shall be no more than 50% of height of the primary building and shall be screened by either landscaping or fixed fencing of at least 6' in height.
  - 11.5.18.2** Utility transformers.
  - 11.5.18.3** Utility meters (free standing or attached to a structure), i.e. electrical, gas, water.
  - 11.5.18.4** Telephone/cable television equipment.
  - 11.5.18.5** Fuel oil storage facilities.
  - 11.5.18.6** Refuse/trash containers of any type. Refuse areas shall be screened by either landscaping or fixed fencing of least 6' in height or 3 feet higher than refuse container, which ever is greater.
  - 11.5.18.7** Postal facilities.
  - 11.5.18.8** Exterior mechanical equipment such as, but not limited to HVAC items, including roof units. If any or all of the services are not to be provided or are included in a prior approval, a statement to that effect shall be included as a note on the site plan.
- 11.5.19** In the case of uses or facilities requiring approval by any other agency of the State or Town, the approval or status of approval of said agency shall be submitted with the application.
- 11.5.20** Where the applicant wishes to develop in stages, an overall site and staging plan indicating ultimate development shall be presented for approval.
- 11.5.21** In order to assist the Commission to determine conformity of the Site Plan with the intent and purpose of these regulations, the following information should be submitted:

**11.5.21.1** Photographs of the site including all adjacent properties as viewed from all public streets as well as adjacent properties.

**11.5.21.2** Elevation drawings of proposed buildings, landscaping, outdoor storage areas and refuse/trash containers and free- standing signs. The elevation views shall correspond to the site photographs.

**11.5.21.3** Applications for buildings containing over 5,000 square feet shall include digital views whereby the proposed development is integrated with existing adjacent development.

**11.5.22** The applicant shall be required to submit a traffic study prepared by a licensed traffic engineer with any application which generates 100 or more vehicular trips during the peak hour.

**11.5.23** Any other information deemed necessary by the Commission to determine conformity of the Site Plan with the intent and purpose of these regulations.

#### **Section 11.6 Site Plan Review:**

In approving any Site Plan, the Planning and Zoning Commission shall take into consideration the public health, safety and general welfare, the comfort and convenience of the public in general and of the immediate neighborhood in particular, and may attach reasonable conditions and safeguards as a precondition to its approval. The Land Use Inspector shall be responsible for circulating the Site Plan submission to all applicable boards, commissions and departments for review and comment, and shall prepare a summary of the issues, concerns and comments generated by these boards, commissions and departments for review and consideration by the Planning and Zoning Commission. The Commission shall also consider the following general objectives and design criteria:

**11.6.1 Zoning Districts:** That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the Zoning District in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

**11.6.2 Traffic Access:** That proposed traffic access ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners and similar safety considerations. If provided as required by Sections 11.3.10 and 11.5.22, the traffic study shall be an important component of the application review.

- 11.6.3 Public Safety:** That proposed buildings, structures, uses, equipment or material shall be readily accessible for fire and police protection.
- 11.6.4 Circulation and Parking:** That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use, and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking.
- 11.6.5 Landscaping and Screening:** That proposed buildings, structures, storage & refuse areas, uses, recreation areas, and parking, loading and vehicular access areas are reasonably landscaped and/or screened with appropriate vegetation and/or fencing of suitable type, density and height adjacent to residential lots and streets, where appropriate.
- 11.6.6 Illumination:** That lighting from the installation of outdoor lighting and illuminated signs shall be designed in accordance with Article 7 Exterior Lighting Regulations and Article 8 Sign Regulations.
- 11.6.7 Public Health:** That utility systems will be suitably located, adequately designed, and properly installed to serve the proposed uses, to protect the property from adverse air, water or land pollution, and to preserve and enhance the environmental quality of the surrounding neighborhood and that of the Town.
- 11.6.8 Character and Appearance:** That the character and appearance of the proposed buildings, structures, uses and/or outdoor signs will not be detrimental to the character and appearance of the surrounding neighborhood and will not adversely affect the general welfare of the inhabitants of the Town.
- 11.6.9 Surety:** The Commission may require surety in accordance with Section 11.4.7 herein.
- 11.6.10 Zoning Permit:** Upon approval of a Site Plan by the Commission, the applicant shall comply with all applicable provisions of Article 13 (Administration & Enforcement), herein for the issuance of a Zoning Permit by the Land Use Inspector.
- 11.6.11 Effect of Site Plan Review:** Any use for which a Site Plan has been approved shall be deemed to be a conforming use in the zoning district in which such use is located, as long as all applicable regulations and conditions of approval are met.
- 11.6.12 Expiration:** Any authorized Site Plan for which construction has not commenced or which is not otherwise put into effect within a period of five (5) years, shall become null and void, unless an extension of time is applied for by the applicant and granted by the Commission.
- 11.6.13 Revocation:** An authorized Site Plan shall be subject to revocation by the Commission if any conditions or safeguards imposed by the Commission upon land, buildings, structures, or uses for said permits are not strictly adhered to by the applicant and/or

owner. However, before the Commission may revoke any Site Plan approval, the Commission shall provide notice to the applicant and/or owner of the violation(s) and allow a reasonable amount of time to correct the violation(s) and offer an opportunity for a hearing before the Commission.

**11.6.14 Waivers:** The Commission may waive, subject to appropriate conditions such requirements of this Article 11 and standards as set forth in the regulations governing uses requiring Site Plan Review as in its judgment of the special circumstances and conditions relating to a particular application, are not requisite in the interest of the public health, safety and general welfare. When making its determination as to the extent of variation from the standards as set forth in these Regulations, the Commission shall take into consideration the prospective character of the use, the interests of the Town as a whole, and the purpose and intent of these Regulations.



## **ARTICLE 12 SPECIAL ZONING PERMITS**

### **12.1 Intent**

These Zoning Regulations are based upon the division of the Town into districts, within each of which the use of land and structures and the size and location of structures in relation to the land are substantially uniform. However, it is recognized that there are certain other uses and features that would be appropriate in such districts if controlled as to number, area, location or relation to the neighborhood so as to promote the public health, safety and welfare. Special Permit uses shall be subject to the satisfaction of the requirements and standards set forth herein. Special Permit uses are declared to possess such particular characteristics that each shall be considered as an individual case.

In accordance with the procedures, standards and conditions hereinafter specified, the Planning & Zoning Commission may grant a Special Permit for the establishment of one or more of the uses for which a Special Permit must be secured from such Commission as required by Section 3.1 and other sections of these Regulations. All requirements of this section are in addition to other requirements applicable in the district in which the Special Permit use is to be located. The permit is issued following the completion of the application which must be deemed complete by the Planning & Zoning Commission.

### **12.2 Standards for Granting a Special Permit**

In considering applications the Commission shall require compliance with the following:

- 12.2.1** That traffic circulation within the site and the amount, location and access to parking is adequate, and adequate sight distance is provided for all proposed and existing driveways;
- 12.2.2** That the road network, to include intersections, impacted by the proposed development will be capable of satisfactorily handling the increase traffic generated by such use;
- 12.2.3** That the 1) basic design of the proposed use(s) or buildings; 2) relationship between the buildings and the land; and 3) overall physical appearance of the proposed use(s) or buildings will be in general harmony with the character of the surrounding neighborhood and will not serve to blight or detract from abutting residences or other property;
- 12.2.4** The Commission may attach conditions to an approval of a Special Permit or Site Plan in conjunction with a Special Permit to ensure compliance with the above standards.
- 12.2.5** Every application for Special Permit shall require a public hearing.

### **Section 12.3 Application**

An application for a special Zoning Permit shall be filed with the Planning & Zoning Commission on forms provided by the Commission and is to include eight (8) copies of the following:

- 12.3.1** A site plan, drawn to a scale of not greater than 1 inch = 40 feet showing existing and proposed grand contours, property lines, the names of all abutting owners (including those across the street) as determined from the most recent assessor's records, building, structures, sign, outdoor illumination, streets, driveways, off-street parking and loading spaces outside storage areas, water supply facilities, and landscaping (including trees and/or shrubs, lawn, other landscaped areas and natural terrain not to be disturbed.) In addition, said site plan shall show all other items required of site plans under Article 11 as deemed necessary by the Commission.
- 12.3.2** Preliminary architectural plans of all proposed buildings, structures and signs, including general exterior elevations, perspective drawings and generalized floor plans and including drawings for proposed signs, two copies shall be submitted.
- 12.3.3** A detailed description of the use for all proposed buildings shall be included.

### **Section 12.4 Fees**

Fees for processing of a special Zoning Permit application shall be set in accordance with the Town of Prospect Zoning and Subdivision Fee Schedule.

### **Section 12.5 Time Limits**

A permit shall be void if the work described therein is not commenced within a period of one year from the date of issue and diligently prosecuted to completion.

### **Section 12.6 Sanitary Permit**

Plans for proposed sanitary waste disposal shall be submitted for preliminary review and comment by Chesprocott Health District or Prospect Water Pollution Control Authority (WPCA) and the Water Pollution Control Authority of the municipality receiving proposed sewage discharge.

No building permit for a new building or structure shall be issued until final plans for proposed sanitary waste disposal have been approved by Chesprocott Health District or Prospect Water Pollution Control Authority (WPCA)

### **Section 12.7 Procedure**

- 12.7.1** **Preapplication Review:** Prior to the submission of a Special Permit Application the Commission may conduct a preapplication review for the proposed project with the applicant at the applicant's request. Such preapplication review and any results or information obtained from it may not be appealed under any provision of the Connecticut General Statutes, and shall not be binding on the applicant or any authority, commission, department, agency or other official having jurisdiction to review the proposed project.

- 12.7.2 Acceptance by Commission:** The Commission shall officially accept Special Permit applications at the next regular or special meeting or within thirty-five (35) days after the Special Permit application was submitted, whichever is sooner provided the information submitted by the applicant under Section 12.3 is complete to the Commissions satisfaction. In the event any application is not accepted, the applicant shall be notified in writing within 10 days.
- 12.7.3 Commission Action:** The Planning and Zoning Commission shall hold a public hearing regarding any Special Permit within sixty-five (65) days after the date the commission officially received the Special Permit application. Public hearings shall be completed within thirty-five (35) days after the hearing's start date and decisions on the application shall be rendered within sixty-five (65) days of the hearings completion date. An extension not to exceed a total of sixty-five (65) days may be granted to extend any of the aforementioned periods with the consent of the applicant.
- 12.7.4 Notice:** Notice of the time and place of such hearing shall be paid for by the applicant and published in the form of a legal advertisement in a newspaper having a substantial circulation in the Town of Prospect at least twice, at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days and the last not less than two (2) days before such hearing. Notice of the public hearing shall be mailed by the applicant by certified mail with return receipt requested no later than ten (10) days before such hearing to all owners of property, as recorded in the office of the Town Assessor on the date the application is filed, located within 200 feet of the property which is the subject of the application. In the case where any property within 200 feet of the property that is the subject of the application has been submitted to common interest ownership, such as a condominium, the required notice need only be sent to the homeowners association and to those owners of buildings or dwelling units located within such 200 feet. Evidence of such mailing and a list of property owners to whom notices were sent shall be presented to the Land Use Office at or before the public hearing.
- 12.7.5** Whenever the Commission grants or denies a Special Permit, it shall state upon its records the reason for its decision. Notice of the decision of the Commission shall be published in a newspaper having a substantial circulation in the Town and addressed by certified mail to the person who requested or applied for a Special Permit by the Clerk of the Commission under his signature in any written, printed, typewritten or stamped form, within fifteen days after such decision has been rendered. Such permit or exception shall become effective at such time as is fixed by the Commission, provided a copy thereof shall be filed in the Town Clerk's Office.

### **Section 12.8 Planning And Zoning Commission Responsibilities**

Special Permits shall be granted only where the Planning and Zoning Commission finds that the proposed use or the proposed extension or alteration of an existing use is in accord with the public convenience and welfare. (See Section 12.10.)

### **Section 12.9 Additional Conditions And Safeguards**

In granting, any Special Permit the Planning and Zoning Commission shall attach such additional conditions and safeguards as are deemed necessary to protect the neighborhood, such as but not limited to the following:

- 12.9.1** Requirement of setbacks greater than the minimum required by these Regulations.
- 12.9.2** Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other devices meeting the definition of screening as specified by the Planning and Zoning Commission.
- 12.9.3** Modification of the exterior features or appearance of any structure where necessary to be in harmony with the surrounding area.
- 12.9.4** Limitation of size, number of occupants, methods or time of operation, or extent of facilities.
- 12.9.5** Regulation of number, design, and location of access drives or other traffic features including pedestrian ways.
- 12.9.6** Requirement of off-street parking or other special features beyond the minimum required by these Regulations or other applicable codes or regulations.
- 12.9.7** Regulation of the number, type and location of outdoor lighting and signs.
- 12.9.8** Any data, plans, or drawings, including architect's plans or drawings, voluntarily submitted by the applicant or his duly authorized agent in support of his application and not required by this and other applicable sections of these Regulations may be accepted in whole or in part by the Planning and Zoning Commission and may be made additional requirements and conditions of the permit when granted. Such data and/or drawings shall become the property of the Planning and Zoning Commission.

### **Section 12.10 Special Findings**

The applicant shall prove that the use or building proposed for a Special Permit meets the following criteria:

- 12.10.1** It will be appropriately located so as to be adequately served by transportation, water supply, water disposal, fire and police protection, and other public facilities.
- 12.10.2** It will not cause traffic congestion or create a traffic hazard.
- 12.10.3** It will not adversely affect the character of, or property values in, the area.
- 12.10.4** It will not otherwise impair public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the town.
- 12.10.5** It will comply with all other regulations applicable to such use.

- 12.10.6** It will not create at any point of determination set forth in Section 4.17.4 through 4.17.6 any more Dangerous and Objectionable Elements referred to in Section 4.17.1 than is characteristic of the uses expressly permitted as of right in the same district.
- 12.10.7** Before granting a Special Permit, the Planning & Zoning Commission shall state upon its records Special Findings to the effect that each of the criteria set forth above are met. Failure to make each special findings renders the action purportedly granting the application null and void.

## **ARTICLE 13 ADMINISTRATION AND ENFORCEMENT**

### **Section 13.1 Intent**

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, regulation, or other provision of law, or any easement, covenant, or other private agreement or legal relationship.

### **Section 13.2 Enforcement**

Except as set forth in Section 13.4 below, these Regulations shall be enforced by the Zoning Enforcement Officer, subject to appropriate supervision and direction by the Planning & Zoning Commission. The Zoning Enforcement Officer is authorized to cause any building, structure, premise or use to be inspected or examined and to order in writing the remedying of any condition found to exist therein or thereon in violation of any provision of these regulations. The Enforcement Officer shall review with the Commission any action of his which is disputed.

### **Section 13.3 Zoning Permit Required**

No land shall be used (except for agricultural purposes) and no building or structure or parking area shall be used, erected, moved, enlarged, changed, or structurally altered; and no building permit shall be issued until a Zoning Permit for the proposed work or use has been issued by the Planning & Zoning Commission or the Zoning Enforcement Officer.

### **Section 13.4 Regular Zoning Permit**

A regular Zoning Permit in the RA-1 and RA-2 zone shall be granted by the Zoning Enforcement Officer on those uses permitted as a matter of right. For regular Zoning Permits in all other zones, a Site Plan Approval is required. In addition, in any RA-1 and RA-2 zone which provides parking spaces for more than twenty vehicles, the application will be reviewed by the Commission before the Zoning Permit is issued.

#### **13.4.1 Application**

An application for a regular Zoning Permit shall be filed with the Zoning Enforcement Officer (or Commission, where applicable) on forms provided by the commission and to include two copies of the following (unless special requirements apply):

- 13.4.1.1** Plot Plan drawn to a scale of not greater than 1" = 40', showing location and size of structure(s) existing and proposed parking and driveway area, sizes, dimensions of lighting the lot and of all required open spaces (not applicable in RA-1 and RA-2 where less than 20 parking spaces involved). A sketch showing dimensions is applicable.
- 13.4.1.2** Location and size of storm, sanitary and water systems and other underground utilities.
- 13.4.1.3** Drainage patterns and location of drainage ways and points of discharge.
- 13.4.1.4** Location of all man-made subsurface storage structures.
- 13.4.1.5** Any additional information required by the Commissioners necessary to assure conformance to these regulations.

## **13.4.2 Fees**

- 13.4.2.1** A fee for the processing of an application not submitted pursuant to the special requirements of this section shall be set in accordance with the Town of Prospect Zoning and Subdivision Fee Schedule. An additional fee is required per State of Connecticut General Statutes §22a-27j. All fees are due when application is submitted.
- 13.4.2.2** The fee for processing an application for a primary use (structure) in a RA-1 or RA-2 zone shall be set in accordance with the Town of Prospect Zoning and Subdivision Fee Schedule. An additional fee is required per State of Connecticut General Statutes §22a-27j. All fees are due and payable when application is submitted.
- 13.4.2.3** A fee for an application submitted pursuant to the special requirements of this section shall be set in accordance with the Town of Prospect Zoning and Subdivision Fee Schedule. These fees are for expenditures of the Town of Prospect for engineering review. An additional fee is required per State of Connecticut General Statutes §22a-27j. All fees are due when the application is submitted.

## **13.4.3 Time Limits**

A permit shall be void if the work described therein is not commenced within a period of one year from the date of issue and diligently prosecuted to completion.

## **13.4.4 Sanitary Permit**

No Zoning Permit shall be issued by the Zoning Enforcement Officer for the erection of a new building or structure until approval has been received from the Chesprocott Health District and/or the Water Pollution Control Authority.

## **Section 13.5 Certificate Of Zoning Compliance**

The Land Use Inspector or Planning and Zoning Commission shall issue a Certificate of Zoning Compliance for the use or occupancy of any land, building or other structure when it is determined that the use is in compliance with the provisions of Article 3, Section 3.1 of these regulations. No land shall be occupied or used and no building hereafter erected, altered or extended, shall be used or changed in use until a Certificate of Zoning compliance has been issued.

### **Section 13.6 Certificate Of Occupancy**

A Certificate of Occupancy shall be issued by the Building Inspector once it has been determined by the Zoning Enforcement Officer that all provisions of the Zoning Permit have been complied with. It shall be unlawful to use or permit the use of any building or structure, until a Certificate of Occupancy has been issued. No Certificate of Occupancy shall be issued until a Certificate of Zoning Compliance has been issued.

### **Section 13.7 Violations**

Any person, firm or corporation violating any provision of these Regulations shall be subject to the remedies and penalties prescribed by the Town of Prospect Ordinance titled Ordinance Establishing Fines and Citation Procedure for Zoning Violations as amended.

#### **13.7.1 Penalties For Violations**

Any violation of the Town of Prospect Zoning Regulations may be punished by a fine of One Hundred Fifty and 00/100 dollars (\$150.00) for each and every day such violation exists and /or continues and such fine shall be payable to the Treasure of the Town of Prospect. Citations may be issued imposing the penalties above pursuant to the time frames, conditions and procedure as defined in the Town of Prospect Ordinance Titled Ordinance Establishing Fines and Citation Procedure for Zoning Violations as amended. The Planning and Zoning Commission may utilize additional remedies as are provided by the Connecticut General Statutes to restrain, correct, or abate any violation of the Zoning Regulations.



## **ARTICLE 14 ZONE CHANGES AND AMENDMENTS**

### **14.1 Authority**

On its own initiative or on receipt of a written application to amend any portion of these regulations, the Planning & Zoning Commission may amend the regulations or change the boundaries of the zones herein after public hearing in accordance with Chapter 124, Section 8-3 of the General Statutes of the State of Connecticut.

### **14.2 Standards**

In considering change of zone applications the Commission shall require compliance with the following:

- 14.2.1** That the existing and future character of the neighborhood in which the zone and/or use is to be located will be protected;
- 14.2.2** That adequate safeguards have been taken to protect adjacent property and the neighborhood in general from detriment;
- 14.2.3** That in the case where an application proposes a zone change which will increase building density over that permitted under the existing zone, the topography and other natural features of the property are capable of accommodating such increased development without detrimental impact; and that adequate safeguards have been taken to protect the natural environment;
- 14.2.4** That all required public services will be reasonably available to serve the proposed development;
- 14.2.5** Every application for change of zone shall require a public hearing.

### **14.3 Notice**

Notice of the time and place of such hearing shall be paid for by the applicant and published in the form of a legal advertisement in a newspaper having a substantial circulation in the Town of Prospect at least twice, at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days and the last not less than two (2) days before such hearing, and a copy of such proposed regulation or boundary shall be filed in the office of the Land Use Inspector and the office of the Town Clerk for public inspection at least ten (10) days before such meeting. Notice of the public hearing shall be mailed by the applicant by certified mail with return receipt requested no later than ten (10) days before such hearing to all owners of property, as recorded in the office of the Town Assessor on the date the application is filed, located within 200 feet of the property which is the subject of the application. In the case where any property within 200 feet of the property which is the subject of the application has been submitted to common interest ownership, such as a condominium, the required notice need only be sent to the homeowners' association and to those owners of buildings or dwelling units located within such

200 feet. Evidence of such mailing and a list of property owners to whom notices were sent shall be presented to the Land Use Office at or before the public hearing.

#### **14.4 Protest**

If a protest is filed at such hearing with the Planning & Zoning Commission against such change, signed by owners of 20% or more of the area of lots included in such proposed change, or of the lots within five hundred (500) feet in all directions of the property change, such change shall not be adopted except by a vote of two-thirds of all the members of the Planning & Zoning Commission.

#### **14.5 Application**

Any person or persons who are property owners or residents in the Town of Prospect, Connecticut may make written application for amendment of these regulations signed by the applicant. A plan giving proposed boundaries must accompany each application for change in zoning boundaries.

#### **14.6 Fee**

Fees for amending the Town of Prospect Zoning Regulations shall be set in accordance with the Town of Prospect Zoning and Subdivision Fee Schedule.

#### **14.7 Reapplication**

No application relating to the same change or substantially the same change need be heard by the Commission more than once in a period of twelve (12) months.

## **ARTICLE 15 ZONING BOARD OF APPEALS**

### **Section 15.1 Powers And Duties**

The Zoning Board of Appeals shall have the following powers and duties:

#### **15.1.1 Administrative Review**

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Enforcement Office or decisions of the Planning and Zoning Commission in the enforcement of these Regulations.

#### **15.1.2 Variances**

To authorize in specific cases a variance from the terms of these Regulations because of practical difficulty or unnecessary hardship. A variance from the terms of these Regulations shall not be granted by the Zoning Board of Appeals unless and until the applicant demonstrates that:

- (1) A practical difficulty or unnecessary hardship exists;
- (2) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- (3) Literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these Regulations; and
- (4) Granting the variance requested will not confer upon the applicant any special privilege that is denied by these Regulations to other lands, structures, or buildings in the same district.

Nonconformity of neighboring land, structures, or buildings in the same district shall not be considered grounds for issuance of a variance. No permitted or nonconforming use of land, structures or buildings in other districts shall be grounds for issuance of a variance.

**15.1.2.1** An application shall be submitted to the Zoning Board of Appeals on a form containing such information as the Zoning Board of Appeals may require.

**15.1.2.2** Notice of public hearing shall be given as prescribed in Section 8-7 of the Connecticut General Statutes as amended.

- 15.1.2.3** Surrounding property owners within one hundred (100) feet of the boundaries of the property that is the subject of the pending application shall be notified by certified mail by the applicant of the time, date and place of the impending public hearing. Said certified mailings(s) shall be mailed between ten (10) and fourteen (14) days prior to the public hearing date. The applicant or the applicant's agent shall execute an affidavit of the certified mailings and file said affidavit at least three (3) business days prior to the hearing with the Land Use Office and provide evidence at the time of the public hearing of certificate of mailing receipts or returned receipts to the commission as part of the applicant's record.
- 15.1.2.4** The Board of Appeals shall further make a finding that the conditions set forth in Section 15.1.2 are met and specifying what the special conditions or circumstances are which justify the granting of the variance. The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- 15.1.2.5** In granting any variance, the Board of Appeals shall grant the variance which is the minimum variance that will make possible the reasonable use of the land, building or structure and shall prescribe appropriate conditions and safeguards in conformity with the purpose of these Regulations. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these Regulations and punishable under Section 13.7 of these Regulations.
- 15.1.2.6** Any applicant to whom a variance is granted from Section 4.13 (Floodplains and Flood Hazard Area regulations) shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation (BFE), and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation. Variances shall not be issued within any designated floodway if any (0.00 feet) increase in flood levels occurs during the base flood discharge.

**15.1.3 Board Has Powers Of Zoning Enforcement Officer On Appeals Reversing Decision Of Administration Official**

In exercising the above-mentioned powers the Zoning Board of Appeals may, so long as such action is in conformity with the terms of these Regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Enforcement Officer from when the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, decide in favor of the application of any matter upon which it is required to pass under these Regulations, or to affect any variance in the application of these Regulations.

**ARTICLE 16  
ZONING FEES & CONSULTANT EXPENSES FEE SCHEDULES**

**ZONING FEES**

1. Zoning Permit (general)	
(a) Deck, Detached Storage Building, Pools, Signs, Portable Storage Units, Miscellaneous .....	\$ 35.00
(b) House Addition .....	\$ 50.00
(c) Garage – Attached or Detached, Barn/Agricultural Storage Building.....	\$ 50.00
(d) Keeping, Breeding & Raising of Livestock.....	\$ 50.00
(e) Single Family Home.....	\$200.00
(f) Accessory Living Unit.....	\$100.00
2. Home Occupation Permit.....	\$ 75.00
If Public Hearing is required.....	\$250.00
3. Change of Use Permit.....	\$100.00
4. Site Plan Application	
(a) Existing Structure.....	\$200.00
(b) New Build.....	\$350.00
5. Special Permit Application	
(a) Existing Structure.....	\$350.00
(b) New Build.....	\$500.00
6. Earth Materials Permit in all zones other than EE Zone	
(a) Issued by Land Use Inspector.....	\$ 25.00
(b) Issued by Planning & Zoning Commission.....	\$300.00
7. Earth Materials Permit in Earth Excavation (EE) Zone.....	\$300.00
(a) If determined necessary by PZC a technical review fee paid for by applicant	
(b) The permittee shall pay a monitoring and inspection fee of \$10.00 per 1,000 cubic yards of earthen material excavation approved by said permit or such lesser amount as determined by the Commission	

8. Variance Application.....	\$250.00
9. Appeal of ZEO Decision.....	\$250.00
10. Approval of Location (DMV).....	\$250.00
(a) If No Hearing .....	\$100.00
11. Petition for Zoning Amendment:	
(a) Add New Regulation (per section).....	\$500.00
(b) Simple Text Change (per section).....	\$450.00
(c) Zone District Change.....	\$500.00
12. Certificate of Zoning Compliance	
(a) Residential.....	\$ 25.00
(b) Business & Industrial.....	\$ 35.00
13. Certificate of Nonconformity	
(a) Residential.....	\$ 25.00
(b) Business & Industrial.....	\$ 35.00
14. Lot Line Revision	
(a) Residential.....	\$ 25.00
(b) Business & Industrial.....	\$ 35.00

Notes:

1. In addition to the above Zoning fees, the State of Connecticut General Statutes §22a-27j requires a surcharge of \$60.00 for each permit issued.
2. In addition to the above Zoning fees, consultant expenses may be required as described in the Consultant Expenses Fee Schedule.
3. The Planning & Zoning Commission has the ability to waive or reduce a fee as they may deem appropriate.
4. No fee shall be charged when the Town of Prospect is the applicant.
5. Fees for any applications or uses not covered by any of the above will be determined by the Prospect Planning & Zoning Commission.

## **CONSULTANT EXPENSES FEE SCHEDULE**

- 1) Prior to or contemporaneous with the filing of an application, the applicant shall advise the Commission in writing as to the professional evidence by way of testimony or certification that it intends to submit as part of or in support of said application. Such written statement shall include the specific areas of expertise (e.g. traffic, hydrology) in which the Commission may require the technical assistance of consultants.
- 2) The Commission may charge fees in addition to the base fees set forth above in order to obtain additional technical assistance in reviewing and evaluating an application where the Commission determines, based upon information provided or required to be provided by the applicant, that in nature, size, or intensity of the land use application shall require services of consultants not provided for within the fees set forth in the Zoning Fee Section of this Fee Schedule.
- 3) The Commission shall determine the amount of the fee in addition to the base fee required for the review, evaluation and processing of the subject application based on the following criteria:
  - (a) For Site Plan applications, said additional fee shall not exceed \$1.00 per sq. ft. of building proposed; and
  - (b) For Special Permit applications, said application fee shall not exceed an additional \$1.50 per sq. ft. of building proposed.
  - (c) For Earth Excavation applications, per Section 3.7.4.3.1 of the Prospect Zoning Regulations, if determined necessary by the Commission to obtain specialized technical review to fully and properly review and evaluate the application, the fees for such technical review shall be paid by the applicant within ten (10) days of the Town's written notice of the actual or estimated fee. If the applicant fails or refuses to deposit the actual or estimated fee, the application with or without prejudice as circumstances warrant, or any permit in effect shall be immediately revoked. Any fees paid in excess of actual technical review costs shall be refunded to the applicant.

4) In addition to the foregoing limitations, the Commission shall not charge an applicant for a unit of service from the following providers in excess of the following dollar amounts:

- (a) Attorney.....\$150.00/hr
- (b) Civil Engineer .....\$100.00/hr
- (c) Soil Scientist.....\$100.00/hr
- (d) Hydrologist.....\$100.00/hr
- (e) Environmental Review.....\$100.00/hr
- (f) Traffic Engineer .....\$100.00/hr
- (g) Geologist .....\$100.00/hr
- (h) Planner.....\$100.00/hr

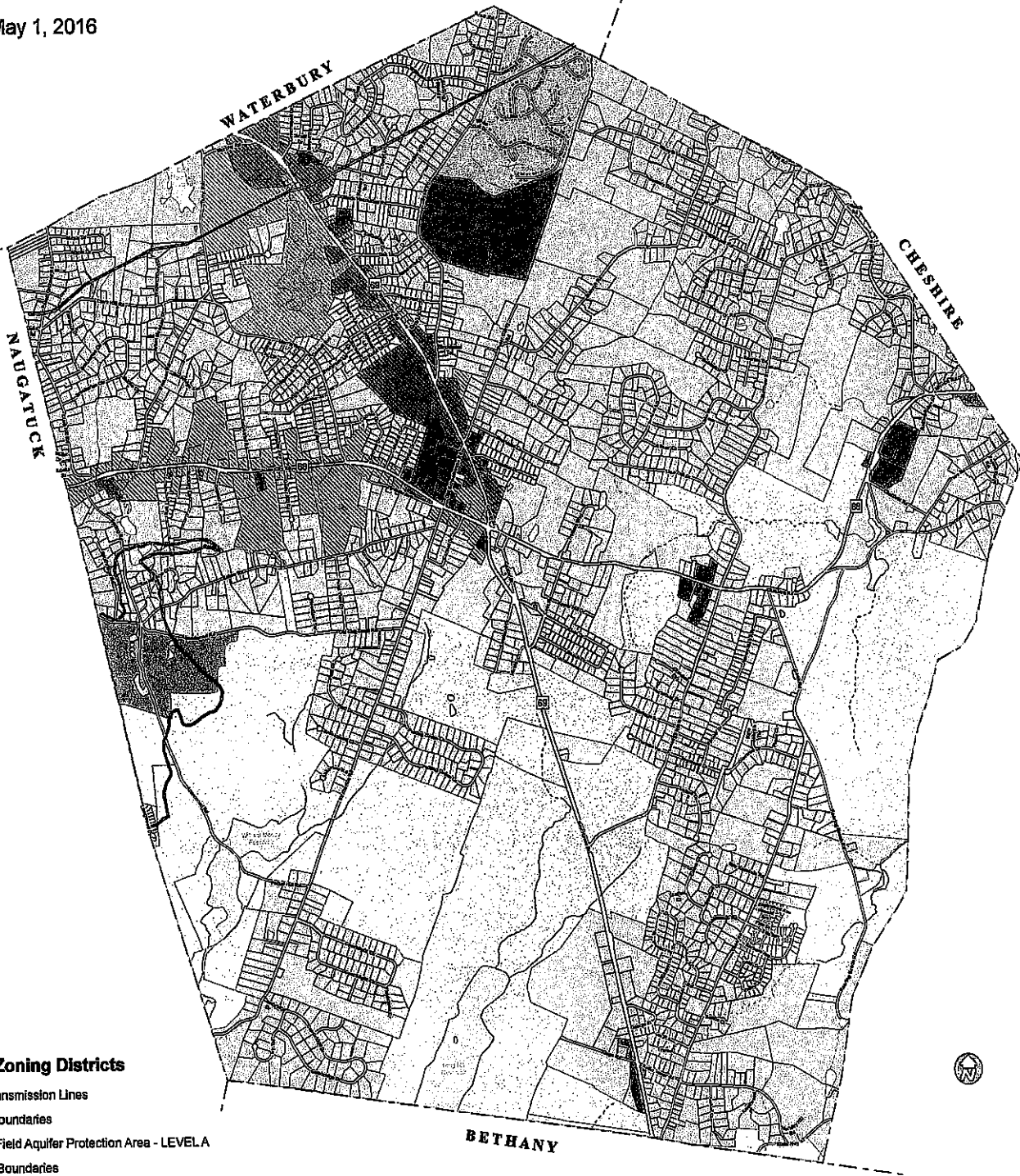
5) An applicant may provide the written statement required under section (1) and request a determination by the Commission as to whether additional technical assistance will be required and the amount of the additional fee prior to submission of the application. Payment of the additional fee shall be made upon submission of the application or within 30 days of the determination of the required additional fee by the Commission, whichever shall later occur.

6) Failure to provide the statement required under section (1) or to pay the additional fee required hereunder may render the application incomplete under the Commission regulations.



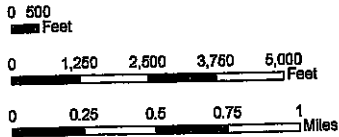
# Town of Prospect, Connecticut, Zoning Map

Effective May 1, 2016



## Legend - Zoning Districts

- Gas Transmission Lines
- Town Boundaries
- Indian Field Aquifer Protection Area - LEVEL A
- Parcel Boundaries
- Northern Gateway Overlay Zone
- Western Gateway Overlay Zone
- Residential 1 Acre (RA-1)
- Residential 2 Acre (RA-2)
- Business District (B)
- Commerce Park District (CP)
- Industrial 1 District IND-1
- Industrial 2 District IND-2
- Earth Excavation District (EE)



Source: Roads: CT DRS  
Zoning: Town of Prospect

Date	Amendment

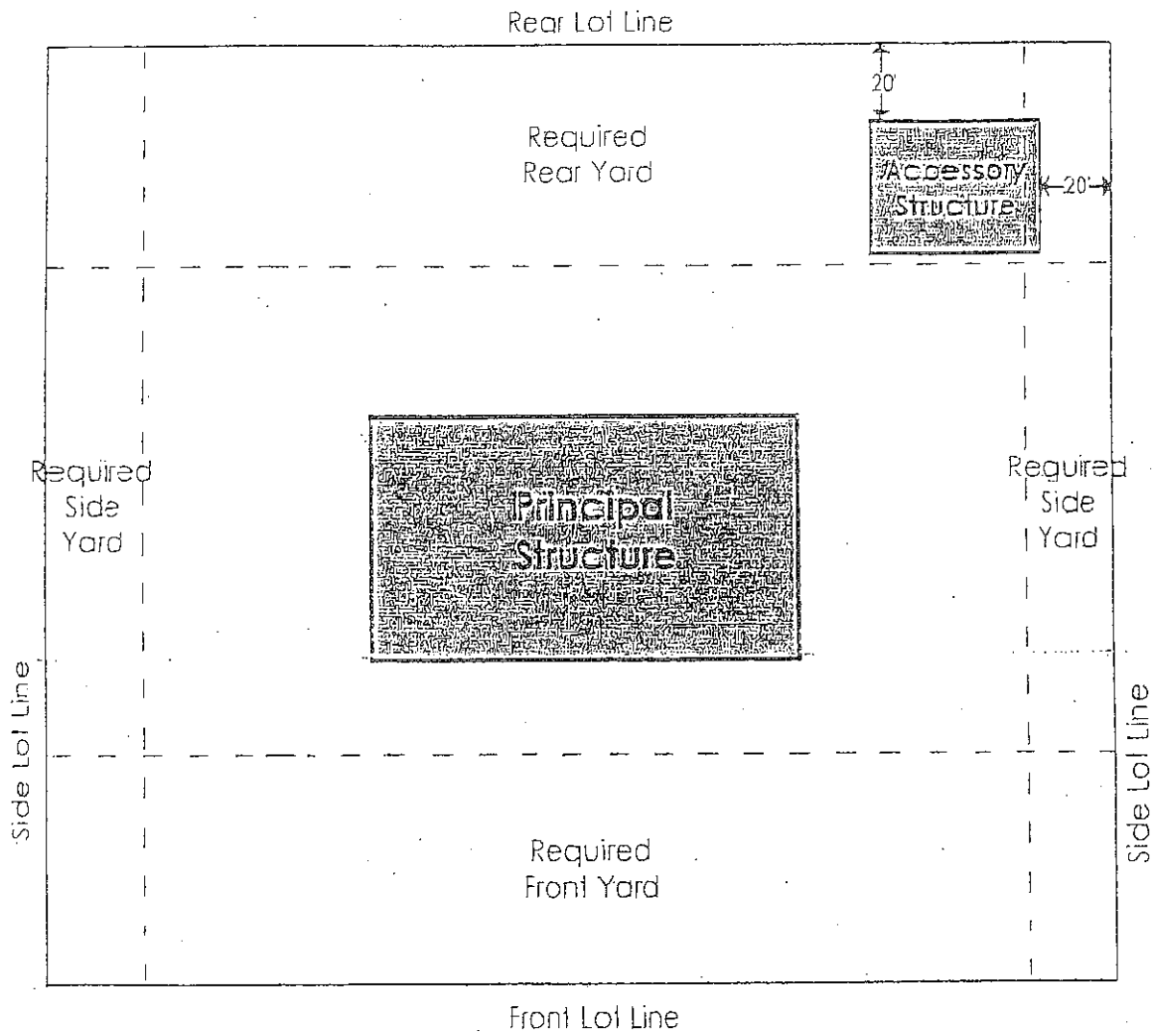
Document Path: S:\ArcGIS\Projects\Zoning\Prospect\_Official\_Zoning.mxd

**NAUGATUCK VALLEY**  
COUNCIL of GOVERNMENTS

# APPENDIX A

## IMAGES

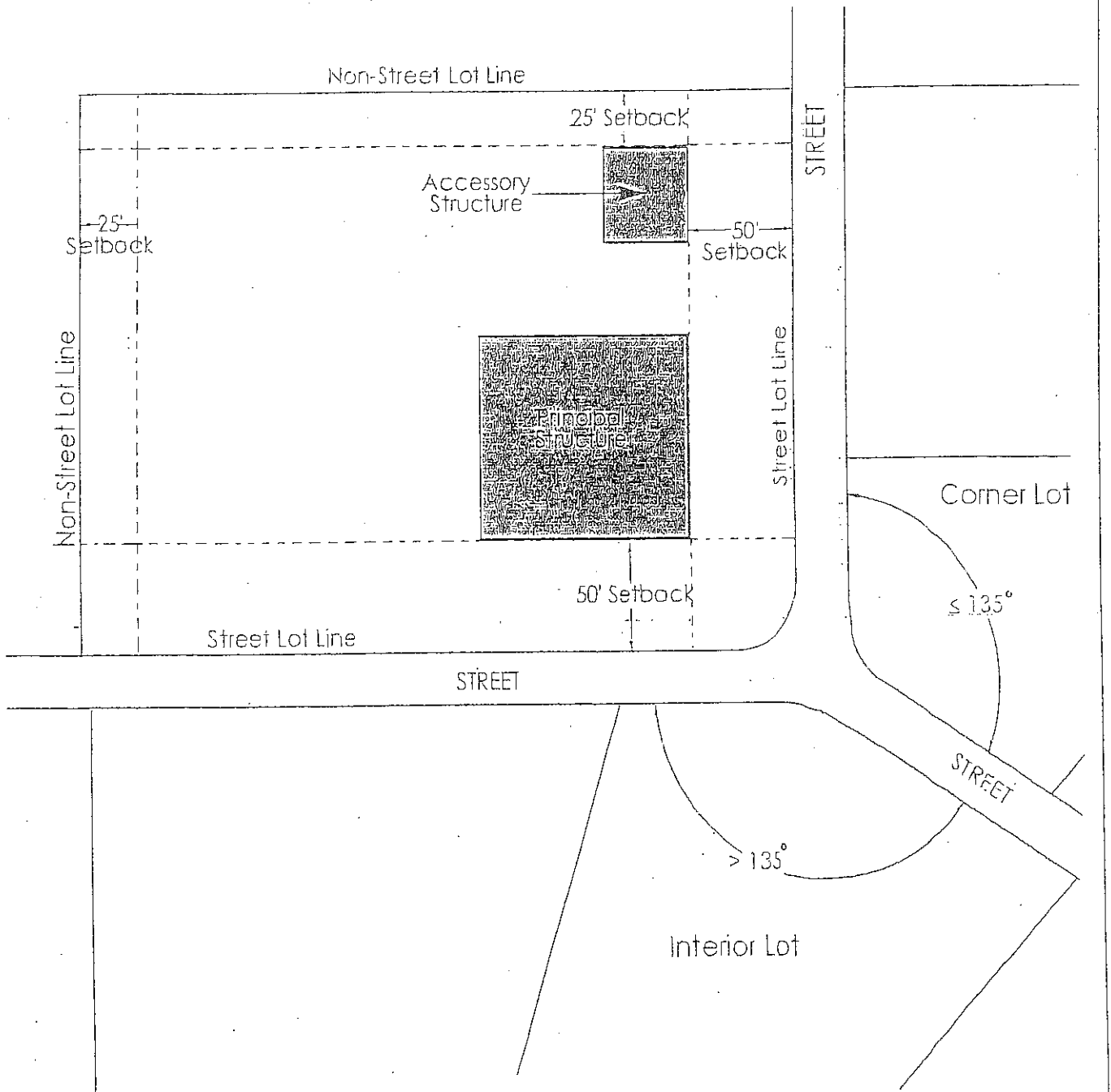
# Lot Configuration with an Accessory Structure



NOTE: 20' dimension applies to accessory structures greater than 80 S.F. in size, or built on foundation. For accessory structures less than 80 S.F., a 15' setback dimension should be applied.

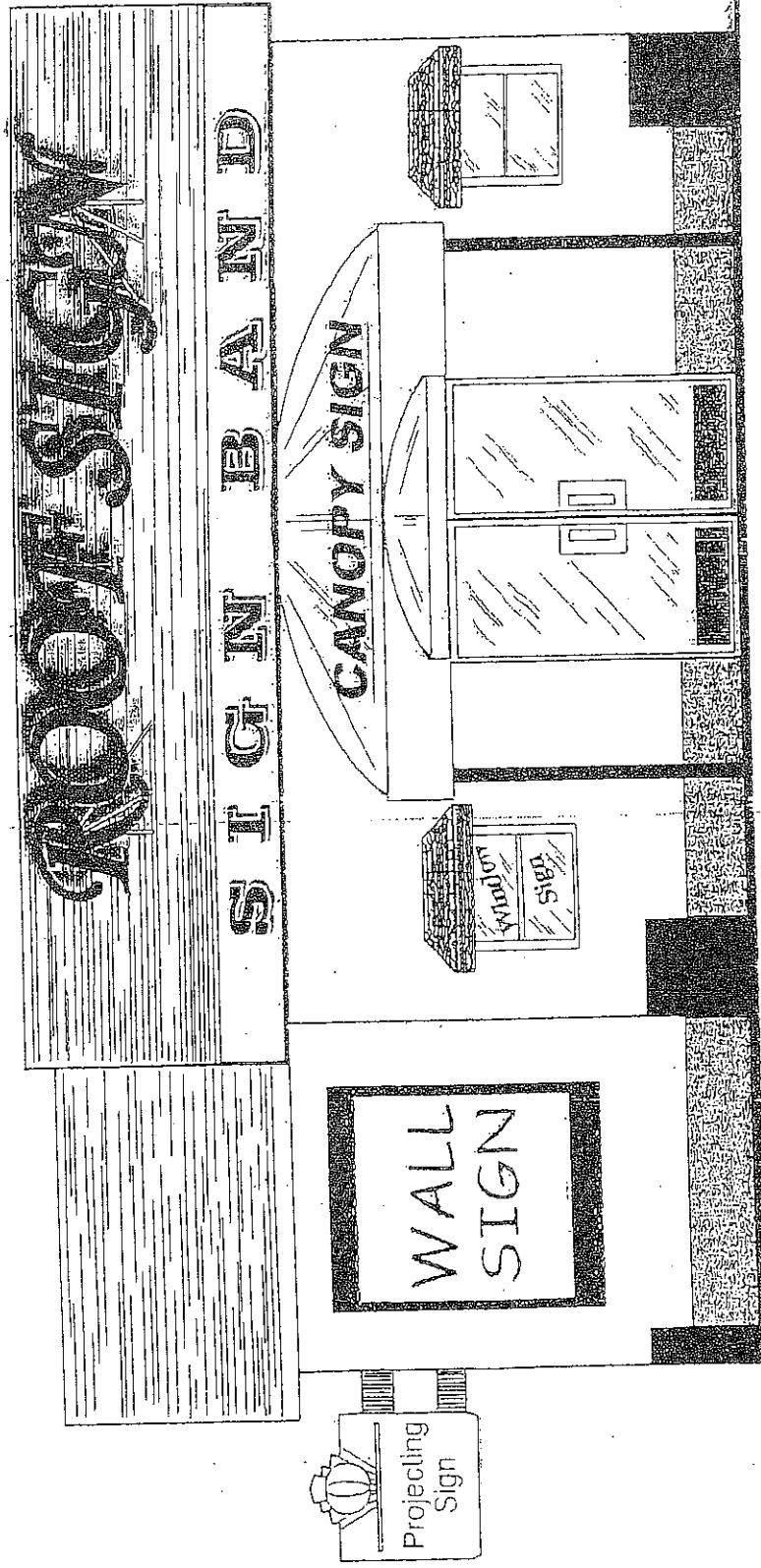
\* Not to scale

# Corner Lot Yard Setbacks and Threshold Angles

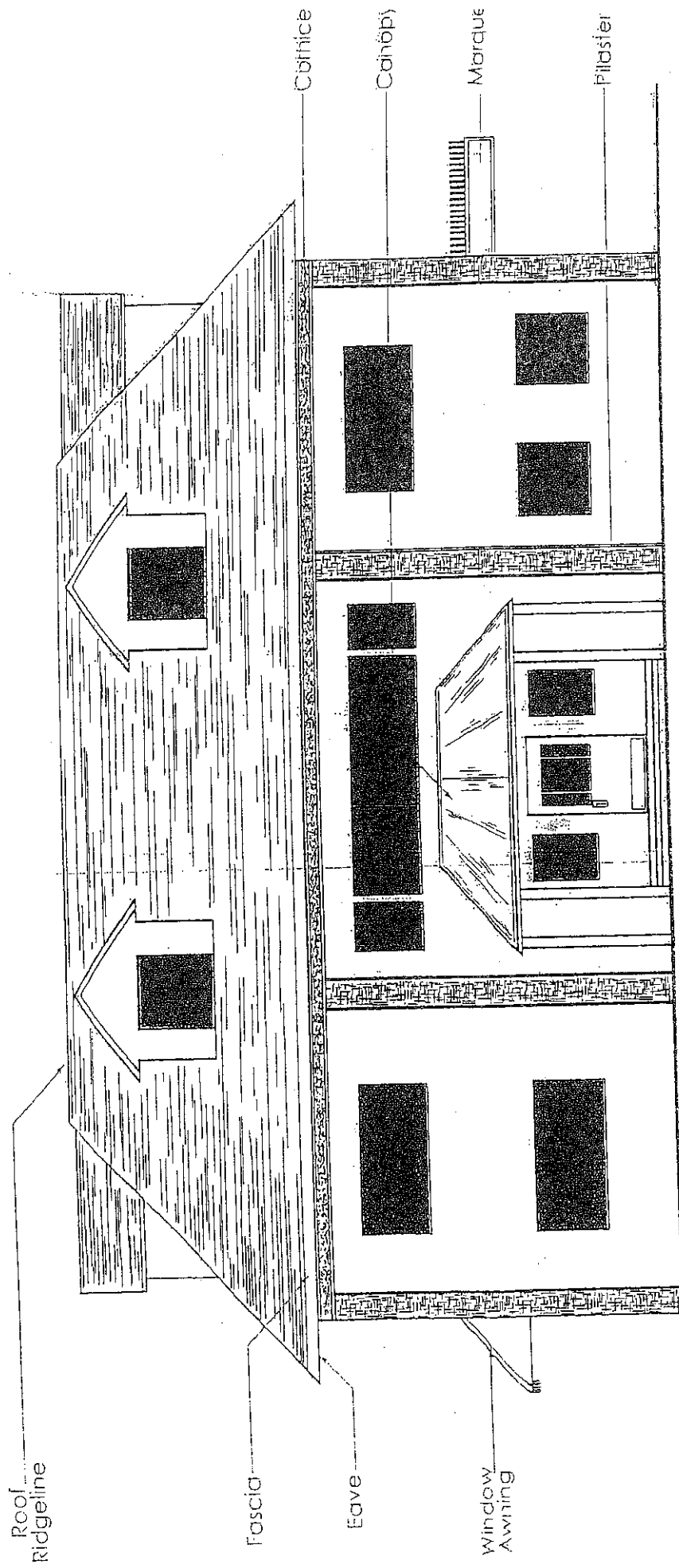


\* Not to scale

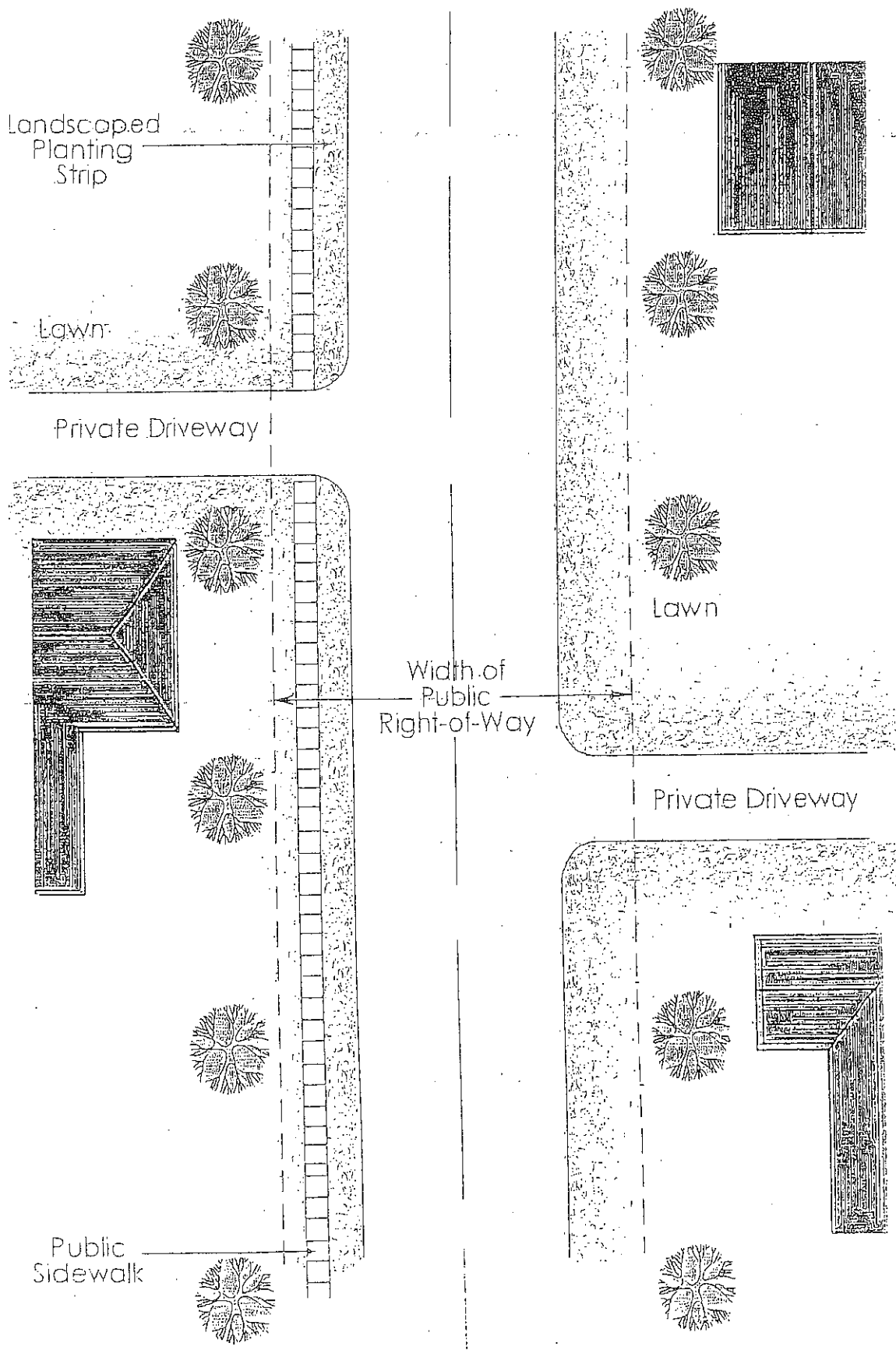
Examples of Sign Types: Attached to Structures



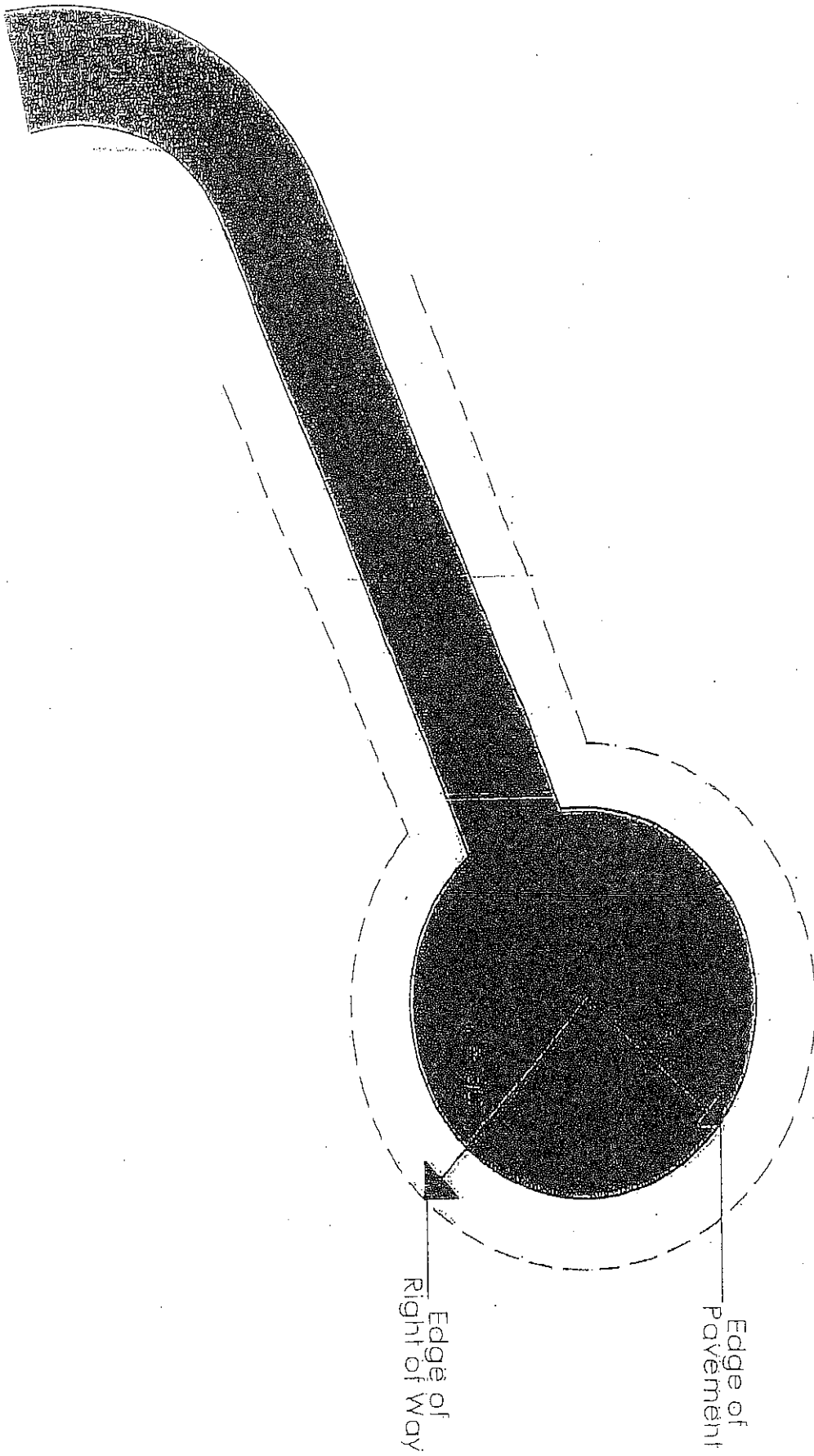
# Architectural Element Types



# Example of Public Right-of-Way with Tree Planting Easements on Private Lots



Model Cul-de-sac Turnaround Dimension



\* Not to scale



# Illustrative Figures

