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ZONING REGULATIONS
OF THE
TOWN OF SHERMAN, CONNECTICUT

Original Regulations Adopted: May 1937
Last Amendment: February 2, 2010

SOIL EROSION AND SEDIMENT CONTROL REGULATIONS FOR LAND DEVELOPMENT

Adopted: July 1985
Last Amendment: May 2, 1991

SUBDIVISION REGULATIONS
OF THE
TOWN OF SHERMAN, CONNECTICUT

(Subdivision Regulations incorporated in Zoning Regulations: September 5, 1947)
Last Amendment: January 1, 2009

ZONING & SUBDIVISION REGULATIONS
OF THE TOWN OF SHERMAN, CONNECTIUCT

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ZONING REGULATIONS OF THE TOWN OF SHERMAN, CONNECTICUT

ARTICLE I - PURPOSES

SECTION 100. STATEMENT OF PURPOSES: COMPREHENSIVE PLAN

SECTION 110. The Planning and Zoning Commission of the Town of Sherman, Connecticut, hereby adopts these Regulations in furtherance of the Town's adopted Plan of Conservation and Development and in accordance with the purposes, authority and requirements of Chapter 124 of the General Statutes of the State of Connecticut, as amended, more particularly described as follows:

111. To guide the future growth and development of the Town in accordance with this comprehensive plan designed to promote the most beneficial and convenient relationship among the residential, commercial and public areas within the Town, considering the appropriateness of the various uses in each area, and the suitability of each area for such uses, as indicated by existing conditions and trends in development.

112. To provide adequate light, air and privacy; secure safety from fire and other dangers; and prevent overcrowding of the land and undue concentration of population.

113. To protect the character and the stability of all parts of the Town, and ensure that all development shall be orderly and beneficial.

114. To protect and conserve the value of land throughout the Town and the value of the buildings appropriate to the various zones established by these Regulations.

115. To regulate the height, number of stories and size of buildings and other structures, the percentage of the area of the lot that may be occupied, the percentage of the area of the lot that may comprise impervious surfaces; the size of the areas adjacent to buildings and other structures and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence and other purposes as provided for under Chapter 124, Section 8-2 of the Connecticut General Statutes.

116. To bring about the gradual conformity of the uses of land and buildings throughout the Town to the adopted plan of development, and to minimize conflicts among the uses of the land and buildings.

117. To promote the most beneficial relation between the uses of land and buildings and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the roads and the provision of safe and convenient traffic access appropriate to the various uses of land and buildings throughout the Town.

118. To aid in providing a guide for public policy and action in the efficient provision of public facilities and services, and for private enterprise in building development, investment, and other economic activity relating to uses of land and buildings throughout the Town.

119. To ensure that development is commensurate with the availability and capacity of public facilities and services, thereby facilitating adequate provision for transportation, water, schools, parks and other public requirements.

120. To prevent the pollution of lakes, ponds, and streams, protect existing and potential surface and ground water drinking supplies, safeguard the water table and encourage the wise use and sound management of natural resources throughout the Town in order to preserve the integrity, stability and beauty of the community and the value of the land.

ARTICLE II - ESTABLISHMENT OF ZONES

SECTION 200. CLASSES OF ZONES AND USES:

Inasmuch as the character and type of development throughout the Town is predominately rural residential, supplemented by a limited amount of business and service establishments for the convenience of local residents, and based upon the rugged nature of the Town's topography and the policies expressed in the adopted Town Plan of Development, the Town of Sherman is hereby divided into the following zones.

Zone A - Farm Residence Zone
Zone B - Residence Zone
Zone C - Business and Residence Zone
Zone D - Historic District

SECTION 210. ZONING MAP:

The map entitled "Zoning Map, Town of Sherman" is incorporated into and becomes a part of these Regulations.

211. Description of Zones:

(All directions given in the following descriptions are based on magnetic north.)

211.1 Zone D - Historic District

a. Historic District shall include those properties established as the Historic District by the Connecticut General Statutes and by a Town Ordinance vote in 1981 to preserve the old houses and public buildings which were a prominent part of the life of Sherman and are more particularly bounded and described in the Sherman Land Records at Volume 41 Page 1191.

b. Zone A Farm/Residential all other properties not previously described.

211.2 Zone C - Business and Residence Zone:
Zone C shall contain all that property as described below: Starting on the west shore of Lake Candlewood at the southeast corner of Camp Allen, running southwest to the southwest corner of Camp Allen thence on a straight line northwesterly through the southernmost intersection of Route 37 and 39 to a point 600 feet beyond said intersection; thence northerly parallel to and 600 feet west of Route 39 to a point 1,200 feet north of the northernmost intersection of Route 37 and 39; thence easterly 1,200 feet along a line at right angles to Route 39; thence southerly parallel to and 600 feet east of Route 39 and Route 37; 690 feet to a point 440 feet north of Route 37; thence easterly 187 feet to a point; thence in a southerly direction along a stonewall 440 feet to the center line of Route 37 to a point 700 feet easterly of the northern most intersection of Route 39 and Route 37; thence westerly along intersection of Routes 39 and Route 37; thence southerly to a point Route 39, 100 feet to a point 600 feet easterly of the northernmost 600 feet south of Route 37; thence westerly parallel to and 600 feet south of Route 37 to a point 300 feet west of Sawmill Road; thence southerly parallel to and 300 feet west of Saw Mill Road to the northern boundary line of the Sherman Town Beach land; thence easterly along said line to the west shoreline of Lake Candlewood; thence southerly along the west shoreline to the starting point.

211.3 Zone B - Residence Zone:
Zone B shall contain all that property as described below:

a. Starting at a point on the Sherman-New Fairfield boundary 660 feet west of the west shoreline of the Squantz Bay area of Lake Candlewood, running northerly parallel to and 660 feet west of said shoreline to a point 660 feet north of the northernmost point of Squantz Bay; thence east to Route

39; thence northerly along Route 39 to the intersection of said Route and Route 37; thence easterly along the Zone C boundary to Lake Candlewood; thence southerly along the west shoreline to the Sherman-New Fairfield boundary; thence westerly along said boundary line to the starting point.

b. Starting at a point on the Sherman-New Fairfield boundary 660 feet east of the eastern shoreline of Lake Candlewood, running northerly parallel to and 660 feet east of said shoreline to a point 660 feet north of the northernmost shoreline of Atchison's Cove; thence westerly to Holiday Point Road; thence northerly along said road to Route 37; thence westerly along Route 37 to Zone C boundary; thence southerly, westerly and southerly again along said Zone C boundary to the northern boundary of the Town Beach land; thence easterly to the shoreline of Lake Candlewood; thence northerly, easterly, and southerly along said shoreline to the Sherman-New Fairfield boundary; thence easterly along said boundary to the starting point.

c. All the islands in Lake Candlewood within the Town of Sherman.

d. All property of record owned by the Timber Trails Corporation, Colvin Farley or Jane Farley on September 5, 1947.

211.4 Zone A - Farm-Residence Zone:
Zone A shall contain all the property within the Town of Sherman not previously described above.

212. In the above descriptions, any reference to Lake Candlewood or to the shoreline of Lake Candlewood means the 440-foot contour line surrounding the Lake. Land below the 440-foot contour line shall not be used as part of a building lot except in accordance with Section 213 noted below. No building shall be constructed in this area.

213. In the event that land below the 440-foot contour line of the Connecticut Light and Power Company Rocky River Datum is under private ownership the area between said 440-foot contour line and the 430-foot contour line, which is approximately the high-water line of Lake Candlewood, may be applied toward the required minimum lot area to a maximum distance below said 440-foot contour line of 60 feet. In all other respects said lot and any improvements thereon shall be subject to the requirements of

Zone B, including, but not limited to, the minimum side line and minimum setback line from said 440-foot contour line.

214. Parcels of Land in More than One Zone

Where a zone boundary line divides a parcel of land under single ownership of record, the regulations specified herein for each zone shall apply only to those portions of the parcel within such zones.

ARTICLE III - GENERAL REGULATIONS

SECTION 300. APPLICATION OF REGULATIONS

310. GENERAL STANDARDS AND REQUIREMENTS

311. Conformity:

Except as hereinafter provided, no land, building or structure or part thereof shall hereafter be used, no building or part thereof or other structure shall be erected, constructed, reconstructed, extended, enlarged, altered or moved, and no building or structure or part thereof shall be moved onto any plot or parcel of land except in conformity with the following Zoning Regulations of the Town of Sherman, CT., Soil Erosion and Sediment Control Regulations for Land Development, Subdivision Regulations of the Town of Sherman, CT., An ordinance establishing procedures, standards, specifications and regulations for the construction of roads in the Town of Sherman Inland Wetlands and Water Courses Regulations of the Town of Sherman, CT, Sanitary Code of Sherman, Regulations Concerning the Removal of Earth Materials from the land in the Town of Sherman, CT and other applicable regulations.

312. Existing Subdivisions:

These Regulations shall apply to subdivision layouts now on file in the Land Records of the Town of Sherman.

313. Conflicting Standards:

Where these Regulations impose requirements for a greater width or size of lots or other open spaces, or a lower height of a building, or a fewer number of stories, or a greater percentage of lot area to be left unoccupied, or impose other and higher standards than are required in any other statute, bylaw, ordinance or regulation, the provisions of these Regulations shall govern. If the provisions of any other statute, bylaw, ordinance or regulation require a greater width or size of lots or other open spaces, or a greater percentage of lot area to be left unoccupied, or impose other and higher standards than are required by these Regulations, the provisions of such statute, bylaw, ordinance or regulation shall govern.

SECTION 320. GENERAL REGULATIONS:

The following regulations shall apply in all zones, except as otherwise specified.

321. Buildings, Uses and Lots

321.1 Lot for Every Building:

Every building hereafter erected shall be located on a lot as defined herein, the septic system serving the building shall be located on the same lot as the principal building, and, except for nonresidential building, there shall be no more than one principal building and its accessory structures located on any one lot.

321.2 Subdivision of a Lot:

Where a lot is formed hereafter from part of a lot already occupied by a building or structure, such separation shall be effected in such a manner as not to impair conformity with any of the requirements of these Regulations.

a. Lot Line Changes:

All lot line changes shall be submitted to the Commission for approval. Lot line changes shall require approval by the Sherman Inland Wetlands and Water Courses Commission and the Town Sanitarian prior to approval by this Commission.

321.3 Lot Width:

No part of any dwelling or other structure housing a principal use shall be erected on any part of a lot which is less in width than the legal minimum width.

321.4 Requirement for Location of Principal Building on a Lot in Farm Residence Zone A and Residence Zone B:

The principal building on a lot in these zones shall not be located within land areas defined under 331.3 and 332.3 subsection i, ii, iii, and iv.

321.5 New Building on Existing Lots:

A permit shall be issued for a permitted use on a lot which does not meet the minimum area or dimension requirements of these Regulations provided such lot existed in separate ownership as of the effective date of these Regulations or any applicable amendment thereof and was so recorded in the Land Records of the Town of Sherman, provided that the lot met the zoning requirements at the time the deed to the lot was recorded, provided that the owner of such lot did not and does not own other land

contiguous thereto, but not including land directly across a road therefrom, at the time of the adoption of these Regulations (if this is the case, such other land or so much thereof as may be necessary shall be combined with the first-named lot in such manner as to produce one or more conforming lots), and further provided that all setback and other requirements are complied with at the time of obtaining the zoning permit.

321.6 Additions or Structural Alterations:
Any additions or structural alterations to an existing building or structure must meet any and all of the existing regulations. Buildings or structures which are classified as legal non-conforming may be altered but not in any way that would make the non-conformity worse or create any new non-conformities.

321.7 Septic Systems for Accessory Buildings:
No structure other than the principal building on a lot shall have a septic system, except that the Commission may grant special permits to allow septic systems for not more than one accessory structure on a lot, provided that the following conditions are met:

a. The structure must be a farm barn that is used for agricultural purposes, or a garage, or an accessory building that has less than 400 square feet of floor space. The structure may not contain kitchen or sleeping facilities. The structure may not contain kitchen facilities except that a farm barn that is used for agricultural purposes may contain kitchen facilities that are necessary for, and limited to, the processing of an agricultural or horticultural commodity from stock produced on the farm for market or for direct sale.

b. The structure must meet all requirements of the Town of Sherman Sanitary Code without affecting those portions of the lot used by the principal building to meet its sanitary code requirements.

c. Special permits for such use shall be granted under the procedure set forth in Section 340. The premises involved may be inspected by the Commission throughout the life of the special permit. The Commission may require the applicant to post a bond with the First Selectman of the Town of Sherman sufficient to ensure removal or disconnection of the system if it is determined by the Commission that the requirements of this section have been violated.

321.8 Accessory Apartments

A residential building may contain one accessory apartment, subject to the following:

a. The residence shall be occupied by its owner.

b. The Town Sanitarian shall certify that the septic system service for the existing structure and proposed apartment conform to then current requirements of the Health Code.

c. The apartment shall have its own entrance from the exterior of the building, and shall contain its own bathroom and kitchen facilities. The apartment shall not exceed 750 square feet of floor area.

d. Accessory apartments shall be subject to the special permit approval set forth in Section 340 of these Regulations.

322. Building Projections

322.1 Obstructions in Lot Area:

No structure or projections from structures shall be permitted in any required lot area, except as follows:

a. Architectural features, such as window sills, belt courses, chimneys, cornices, eaves or bay windows, may project up to three (3) feet into any required lot area.

b. Walls or fences not exceeding six (6) feet in height measured above the adjoining finished grades shall be permitted in any side or rear lot. Walls or fences greater than six (6) feet in height shall be permitted only if that portion of such wall or fence which exceeds six (6) feet is not less than three-fourths (3/4) open construction.

322.2 Terraces:

No terraces shall be permitted to project into any portion of the minimum required front lot, or into any other lot area to a point closer than the required setback regulation of its zone.

322.3 Porches:

No porch shall be permitted to project into any portion of the minimum required front lot, or into any other lot area to a point closer than the required setback regulation of its zone.

322.4 Projecting Features above the Roof Level:

The height limitations of these Regulations shall not apply to flagpoles, church spires, belfries, cupolas, chimneys, or similar features, provided that such are not used for human occupancy, that they do not extend more than 15 feet above roof level, and that the total area covered by such features does not exceed 10% of the area of the roof upon which they are located. The height limitations of these Regulations shall also not apply to emergency communications towers or antennas related to municipal emergency communications and Town security, provided that such towers or antennas are no taller than is necessary to provide for public safety.

322.5 Corner Lots:

On a corner lot there shall be provided a side lot on the side road equal in depth to the required front lot on said lot.

322.6 Visibility at Intersections:

On a corner lot no fence, wall, hedge, tree or other structure or planting shall be erected, placed or maintained in such a way as to obstruct traffic visibility across the triangular area formed by the two intersecting road right-of-way lines and a straight line connecting points along said right-of-way lines, which points are located 50 feet distant from the theoretical point of intersection of such lines measured along the lines. This provision shall not apply to existing trees, provided that no branches are closer than six (6) feet to the ground.

322.7 Deleted

322.8 Exterior Lighting:

All exterior lighting, including spot or flood lighting, and the lighting of signs, shall be of such type and location and shall have such shading as will prevent the source of the light from directly illuminating or being visible from any adjacent property or road. Lighting shall be extinguished at the time of closing of a business use, but in no case later than 10 p.m., except such illumination as may be permitted by the Commission for property protection and public security, subject to the special permit approval set forth n Section 340 of these Regulations. Lighting shall be extinguished at the time of closing of a municipal use, except such illumination as may be permitted by the Commission for property protection and security.

322.9 Generators, Air Conditioners, Pool Filters, and Other Noise Generating Equipment

All generators, air conditioners, and other noise generating equipment installed in a fixed location shall be located within 10 feet of the structure principally served, or in the case of pool filters, within 25 feet of the pool served. The forgoing shall also conform to the setbacks for the zone in which it is located. If the generator, air conditioner or other noise generating equipment can be installed more than 100 feet from the nearest property line, the equipment may be installed up to 50' from the structure principally served.

323. Nuisances:

No person shall use, or permit the use of, real property for the purpose of accumulating junk, including motor vehicles and motor vehicle parts, debris, waste and second-hand material, in such quantity and in such a manner as to cause unsightly, offensive and repugnant appearance and/or odors which would tend to depreciate the value of neighboring property or to be inimical to the public health, safety, or general welfare.

324. Moratorium

From the effective date of this section no application for telecommunication facilities will be accepted and acted upon until regulations pertaining to such usage are adopted by the Planning and Zoning Commission and become effective or until May 27, 1999, which ever comes first. The moratorium is intended to provide the Planning and Zoning Commission with sufficient time to amend the Zoning Regulations with regard to such issues as lot size, sighting, height, type of construction, screening, and buffer areas, as well as the approval process for such facilities.

SECTION 330. ZONE REGULATIONS:

No building, structure or premises may be built, erected, altered, used, arranged or designed to be used for any purposes other than those specified in this Section. Only those uses specifically listed as being permitted shall be permitted. All new construction shall require a zoning permit in accordance with Section 410, and new or changed uses shall require a certificate of zoning compliance in accordance with Section 420.

331. Zone A - Farm-Residence Zone

331.1 Permitted Principal Uses:

Permitted principal uses in Zone A shall be those listed below. All uses marked with an asterisk (*) are subject to the special permit approval procedure set forth in Section 340 of these Regulations, and any additional or special requirements made in connection

with such approval. All uses shall conform to the requirements of Section 360 and 370 of these Regulations.

a. Single-family dwelling, not to exceed one per lot .

***b.** Church or other place of worship, including parish house, Sunday school, convent or rectory, subject to Section 351.

***c.** Municipal use, municipal services facility, municipal recreational facility, emergency services facility, police station, public school, and structures and off-street parking areas appurtenant thereto; and a Town garage, and structures and off-street parking areas appurtenant thereto, including parking and/or storage at the Town garage of maintenance equipment and supplies owned by the Town.

***d.** Public library, museum or art gallery not operated for profit, subject to Section 351.

***e.** Private school, accredited, having a comprehensive curriculum of studies comparable to that of a public school subject to Section 351.

***f.** Nursery school or day camp, subject to Section 351.

***g.** Private recreation club, subject to Section 351.

***h.** Riding stables or academies, subject to Section 355.

i. Farming, subject to Section 352.

j. Public Utilities substation subject to Section 356.

***k.** Energy efficient designed dwellings which, due to their unique nature, may not be able to meet the zoning regulations as to height, size, setback, or ground floor area, and still maintain their energy efficiency, will be considered for a special permit.

***l**. Golf Course Facility, consisting of 160 or more contiguous acres under permanent conservation easement, and accessory facilities directly related to the principal use, either public or private subject to Sections 351, 359, and 371.12.

***m** Golf Course Residential Community of at least 250 acres of contiguous land, including a golf course facility consisting of 140 or more acres, and accessory facilities directly related to the principal use subject to Sections 351, 359, 359A, and 371.12.

331.2 Permitted Accessory Uses:

Permitted accessory uses in Zone A. shall be those listed below. All uses marked with an asterisk (*) are subject to the special permit approval set forth in Section 340 of these Regulations and shall conform to any additional or special requirements made in connection with such approval.

***a.** Office or home occupation, subject to Section 353.

***b.** Bed and Breakfast establishments, subject to Section 354A.

c. The keeping of roomers or boarders, subject to Section 354.

d. Deleted

e. Signs, as permitted by Section 360 of these Regulations.

f. Garage, garden house, tool house, swimming pool, playhouse, tennis, paddle tennis and other such playing courts (subject to Section 321.7 of these Regulations), or other accessory use customarily incidental to the residential use of the premises and not operated for profit.

g. Off-street parking facilities for the use of the occupants of the premises and their guests, as required by Section 370, but only one truck, except 10,000 lbs., GVW or under, or other commercial vehicle may be parked on the lot provided such vehicle is garaged or otherwise screened or hidden from view of adjoining properties, except for farm vehicles.

h. Parking or storage of recreation vehicles, provided they are not parked or stored in the front lot and are within minimum side and/or rear lot setback requirements.

***i.** Deleted

***j.** Energy efficient designed structures, which due to their unique nature, may not be able to meet the zoning regulations as to height, size, setback, or ground floor area,

and still maintain their energy efficiency, will be considered for a special permit.

k. "Home Occupation" is a permitted accessory use on a residential property in all zones, subject to Section 353.

***l.** Resident contractor, subject to Sections 340 and 353B.

331.3 Minimum Lot Area:

The minimum lot area shall be 160,000 square feet. Of this area, at least 80,000 square feet shall exclude:

i. Land reserved for or used as an existing road, right-of-way, accessway, and conservation and utility easements.

ii. Inland Wetlands and Watercourses as defined and delineated in accord with the Sherman Inland Wetland and Watercourses Regulations and Map.

iii. Naturally occurring slope of 25% or more as measured using 2-foot contour intervals.

iv. 100 year Flood Hazard areas as shown on maps prepared by FEMA which are on file in the office of the Town Clerk.

Each lot submitted for review under the Sherman Subdivision Regulations and any application for a zoning permit for a lot created after the effective date of this amendment (February 6, 2004), shall bear the certification of a Connecticut Registered Professional Engineer and a Connecticut Licensed Land Surveyor. When necessary a certified soil scientist shall certify that such lot complies with ii. above. Based upon the circumstances of the land, the Commission may at its discretion require that the portions of a lot with slopes of 25% and over shall be determined by field calculations and that such areas be calculated and shown on a subdivision plan map or site plan.

331.4 Minimum Lot Dimensions:

The shape of each lot shall be such that a rectangle 250 feet by 275 feet can be contained within its horizontal boundaries. No part of any dwelling or principal building shall be erected at a point where the width is less than 200 feet. Each lot shall have frontage on a road or highway, as defined herein, of at least 200 feet, except as follows:

a. Where a lot fronts on a permanent turnaround, a minimum frontage of 50 feet shall be permitted.

b. Interior Lot. An interior lot is any lot that does not meet the above requirement for frontage on a road or highway. One interior lot with a minimum frontage of 35 feet, or two adjacent interior lots each with a minimum frontage of 25 feet, shall be permitted between any two other lots each with a minimum 200 feet of road frontage.

331.5 Minimum Setback Requirements:

All buildings and structures shall be required to be set back a minimum distance of 40 feet from any side or rear lot line and 50 feet from the front lot line or any lot line on a road or 75 feet from the center of the road. With regard to lots which are existing on, or have been approved by the Planning and Zoning Commission prior to February 21, 2006, any new buildings or structures or structural alterations of existing buildings or structures shall be required to be set back a minimum distance of 25 feet from any side or rear lot line and 50 feet from the front lot line or any lot line on a road or 75 feet from the center of the road. Where a conservation or agricultural easement exists on a lot, the setbacks from the line of such easement shall be a minimum of 25 feet.

a. Buildings and structures shall not be placed in the streambelt zones of the main channels (but not the tributaries) of the Housatonic River and the Tenmile River, as those zones are defined in Appendices I and II of "A Guide for Streambelts," U.S. Department of Agriculture Soil Conservation Service (1972).

331.6 Maximum Building Coverage:

The land area covered by all principal and accessory buildings shall not be permitted to exceed 15% of the total lot area.

331.7 Maximum Building Height:

No building or structure shall be permitted to exceed a maximum height of 35 feet, as measured from average original grade to a point halfway between the upper and lower edges of the structure's principal roof. The 35-foot maximum height shall apply as well to the distance from average finished grade to that point on the structure's principal roof. No building or structure shall be permitted to exceed 2 ½ stories.

332. Zone B - Residence Zone

332.1 Permitted Principal Uses:

Permitted principal uses in Zone B shall be those listed below. All uses marked with an asterisk (*) are subject to the special permit approval procedure set forth in Section 340 of these Regulations, and any additional or special requirements made in connection with such approval. All uses shall conform to the requirements of Sections 360 and 370 of these Regulations.

a. Single-family dwelling, not to exceed one per lot, except for building on any of the islands on Lake Candlewood within the Town of Sherman, which shall require a special permit subject to Section 340.

***b.** Private recreation club, subject to Section 351.

***c.** Municipal use, municipal services facility, municipal recreational facility, emergency services facility, police station, public school, and structures and off-street parking areas appurtenant thereto; and a Town garage, and structures and off-street parking areas appurtenant thereto, including parking and/or storage at the Town garage of maintenance equipment and supplies owned by the Town.

d. Public utility substation, subject to Section 355.

***e.** Energy efficient designed dwellings, which due to their unique nature, may not be able to meet the zoning regulations as to height, size, setback, or ground floor area, and still maintain their energy efficiency, will be considered for a special permit.

***f.** Farming, subject to Section 352.

332.2 Permitted Accessory Uses:

Permitted accessory uses in Zone B shall be those listed below. All uses marked with an asterisk (*) are subject to the special permit approval procedure set forth in Section 340 of these Regulations and shall conform to any additional or special requirements made in connection with such approval.

***a.** Office or home occupation, subject to Section 353.

***b.** Bed and Breakfast establishment, subject to Section 354A.

c. The keeping of roomers or boarders, subject to Section 354.

d. Deleted

e. Signs, as permitted by Section 360 of these Regulations.

f. Garage, garden house, tool house, swimming pool, playhouse, tennis, paddle tennis and other such playing court, or other accessory use customarily incidental to the residential use of the premises and not operated for profit.

g. Off-street parking facilities for the use of the occupants of the premises and their guests, as required by Section 370, but only one truck, except 10,000 lbs., GVW or under, or other commercial vehicle may be parked on the lot provided such vehicle is garaged or otherwise screened or hidden from view of adjoining properties.

h. Parking or storage of recreation vehicles, provided they are not parked or stored in the front lot and are within minimum side and/or rear lot setback requirements.

***i.** Energy efficient designed structures, which due to their unique nature, may not be able to meet the zoning regulations as to height, size, setback, or ground floor area, and still maintain their energy efficiency, will be considered for a special permit.

j. "Home Occupation" is a permitted accessory use on a residential property in all zones, subject to Section 353.

***k.** Resident contractor, subject to Sections 340 and 353B.

332.3 Minimum Lot Area:

The minimum lot area shall be 80,000 square feet. For the purpose of calculating this minimum lot area requirement, the following shall be excluded:

i. Land reserved for or used as an existing road, right-of-way, accessway, and conservation and utility easements.

ii. Inland Wetlands and Watercourses as defined and delineated in accord with the Sherman Inland Wetland and Watercourses Regulations and Map.

iii. Naturally occurring slope of 25% or more a measured using 2-foot contour intervals.

iv. 100 year Flood Hazard areas as shown on maps prepared by FEMA which are on file in the office of the Town Clerk.

Each lot submitted for review under the Sherman Subdivision Regulations and any application for a zoning permit for a lot created after the effective date of this amendment (February 6, 2004), shall bear the certification of a Connecticut Registered Professional Engineer and a Connecticut Licensed Land Surveyor. When necessary a certified soil scientist shall certify that such lot complies with ii. above. Based upon the circumstances of the land, the Commission may at its discretion require that the portions of a lot with slopes of 25% and over shall be determined by field calculations and that such areas be calculated and shown on a subdivision plan map or site plan.

332.4 Minimum Lot Dimensions:

The shape of each lot shall be such that a rectangle 170 feet by 200 feet can be contained within its horizontal boundaries. No part of any dwelling or principal building shall be erected at a point where the width is less than 200 feet. Each lot shall have frontage on a road or highway, as defined herein, of at least 200 feet, except as follows:

a. Where a lot fronts on a permanent turnaround, a minimum frontage of 50 feet shall be permitted.

b. Interior Lot. An interior lot is any lot that does not meet the above requirement for frontage on a road or highway. One interior lot with a minimum frontage of 35 feet, or two adjacent interior lots each with a minimum frontage of 25 feet, shall be permitted between any two other lots each with a minimum 200 feet of road frontage.

332.5 Minimum Setback Requirements:

All buildings and structures shall be required to be set a minimum distance of 25 feet from any side or rear lot line and 50 feet from the front lot line or any lot line on a road or 75 feet from the center of the road. Where a conservation or agricultural easement exists on a lot, the setbacks from the line of such easement shall be a minimum of 25 feet.

332.6 Maximum Building Coverage:
The land area covered by all principal and accessory buildings shall not be permitted to exceed 15% of the total lot area.

332.7 Maximum Building Height:
No building or structure shall be permitted to exceed a maximum height of 35 feet, as measured from average original grade to a point halfway between the upper and lower edges of the structure's principal roof. The 35-foot maximum height shall apply as well to the distance from average finished grade to that point on the structure's principal roof. No building or structure shall be permitted to exceed 2 ½ stories.

333. Zone C - Business and Residence Zone

333.1 Permitted Principal Uses:
Permitted principal uses in Zone C shall be those listed below. All uses marked with an asterisk (*) are subject to the special permit approval procedure set forth in Section 340 of these Regulations, and the site plan approval set forth in Section 333.8 of these Regulations, and any additional or special requirements made in connection with such approval. All uses shall conform to the requirements of Section 360 and 370 of these Regulations.

a. Single-family dwelling, not to exceed one per lot.

***b.** Church or other place of worship, including parish house, Sunday school, convent or rectory, subject to Section 351.

***c.** Municipal use, municipal services facility, municipal recreational facility, emergency services facility, police station, public school, and structures and off-street parking areas appurtenant thereto; and a Town garage, and structures and off-street parking areas appurtenant thereto, including parking and/or storage at the Town garage of maintenance equipment and supplies owned by the Town.

***d.** Public library, museum or art gallery not operated for profit, subject to Section 351.

***e.** Private school, accredited, having a comprehensive curriculum of studies comparable to that of a public school subject to Section 351.

***f.** Nursery school or day camp Section 351.

<u>*g.</u> Private recreation club, subject to Section 351.

<u>*h.</u> Farming subject to Section 352, and nursery or greenhouse business subject to Section 355.

<u>*i.</u> Stores and shops for the conduct of retail sales and personal service uses of a local convenience character.

<u>*j.</u> Banks, business, professional and civic offices.

<u>*k.</u> Restaurants and other food service establishments where customers are served while seated within an enclosed building. Such establishments may also serve customers who are seated at tables on an attached deck, porch, or patio provided that this area is clearly delineated by railings, or other barriers meeting with the approval of the Commission that will create a boundary from other public areas. These outdoor locations will be considered "seasonal" and will only be used between the months of April though the 2nd week in October. The number of seats at these outdoor locations when in combination with the seating in the main enclosed dining area shall not exceed the originally permitted number. The outdoor location must meet all applicable, municipal and state public health codes, and if alcoholic beverages are to be served, the establishment must file for and receive either a "Patio Permit", or <u>extension of permit premises</u> issued by Liquor Control Division. <u>Such restaurants may also as incidental to the main permitted use include a food "take-out" service.</u>

<u>*l.</u> Automotive service stations, as defined in Section 622, provided that any such station is located in a place approved by the Commission as not interfering with the normal operation of the movement of pedestrian and vehicular traffic thereto and therefrom.

<u>*m.</u> Energy efficient designed dwellings which, due to their unique nature, may not be able to meet the zoning regulations as to height, size, setback, or ground floor area, and still maintain their energy efficiency, will be considered for a special permit.

<u>333.2</u> <u>Permitted Accessory Uses:</u>

Permitted accessory uses in Zone C shall be those listed below. All uses marked with an asterisk (*) are subject to the special permit approval set forth in section 340 of these Regulations and the site

plan approval set forth in Section 333.8 of these Regulations, and shall conform to any additional or special requirements made in connection with such approval.

***a.** Office or home occupation, subject to Section 353.

***b.** Bed and Breakfast establishments, subject to Section 354A.

c. The keeping of roomers or boarders, subject to Section 354.

d. The incidental display and sale of farm and garden produce and nursery and greenhouse stock, raised on the premises by the owner of such premises, provided that the areas, facilities and intensity of use devoted to the sale of produce remain clearly incidental to the permitted principal use of the property. In no case shall the area devoted to the display and sale of such products exceed 400 square feet of ground and/or floor space. Such use shall also comply with the standards specified in Section 352 of these Regulations.

e. Signs, as permitted by Section 360 of these Regulations.

f. Garage, garden house, tool house, swimming pool, playhouse, tennis, paddle tennis and other such playing court, or other accessory use customarily incidental to the residential use of the premises and not operated for profit.

g. Off-street parking facilities for the use of the occupants of the premises and their guests, as required by Section 370, but only one truck, except 10,000 lbs., GVW or under, or other commercial vehicle may be parked on the lot provided such vehicle is garaged or otherwise screened or hidden from view of adjoining properties, except for farm vehicles.

h. Parking or storage of recreation vehicles, provided they are not parked or stored in the front lot and are within minimum side and/or rear lot setback requirements.

***i.** Parking and loading space for motor vehicles in accordance with the requirements of Section 370.

i. Energy efficient designed structures, which due to their unique nature, may not be able to meet the zoning regulations as to height, size, setback, or ground floor area,

and still maintain their energy efficiency, will be considered for a special permit.

j. "Home Occupation" is a permitted accessory use on a residential property in all zones, subject to Section 353.

***k.** Resident contractor, subject to Sections 340 and 353B.

333.3 Minimum Lot Area for Residential, Commercial or Municipal Use:

The minimum lot area shall be 40,000 square feet. For the purpose of calculating this minimum lot area requirement, the following shall be excluded: The part of any lot reserved for or used as an existing road, right-of-way, or accessway and wetlands and watercourses, as defined and as delineated in accord with the Sherman Inland Wetland and Watercourses Regulations and Map.

333.4 Minimum Lot Dimensions for Residential, Commercial or Municipal Use:

The shape of each lot shall be such that a rectangle 115 feet by 150 feet can be contained with in its horizontal boundaries. No part of any dwelling or principal building shall be erected at a point where the width is less than 150 feet. Each lot shall have frontage on a road or highway, as defined herein, of at least 150 feet, except as follows:

a. Where a lot fronts on a permanent turnaround, a minimum frontage of 50 feet shall be permitted.

b. One lot with a minimum frontage of 20 feet, or two adjacent lots each with a minimum frontage of 20 feet, shall be permitted between any two other lots each with a minimum 150 feet of road frontage.

333.5 Minimum Setback Requirements for Residential, Commercial or Municipal Use:

All buildings and structures shall be required to be set back a minimum distance of 15 feet from any side or rear lot line and 50 feet from the front lot line or any lot line on a road or 75 feet from the center of the road. Where a conservation or agricultural easement exists on a lot, the setbacks from the line of such easement shall be a minimum of 15 feet.

333.6 Maximum Building Coverage for Residential, Commercial or Municipal Use:

The land area covered by all principal and accessory buildings shall not be permitted to exceed 10% of the total lot area.

333.7 Maximum Building Height:

No building or structure shall be permitted to exceed a maximum height of 35 feet, as measured from average original grade to a point halfway between the upper and lower edges of the structure's principal roof. The 35-foot maximum height shall apply as well to the distance from average finished grade to that point on the structure's principal roof. No building or structure shall be permitted to exceed 2 ½ stories.

333.8 Approval of Site Plans:

a. Before the issuance of a zoning permit, a detailed site plan shall be submitted to the commission. Approval of said site plan shall be subject to a public hearing for all uses marked with an asterisk (*) under Section 333.1. No development shall be carried out, or certificate of zoning compliance issued, except in conformance with such approved plan or a similarly approved revision of such plan.

b. The site plan shall be drawn to a scale of not less than one inch equaling fifty feet. The following information, both existing and proposed, as applicable to the particular application, may be required.

i. Title of development, date, revision dates, if any, north point, scales, name and address of owner and of engineer, architect, landscape architect or surveyor preparing the plan.

ii. Property lines and lines delimiting the land to be used under the application.

iii. Contours at no more than two-foot vertical intervals.

iv. Location and dimensions of buildings, structures, walls, fence, and trees eight inches or more in diameter.

v. Location, dimensions and surface treatment of off-street parking and loading spaces, traffic access and circulation system, and pedestrian walks.

vi. Location and size of watercourses and swamps, if any.

vii. Location, size and design of storm drainage, sewage disposal and water supply facilities.

viii. Erosion control plan.

ix. Location, size and type of landscaping and buffer planting, and designation of natural terrain not to be disturbed.

x. Location, size, type, color and illumination of all signs

xi. Location, direction, power and timing of exterior lighting.

xii. Elevations showing external appearance of all buildings and structures.

xiii. Any other information determined necessary by the Commission to provide for the proper enforcement of these Regulations.

c. In acting upon such site plan, the Commission shall determine that the requirements of these Regulations are met, and that the plan is such that a harmonious relationship will exist between the business development and any adjacent residential and/or civic development. The Commission shall attach such conditions to its approval as may be necessary to assure initial and continued compliance with these and other above-specified requirements.

334. Zone D – Historic District Zone

334.1 Permitted Principal and Special Permit Uses:

Permitted principal and special permit uses in Zone D shall be listed below. All uses marked with an asterisk are subject to the special permit approval procedures as set forth in Section 340 of these Regulations and the site plan approval procedures as set forth in Section 333.8 of these Regulations and any additional or special requirements made in connection with such approvals.

a. Single family dwelling, not to exceed one per lot.

***b.** Church or other place of worship.

***c.** Municipal use, municipal services facility, municipal recreational facility, and structures and off-street parking areas appurtenant thereto.

***d.** Library, museum, art gallery not operated for profit, subject to Section 351.

***e.** Private school subject to Section 351.

***f.** Nursery school or day camp subject to Section 351.

***g.** Private recreation club subject to Section 351.

***h.** Farming subject to Section 352, and nursery or greenhouse business subject to Section 355.

***i.** Store and shops.

***j.** Bank and businesses, professional and civic offices.

***k.** Restaurants and other food service establishments.

334.2 Permitted Accessory Uses:
Permitted accessory uses shall be the same permitted accessory uses as in Zone C Section 333.2 of these Regulations in conjunction with the Historic District Regulations as established by vote of the Town Ordinance in 1981.

a. "Home Occupation" is a permitted accessory use on a residential property in all zones, subject to Section 353.

***b.** Resident contractor, subject to Sections 340 and 353B.

334.3 Reserved for future use.

334.4 Reserved for future use.

334.5 Minimum Setback Requirements:
All buildings and structures shall be required to be set back a minimum distance of 15 feet from any side or rear lot line and 50 feet from the front lot line or any lot line on a road or 75 feet from the center of the road. Where a conservation or agricultural easement exists on a lot, the setbacks from the line of such easement shall be a minimum of 15 feet.

334.6 Reserved for future use.

334.7 Reserved for future use.

334.8 Approval of Site Plans
In addition to compliance with Section 333.8 of these Regulations, no site plan shall be approved without a Historic District Certificate of Appropriateness.

334.9 Non-Conformity, Other than Use
Where a permit is sought for the expansion of Principal Structure that does not meet side-line setback requirements a Special Permit Application shall be required.

SECTION 340. SPECIAL PERMIT APPROVAL

341. General Provisions:
Those uses identified in these Regulations as requiring special permits shall be deemed to be permitted uses, subject to the satisfaction of the requirements and standards set forth in this section, in addition to all other requirements of these Regulations. All such uses are declared to possess characteristics of such unique and distinct form that each specific permitted use shall be considered as an individual case.

342. Application for Special Permit:
Application for a required special permit shall be made to the Planning and Zoning Commission. Said application shall be accompanied by four (4) black and white prints of the proposed plan as required by Section 343, and stamped envelopes addressed to each of the owners of property within 500 feet of any portion of the lot on which the proposed special permit is located, such owners to be as shown in the latest real estate list of the Town of Sherman (or the actual owners of record if otherwise known to the applicant). The Planning and Zoning Commission shall hold a public hearing thereon with the same notice as required for zoning amendments, and within 65 days of the public hearing shall either approve, modify and approve, or disapprove such application. The Planning and Zoning Commission may approve the application and issue a special permit provided it finds that all of the following conditions and standards have been met.

342.1 The proposed use will serve a community need or convenience.

342.2 The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect

to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the zone in which it is located.

342.3 The location, external appearance and height of buildings, structures, walls and fences and the nature and extent of landscaping, screen plantings and exterior illumination on the site are such that the use will not hinder or discourage the appropriate use and development of adjacent land and buildings or impair the value thereof.

342.4 The operations in connection with such special permit use will not be objectionable to nearby properties by reason of, but not limited to, noise, lights, fumes, odors, vibration, interference with radio or TV reception.

342.5 Parking areas will be located entirely on the lot and will be of adequate size for the particular use and shall be properly located and suitably screened with evergreen planting, walls, or fences, or combination thereof, as determined necessary by the Planning and Zoning Commission, and the entrance and exit drives shall be designed so as to minimize traffic hazards.

342.6 In those cases where it is proposed to convert a building or structure originally built and designed for other purposes, the Planning and Zoning Commission shall determine whether or not such building is adaptable to the proposed uses from the point of view of public health and safety and whether or not it meets the other requirements of these Regulations. A letter from the Fire Marshal of the Town of Sherman stating that the proposed use or uses are in compliance with fire safety requirements may also be requested.

343. Required Plan:

A plan for the proposed development of a lot for a special permit use shall be submitted with the special permit application. The plan shall show, as deemed necessary by the Planning and Zoning Commission to determine and provide for the proper enforcement of these Regulations, any or all of the following: the location and external appearance of all buildings, uses, parking areas, traffic access and circulation drives, open spaces, landscaping, topography (including regraded contours with an erosion control plan, Section 359.1), signs, exterior lighting, special features, and any other pertinent information, including information about the neighboring properties.

344. Conditions:

The Planning and Zoning Commission shall attach such conditions to any approved use as are, in its opinion, necessary to assure initial and continued conformance to all applicable standards and requirements set forth in Section 340, in addition to all other requirements of these Regulations.

345. Action Following Approval:

Within fifteen (15) days after the approval of a special permit use, the Planning and Zoning Commission shall file with the Buildings Inspector and Zoning Enforcement Officer each one print of the approval plans, with the approval noted thereon, and a copy of the Commission's resolution, including a list of any conditions pertaining to the approval. One print of said plans and the resolution shall be made available to the applicant.

346. Revocation of Special Permit

A special permit shall be deemed to authorize only the particular use or uses specified in the permit. Any permit issued, granted or approved shall be null and void and of no effect without the necessity of any proceedings or revocation or nullification thereof if all required improvements are not maintained and all conditions and standards complied with throughout the duration of the use, or if said use or uses change in nature, degree, or intensity.

SECTION 350. ADDITIONAL STANDARDS AND REQUIREMENTS

351. Church or Other Place of Worship, Public Library, Museum, Art Gallery, Private School, Private Recreation Club, Nursery School, or Day Camp, Golf Course Facility, Golf Course Residential Community.

351.1 Location:

All such uses shall be permitted only in locations fronting on, or having direct or convenient access to, a major or collector road as determined by the Planning and Zoning Commission and shown on the "Zoning Map, Town of Sherman.

351.2 Coverage:

Building coverage shall not be permitted to exceed 10 percent (10%) of the site area. The sum total of the land covered with buildings and parking, including driveways, shall be submitted to the Commission for approval.

351.3 Setbacks and Parking:

All new principal structures and accessory structures shall be required to be set back from any adjoining street line a distance equal to at least one-and-one-half times the required front lot setback distance for residence buildings. Minimum setbacks from other property lines shall be twice the distance required for residence buildings. Off-street parking facilities shall not be permitted in the front lot except for necessary access drives, nor shall such facilities be located within thirty (30) feet of any other property line. The Planning and Zoning Commission may, however, permit not more than ten percent (10%) of the required off-street parking spaces to relocated in the front lot, provided such parking is designated for and limited to visitor use, and further provided that it is attractively landscaped and maintained.

351.4 Buffer Area:

A buffer area shall be required along all lot lines adjoining residential or undeveloped properties. Such a buffer area shall be at least twenty-five (25) feet in width and contain evergreen planting of such type, height, spacing and arrangement as will screen the activity on the lot from neighboring residential areas. Such required landscaping shall be properly trimmed and maintained in good condition at all times throughout the duration of the use in connection with which it was required. A wall or fence, of location, height, design and materials approved by the Planning and Zoning Commission as providing equivalent screening, may be substituted for part or all of the required planting.

351.5 Maximum Intensity of Use:

Maximum intensity of use and/or membership limit shall be as specified by special permit. Sale of products or materials shall be restricted to only those products or materials which are customarily incidental to the principal use as determined by special permit. Dwelling use on the same lot is permitted but an additional 80,000 square feet shall be required for the dwelling and all requirements for the dwelling and lot must meet these Regulations.

351.6 Now 321.6

352. Farming

It is the intention of the people of Sherman to encourage farming in the town, in accordance with the guidance of the Plan of Conservation and Development, in order to preserve open space, preserve the rural character of the town, maintain the historical integrity of the town, and manage the density of population consistent with the natural resources and the infrastructure in the town. The town recognizes, as well, that farming must be done responsibly, with consideration for the rights of one's neighbors.

352.1 The definition of "farming" for the town shall be based on the definition set forth in the Connecticut General Statutes Chapter 1 Section 1-1(q). See Section 610 of these regulations.

352.2 Other regulations pertaining to nuisances to the contrary notwithstanding, no farming operation, place, establishment or facility, or any of its appurtenances, or the operation thereof, shall be deemed to constitute a nuisance, either public or private, due to alleged objectionable (1) odor from livestock, manure, fertilizer or feed, (2) noise from livestock or farm equipment used in normal, generally acceptable farming procedures, (3) dust created during plowing or cultivation operations, (4) use of chemicals, provided such chemicals and the method of their application conform to practices approved by the Commissioner of Environmental Protection or, where applicable, the Commissioner of Public Health, or (5) water pollution from livestock or crop production activities, except the pollution of public or private drinking water supplies, provided such activities conform to acceptable management practices for pollution control approved by the Commissioner of Environmental Protection; provided such agricultural or farming operation, place, establishment or facility has been in operation for one year or more and has not been substantially changed, and such operation follows generally accepted agricultural practices. Inspection and approval of the agricultural or farming operation, place, establishment or facility by the Commissioner of Agriculture or his designee shall be prima facie evidence that such operation follows generally accepted agricultural practices.

The provisions of this section shall not apply whenever a nuisance results from negligence or willful or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances.

352.3 The lot upon which the principal buildings for livestock farming are located shall be at least five contiguous acres in area. Dwelling use on the same property is permitted but an additional 80,000 square

feet shall be required for the dwelling and all requirements for the dwelling and lot must meet these Regulations.

352.4 Minimum setback requirements for barns housing animals shall be 100 feet from any side or rear lot line and 50 feet from the front lot line or any lot line on a road or 75 feet from the center of the road. Minimum setback requirements for other farm buildings shall be as in 331.5 and 332.5.

352.5 The display and sale of farm produce is considered to be a permitted use under the definition of Farming. The Planning and Zoning Commission shall require a site plan to be submitted for approval before such activity begins.

a. The activities must be conducted on the premises which contain the principal farming activity. Any structures used for this purpose shall meet all the requirements of these regulations.

b. A majority of the produce offered for sale shall originate on the site.

c. A detailed plan of the parking area or areas shall be submitted to and approved by the Planning and Zoning Commission in accordance with procedures set forth in Section 372 as being of adequate size for the particular use, suitably screened with evergreen planting, walls or fences or combinations thereof, and with entrance and exit drives designed so as to minimize traffic hazards.

d. Vehicles used in connection with such display or sale shall be garaged or otherwise screened and hidden from view of adjoining properties when not in use.

e. Signs shall be permitted as set forth in Section 362.

352.6 Deleted

352.7 Deleted

353A. Home Occupation

Home occupation businesses that are no impact businesses shall not require a permit.

All other proposed home occupation businesses shall be subject to the normal special permitting process of the Planning & Zoning Commission, with the following limitations:

The business shall be confined to the principal residence and/or to one accessory building on the property. The location and appearance of the accessory building shall be consistent with the residential character of the lot and the neighborhood.

No display or advertising shall be visible from the outside excepting a name plate or announcement not to exceed two square feet in area.

No more than two commercial vehicles shall be used in connection with any such use, and the vehicles shall be garaged or otherwise screened and hidden from view of adjoining properties when not in use.

Parking areas shall be subject to the review and approval of the Commission in accordance with the procedures set forth in Section 372, as being of adequate size for the particular use, suitably screened with evergreen planting, walls or fences or combinations thereof, and with entrance and exit drives designed so as to minimize traffic hazards

Regular deliveries and/or shipments in connection with the business, equipment service calls and other similar business-related traffic shall be accomplished with automobiles or commercial vans.

There will be no storage, stockpiling or advertising for sale on the exterior of the dwelling or accessory building of any of the goods or materials produced by the business and no exterior storage or display of parts, raw or finished materials and/or waste byproducts.

Application for a special permit for a home occupation business shall include, in addition to the required plan for a special permit, at least the following information: nature of the business, hours of operation, number of employees, anticipated traffic impact, use and storage of hazardous materials, and a health department approval.

353B. Resident Contractor

353B.1 No Impact Business Resident Contractor:

A no impact business resident contractor shall not require a special permit.

353B.2 Resident Contractor:

Except for no impact business resident contractors, all other resident contractors shall obtain a special permit pursuant to Section 340 of these regulations with the following additional requirements:

a. The business shall be confined to the principal residence and/or to one accessory building on the property. The location and appearance of the accessory building shall be consistent with the residential character of the lot and the neighborhood.

b. A Resident Contractor business may have no more than two vehicles associated with the business on the property overnight and on weekends, only one of which may be over 12,500 pounds Gross Vehicle Weight (GVW). All vehicles must be garaged or otherwise screened or hidden from the view of anyone at an abutting or nearby property, except that one vehicle under 12,500 pounds GVW, which may display advertising, may remain ungaraged and unscreened. During normal weekday working hours, a maximum of two additional employee automobiles may be parked on the premises.

c. No display or advertising, including signs, shall be visible from off the property, except for the single vehicle described in paragraph b above.

d. An application for a special permit for a resident contractor business shall include, in addition to the information required for a special permit pursuant to Section 340, at least the following:

- a description of the nature of the business;
- a listing of all business related vehicles to be parked overnight and on weekends at the residence including the GVW of each such vehicle;
- a statement as to whether each vehicle will visibly display equipment or materials associated with the business;
- a description of, or photographs showing, the nature and location of the screening that hides from the view of anyone at an abutting or nearby property all business related items outside any structure on the property;
- the days and hours of operation of the business; and
- a Health Department approval.

e. The plan required to be filed with an application for a special permit for a resident contractor business shall show, in addition to the information required pursuant to Section 343 of these regulations, at least the following:

- the location of any exterior storage or stockpiling of any trailers, tools, equipment, parts, raw or finished materials and/or waste byproducts of the business, which shall also be clearly marked in the field;
- the location of everything that will screen the view of anyone at an abutting or nearby property of any business related vehicles, and of any exterior storage or stockpiling of any trailers, tools, equipment, parts, raw or finished materials and/or waste byproducts of the business; and
- the location of all business related parking areas.

f. A resident contractor who wishes in addition to perform non-office work for his customers on his/her own residential property, or whose employees will work at his/her residential property shall comply with the Home Occupation regulations at Section 353A of these regulations, as well as with section 353B.

353B.3 Resident Contractors Operating Prior to December 1, 2009 - Legal Non-Conforming Uses:

A resident contractor with a resident contractor business at his/her residence which (1) was in existence prior to December 1, 2009, and (2) had no additional vehicles; exterior storage or stockpiling of any of the trailers, tools, equipment, parts, raw or finished materials and/or waste byproducts of the business; display or advertising, including signs; that were in existence prior to December 1, 2009; which does not meet the requirements of sections 353B.1 or 353B.2 of these regulations, shall be allowed to continue as a legal non-conforming use, provided that the following conditions are met:

a. The resident contractor applied for a special permit in accordance with Sections 340 and 353B of these regulations;

b. the application for a special permit was denied for failure to comply with Section 353B.2, but not because of a lack of information or an incomplete application.

353B.4 Applications for a Special Permit for Existing Resident Contractors:
Except for no impact business resident contractors, all other resident contractors who were operating as such prior to December 1, 2009, must obtain a special permit in accordance with sections 340 and 353B of these regulations.

354. Keeping of Roomers or Boarders:
The keeping of roomers or boarders shall be permitted subject to the following conditions:

354.1 No more than three (3) roomers or boarders may be accommodated on any lot.

354.2 The leasing of rooms or taking of boarders may be conducted only by owner occupants.

354.3 Roomers and boarders must be accommodated within the principal building and shall not be provided with separate cooking facilities.

354.4 Nothing in this section shall be construed to permit tourist cabins, trailer camps, apartments, hotels, inns, tavern or roadhouses.

354A. Bed and Breakfast establishments are hereby declared to be a home occupation and shall be permitted only when the following conditions, in addition to the conditions set forth in Sections 353.1, 353.2, and 353.3, are complied with:

a. The principal building shall be an existing home built prior to 1900 and have direct access on state highway or town road;

b. Each such establishment shall be owned and solely operated by the resident occupants;

c. The principal building shall be a home existing at the time of adoption of this regulation and shall contain at least eight (8) bedrooms at the time of adoption of this regulations. Nothing is this subsection shall be construed to permit the conversion of barns or other accessory buildings, or additions onto existing homes existing at the time of adoption of this regulation into Bed and Breakfast establishments;

d. A minimum of two (2) bathroom facilities shall be available and maintained for use by the guests.

e. No more than ten (10) individuals may be accommodated in addition to the family;

f. The length of stay of any lodger shall be no more than four (4) consecutive nights;

g. All State and Local Health, Sanitary and Safety Codes must be met;

h. A detailed interior floor plan, which includes any proposed alteration, prepared by a licensed Architect or Professional Engineer licensed in the State of Connecticut, shall be submitted for approval of the Commission at the time of submission of an application for special permit;

i. No addition or alterations, will be allowed to a building to increase the number of existing bedrooms subsequent to the date of adoption of this section;

j. A buffer area may also be required at the discretion of the commission which shall meet the requirements of 351.4;

k. Accommodations are to include only bed and breakfast, to guests only and shall not include the serving of alcoholic beverages;

l. Nothing in this section shall be construed to permit a hotel, motel, inn, tavern or roadhouse.

355. Riding Stables or Academies, Nurseries and Commercial Greenhouses:

Riding stables or academies, nurseries and commercial greenhouses shall be permitted only when the following conditions are complied with, in addition to any and all other requirements and conditions of these and other regulations.

355.1 The premises upon which such use in maintained shall be at least five contiguous acres in area.

355.2 No stable, barn or greenhouse shall be erected within 100 feet of any property boundary.

355.3 No horse or domestic farm animal shall be housed in any building used as residence.

355.4 The Planning and Zoning Commission shall require fencing or other suitable enclosure and, in addition, may require buffer landscaping for screening purposes.

355.5 Dwelling use on the same property is permitted but an additional 80,000 square feet shall be required for the dwelling and all requirements for the dwelling and lot must meet these Regulations.

355.6 Additional Requirements for Riding Stables or Academies: Maximum intensity of use for riding stables or academies shall be restricted to four horses per acre. The use of temporary buildings or trailers for the stabling of horses in excess of fifteen days is prohibited. There shall be no storage of supplies except hay outside of permanent buildings. Stable manure must not create a health hazard from air and water pollution standpoint to the community in general or the persons inhabiting or using the surrounding acreage, and, therefore, the stabling of horses shall conform to all regulations of local and state health authorities. Adequate fencing must be installed and maintained to reasonably contain the horses within the property. The use of public address systems, the conduct of the instruction of riders, training of horses and the spectator participation in competitions should be modulated and continuously controlled in order to avoid becoming a nuisance to surrounding neighbors.

SECTION 356. PUBLIC UTILITIES

Purpose

The purpose of this regulations is to provide for the need, placement, operation of Public Utility facilities, as defined in the Connecticut State Statutes in Sect. 16-50i, within the Town of Sherman, Connecticut in an orderly manner that will permit such facilities, where a need for them is found, while protecting the environment, quality of life, and property values within the Town.

356.1 General Requirements

A. Jurisdiction

These regulations shall apply to any Public Utility facility, except where sections may be deemed to be superceded by Federal or State regulation, in which case all parts apply that are not specifically so superceded, as per Connecticut General Statutes, Section 16-50x.

B. **Need**

Applicants for any Public Utility facility located in the Town of Sherman must:

1. Demonstrate that a need for such a facility exists. If such a need is found, they must;

2. Demonstrate that at least 75 percent of the total number of users of the facility and its product are or will be direct end-users located within the Town of Sherman, or,

3. Provide the product or service to all residents of the Town of Sherman who may request it at the lowest available rate basis that may be provided by the utility on any basis to any user regardless of other conditions, with no additional surcharge or hookup costs.

356.2 Public Utility Substations

Public utility substations shall be so designed, enclosed and painted, and so screened with evergreens, as to harmoniously relate with adjoining residential properties. The entire premises upon which such use is situated shall be suitably landscaped and maintained in reasonable conformity with the standards of property maintenance of the neighborhood in which it is located.

356.3 Personal Wireless Service Facilities

Purpose

The purpose of this regulation is to provide for the operation of wireless telecommunication services within the Town of Sherman while protecting neighborhoods and minimizing the adverse visual and operational effects of Personal Wireless Services Facilities through careful design, siting and screening. More specifically this regulation has been developed in order to:

1. Maximize use of existing towers and other structures to accommodate new antennas and transmitters in order to reduce the number of communication towers needed to serve the community;

2. Encourage providers to co-locate their facilities on a single tower;

3. Site facilities below visually prominent ridge lines;

4. Minimize the location of facilities in visually sensitive area;

5. Protect historic and residential areas from potential adverse impacts of communication towers;

6. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

7. The provisions of this Section shall apply to all Personal Wireless Service Facilities that are within the federal definitions found in the Telecommunications Act of 1996, Pub. Law 104-104.

356.3 A. **Definitions**

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

Antenna means a device used to receive or transmit electromagnetic waves. Examples include but are not limited to whip antennas, panel antennas and dish antennas.

Co-location means locating wireless communication facilities from more than one FCC licensed provider on a single support structure such as a tower or existing structure.

Personal Wireless Services means licensed wireless telecommunication services including, but not necessarily limited to, cellular, personal communication services (PCS) specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), wireless video services, paging services and similar services that are marketed to the general public.

Height of Tower means the vertical distance measured in feet from the average existing level of the ground surrounding the tower and within ten feet thereof to the topmost point of the tower including any antenna or other appurtenances. The existing elevation shall mean the actual or approved elevations of the property at the time of application.

Facilities include any structure and/or equipment.

Tower means a structure that is intended to support equipment used to receive and/or transmit electromagnetic waves. Design examples of towers include but are not limited to (a) self-supporting lattice, (b) guyed and (c) monopole.

356.3 B. **Location of Wireless Telecommunication Sites**

The locations for siting the antennas and equipment involved in receiving or transmitting electromagnetic waves associated with wireless telecommunication services are listed in paragraphs 1 through 6 below, in order of preference.

1. On existing or approved towers.

2. On existing structures including but not limited to buildings, water towers, steeples and utility poles.

3. On new towers less than 75 feet in height located in business zones.

4. On new towers 75 feet or greater in height located in business zones.

5. On new towers less than 75 feet in height located in residential zones.

6. On new towers 75 feet or greater in height located in residential zones.

356.3 C. Notwithstanding the provisions in other Sections of these regulations, Personal Wireless Facilities are allowed in any zone, subject to 1) all conditions included in this section, 2) approval of a Special Permit pursuant to Section 340 et. Seq. with the additional requirement that landowners within 1,000 feet of the proposed site receive notification, and 3) site plan review pursuant to Section 333.8. However, Personal Wireless Services Facilities shall not be allowed on land previously under conservation easement, or land designated for recreation or open space in any proposed plan.

356. 3 D. Application for approval of any Personal Wireless Service Facility, including towers supporting such facilities shall include the following:

1. The full legal name of the provider, street address, and evidence that the provider is authorized to do business in the State of Connecticut. If the provider is an entity required to register as a trade name pursuant to CGS δ35-1, a copy of such registration is required.

2. A detailed statement of the use including a statement showing that such use is necessary, listing all required regulatory approvals and authorizations from any other jurisdictions, a statement of technical feasibility certified by a licensed engineer, and designation of applicable regulations of the FCC.

3. Documentary evidence of the provider's interest in the land sought to be utilized.

4. Consent of the owner of the land if other than the applicant.

5. A site plan in compliance with Section 333.8 and showing all physical features required by this section.

6. Copies of submittals to the FCC, FCC Form 854, FAA Form 7460-1; Aeronautical and Environmental studies.

7. In addition, applicant shall provide: 1.) a location map, specifically a copy of the most recent USGS Quadrangle map, 7.5 minute series, at a scale of 1:24,000, showing the are within at least two miles of any tower site and including the exact latitude and longitude of the proposed tower site; 2.) A Contour Map on a scale of 1":200' with contour intervals no greater than 10 feet showing all property within a 1000 feet radius of the parcel or lot within which the tower ins proposed including all existing public or private roads, buildings, other structures, wetlands watercourses, historic sites, names of all abutters, easements and property owners abutting any easements; and 3) an existing conditions plan, a recent survey of the parcel at a scale no smaller than 1":40' with topography drawn with a minimum of 5' contour levels, showing

existing utilities, property lines, existing buildings or structures, stone walls or fence lines, the boundary of any floodplains, wetlands or watercourses, and wooded areas within a 200' radius from the site of the proposed facility, its accessway, outbuildings, or other appurtenances. Such survey must have been completed, on the ground, by a Connecticut-licensed land surveyor within two years prior to the application date.

8. Plans and elevations of any tower including guy wire and anchoring structures.

9. Sight line plans.

10. Scaled overlays on photographs.

11. The Commission may require, at its discretion, testing, or a peer review by independent consultants, at the applicant's expense, of any aspect of the application, including but not limited to sight lines, environmental issues, design criteria, and need or adequacy of service. Payment to the Town shall be made prior to the review commencing, and such testing or consulting firms shall be chosen by and work under the direction of the Commission.

356.3 E. **Standards**

1. Minimum lot, size shall be 160,000 square feet and shaped so that a square of 259' may be fit with the lot.

2. No tower shall exceed one hundred (150) feet in height above ground level, or the minimum level needed by the applicant-provider for its facilities, whichever is lower.

3. There shall be minimum front, side and rear setbacks of twice the height of the tower.

4. There shall be a buffer from any residential use of a minimum of 400 feet.

5. The lot coverage of all buildings for Personal Wireless Services shall not exceed 500 square feet.

6. No tower shall be located within 400 feet of the boundary of an existing approved historic district or a site on the national registry of historic places.

7. No lights shall be mounted on proposed towers unless otherwise required by the FAA or applicable law. Strobe lighting is not permitted as required by the Federal government. Any required lights on a tower shall be directed upwards as much as possible. There shall be no outdoor lights in use except while a person is on the site, there shall be no direct light beyond the property line, and in any case such lighting shall be subject to Section 322.8 of these regulations.

8. Towers may not be used to exhibit any commercial signage or other advertising.

9. Any proposed tower shall be designed in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional comparable antenna if the tower is over 50 feet in height. The Commission may require the tower to be of such design as to allow for future rearrangement of antennas upon the tower and to accommodate antennas mounted at varying heights. The Commission may also require the accommodation of public safety or emergency communications capabilities on any tower at cost.

10. Antennas or equipment buildings or boxes mounted to or on buildings or structures shall to the greatest degree possible blend with the color and design of such building; they may not extend more than fifteen above the highest part of any structure, nor more than two feet laterally, and may not cover more than ten square feet of area.

11. No proposed wireless telecommunication site shall be designed, located or operated as to interfere with public safety communications.

12. The design of all wireless telecommunication sites shall comply with the standards promulgated by the FCC for non-ionizing electromagnetic emissions. A report shall be provided, prepared by a Connecticut licensed engineer in the field on telecommunications broadcasting indicating that the proposed wireless telecommunication site will comply with the emissions standards found in Subsection 17G of this regulation.

13. All utilities proposed to serve a wireless telecommunication site shall be installed underground unless otherwise approved by the Commission.

14. All generators installed in conjunction with any wireless telecommunication site shall comply with all State and local noise regulations.

15. Any building in a residential or residential/ commercial zone or on a lot adjacent to a residential or residential/commercial zone shall be made to look like a residential building, with a pitched roof, wood or wood-type construction, and any other design requirements consistent with other structures in the zone.

16. Appropriate trees and other vegetation as approved by the Commission shall be planted and maintained to screen a tower and any equipment buildings from view from nearby residences and roads. Existing trees and vegetation should be used as much as possible to provide this screening.

17. The Commission may require that an appropriate bond be submitted as surety to remove any abandoned towers, buildings or equipment and to guarantee that landscaping and erosion controls are maintained throughout the life of the facility.

356.3 F. Factors Upon Which Special Permit Decisions of the Commission Shall Be Based

In order to approve applications for wireless telecommunication sites, the Commission, must find:

In the case where an application for the proposed location of a wireless telecommunication site is not a preference 1 through 3 location as per Section 356.3 B., the applicant has adequately described the efforts and measures taken to pursue those preferences and has provided an adequate explanation as to why a higher preference location was not technologically, legally or economically feasible. The documentation supplied by the applicant shall include an evaluation of the following factors:

1. Whether the planned equipment would cause unacceptable interference with the operation of other existing or planned equipment on an existing or approved tower and whether the interference can be prevented or eliminated at a reasonable cost as documented by a Connecticut licensed engineer in the field of telecommunications broadcasting.

2. Whether the planned equipment cannot be accommodated on existing or approved towers due to structural deficiencies and whether such deficiencies cannot be eliminated at a reasonable cost, as documented by a Connecticut licensed engineer, in the field of telecommunications broadcasting.

3. Whether the existing or planned equipment on an existing or approved tower would cause unacceptable interference with the equipment proposed by the applicant and whether the interference cannot b prevented or eliminated at a reasonable cost as documented by a Connecticut licensed engineer in the field of telecommunications broadcasting.

4. Any restriction or limitation imposed by the FCC.

356.3 G. Abandonment

A wireless telecommunication site that is determined by the Commission or its agent to be not in use for 12 consecutive months shall be removed by the service facility owner. The Commission shall send the service facility owner a notice of abandonment by certified mail.

This removal shall occur within 90 days of the date that the notice of abandonment is sent. Upon removal the site shall be restored to its previous appearance and where appropriate revegetated to blend with the surrounding area.

356.3 H. **Expiration of Approval**

The Approval of an application for Special Permit or site plan review shall be void and of no effect unless the applicant has obtained a bona fide license from the Federal Communications Commission (FCC) to provide the telecommunication services that the proposed tower is designed to support and construction of the Wireless Telecommunication Service is completed within six months from the date of the approval granted by the Commission. The Commission may grant up to two six-month extensions of this period upon written request by the applicant. The Commission shall not grant an extension unless the development plan is brought into conformance with any relevant zoning regulations that have been amended subsequent to the original approval and the applicant provides adequate evidence that construction is able to be completed within the extended time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing. Any appeals of such special permit, site plan, inland wetlands or subdivision approvals shall extends the aforementioned one-year period the length of such appeal. The Commission may, as a condition of approval of a special permit establish a time period that such special permit shall remain in effect.

356.3 I. **Additional Requirements**

1. Each facility shall have adequate security provided. No razor wire shall be allowed.

2. Each facility shall be screened from adjacent uses. The use of natural vegetative screening is preferred. The Commission may prescribe appropriate screening as a condition of approval.

3. No more than one tower is permitted on a lot.

4. The Commission may limit the size of panel antennae to ensure harmony with existing and neighboring uses.

5. Towers may be required to be pained in a neutral color, or have such other finish or camouflage as to allow them to blend into the existing surroundings.

356.3 J. **Compliance with Federal Law**

In regulating telecommunications facilities under these Section 356.3 through 356.3 I. Inclusive (this regulations) the Commission shall follow provisions of federal law preserving and limiting local zoning authority, and specifically Title 47 USC δ332 c 7. This regulations shall not be construed to unreasonably discriminate among providers of functionally equivalent services, or to prohibit or have the effect of prohibiting the provision of Personal Wireless Services. No decision to grant or deny a request to place, construct or modify a Personal Wireless Service Facility shall be made without substantial supporting evidence in the record, and all such decisions shall be in writing. No application shall be denied on the basis of environmental effects if the applicant proves compliance with all applicable regulations of the FCC pertaining to environmental effects of radio frequency emissions.

SECTION 357. MUNICIPAL USE

357.1 **Regulation of Town Owned Property**

Any new construction on; expansion, modification, or addition to an existing structure on; and new use of; a Town owned property shall be subject to 1. the special permit approval procedure set forth in Section 340 of these regulations, and 2. the following subsections (357.3 – 357.5) which shall supersede any regulations to the contrary.

357.2 **Septic Systems on Municipal Lots**

Subject to the approval of the Health Department, a septic system may serve more than one building on a Town owned lot, more than one septic system may be placed on any Town owned lot, and a septic system on one Town owned lot may service buildings on another abutting Town owned lot.

357.3 **Minimum Setback Requirements**

All buildings and structures shall be required to be set back a minimum distance of 15’ from any side or rear property line and 15’ from the front property line.

357.4 **Minimum Surface Coverage**

This subsection shall apply solely in the following area:

- The Town Hall Knoll area located at the junctions of State Route 37 Center and State Route 39 North, containing 4.329 acres, more or less, and comprising the following buildings and adjacent land—Mallory Town Hall, Sherman Playhouse, Scout House, and Firehouse—as depicted on a Map dated November 18, 2005, prepared for the Town of Sherman and filed on the Sherman Land Records as Map 1903 on October 11, 2006.

In order to maximize the use of the Town Hall Knoll area for the benefit of the public while retaining the rural character of the town, the land area covered by all vegetated, mulched, dirt and other non-manmade surfaces in the Town Hall Knoll area shall constitute at least 50% of the total area of said property.

357.5 **Fire Suppression Tank**

The need for a fire suppression tank on any Town owned property shall be evaluated by the Fire Marshal, who shall make a recommendation to the Board of Selectmen concerning the installation of such a tank. If such a tank is to be installed, the provisions of the Ordinance Concerning the Installation of Dry Hydrants in Residential and Commercial Building Developments shall apply.

358. **Earth Material Operations:**

The provisions of this section shall apply to all land not in public use in the Town of Sherman and shall be interpreted and applied in conjunction with the Soil Erosion and Sediment Control Regulations of the Town of Sherman and the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended. Earth material shall include sand, gravel, soil, loam, clay, rock and other materials naturally found in the earth. Earth material operations shall include the filling of land, grading, and regrading of earth materials, excavation or removal of earth materials, or any other operation that may cause a condition of accelerated erosion, as defined in the Soil Erosion and Sediment Control Regulations for Land Development. Earth material operations shall be permitted only when such activity is incidental to a permitted use and when the following conditions are met:

358.1 Impact on Adjacent Property:

Earth material operations on any premises shall not adversely affect any adjacent property and, except with the written consent of the affected adjacent property owner, shall not affect natural drainage onto or from adjacent property, nor change surface elevations at property lines, nor change surface elevations more than 2 feet at a distance of 10 feet from property lines.

358.2 Wetlands Impact:

The approval of the Sherman Inland Wetlands and Water Courses Commission shall be required for earth material operations which create, remove or enlarge a pond; alter the channel of a watercourse; or introduce earth materials into (or remove them from) an area designated as wetlands by the Sherman Inland Wetlands Water Courses Commission.

358.3 Acceptable Fill:

Earth materials may not be used as fill if they have been removed from septic leaching fields, sewage treatment areas, garbage dumps, toxic waste disposal areas, or other areas designated by any federal or state agency as containing hazardous or health-threatening material, construction debris not be used as fill. Buried tree stumps may not be used as fill without an earth materials operation permit. If the Commission has probable cause to believe that hazardous or health-threatening materials are being used as fill, it may request that the town's Director of Health, his agent, or another qualified expert test these materials, and may require their removal if hazardous or health-threatening substances are found in concentrations that exceed applicable federal, state, or local standards.

358.4 Erosion Control:

Soil erosion and sediment control plans shall be submitted for earth materials operations when required by the Soil Erosion and Sediment Control Regulations for Land Development of the Town of Sherman. Activities subject to this provision shall include, but are not limited to, earth removal, land clearing, land grading and excavation.

358.5 Topsoil:

Topsoil shall be defined as the arable earth materials, including loam, that constitute the normal surface layer of the earth in the Town of Sherman. No topsoil shall be removed from any premises in the Town of Sherman, except surplus topsoil created by permitted construction. The Zoning Enforcement Officer shall

certify that a quantity of topsoil is surplus if it remains unused after the permitted construction is complete and all disturbed earth surfaces on the permittee's premises are covered with topsoil to a depth of six inches and seeded.

358.6 Permits:

Permits for earth material operations shall be required as follows (subject, in any case, to the restrictions and provisions of subsections 358.1 through 358.4, and 358.6g):

a. No permit shall be required for earth material operations necessary to the landscaping of premises or the construction of a wall, driveway, sewer, fence, sidewalk or gas, water, or other utility line, provided that such activity is part of a use of premises permitted by the Zoning Regulations, and provided that such activity does not result in the addition to or removal from the premises of more than 500 cu. yds. of earth material.

b. No permit shall be required for earth material operations that are part of normal agricultural activity.

c. No permit shall be required for the removal of topsoil or other earth material from one part of premises to another part of the same premises, provided that such activity is reasonably necessary for the purpose of farming or landscaping such premises.

d. The issuance of a zoning permit by the Zoning Enforcement Officer or the Planning and Zoning Commission and a building permit by the town Building Inspector shall together constitute a permit for the earth material operations, including backfilling, necessary to establish the permitted use, provided that no topsoil is removed from the premises, and provided that the total volume of earth material removed from the premises does not exceed 100 cu. yds. Plus the below-grade volume of the building or structure to be constructed.

e. The issuance by the Board of Selectmen of a permit to construct a road shall constitute a permit for the earth material operations necessary to establish the permitted use.

f. The approval by the Commission of a subdivision plan and accompanying construction plans, site plans or parking

plans shall constitute a permit for the earth material operations necessary to establish the permitted use.

g. An Earth Material Operations permit from the Commission shall be required for any earth material operation that exceeds the maximum-volume limitations in subparagraphs a. or d. of this paragraph; that affects boundary elevations in contravention of paragraph 358.1; or that is neither specifically permitted nor prohibited elsewhere in Section 358.

h. Applications for Earth Materials Operations permits, and applications for road construction permits and subdivision plan approvals, shall contain the following: A computation of the volume of earth materials to be added, to be removed, and to the regraded; a map meeting the standards of the Soil Erosion and Sediment Control Regulations of the Town of Sherman, showing contours of the affected areas before and after earth material operations; and, a statement of the purpose of the earth material operation and the methods to be used in its accomplishment.

i. Upon approval of an Earth Materials Operations application, the applicant may at the discretion of the Commission be required to file a performance bond in an amount and with sureties and in a form approved by the Commission. The bond and sureties shall be conditioned on compliance with all provisions of these regulations and all conditions imposed on approval of the application.

j. The duration of any permit shall be for three (3) years unless otherwise specified in the permit or extended by the Commission. Unless it is renewed by the Commission, the permit shall expire if the activity authorized therein is not initiated within one (1) year from the date the permit was issued. Permit renewal and extension shall be at the discretion of the Commission. All permits shall expire upon the completion of the acts specified therein.

SECTION 359. Golf Course Facility

359.1 Development Plan Required

Before the issuance of a zoning permit, a detailed Development Plan of the entire project shall be submitted to the commission. No development shall be carried out, or certificate of zoning compliance issued, except in conformance with such approved

plan or a similarly approved revision of such plan. The plan shall be drawn to a scale of not less than one inch equaling 100 feet, with detail maps as required at not less than one inch equaling 50 feet. The following information, both existing and proposed, as applicable to the particular application, may be required:

i. Title of development, date, revision dates, if any, north point, scales, name and address of owner and of engineer, architect, landscape architect, golf course designer, or surveyor preparing the plan.

ii. Property lines and lines delimiting the land to be used under the application.

iii. Contours at no more than ten-foot vertical intervals on the plan map, and no more than two-foot vertical intervals on the detail maps.

iv. Location and dimensions of buildings, structures, walls, fences, and trees eight inches or more in diameter, including tees and greens.

v. Location, dimensions and surface treatment of off-street parking and loading spaces, traffic access and circulation system, and pedestrian walks.

vi. Location and size of wetlands and watercourses, if any.

vii. Location, size and design of storm drainage, sewage disposal and water supply facilities.

viii. Erosion control plan.

ix. Location, size and type of landscaping and buffer planting, and designation of natural terrain not to be disturbed.

x. Location, size, type, color and illumination of all signs.

xi. Location, direction, power and timing of exterior lighting.

xii. Elevations showing external appearance of all buildings and structures.

xiii. The location of a hundred-year flood plain, and streambelts zones as defined in Section 331.5a.

xiv. All the provisions hereof shall be applied to all of the acreage contained within the permit issued pursuant to 331.1.m

359.2 Additional Requirements of Development Plan

The Development Plan shall provide to the Commission copies of all reports required for the development of a golf course by all State or Federal Agencies. The overall design shall respond to the natural topography and drainage of the site. Rough and fairway areas shall make maximum use of existing landforms, indigenous grasses and vegetation. The golf course shall be designed and constructed so as to minimize detrimental impact on wetlands and watercourses, retain historic stone walls, vegetative cover and significant trees in areas not required for the development of the golf course, dwellings and related facilities. The Commission may require, at its discretion, additional information or testing, by independent consultants, including but not limited to a Golf Course Environmental Management Plan, Integrated Pest Management Plan, Integrated Plant Management Plan, Turf Management Plan, Storm Water Management Plan, Groundwater Resources Evaluation, Wild Life Management Plan, and a Post Development Water Quality and Pollution Monitoring Plan, at the owner's expense. Payment to the Town shall be made prior to the review commencing, and such testing or consulting firms shall be chosen by and work under the direction of the Commission.

359.3 Certified Superintendent Required

The Golf Course shall be required to have a Golf Course Superintendent, certified by the Golf Course Superintendents Association of America on Staff. The Golf Course Superintendent shall supervise the collection of the data as developed by the approved environmental monitoring plan and will submit the data to the Zoning Enforcement Officer and the Town of Sherman Health Department as required by the plan.

359.4 Use of Public Roads

Golfers shall not be required to cross public roads to reach any part of the golf course.

359A. Golf Course Residential Community

359A.1 Use of Golf Course

The Golf Course use may be private or semi private as determined by the property owners.

359A.2 **Compliance with Subdivision Regulations**

The Golf Course Residential Community is subject to the Subdivision Regulations of the Town of Sherman.

359A.3 **Maximum Density**

The maximum density shall not be more than one (1) dwelling unit per four (4) acres of land based on the gross area of the entire residential and golf course development.

359A.4 **Open Space**

A minimum of thirty-five (35) percent of the gross area of the development parcel shall be considered open space. The Golf Course itself may be designated as open space, provided it is restricted in activity, access and use, may be developed as a golf course, and may include uses, walkways, cart paths, paved areas, road, tennis courts, swimming pools, cabanas, related structures and improvements and structures accessory thereto; but which shall not include club house, food service structures, retail use structures or parking therefore. Open space may be restricted to the benefit of the property owners, and members and guests of the Golf Club. Ecologically sensitive areas of the open space may be subject to limited activity and use. Ponds and water retention areas may be included in the open space. Open space areas may be subject to storm sewer, septic and drainage use provided such use is in compliance with local, state and federal laws, rules and regulations.

359A.5 **Public Open Space**

A minimum of five (5) percent of the gross area of the development parcel shall be dedicated public open space where and as designated by the commission and shall be left in a wild state, but may include recreational uses, limited to biking and walking trails, fishing and water uses, boat access to rivers and water bodies. The owner must dedicate or transfer these uses or areas of public open space to land conservation or preservation entities, to the town, or to the general public.

359A.6 **Minimum Perimeter Setbacks:**
No accessory building or structure shall be less than one hundred fifty (150) feet from the perimeter boundaries of the developed parcel. With the exception of a security gatehouse which shall be no larger than one hundred (100) square feet, and shall be required to be set back a minimum distance of 30 feet from any side or rear lot line and 50 feet from the front lot line or from a public road. There shall be evergreen planting of such type, height, spacing and arrangement as to screen the activity at the security gatehouse from the adjoining lots.

359A.7 **Easements:**
In order to permit design flexibility and to enhance open space set asides, portions of the golf course layout may be comprised within easements placed within lots in the Golf Course Residential Community. Each lot in such community shall be conveyed together with a deeded right to join and use the Golf Club and Course, its land, and its facilities consistent with the rules and regulations of the Golf Course.

SECTION 360. SIGNS:
Signs shall be permitted only as specified below. Any sign which is in a state of disrepair shall be in violation of these Regulations, and the Commission is empowered to order it removed. All signs shall be removed at the conclusion of the activity to which they are related.

361. Sale, For Lease or Contractor's Sign:
One sign advertising the sale or lease of a property is permitted provided that it is located on such property and further provided that no such sign shall exceed four (4) square feet in area. One temporary contractor's sign per lot, not over four (4) square feet in area, when displayed on the premises shall be permitted.

362. Identification Sign:
One identification sign for each access bearing the name of the resident, and/or address, the residential property, and/or a permitted accessory use conducted on the premises shall be permitted on each residential parcel provided that such sign does not exceed two (2) square feet in area. Signs announcing the name of a development or subdivision shall be allowed at no more than two (2) entrances to said development or subdivision and shall be no larger than nine (9) square feet in area. Said signs may contain information regarding sale of lots and homes for a period of five (5) years

after approval of said development or subdivision by the Planning and Zoning Commission. At the expiration of the five-year period, all signs must be removed or replaced with signs not to exceed nine (9) square feet in area, said signs containing the name of the development or subdivision and no more.

362 a. A non-residential use that is approved by the Commission as the primary use of a lot in a residential zone, and that involves public traffic and visitation, shall be permitted one identification sign as defined above, not to exceed four (4) square feet in area.

363. Directional Signs:

Directional signs each not to exceed three (3) square feet in area may be required or permitted by the Planning and Zoning Commission where said Commission determines that such signs are necessary or appropriate to facilitate the flow of traffic on the premises or in relation to the adjoining street system. Directional signs not to exceed six (6) square feet in area may be permitted for any public building, including churches, subject to Commission approval as herein above provided.

364. Business Signs:

Within Zone C, business signs shall be permitted which advertise the name of the business, the sale of goods or services on the premises, and the name of a shopping center group, but shall not include billboards or other types of advertising signs. The location and size of such signs shall be governed by the following standards:

364.1 No sign may project into any public right-of-way.

364.2 Except as provided in Section 364.3, a building lot that contains one business establishment shall be limited to one sign located on said lot. The sign may be either freestanding or attached to a building, and shall not exceed twelve (12) square feet in area. Signs attached to buildings shall not be attached to, nor project above, the roof of any structure, nor shall they be wider than the face of the structure to which they are attached.

364.3 Where more than one commercial establishment is located on a lot, each establishment shall be permitted one sign, placed on the building within which the establishment is located, and not exceeding 12 square feet in area. In addition, the lot shall be entitled to one additional sign, which may be either freestanding or attached to the building, as follows:

a. A single or double sided sign indicating the name and/or logo of the property, not exceeding 16 square feet in size per side; or

b. A single or double sided sign indicating the name and/or logo of the property and the names of the commercial establishments located thereon. Such sign shall have an area for the name or logo of the property not exceeding 12 square feet, plus an area not exceeding 4 square feet for each commercial establishment, but in no case shall such sign exceed 32 square feet in total per side.

As a condition of approval, the Commission must find that the placement of any sign not attached to a building does not create or increase a hazardous traffic condition.

364.4 The Commission may restrict the size, placement, and lighting of any sign place on the side of a building facing a residential lot, in order to minimize the effect of such sign on such lot.

365. Municipal Signs

All municipal uses shall be identified with clear and adequate signage, including, where necessary, directional signage. The size requirements for directional signs in Section 363, and for business signs in Section 364 of these regulations shall apply to governmental signs. The limits on the number of signs in Section 360. shall not apply to municipal properties. All such signs require approval by the Commission.

366. Lighted or Moving Signs:

Signs permitted in accordance with Sections 361 through 364 above are subject to the following restrictions:

366.1 Signs may be illuminated provided such lights are not of the flashing or intermittent type, do not have changing degrees of intensity, are not colored, and do not consist of tubing or strings of light outlining such signs. Any illumination of signs shall be such that the source of illumination is shielded and not visible from any point beyond the boundaries of the lot on which the sign is located. All illuminated signs shall be externally lighted and said illumination allowed only during normal business hours for the establishment referenced by said sign.

366.2 No sign shall be permitted that has the whole or any part in motion or apparent motion.

367. Posted and No Trespassing Signs:
Posted and no trespassing signs not to exceed one (1) square foot in area are permitted on the owner's property.

368. Miscellaneous Signs:
Tag sale and similar signs not to exceed two (2) square feet in area are permitted, subject to state laws, one (1) day prior to such sale. Said signs must bear the owner's name and dates of the event and be removed within twenty-four (24) hours after the last day of the event. The maximum period these signs may be displayed is for any two three-day periods per year. Failure to remove signs accordingly shall result in penalty as provided by these Regulations.

369. Temporary Signs:
The commission may permit temporary signs of any size or nature, including the use of pennants, streamers or flags, announcing art shows, church fairs, etc., on the day(s) of said event and up to four (4) weeks prior to said event provided that these signs are removed twenty-four (24) hours after said event.

SECTION 370. OFF-STREET PARKING AND LOADING

371. Schedule of Off-Street Parking Space Requirements:
Off-Street parking spaces shall be provided in at least the amount stated in this section. When the Commission issues a special permit, it may require additional off-street parking in the amount it determines is necessary to fulfill the purpose of these Regulations. Parking spaces other than for residential uses shall be placed behind or to the side of the principal structure on the lot, unless the applicant demonstrates to the satisfaction of the Commission that such location is not feasible due to topography or the nature of the permitted use or that an alternative location is acceptable because it is substantially obscured to view from the street and nearby residences.

371.1 Single family dwelling - two per dwelling unit.

371.2 Accessory apartment in a single-family dwelling - two per dwelling unit.

371.3 Roomers, boarders - one per guest sleeping room.

371.4 Accessory office or home occupation - two in addition to spaces required for residential uses. Medical or dental offices shall have four in addition to spaces required for residential uses. Bed and Breakfast establishments - eight (8) in addition to spaces required

for residential use. Vehicles shall not include recreational vehicles, trailers or campers.

371.5 Church or other place of worship - one per each five seats or pew spaces.

371.6 Private recreational club - one per member, or, in the case of family memberships, one per family, except that where the maximum capacity of the use, served is not adequate to accommodate all members at the same time, the Planning and Zoning Commission may permit an appropriate reduction of the parking requirements.

371.7 Private school, nursery school, day camp - one per teacher and other staff member, plus one per each six pupils or campers.

371.8 Public library, museum, art gallery - one per employee, plus one per each 400 square feet of floor area.

371.9 Retail personal service establishments, businesses, professional offices - one per each 200 square feet of ground floor area and one per each 250 square feet of other floor area, not including basement area devoted to utilities and storage and not open to the public.

371.10 Restaurants - one per each 75 square feet of floor area.

371.11 Automotive service stations - ten per station.

371.12 Golf Courses - one per employee, four per each golf tee, one per each 75 square feet of floor space allocated to food and dining service within the club house, except that where the maximum capacity of the use served is not adequate to accommodate all guests and employees at the same time, the Planning and Zoning Commission may permit an appropriate reduction of the parking requirements.

371.13 Other uses - Off-street parking requirements for uses that do not fall within the categories listed above shall be determined by the Planning and Zoning Commission.

372. Parking Plan:

Where a parking plan is required by these Regulations, it shall be submitted to the Planning and Zoning Commission for its approval and shall consist of a plot plan drawn to scale and showing all of the following information:

372.1 The location and dimensions of the proposed parking area, the location of any buildings or other facilities served by this area, the location of any property lines within 50 feet of the area, and the location of the road or roads from which access is to be obtained.

372.2 Contour data and/or spot elevations in sufficient detail to enable the Commission to readily determine the existing and proposed grading and erosion control plan of the parking area.

372.3 An indication on the plan of the type of surfacing proposed, the method of providing for storm drainage, and any other improvements, including landscaping, which may be required or appropriate.

373. Driveways and Private Roads:

Driveways constructed in Sherman that intersect state or town roads shall comply with An Ordinance Governing the Construction of Driveways Intersecting Town Highways (1974). Private roads constructed in Sherman shall comply with An Ordinance Governing the Construction of Roads (1973). Driveways and private roads shall also comply with the following:

373.1 Driveways and private roads exceeding at any point a vertical slope of 20 percent shall not be permitted. No driveway shall exceed a maximum slope of 10 percent within the first 30 feet of the driveway from the state, town or subdivision road to which it provided access. No driveway shall contain a curve with a radius of less than 25 feet, as measured from the center line of such driveway.

373.2 Driveways and private roads exceeding at any point a vertical slope of 10 percent shall be considered likely to cause accelerated erosion and to pose a potential vehicle safety hazard. The Commission shall require, prior to the construction of any such driveway or road, an erosion control plan, as described in the Soil Erosion and Sediment Control Regulations of the Town. Such plan must be prepared by a professional engineer licensed in the State of Connecticut. The Commission may require as a condition of approval that such driveway or road be paved, in whole or in part, with a bituminous concrete surface.

373.3 Notwithstanding the above provisions, driveways shall comply with the ordinance of the Town of Sherman entitled An Ordinance Governing the Construction of Driveways Intersecting Town Highways (1974), as amended.

373.4 No lot shall be approved after the effective date of this section unless a driveway that conforms to these regulations can be built entirely within the boundaries of said lot, connecting the building area of the lot with a road, using the access that provides the lot's required frontage.

SECTION 380. NON-CONFORMING USES AND STRUCTURES

381. Continuing Existing Non-conforming Uses:
Any lawful use of a building or of land existing on the effective date of these Regulations may be continued, even though such use does not conform with the use provisions of these Regulations. Such uses shall be deemed non-conforming uses.

382. Non-conforming Use of Land:
Where no building is involved, the non-conforming use of land may be continued, provided, however, that:

382.1 Such non-conforming use shall not be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of adoption of these Regulations.

382.2 Such non-conforming use shall not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of the adoption of these Regulations.

382.3 If such non-conforming use of land, or any portion thereof, cease for any reason whatsoever for a continuous period of more than one year or is changed to a conforming use, any future use of such land shall be in conformity with all requirements of these Regulations.

383. Non-conforming Use of Buildings:
The non-conforming use of buildings or structures may be continued, provided, however, that:

383.1 A building or structure, the use of which does not conform to the use regulations for the zone in which it is situated, shall not be enlarged or extended unless the use therein is changed to a conforming use.

383.2 Such non-conforming building or structure shall not be structurally altered or reconstructed unless such alterations are required by law, provided, however, that such maintenance and repair work as is required to keep a non-conforming building or structure in safe condition shall be permitted.

383.3 A non-conforming use may be extended throughout any parts of the building or structure which were manifestly arranged or designed for such uses at the time of the adoption of these Regulations, notwithstanding the restriction of 383.1 above, provided such extension is made within one (1) year of the effective date of these Regulations.

383.4 A non-conforming use of a building or structure may be changed only to a conforming use.

383.5 If any non-conforming use of a building or structure ceases for any reason for a continuous period of more than one year, or is changed to a conforming use, or if a structure in which such use is conducted or maintained is moved for any distance whatsoever for any reason, then any future use of such building or structure and the land on which it was located shall be required to be in conformity with all standards specified by these Regulations for the zone in which it is located.

384. Non-conformity, Other than Use:

A building or structure which is conforming in use but which does not conform to height, setback, land coverage, parking or similar dimensional requirements of the Regulations shall not be considered to be non-conforming within the meaning of Section 383 and 385 of these Regulations. However, no permit shall be issued nor shall any changes be made on such building or structure that will result in an increase in the non-conformity.

385. Restoration of Damaged Buildings:

385.1 Any building or structure which is non-conforming in use and which is damaged or destroyed by any means to an extent greater than 75% of its fair market value shall be permitted to be reconstructed only if the future use of the building or structure is in conformity with these Regulations.

385.2 Any non-conforming building or structure damaged to an extent less than 75% of its fair market value may be rebuilt, provided that:

a. The cost of such reconstruction or structural alteration is less than 75% of the fair market value of the reconstructed property.

b. The reconstruction or structural alteration is commenced within six (6) months of the date of such damage or destruction and complete within eighteen (18) months of the date of such damage.

c. Where such rebuilding can be feasibly accomplished so as to result in greater conformity with these Regulations, then such rebuilding shall be so done.

ARTICLE IV - ADMINISTRATION AND ENFORCEMENT

SECTION 400. ENFORCEMENT:

No commission, board, agency, officer or employee of the Town shall issue, grant or approve any permit, license, certificate or other authorization for construction, reconstruction, alteration, enlargement of moving of any building or structure or for any use of land or building that would not be in full compliance with the provisions of these Regulations, except as permitted by the Zoning Board of Appeals in accordance with Section 441.2. Amy permit, license, certificate or other authorization issued, granted or approved in violation of the provisions of these Regulations shall be null and void and of no effect without the necessity of any proceedings or revocation or nullification thereof.

SECTION 410. ZONING PERMITS

411. No buildings or structure shall be erected, constructed, reconstructed, enlarged, altered or moved, or excavation made therefor, or work begun thereon, or use made of any land until a zoning permit therefor has been issued by the Planning and Zoning Commission. Except upon a written authorization of the Zoning Board of Appeals, under circumstances set forth in Section 441.2, no such permit shall be issued for any building or structure where said construction, addition, alteration, moving or use thereof would be in violation of any of the provisions of these Regulations. Before any permit shall be issued, written application therefor shall be made in quadruplicate on a form to be furnished by the Planning and Zoning Commission. Such application shall contain or be accompanied by the following, as appropriate:

411.1 Two copies of a plot plan, drawn to a scale and certified substantially correct by a registered land surveyor, showing the actual shape, dimensions and area of the lot. One copy of the plan shall be returned to the applicant subsequent to its approval.

411.2 The actual size and location on the lot of all buildings proposed to be built on the lot and of any existing buildings or structures that shall remain.

411.3 The existing and intended future use to be made of the proposed improvement and the premises.

411.4 The number of families, if any, that each building is designed or intended to accommodate.

411.5 Proposed drainage facilities and an erosion control plan if latter is required by the Commission.

411.6 Existing and proposed contours of the land, if any change in grading is proposed, with a plan for erosion control.

412. In the case of an application involving an alteration, renovation, extension or enlargement of an accessory building or the like, in conjunction with a pre-existing structure with an acceptable plot plan, the regulation as set forth in Section 411.1 will not apply.

413. In the case of an application involving a building or structure, the applicant or his authorized agent shall, upon completion of the foundation walls of the building or structure, be required to submit to the Zoning Enforcement Officer a survey prepared and certified substantially correct by a registered land surveyor, showing the actual location of such foundation walls on the lot. No building or structure shall thereafter be constructed above the foundation walls until said plot plan survey has been approved by the Zoning Enforcement Office as complying with the applicable provisions of the building permit and these Regulations.

414. Any permit issued on the basis of false or inaccurate information, supplied by the applicant or contained in the application shall be null and void.

415. No zoning permit shall be issued unless the lot has the required road frontage in accordance with Section 331.4 or 332.4 or 333.4, whichever is applicable, and unless such road has been completed or has had its sub-base completed and specified gravel applied, in compliance with the Road Construction Ordinance of the Town of Sherman.

416. The duration of any permit shall be for three (3) years unless otherwise specified in the permit or extended by the Commission. Unless it is renewed by the Commission, the permit shall expire if the activity authorized therein is not initiated within one (1) year from the date the permit was issued. Permit renewal and extension shall be at the discretion

of the Commission. All permits shall expire upon the completion of the acts specified therein.

SECTION 420. CERTIFICATE OF ZONING COMPLIANCE

421. No building, structure or premises or any part thereof shall hereafter be devoted to any new or changed use until a Certificate of Zoning Compliance shall have been issued by the Planning and Zoning Commission. Such certificate shall state that such building or premises or part thereof and the proposed use thereof are in complete conformity with all requirements of these Regulations.

422. Application for a Certificate of Zoning Compliance shall be made on forms provided by the Planning and Zoning Commission. Each application shall be accompanied by a fee in an amount to be determined by the Planning and Zoning Commission. Within sixty-five (65) days of the receipt of such application, the Planning and Zoning Commission shall either issue the requested certificate or deny the application, stating the reasons therefore in its records.

423. A Certificate of Zoning Compliance involving a building, structure or use for which a special permit was issued or for which a variance was given by the Zoning Board of Appeals shall include any conditions or other requirements established by said Commission or Board in connection with the granting of any such special permit or variance.

424. No Certificate of Zoning Compliance shall be issued for a building or use until the road upon which the lot has frontage has been constructed and approved in accordance with the inspection requirements of the Road Construction Ordinance of the Town of Sherman.

425. The duration of any permit shall be for three (3) years unless otherwise specified in the permit or extended by the Commission. Unless it is renewed by the Commission, the permit shall expire if the activity authorized therein is not initiated within one (1) year from the date the permit was issued. Permit renewal and extension shall be at the discretion of the Commission. All permits shall expire upon the completion of the acts specified therein.

SECTION 430. VIOLATIONS AND PENALTIES: CITATION AND HEARING PROCEDURES AND FINES

431. The Commission shall appoint a Zoning Enforcement Officer (hereinafter referred to as “ZEO”), who shall be responsible to the Commission and act as its representative in the performance of such inspection duties in connection with the enforcement of these Regulations, including the

issuance of Cease and Desist Orders and Citations, and any other duties which may be assigned to him by the Commission.

432. Notice of Violation

The Planning and Zoning Commission or its agent, the ZEO, is hereby designated as the official authority which shall be authorized to issue permits, to cause any building, structure, place or premises to be inspected and examined and to order, in writing, the remedying of any condition found to exist therein or thereon in violation of any provision of these Regulations, and to take such other action as shall be necessary and proper to enforce said Regulations, as provided below:

The ZEO shall send the person found to be in violation, by certified mail return receipt requested, and regular United States mail, a written notice of such violation. Such notice shall identify the unlawful activity or condition and cite the specific regulation(s) that such activity or condition violates. The written notice shall contain a request that the person found to be in violation correct the unlawful condition or cease the unlawful activity. Such notice shall allow the person found to be in violation ten (10) days from the date the notice is received to correct the violation. A notice sent by regular U.S. mail shall be deemed and considered received on the third business day following mailing

433. Issuance Of Citation

If the zoning violation is not corrected as provided above, the ZEO of the Town of Sherman is authorized to issue citations for violations of the Zoning Regulations of the Town of Sherman to the extent and in the manner provided by this Ordinance as authorized by Section 8-12a of the Connecticut General Statutes. Any such citation shall be served as follows: by certified mail return receipt requested, and by regular United States mail addressed to the person(s) in violation, or any such citation may be served by a Fairfield County State Marshal who shall serve the person found to be in violation in hand, or by leaving a true copy of the citation at the person found to be in violation's usual place of abode. A citation sent by regular United Sates mail shall be deemed and considered received on the third business day following mailing. Marshal's service shall be effected at the time personal or abode service is made by the serving marshal. The ZEO shall file and retain a copy of the citation so served, and shall certify thereon that said copy is a true copy of the original served on the person found to be in violation, and the date same was deposited in the United States mail. If service was effected by a State Marshal, the Marshal's return of service shall be filed with the certified copy of the citation.

434. Fine

The fine for each such citation shall be $150.00 for each day the violation remains uncorrected after the citation is served. All fines, shall be payable to the Treasurer, Town of Sherman c/o PZC, P.O. Box 39, Sherman, CT 06784.

435. Time Period For Uncontested Payment Of Fine

Persons found to be in violations have fifteen (15) days from receipt of the citation to make uncontested payment of the fine assessed and specified in the citation.

436. Notice In The Event Of Nonpayment Of Fine

If the person issued the citation fails to make uncontested payment of the fine as provided in Sections 434 and 435 above, the ZEO shall, in the same manner as specified in Section 433, send a notice to the person cited informing said person, 1) of the allegations against him or her and the amount of the fines, penalties, costs or fees due; 2) that said person may contest his or her liability before a hearing officer by delivering in person, or by mail, within ten (10) days of the date of the notice, a written demand for a hearing; 3) that if the cited person does not demand such a hearing, an assessment and judgment shall be entered against him or her; and 4) that such judgment may issue without further notice.

437. Payment

If the person who is sent a notice pursuant to Section 436 above, wishes not to contest liability for any violation and the fine assessed, he or she may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees, in person or by mail to the Treasurer, Town of Sherman, c/o PZC, P.O. Box 39, Sherman, CT 06784. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within ten (10) days of receipt of the notice provided for in Section 436 above, shall be deemed to stipulate to liability, and the ZEO shall furnish written notification to the hearing officer of such person's failure to respond. The hearing officer shall thereupon enter and assess the fines, penalties, costs and/or fees provided for by this Ordinance and shall follow the procedures set forth below.

438. Hearing Officer(s)

The First Selectman, with the approval of the Board of Selectmen, shall appoint one or more hearing officers who shall serve for a period of three (3) years, unless removed for cause, to conduct the hearings authorized by this ordinance. Said hearing officers shall not be employees of the Town of Sherman who exercise authority concerning zoning matters, nor a member of the Town of Sherman Planning and Zoning Commission.

439. Hearing

Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less that fifteen (15) days nor more than thirty (30) days from the date of the mailing of the hearing notice, provided the hearing officer may grant upon good cause shown any reasonable request by any interested party for postponement or continuance. The presence of the ZEO shall be required at the hearing if such person so requests. A person wishing to contest his liability shall appear at the hearing and may present evidence in his or her behalf. The ZEO may present evidence on behalf of the Town. If such person fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The hearing officer may accept from such person copies of investigatory and citation reports, and other official documents by mail and may, in the hearing officer's sole discretion, determine that the appearance of such person is unnecessary.

The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his decision at the end of the hearing. If he determines that the person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the municipality.

SECTION 440. Assessment

A If such assessment, as determined by the hearing officer, is not paid on the date of such determination, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the Notice of Assessment with the clerk of the appropriate superior court facility together with the designated entry fee. The certified copy of the Notice of Assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment.

SECTION 450. ZONING BOARD OF APPEALS

451. Powers and Duties:

The Zoning Board of Appeals shall have the following powers and duties:

451.1 To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by any official charged with the enforcement of these Regulations.

451.2 To determine and vary the application of these Regulations in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the zone in which it is situated, a literal enforcement of these Regulations would result in exceptional hardship, so that substantial justice will be done and the public safety and welfare secured.

452. Procedure for the Zoning Board of Appeals:

The procedure for the Zoning Board of Appeals shall be that as provided by the Connecticut General Statutes, Chapter 124.

453. Appeals:

An appeal may be taken to the Zoning Board of Appeals by any person aggrieved or by any officer, department, board or bureau of the Town of Sherman. The appeal shall be taken within 30 days of the publication by the commission of its action in a newspaper of substantial local circulation, or, in a case where publication is not required, within 35 days of the date when the Commission mails notification of its action to the applicant by registered or certified mail. In the latter case, persons other than the applicant who may have an interest in appealing must inform themselves by appropriate inquiries as to the expiration of time to appeal. The appeal is timely taken only if, within the time limited as aforesaid, written notices of the appeal, specifying the grounds thereof, are addressed separately to the Commission and to the Board, at Mallory Town Hall, Sherman, CT 06784, are mailed by registered or certified mail or delivered against a written receipt to agents of the Commission and the Board at Mallory Town Hall.

454. Fee:

There shall be a fee of $50.00 on any appeal to the Zoning Board of Appeals, which fee shall not be remitted for any reason including withdrawal of the appeal.

ARTICLE V - AMENDMENTS AND MISCELLANEOUS

SECTION 500. AMENDMENTS

SECTION 510. The Planning and Zoning Commission may, on its own motion on the recommendation of the Board of Selectmen or on petition of one or more owners of property within the Town, amend these Regulations in accordance with Chapter 124 of the General Statutes of the State of Connecticut, as amended. Referrals of such amendments to the regional planning agency shall be made by the Commission in accordance with Chapter 124 of the General Statutes of the State of Connecticut, as amended.

511. Any petition for amendment submitted by a property owner or owners shall include all of the following information and shall be accompanied by three copies of the items called for in Section 511.1, 511.2 and 511.3:

511.1 The names and addresses of such petitioners and the specific location of the properties under their ownership.

511.2 A map drawn to a convenient scale showing lot lines, building locations, and the specific location of all properties which are the subject of the petition.

511.3 A complete description of the nature of the amendment requested and of the reasons for making such request, including section numbers where amendment of the zoning text is requested.

511.4 Stamped envelopes addressed to each of the owners as of the date of application of all properties which are the subject of the petition, and of all properties within 500 feet of any portion of such properties. Such names may be as indicated in the latest real estate list of the Town of Sherman, but should include the actual owners of record where known to be otherwise by the petitioners.

511.5 An application fee in an amount sufficient to defray costs of publication.

SECTION 520. SEPARABILITY CLAUSE:

Should any section or provision of these Regulations as contained herein or as hereafter amended be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of these Regulations as a whole or any part thereof, other than the part declared to be invalid or unconstitutional.

SECTION 530. SHORT TITLE:
These regulations may also be known as and referred to as "Zoning Regulations".

SECTION 540. EFFECTIVE DATE:
After public hearing and upon approval by the Planning and Zoning Commission, these Regulations shall take effect on July 1, 1977, after public notice to that effect, and shall supersede all previous Zoning Regulations of the Town of Sherman, as amended.

ARTICLE VI - DEFINITIONS

SECTION 600. GENERAL CONSTRUCTION OF LANGUAGE:
Except where specifically defined herein, all words shall carry their customary meaning. All words used in the present tense shall include the future tense. All words in the singular number shall include the plural number and vice versa.

The word **"person"** shall include corporations and all other legal entities.

The word **"premises"** shall include land and buildings thereon.

The words **"occupied"** or **"used"** shall be considered as though followed by the words **"or intended, arranged or designed to be used or occupied,"** unless the natural construction of the wording indicates otherwise.

The word **"shall"** is always mandatory. Unless otherwise specified, all distances shall be measured horizontally.

The word **"Town"** means the Town of Sherman.

The term **"Commission"** means the Planning and Zoning Commission of the Town of Sherman.

The term **"Town Clerk"** means the Town Clerk of the Town of Sherman.

The term **"Zoning Enforcement Officer"** means the Zoning Inspector of the Town of Sherman.

The term **"Board of Appeals"** means the Zoning Board of Appeals of the Town of Sherman.

The term **"Comprehensive Development Plan"** means the Plan adopted by the Town Planning and Zoning Commission pursuant to Chapter 126 of the General Statutes of the State of Connecticut, as amended.

The term **"Subdivisions Regulations"** means the land subdivision regulations adopted by the Town Planning and Zoning Commission pursuant to Chapter 126 of the General Statutes of the State of Connecticut, as amended.

SECTION 610. DEFINITIONS:

Accessway - Any area of a lot between 35 feet and 50 feet in width which serves to connect the building area of the lot with the road upon which it has frontage and access.

Acre - As used in these Regulations, 40,000 square feet.

Automotive Service Station - A retail place of business engaged primarily in the sale of motor fuels, but also in the supplying of goods and services required in the operation and routine maintenance of automotive vehicles and the filling of motorists' immediate needs, including the sale of petroleum products, the sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication servicing, the performance of minor repairs, and the supplying of other incidental customer services and products, but excluding any body and fender work or painting by mechanical means.

Barn - Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of animals, equipment, fodder, or other chattels of an agricultural nature for use in support of agricultural operations.

Bed and Breakfast Establishments - Establishments operated pursuant to Section 354A as a home occupation and carried on by resident occupants in their home to solely provide accommodations and breakfast only to guests for a limited time period, but shall not be construed to be a hotel, motel, inn, tavern, or roadhouse.

Building - Any structure having a roof supported by columns or by wall and intended for the shelter, housing or enclosure of persons, animals or chattels.

Building, Accessory - A building subordinate to the principal building on a lot and used for purposes customarily incidental to that of said principal building and does not have septic or sewer facilities, except as provided in Section 321.7.

Building, Coverage - The total area of a lot covered by all buildings thereon, both principal and accessory; measured by the exterior dimensions of such buildings, but not including uncovered porches, steps and terraces.

Building, Height - The average vertical distance measured from the finished grade adjacent to the exterior walls of a building to the level of the highest point of the roof, if the roof is flat, or to the mean level between the eaves and the highest point of the roof if the roof is of any other type.

Building, Principal - A building in which is conducted the primary or principal use of the lot on which said building is situated.

Club - A voluntary organization, not conducted primarily for gain, with facilities catering exclusively to members and their guests for recreational, athletic, cultural or social purposes.

Commercial Business - A commercial business involves the establishment of a place of business to which more than two customers or clients come per day. Commercial businesses shall be conducted only in Zones C and D.

Commercial Vehicle - Any vehicle over 10,000 lbs. GVW, or any vehicle bearing lettering or advertising.

Contractor - A person who is (1) engaged in building, landscaping, maintaining, or repairing any portion of a residential, commercial or industrial premises, or of a public or private utility, including but not limited to excavating; installing, cleaning or repairing septic systems; well drilling; plumbing; insulating; HVAC installation, maintenance and repair; electrical system installation and repair; carpentry; roofing; cabinetry installation and repair; appliance installation and repair; utility installation and repair; flooring and carpet installation, cleaning and repair; wall board installation; foundation installation; stone masonry; arborists; siding installation; asphalt installation; painting; and tile and counter installation; and (2) performs such work for customers at locations other than where the contractor resides.

Day Camp - A place, building or structure which is designed or used on a regular or seasonal basis to provide supervised recreational activities for two or more children, but not including the overnight lodging of any such children.

Dwelling - A building designed or used exclusively as non-transient living quarters, with not less than 600 square feet of enclosed ground floor space. The term shall not be deemed to include automobile court, motel, hotel, rooming house, boarding house, house trailer, tourist home or tent.

Dwelling, Single Family - A dwelling containing one dwelling unit only.

Dwelling, Unit - A building or portion thereof providing complete housekeeping facilities for one family.

Erosion - Detachment and movement of soil or rock fragments by water, wind, ice and/or gravity.

Family - One or more persons occupying one dwelling unit and living together as a single housekeeping unit. Any number of such persons over three (3) shall be related my blood, marriage or adoption.

Farming – Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoophouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of

the local zoning authority under chapter 124 of the state Statutes. Nothing in this definition shall be construed to include the slaughter of any animal except for consumption by the resident farmer, a resident family and resident employees.

Floor Area - The sum of the gross horizontal area of the several floors of the building or buildings, measured to the exterior of the outside walls of such buildings, but not including attached or built-in garages, porches or terraces, or cellars or basements, or unfinished floor area having a clear headroom of less than seven (7) feet.

440' Line - The elevation contour line around Candlewood Lake showing a height of 440 feet above sea level; for the purpose of these regulations, this line shall be considered a lot line except where otherwise specified in a property deed.

Frontage - The extent of a lot along a road as defined herein.

Garage - A structure primarily for the housing of no more than three motor vehicles, either attached to the principal structure or unattached. Unattached garages do not have septic or sewer facilities, except as permitted by Section 321.7.

Greenhouse - A building or structure constructed mainly of glass or other transparent material and used as a conservatory for the growing and protection of flowers and plants, and for the propagation and culture thereof.

Home Occupation - A non-agricultural activity carried on for the production of income by resident occupant(s) with no more than two hired assistants in the principal or an accessory building on their property, and with no more than two customers or clients per day. (Agricultural and domestic employees on a property, and construction, maintenance and service contractors temporarily working on a property in the employ of the owner shall not be covered by this definition.)

Lot - A parcel or land, not divided by streets, which is occupied by or capable of being occupied by a principal building, structure or use and the accessory buildings and uses customarily incidental to it, together with such open spaces as required by these regulations.

Lot Area - The total horizontal area included within lot boundaries.

Lot, Contiguous - Lots which touch, meet or join for a distance of at least 50 consecutive feet.

Lot, Corner - a lot located at the junction of and fronting on two or more intersecting roads.

Lot, Depth - The horizontal distance between the front and rear lot lines measured perpendicular to the mean direction of the front lot line.

Lot, Front - That lot area extending across the full width of a lot and lying between the front lot line and the nearest line of the building.

Lot Line - A property line bounding a lot as defined herein.

Lot Line, Front - The lot line separating the lot from the road. In the case where a lot abuts two or more roads, the lot will considered to have two or more front lot lines; in the case of a lot having no road frontage and accessible only by driveway or accessway, the owner may elect any lot line as the front lot line.

Lot Line, Rear - The lot line which is generally opposite the front lot line. If the rear lot line is less than ten (10) 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 line not less than ten (10) feet long, lying wholly within the lot and farthest from the front lot line.

Lot Line, Side - Any property line extending from the front lot line to the rear lot line.

Lot, Rear - That lot area extending across the full width of a lot and lying between the rear lot line and the nearest line of the building. In measuring aforesaid lot area, the line of a building shall mean a line parallel to the lot line, drawn from a point of a building or the point of a group of buildings nearest to such lot line, and the measure shall be taken at right angles from the line of the building, as defined herein, to the lot line.

Lot, Side - That lot area between the side lot line(s) and the nearest line of the building and extending from the front lot line to the rear lot line. In measuring aforesaid lot area, the line of a building shall mean a line parallel to the lot line, drawn from a point of a building or the point of a group of buildings nearest to such lot line, and the measure shall be taken at right angles from the line of the building, as defined herein, to the lot line.

Lot, Width - The horizontal distance between the side lot lines, measured parallel to the mean direction of the front lot line.

No Impact Business: - A business that presents no external sign of its existence as a business from the street or abutting properties; has no on-

site employees; causes no change in vehicle traffic or parking patterns; has no more than one business related vehicle that must be under 12,500 pounds Gross Vehicle Weight and that may display advertising parked on his/her property overnight and on weekends; will not use or store hazardous materials in excess of normal residential use; and has no perceptible effect on the quality of life of adjacent or nearby properties, including but not limited to no increases in noise, lights, fumes, odors, vibration, and interference with radio or TV reception, compared to a lot used solely for residential purposes.

Non-conforming Use - A use of a building or of land which does not conform with the use regulations of the zone in which it is situated, which use existed at the time of the adoption of these Regulations and complied with the Zoning Regulations in effect at the time it was established.

Parcel - Any tract of land that has not been approved for residential, commercial or other development.

Parking Area - An off-street area containing one or more parking spaces, with passageways and driveways appurtenant thereto.

Parking Space - An off-street space nine feet by twenty feet available for the parking of one motor vehicle on a transient basis.

Porch - See 'Terrace"

Resident Contractor - A natural person, either self-employed or an employee of a business, who is a contractor and uses his/her own residential property for residential purposes and for (1) office functions, and (2) for storage of his/her own or his/her employer's tools, vehicles and work materials, but performs no work for customers at his/her residential property.

Riding Stable or Academy - An establishment where horses are kept for riding, driving or stabling for compensation, or are kept incidental to the operation of a club, association, ranch or similar establishment.

Road - Any road, street, highway, avenue, land or way dedicated to movement of vehicles and pedestrians and which is shown on a subdivision plan approved by the Commission, or is on a map filed in the Office of the Town Clerk prior to 1937, or is a State or Town road, but not including private driveways or rights-of-way.

School, Private - A kindergarten, preschool, primary, or secondary school accredited or duly licensed by the State of Connecticut, furnishing a

comprehensive curriculum of academic instruction similar to that of a public school.

Sediment - Mineral and organic material that is in suspension, is being transported, or has been moved from its site of origin by water.

Sign - Any structure or part thereof, or any device attached thereto or painted thereon, or any material or things, illuminated or otherwise, which display or include any numeral, letter, emblem, device, trademark or other representation used as an announcement, designation, direction or display to advertise or promote any person, firm, group, organization, commodity, service, profession or enterprise when said display is placed out-of-doors or within three (3) feet of a window in view of the general public, but not including the following: the flag or insignia of any government or governmental agency; the flag of any civic, political, charitable, religious, patriotic, fraternal or similar organization, which is hung on a flagpole or a mast; or any Christmas or other seasonal holiday decorations which do not contain commercial lettering, wording, designs, symbols or other devices.

Sign Area - Where a sign consists of a single board or face, with information on one or both sides, the area which results by multiplying the outside dimensions of such sign, not including the vertical, horizontal, or diagonal supports which may affix the sign to the ground or to a structure or building, unless such supports are evidently designed to be part of the sign as defined herein. Where a sign consists of more than (2) individual faces, the total of the area of all such faces as computed above. Where the sign consists of individual letters or symbols attached to or painted on a building, the smallest geometric shape which encompasses all of the letters or symbols.

Story - That portion of a building included between the surface of any floor and the surface of a floor next above it, or if there be no floor above it, then the space between the floor and the top of the ceiling beams next above it. In measuring the height of a building a basement should be counted as a story if the ceiling is more that four (4) feet above the average level of the adjoining finished grade. Each basement in excess of one shall be counted as a story.

Story, Half - A story with at least two opposite exterior sides meeting a sloping roof not more than two (2) feet above the floor of such story.

Street - See definition of “road”.

Structure - Anything constructed or erected, the use of which requires location on the ground. This term shall also include all swimming pools and tennis, paddle tennis and other such playing courts.

Swimming Pool - An artificial body of water or receptacle for water, having a depth at any point greater than two (2) feet, and used or intended to be used for swimming or bathing, and permanently constructed, installed or maintained in or above the ground out-of-doors.

Terrace - An open (usually paved) area connected with a dwelling and serving as an outdoor living area, with or without retaining walls. A terrace with a roof or an awning shall be considered a porch.

Use - The specific purpose for which land, or a building or structure, is designed, arranged, intended or occupied.

Use, Accessory - A use which is customarily incidental or subordinate to the principal use on a lot, and located on the same lot therewith.

Use, Principal - The main or primary use of a premises.

Watercourse - Any flow or body of water that meets the definition adopted by the Sherman Inland Wetlands and Water Courses Commission.

Adopted: July, 1985
Last Amendment: July 29, 1987

SOIL EROSION AND SEDIMENT CONTROL REGULATIONS FOR LAND DEVELOPMENT

SECTION 1. DEFINITIONS

1.1 **"Certification"** means a written approval signed on the Soil Erosion and Sediment Control Plan by the Planning and Zoning Commission, or its designated agent that a soil erosion and sediment control plan complies with the applicable requirements of these regulations.

1.2 **"Commission"** - means the Planning and Zoning Commission of the Town of Sherman, Connecticut.

1.3 **"Development"** - means any construction or grading activities to improved or unimproved real estate.

1.4 **"Disturbed Area"** - means an area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

1.5 **"Erosion"** - means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

"Accelerated Erosion" means erosion caused by human activity that has one or more of the following effects: a) danger or inconvenience to passage on roads or driveways; b) interference with the proper functioning of septic systems; c) obstruction of drains, culverts or catch basins; d) deposition of any earth materials in wetlands or watercourses; c) alteration of natural drainage across property lines; or f) carriage of any earth materials across property lines.

1.6 **"Grading"** means any excavating, grubbing, stripping, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

1.7 **"Inspection"** means the periodic review of sediment and erosion control measures shown on the certified plan.

1.8 **"Proposed Structure"** means a structure that is intended to be build using a current zoning permit application.

1.9 **"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.

1.10 **"Soil"** means any unconsolidated mineral or organic material of any origin.

1.11 **"Soil Erosion and 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.

SECTION 2. ACTIVITIES REQUIRING A CERTIFIED EROSION AND SEDIMENT CONTROL PLAN

A soil erosion and sediment control plan shall be submitted with any application for subdivision or for development of a lot when the disturbed area of such subdivision or of such lot is cumulatively more than one-half acre.

2.1 A soil erosion and sediment control plan shall be submitted with any application for subdivision, or for any other permitted use, where the area to be disturbed by such use is cumulatively more than one-half acre.

2.2 A soil erosion and sediment control plan shall be submitted by or on behalf of the owner of any parcel of land when required by the Commission, the Sherman Inland Wetlands & Water Courses Commission, or the Sherman Department of Health, or any of their agents. Such requirement shall be made only following a finding by one of these agencies of either a) the existence of a condition of accelerated erosion on such parcel of land, or b) the likelihood that a proposed activity on such parcel of land will lead to a condition of accelerated erosion.

SECTION 3. EXEMPTIONS

The following may be exempt:

A. A single family dwelling that is not a part of a subdivision of land.

B. Agricultural use of land.

Even though permits may not be required under this section, those operations which are exempted from obtaining a grading permit

shall not interfere with any existing drainage course or result in the deposition of debris or sediment offsite or in wetland area.

SECTION 4. EROSION AND SEDIMENT CONTROL PLAN

4.1 To be eligible for certification, a soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and to reduce the danger from storm water runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for certification are found in the Connecticut Guidelines for Soil Erosion and Sediment Control (1985) as amended. Alternative principles, methods and practices may be used with prior approval of the Commission or its designated agent.

4.2 Said plan shall contain, but not be limited to:

A. A narrative on the site plan describing:

1. the development;

2. the schedule for grading and construction activities including:

a. start and completion dates;

b. sequence of grading and construction activities;

c. sequence for installation and/or application of soil erosion and sediment control measures;

d. sequence for final stabilization of the project site.

3. the design criteria for proposed soil erosion and sediment control measures and storm water management facilities.

4. the construction details for proposed soil erosion and sediment control measures and storm water management facilities.

5. the installation and/or application procedures for proposed soil erosion and sediment control measures and storm water management facilities.

6. the operations and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities.

B. A site plan map 40’ to 1” or 20’ to 1” to show:

1. the location of the proposed development and adjacent properties;

2. the existing and proposed topography of the disturbed or affected area at a maximum of 2 foot contour intervals, including soil types, wetlands, watercourses and water bodies;

3. the existing structures on the project site, if any;

4. the proposed area alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, road and, if applicable, new property lines;

5. the location of and design details for all proposed soil erosion and sediment control measures and storm water management facilities;

6. name of applicant’s agent assigned the responsibility for implementing this erosion and sediment control plan.

C. Any other information deemed necessary and appropriate by the applicant or requested by the Commission or its designated agent.

SECTION 5. MINIMUM ACCEPTABLE STANDARDS

5.1 Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the principles as outlined in Chapters 3 and 4 of the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended. Soil erosion and sediment control plans shall result in a development that minimizes erosion and sedimentation during construction; is stabilized and

protected from erosion when completed; and does not cause off-site erosion and/or sedimentation.

5.2 The minimum standards for individual measures are those in the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended. The Commission may grant exceptions when requested by the applicant if technically sound reasons are presented.

5.3 The appropriate method from Chapter 9 of the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended, shall be used in determining peak flow rates and volumes of runoff unless an alternative method is approved by the Commission.

SECTION 6. ISSUANCE OR DENIAL OF CERTIFICATION

6.1 The Planning and Zoning Commission or its designated agent shall either certify that the soil erosion and sediment control plan, as filed, complies with the requirements and objectives of this regulation or deny certification when the development proposal does not comply with these regulations.

6.2 Nothing in these regulations shall be construed as extending the time limits for the approval of any application under Chapters 124, 124A or 126 of the General Statutes.

6.3 Prior to certification, any plan submitted to the Commission or its designated agent may be reviewed by the County Soil and Water Conservation District which may make recommendations concerning such plan, provided such review shall not delay the decision on an application for zoning permits by more than thirty days of the Commissions receipt of such plan.

6.4 The Commission may forward a copy of the development proposal to the Conservation Commission or other review agency or consultant for review and comment.

SECTION 7. CONDITIONS RELATING TO SOIL EROSION AND SEDIMENT CONTROL

7.1* The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, shall be covered in a letter of credit, or savings passbook with 2 signed withdrawal forms to be filed with the Board of Selectmen in the

amount equal to 100% of the estimated costs of compliance with Section 4 of these regulations.

7.2 Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional.

7.3 Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan or to meet field conditions.

7.4 All control measures and facilities shall be maintained in effective condition to ensure the compliance of the certified plan.

(*7.1) This does not apply to development of any single house site.

SECTION 8. INSPECTION

8.1 Inspections shall be made by the Commission or its designated agent during development to ensure compliance with the certified plan and that control measures and facilities are properly performed or installed and maintained. The Commission may require the permittee to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained.

SECTION 9. COMPLIANCE WITH PLAN REQUIREMENTS

9.1 In the event of violation of this regulations the commission or its duly authorized agent shall serve notice of such violation on the landowner of such property upon which such violation has occurred. Upon receipt of such notification, the landowner shall have twenty-four (24) hours in which to cease and correct such violation and comply with the provisions of this regulation.

9.2 Where such violation is not stopped and corrected subsequent to twenty-four (24) hours after receipt of such notification the commission or its duly authorized agent shall issue a cease and desist order causing all work to terminate until such time as all violations of this regulations have ceased and been corrected.

SUBDIVISION REGULATIONS OF THE TOWN OF SHERMAN, CONNECTICUT

SECTION 1.

AUTHORITY AND PURPOSES

Pursuant to Chapter 126 of the General Statutes of the State of Connecticut, Revision of 1958 as amended, the Town of Sherman hereby adopts the following regulations for the subdivision of land. The purpose of these regulations shall be:

(a) To provide for the orderly growth of the Town in keeping with the Comprehensive Plan of said Town.

(b) To provide for the integration of subdivided land into the land surrounding it.

(c) To insure and regulate the layout of roads in accordance with sound engineering principles.

(d) To insure that land so subdivided may be used without danger to health and public safety.

(e) To control the layout of lots.

(f) Control the placement of utilities.

(g) To insure that all such growth shall be sensitive to and shall preserve features of natural beauty, interest, and ecological value.

(h) To insure that land is developed in an energy efficient pattern with consideration given to Section 8-25(b) of the Connecticut General Statutes.

SECTION 2.

DEFINITIONS

The definitions and standards for the general construction of language contained in Article VI of the Zoning Regulations of the Town of Sherman are hereby incorporated into these regulations. Wherever these regulations make reference to the Soil Erosion and Sediment Control Regulations for Land Development or the Inland Wetlands & Watercourses Regulations of the town, the definitions contained in those regulations shall apply. In addition, the following definitions shall apply:

Subdivision
The division, into three or more lots, of a parcel or tract of land that is not part of any previously approved subdivision plan filed in the land records of the Town of Sherman, provided that the purpose of the division is the immediate or future sale or building development of the lots thus created. The division of a parcel of land for municipal, conservation or agricultural purposes shall not be considered a subdivision.

Resubdivision
The division, into two or more lots, of a lot or parcel of land that is part of a previously approved subdivision plan filed in the land records of the Town of Sherman. Also, the revision of a previously approved and filed subdivision plan, if such revision creates a new lot or affects any road or area reserved for public use.

Subdivider
Any person or persons or business entity or entities or other organization or organizations applying to the Commission for approval of a subdivision or re-subdivision plan who has either a fee interest in the land or an option to purchase the land.

Open Space
Land within a subdivision or re-subdivision that is not part of any lot, road or access way, and that is declared by deed or easement to remain perpetually free of residential or commercial development. Open Space includes, but shall not be limited to: land left in its natural, undisturbed state; protected agricultural land; areas for wildlife habitat protection, active or passive recreation, groundwater recharge, scenic or historic preservation, and similar areas.

Commission
The Sherman Planning and Zoning Commission.

SECTION 3.

GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND

(a) Effectiveness of subdivision
No subdivision of land shall be made, and no land in any subdivision shall be sold, leased, or offered for sale or lease, until a plan prepared in accordance with the requirements of these regulations has been approved by the Commission and filed in the Office of the Town Clerk. The Town Clerk shall not accept a subdivision plan for filing or recording unless the signed approval of the Commission is shown on the plan. Any plan filed or recorded after the effective date of these regulations without such approval shall be void.

(b) Applicability to resubdivisions
Unless otherwise provided, all requirements of these regulations applicable to subdivisions shall apply equally to resubdivisions.

(c) Requirements for subdivision lots

Each lot within a subdivision shall meet the requirements of the Zoning Regulations of the Town of Sherman that pertain to the zone within which the subdivision is located. These requirements include, but are not limited to, minimum lot size, lot dimensions, and road frontage. No lot shall be approved that does not have the access to a road required by the Zoning Regulations. The Commission may require a road plan to provide connection to adjoining roads, in being or projected, if it finds such connection will improve traffic flow or safety in the area.

(d) Certification of professional engineer

Any subdivision plan must contain a written statement from a professional engineer licensed in the State of Connecticut either upon the final subdivision map or in a report appended thereto, certifying that, after physical inspection of the site and appropriate testing, he has determined:

(1) That each lot shown on the subdivision plan has acceptable site for a private water supply system and a private sewage disposal system, as required by the Sanitary Code of the Town of Sherman; and that each lot has been given a percolation test and a deep pit test in the approximate area of the proposed sewage disposal system, said tests having been conducted in accordance with the procedures and standards of the Sanitary Code of the Town of Sherman; and

(2) That in lots contiguous to brooks, rivers, bodies of water and other areas subject to flooding, adequate provisions have been made for drainage and flood control; that neither sewage disposal systems nor other development activities upon such lots will introduce pollutants into such brooks, rivers, or bodies of water to a degree that violates applicable state law or Connecticut Department of Environmental Protection regulations; and that if any portion of the proposed subdivision lies within a flood plain designated by federal or state regulation, the applicable portions of such regulation have been met.

(e) Storm water drainage

A subdivision plan shall contain a system for storm water drainage in any location where development activity might otherwise create a condition of accelerated erosion, as defined by the Soil Erosion and Sediment Control Regulations of the Town of Sherman. No wetland or watercourse shall be altered or obstructed for this purpose without the approval of the Sherman Inland Wetlands & Watercourses Commission. In a subdivision plan, the Commission may require culverts and other storm drainage installations, and also easements necessary for the effective functioning of storm drainage systems.

(f) Lots greater than minimum size

In circumstances where lots of the minimum size permitted in a zone by the Zoning Regulations of the Town of Sherman do not satisfy the sewage disposal or storm drainage requirements of these and other regulations of the Town, the Commission may require lots of a larger size sufficient to ensure satisfaction of those regulations.

(g) Utilities

All electric, telephone, cable television and other utility lines and cables shall be placed underground and buried. Utility structures serving a subdivision that require above-ground placement, such as water tanks, pumping stations, community television antennae, and satellite dishes, may be constructed only if approved by the Commission, which may require as a condition of approval that they be inconspicuously placed and screened from view.

(1) The Commission may waive the requirement of this subsection, following the procedures and standards set forth in state statutes, if it finds that compliance is not possible as a result of specific topographic conditions contained within the subject property, or if such placement would violate other state or town regulations.

(h) Roadside parking

In areas where steep terrain or other difficult conditions may render roads temporarily impassible, the Commission may require that a subdivision provide up to two parking spaces per dwelling unit off the traveled portion of any road.

(i) Entrances to subdivisions

Each entrance to a subdivision may be marked by a single sign that meets the standards of the Zoning Regulations of the Town of Sherman. Any further entrance treatment, including gates, walls, fences, flagpoles, or lodges, requires the approval of the Commission, which shall approve only those installations that are compatible with the rural character of the Town.

(j) Scenic features

The Commission may require that a subdivision plan provide protection for specific scenic features other than through their placement within designated open space. Individual scenic features to be protected in this fashion shall each occupy less than 10,000 square feet of land area, and shall have been determined by the Commission to have natural or historical importance to the Town. Such features may include, but are not limited to, old stone walls or farm structures, waterfalls, trees or stands of trees, and rocky peaks or outcrops.

(k) Soil erosion and sediment control plan

A soil erosion and sediment control plan shall be submitted with any subdivision application when the surface area to be disturbed within the subdivision cumulatively exceeds one-half acre, or when such a plan is otherwise required by the Soil Erosion and Sediment Control Regulations for Land Development of the Town of Sherman.

(l) Incorporation of other regulations

All subdivision applications must conform to the requirements of the following regulations, which are incorporated by reference into these regulations: Zoning Regulations of the Town of Sherman; Building Code of the Town of Sherman; Soil

Erosion and Sediment Control Regulations for Land Development of the Town of Sherman; An Ordinance Governing the Construction of Driveways Intersecting Town Highways in the Town of Sherman; and An Ordinance Establishing Procedures, Standards, Specifications and Regulations for the Construction of Road in the Town of Sherman.

(m) In order to reduce any negative impacts of farming on residential areas, new subdivisions that abut existing farms shall establish a setback of at least 100' between the boundary shared with the farm(s) and any structures within the sub-division. A screen of trees or other vegetation, or appropriate fencing, shall be put in place in the buffer area to further reduce the impact.

SECTION 4.

ROADS

(a) Except as provided below, all procedures, standards, specifications and regulations contained in the Road Construction Ordinance as accepted and amended by the Town of Sherman are hereby incorporated and made part of these regulations.

(1) The conditions stated in Section 7(f)(1) of these regulations as to the performance guaranty constitute the satisfactory conditions required under Section VII of the Road Construction Ordinance.

(2) In case of conflict as to a performance guaranty for the construction of roads between these regulations and the Road Construction Ordinance, the latter will prevail.

(3) Existing Street Improvements: Whenever any subdivision is proposed for land abutting or accessible only by an existing unimproved or unpaved street and the Commission shall determine that approval of the subdivision plan would endanger the public safety unless such street was altered or improved beyond the limits of the proposed subdivision, the Commission may disapprove such plan or may condition its approval upon completion of the improvements or alteration on such street by and at the expense of the subdivider, or may disapprove such plan until the Board of Selectmen has recommended and the Town has authorized expenditures for such improvements.

(b) Any road that serves three or more lots within a subdivision shall be constructed according to the requirements of the Road Construction Ordinance of the Town of Sherman, except as provided elsewhere in this section.

(c) The Commission may permit the traveled portion of a subdivision road to be 20 feet in width, provided; either that all lots within the subdivision are five acres or larger or that

the subdivision contains 20 or fewer lots: and provided further that the road meets all other requirements, except width of traveled portion, of the Road Construction Ordinance of the Town of Sherman, as certified by the Board of Selectmen.

(d) A private accessway that serves no more than two lots may not be required to be constructed in accordance with Subsection (b) above, provided that such accessway shall have a minimum right-of-way width of 50 feet, of which each lot served shall own a width of at least 25 feet. No part of the area of such an accessway shall be considered as part of the required minimum acreage of a lot. A private accessway serving two lots, as described herein, may not abut any other accessway serving any other lot.

(e) A private accessway not constructed in accordance with Subsection (b) above may serve six or fewer lots within a subdivision, provided; that no lot is less than (5) five acres; that the average size of the lots is at least ten (10) acres, and that any such accessway meets the following criteria:

(1) The right-of-way shall not be less than fifty (50) feet in width.

(2) An additional seven-and-one half (7 ½) foot wide utility easement shall be reserved along all lot front lines.

(3) The traveled portion of such accessway shall be at least sixteen (16) feet in width, from the shoulder to the outer edge of the opposite should.

(4) An approved subgrade shall be provided, its depth being dependent on bringing roadway area to grade.

(5) Upon the prepared subgrade, a two-course gravel base, a minimum of twelve (12) inches thick, shall be built with materials and construction methods as required by Section 4.13 of the Standard Specifications for roads, bridges, and incidental construction, Connecticut State Highway Department, entitled "Traffic Bound Gravel Surface". Twenty-four (24) inches of gravel base shall be required where roadway is being constructed through rock cut.

(6) A surface course of sized or processed gravel of not less than two (2) inches after compaction shall be provided.

(7) All accessways shall be bounded on either side by suitable gutters or curbs, constructed of the same material as the roadway, or of other material as the Board of Selectmen may require. Shoulders on either side of the traveled portion of all accessways shall be free of rocks, boulders and stumps, and all disturbed areas graded and seeded except where, in the opinion of the Board of Selectmen, or its duly appointed representative, this requirement is not feasible.

(8) All accessways shall be so graded that the crown or center thereof shall not be less than three (3), nor more than four (4) inches higher than the outer edge of the roadway.

(9) No roadway shall have a grade less than one (1) percent or have a grade in excess of ten (10) percent.

(10) Horizontal and vertical sight line distances and minimum curve radii shall be subject to the approval of the Board of Selectmen.

(11) No roadway shall have adjoining slopes greater than three (3) to one (1), (i.e. three feet horizontal for each foot vertical), except in rock cut, where the slopes shall be determined by consultation with the Board of Selectmen.

(12) All accessway culverts, underdrains, curtain drains, and storm severs shall be of a size and type determined by a qualified Professional Engineer, but in not case shall culvert pipes be less than fifteen (15) inches in diameter, and underdrains and curtain drains shall be no less than six (6) inches in diameter. Pipe material shall be approved by the Board of Selectmen or their agent, and shall be installed in accordance with sound engineering practice. Sufficient pipe shall be installed within any subdivision to carry existing watercourses and to drain the proposed accessways.

(13) All drainage structures such as manholes, catch basins, and headwalls shall be built in accordance with Standard Details. Where structures of special design, such as retaining walls, bridges, or box culverts, are required, they shall be designed by a qualified Professional Engineer and shall be submitted to the Board of Selectmen for approval. Where, in the opinion of the Board of Selectmen, it is necessary to connect into the drainage system of an existing Town road, such connection shall be done in a manner prescribed by the Board of Selectmen or its duly authorized agent.

(14) When, in the opinion of the Board of Selectmen or its agent, guard railing is necessary to protect the traveling public, the subdivider shall install same as directed.

(15) An accessway shall be equipped at all intersections with street signs.

(16) No dead-end accessway shall be considered unless a turnaround approved by the Board of Selectmen is provided within a right of way of not less than one-hundred (100) feet in diameter. The construction of all dead-end accessways shall conform in every detail to all provisions of this section that apply to through streets and roadways.

(17) In the event of any question as to the interpretations of specifications or of the Standard Details required by this regulations, the minimum standard

specifications of the Connecticut State Highway Department prevailing at the time of offering of said land for roadway purposes shall govern.

(18) Upon approval of the proposed subdivision by the Planning and Zoning Commission, applicant shall file with the Board of Selectmen cash or a bond in the amount equal to 100% of the estimated costs of accessways and improvements, and with surety and conditions satisfactory to it, securing to the Town of actual construction and installation of the accessway and improvements thereto. All or any part of said bond shall be paid over to the Town of Sherman in the event that said accessway is not completed with a period of time to be specified by the Board of Selectmen, or, in the event of noncompliance with the provisions of this regulation, provided however, that no greater amount shall be paid over to said Town than is necessary to complete or correct the construction of such road and that such completion or correction is performed by the said Town of Sherman or its agent. Said security may be in cash or by a bond, issued by a recognized indemnity company satisfactory to the Board of Selectmen.

(19) The "Standard Details" of the Connecticut State Highway Department referred to throughout this section are incorporated into and herby made a part of this section.

(20) The subdivider shall incorporate commission – approved covenants in the deeds to all lots served by the accessway, obliging the grantee, his heirs, successors and assigns to share proportionately, with all other lot owners serviced by the accessway, in the ownership, maintenance, repair, subsequent improvements and related costs of such accessway, and further requiring that they participate in a property owners' association that shall be solely responsible for these obligations unless and until the accessway is constructed to the requirements of Section 4 at the expense of the property owners association. These same covenants shall be printed on the final map filed with the Town Clerk.

(21) The subdivision map shall contain the following notations: "A twenty (20) foot drainage easement is hereby reserved along each side of all lines for the maintenance and repair of accessways shown on this map."

(f) A private accessway not constructed in accordance with Subsection (b) above may serve seven or more lots within a subdivision, provided;: that no lot is less than five (5) acres; that the average size of the lots is at least ten (10) acres; and that the accessway meets the criteria established in Section 4 (e) 1) through 21), inclusive. The Commission shall require, prior to its consideration, a report from the Board of Selectmen on the suitability of the proposed accessway for emergency vehicles for anticipated levels of normal vehicular traffic. As a result of the report, the Commission may require that such accessway be built to a greater width than provided in Section 4 (e), and may require that the road surface be composed in whole or in part of bituminous concrete placed in accordance with the standards of Subsection (b) above.

(g) Any private accessway constructed under Section (e) or (f) above shall be maintained and repaired either by a homeowners' association to which all lot owners within the subdivision shall belong, or according to a legally binding arrangement under which all lot owners shall contribute to such maintenance and repair. A subdivision plan including such an accessway shall include documents granting each lot owner the right to pass and repass over such accessway, and establishing the nature of the obligation of lot owners to maintain and repair such accessway.

SECTION 5.

OPEN SPACE REQUIREMENTS

SECTION 5 OPEN SPACE REQUIREMENTS

(a) **General Open Space Requirement.** In every proposed subdivision or re-subdivision, unless the subdivider has proven that at least one of the exceptions in subsection (b) of this section applies, the Commission shall:

(1) require dedication of land as open space, pursuant to subsection (c) of this section, or,

(2) require payment of a fee in lieu of dedicating land as open space payable to the Land Acquisition Fund of the Town of Sherman, pursuant to subsection (d) of this section, or

(3) require a combination of a payment of a fee in lieu of dedicating land as open space payable to the Land Acquisition Fund of the Town of Sherman and dedication of land as open space, pursuant to subsection (e) of this section.

(b) **Exceptions to the open space requirements:**
The requirements of subsection (a) shall not apply where:

(1) the total acreage of the land in the proposed subdivision or re-subdivision is less than or equal to 400,000 square feet, or,

(2) the land has been previously subdivided or re-subdivided and the open space requirement has been legally met for that land, or

(3) the transfer of all of the land in a subdivision of less than five parcels for no consideration is to an eligible individual as defined in Connecticut General Statutes 8-25

(4) the subdivision is to contain affordable housing, as defined in Section 8-39a, equal to 20% or more of the total housing to be constructed in such subdivision, as specified in Connecticut General Statutes 8-25.

(5) other exceptions exist in the Connecticut General Statutes.

Any subdivider claiming that one or more of the exceptions in paragraphs (1) – (5) in this subsection apply shall have the burden of proving that the exception(s) do apply.

(c) **Dedication of Open Space**

In the case where the Commission requires the dedication of open space pursuant to subsection (a)(1) of this section:

(1) the subdivider shall initially file with the Commission a subdivision or re-subdivision plan that shows the exact location of the land proposed to be dedicated as open space;

(2) the land dedicated to such open space on the plan must be a minimum of 15% of the total area of the land being subdivided or re-subdivided. In addition, the Commission may require that at least 50% of the area of land dedicated to open space must be (i) land which is not regulated by regulations of the Town of Sherman Inland Wetlands and Watercourses Commission, and (ii) land that does not consist of naturally occurring slope of 25% or more as measured using 2-foot intervals;

(3) the Commission may recommend that portions of land in the subdivision or re-subdivision other than those portions proposed by the subdivider to be dedicated as open space on a subdivision or re-subdivision plan be dedicated to open space, provided that the Commission finds at least one of the following:

(i) there are areas in the subdivision or resubdivision that are specifically recommended for use as open space in the Town of Sherman Plan of Conservation and Development,

(ii) there are areas in the subdivision or resubdivision that are contiguous with open space on adjacent properties, or are proximal to nonadjacent open space which might reasonably interconnect with the proposed open space in the future,

(iii) there are areas that enhance or extend open space on an adjacent property which is dedicated for use as land left in its natural, undisturbed state, agricultural land, areas for wildlife habitat protection, active or passive recreation, or scenic or historic preservation, giving consideration to the extent of necessary maintenance supervision or management,

(iv) there are areas in the subdivision or resubdivision that meet one or more of the following objectives: the conservation and protection of wildlife and natural or scenic resources including lakes, ponds, rivers, streams, stream belts, inland wetlands, aquifers, significant woodlands, stands of unique or scenic trees, particular trees of special size or unusual type, ridges, ridgelines, ravines, stone fences and walls, stone or ledge outcroppings and other unusual physical features, and the protection of historic or archaeological sites,

(v) there are areas in the subdivision or resubdivision that will act as buffer zones to shield the view of the developed portions of the property from any person on any roads or developed lots that existed prior to the development of the subdivision.

(4) The entity designated to own the dedicated open space shall be reviewed by the Commission on a case-by-case basis at the time of subdivision approval after all relevant factors, including but not limited to the following factors are considered:

(i) the function and location of the open space,
(ii) the intended users/ beneficiaries of the open space,
(iii) the amount and cost of any future maintenance of the open space,
(iv) the expressed interest in ownership by an appropriate entity, and
(v) the desirability and suitability of public access and use of the open space.

(5) The Commission may consider any one of the following disposition options:

(i) conveyance in fee simple to the Town of Sherman,

(ii) conveyance in fee simple to the State of Connecticut,

(iii) conveyance in fee simple to a land trust (with the concurrence of the subdivider and the land trust),

(iv) conveyance in fee simple to some or all of the owners of the lots in the subdivision,

(v) conveyance of conservation easement(s), with or without public access, to the Town of Sherman,

(vi) conveyance of conservation easement(s), to a land trust, with the concurrence of the subdivider and the land trust,

(vii) conveyance of a recreation easement to the Town of Sherman, the State of Connecticut, or a private, nonprofit recreational entity,

(viii) conveyance of an agricultural easement to the Town of Sherman, the State of Connecticut, or a private, nonprofit, farm preservation entity, or

(ix) any combination of the above or any suitable alternative approved by the Commission.

The Commission may not require ownership by an entity described in this subsection, nor by any other entity unless the subdivider and acceptor consents to such designation.

(6) the subdivider shall designate in its application the disposition option from subsection (c)(5) of this section that it proposes to use regarding the proposed open space.

(7) as part of its initial subdivision or re-subdivision application, the subdivider must provide the Commission with proposed legal documents conveying an interest in the land constituting the open space. After consultation with its attorney, the Commission may either require changes in those documents or approve such documents to ensure that the open space is dedicated to its intended purpose in perpetuity;

(8) where the subdivider proposes to the Commission to transfer an interest in the land dedicated to open space, the subdivider must provide written proof from the entity proposing to protect the open space, stating that it will accept either a beneficial interest in a conservation easement or an interest in fee simple of the land dedicated as open space, and will further accept responsibility for compliance with the terms of the easement or deed of such land in perpetuity;

(9) at the time the approved subdivision or re-subdivision plan is filed in the Clerk's Office in the Town of Sherman the subdivider shall record in the Sherman Land Records the legal documents approved by the Commission pursuant to subsection (c)(8) of this section;

(10) the boundary lines of all land dedicated to open space in a subdivision or re-subdivision shall be set in the field and marked by permanent surveyor's monuments. Such monuments shall be set where open-space boundary lines change direction or intersect with a lot line, road or perimeter line within the proposed subdivision or re-subdivision. Surveyor's pins shall be used at such other points as is necessary to establish a continuous sight line between two pins for the entire length of the boundary;

(11) any (i) excavation, filling, re-grading or other alteration of land designated as open space pursuant to this section; (ii) any construction or expansion of any building, structure or other improvements on any such open space; or (iii) any paving or surfacing of such open space subsequent to the date of approval of the subdivision or re-subdivision, other than work required by the subdivision or re-

subdivision plans as approved, is prohibited. Land to be dedicated as open space for the purpose of the protection of wildlife and natural or scenic resources shall be left in its natural state, except for improvement or maintenance as may be expressly permitted by the Commission at the time of approval. Land dedicated to open-space shall not be used as a repository or dump site for brush, stumps, trees, branches, dirt, sand, rocks, or other earth materials, building materials, trash or other debris.

(d) Payment of a Fee In Lieu Of Dedicating Land As Open Space

(1) The Commission may, in its discretion, require a subdivider to pay a fee in lieu of dedicating land as open space, payable to the Land Acquisition Fund of the Town of Sherman, where it determines that a dedication of land would be inappropriate, unattainable, or not viable. In making such determination, the Commission shall consider the following:

(i) the particular features of the land that are suitable as open space due to size, shape, topography and the character of the open space,

(ii) areas recommended for open space in the Sherman Plan of Conservation and Development,

(iii) if any land in the proposed subdivision is contiguous with open-space on adjacent land, or is proximal to non-adjacent open-space which might reasonably interconnect with proposed open space in the future, and such open-space enhances or extends the open-space on adjacent properties,

(iv) whether the land is unprotected agricultural land, an area for wildlife habitat protection, active or passive recreation, groundwater recharge, or scenic or historic preservation, or whether it is protected pursuant to the regulations of the Sherman Watercourses and Waterways Commission,

(v) if the land is not recommended as open space by the Sherman Board of Selectmen, Inland Wetlands and Watercourses Commission, Conservation Commission, Recreation Commission, the Housatonic Valley Council of the Elected Officials, or the Northwest Soil and Water Conservation District.

(2) When the Commission requires a subdivider to pay a fee in lieu of dedicating land as open space, such fee shall be equal to no more than 10% of the fair market value of the land to be subdivided or re-subdivided prior to the approval of the subdivision or re-subdivision. The fair market value of the land shall be determined by an appraiser jointly selected by the Commission and the subdivider. The Commission shall notify the subdivider of the names of three appraisers to determine the fair market value of the land. The subdivider may choose one of those appraisers, or recommend another. If the Commission rejects

the appraiser proposed by the subdivider, the Commission shall propose two additional appraisers, and the subdivider shall choose one of those.

(3) The fee shall be distributed over the approved lots in the subdivision, and payment shall be made at the time of the sale of each approved lot, or a single payment covering all lots may be made at the time of the approval of the subdivision. The fee assessed to a particular lot shall be determined by a fraction, the numerator of which is one and the denominator of which is the number of approved lots in the subdivision. The fee shall be paid to the Land Acquisition Fund of the Town of Sherman.

(4) When the Commission requires a subdivider to pay a fee in lieu of dedicating land as open space, and the subdivider chooses to have a portion of the fee paid at the time of sale of each lot, the subdivider shall prepare and submit to the Commission a lien document suitable for recording in the Sherman Land Records for each approved lot in the subdivision plan. Each lien document shall state the method to determine the dollar amount to be paid to the Land Acquisition Fund of the Town of Sherman at the time of sale of the lot as required by subsection (d)(3) of this section. After the Commission approves such lien documents, the subdivider shall present such lien documents and record them with the Sherman Town Clerk's Office in the Sherman Land Records. The Town of Sherman shall prepare and record in the Land Records of the Town of Sherman a release of lien for a lot upon receipt of the properly calculated fee for that lot.

(5) No approved subdivision or re-subdivision plan in which a subdivider is required to pay a fee in lieu of dedicating land as open space may be recorded with the Town Clerk without the simultaneous recording of approved lien documents as described in subsection (d)(4) of this section.

(6) The fee in lieu of open-space payment obligation shall be clearly noted on the approved subdivision or re-subdivision plan to be recorded with the Sherman Clerk's Office upon approval of the plan by the Commission. The form and content of said notice shall be as provided by the Commission.

(e) Combination of a payment of a fee in lieu of dedicating land as open space payable to the Land Acquisition Fund of the Town of Sherman and dedication of land as open space.

In a case where the Commission requires a combination of a payment of a fee in lieu of dedicating land as open space and dedication of land as open space, the Commission shall require the following:

(1) The subdivider shall determine the size of the portion of land dedicated as open space and compare that size to the size of land that would be required to be dedicated as open space pursuant to subsection (c)(2) of this section. Such a comparison shall be expressed as a decimal where the numerator is the size of the

land actually dedicated as open space and the denominator is the minimum amount of land required as open space pursuant to subsection (c)(2) of this section.

(2) The subdivider shall subtract the decimal obtained in subsection (e)(1) of this section from 1.00.

(3) The fee in lieu of dedicating land as open space shall be determined by multiplying the decimal obtained in subsection (e)(2) of this Section times the fee determined pursuant to subsection (d)(2).

(4) As to the land dedicated as open space, the requirements of subsection (c) of this section shall apply, except that subsection (c)(2) of this section shall not apply when there is a combination of land dedicated as open space and a fee in lieu of open space.

(5) As to the fee in lieu of open space, the requirements of subsection (d) of this section shall apply, except that the determination of the amount of the fee shall be made pursuant to subsection (e)(3) of this section when there is a combination of land dedicated as open space and a fee in lieu of open space.

SECTION 6.

REQUIREMENTS FOR SUBDIVISION PLAN

A subdivision plan submitted for the approval of the Commission shall comprise the following materials:

(a) An original and two additional copies of a map or plan drawn in ink by a registered professional engineer or registered land surveyor, having a scale not greater than 100 feet to the inch. This map or plan shall be prepared in accordance with the statutory requirements for filing with the Town Clerk, and shall show the following information:

(1) Proposed subdivision name or identifying title, its location, the name and address of the subdivider, and the certificate of a registered professional engineer or a registered land surveyor.

(2) Layout of existing roads and proposed new roads, easements, rights-of-way, including those of utilities, sewers and drainage, either on or off the site, and open space reserved for common public uses, with exact length and bearings.

(3) Names of abutting property owners and accurate road frontage distance up to 220 feet.

(4) North point, scale of map and date.

(5) Boundary lines of subdivision with accurate distance and bearings in accordance with Section 8. (a).

(6) Layouts of lots showing exact lengths and bearings, areas of lots, and open space.

(7) All lots, numbered in consecutive numbers, within the subdivision.

(8) Contour lines showing land elevations at 2 foot intervals.

(9) Location of all inland wetland and watercourse boundaries in accord with the requirements of the Sherman Inland Wetland Regulations and Map.

(10) A key map which shall show, at a scale of approximately one inch to 1,200 feet, the relations of the proposed subdivision to existing town roads.

(11) A rectangle 170 by 200 within horizontal boundaries of each lot in A and B zones, and a rectangle 115 feet by 150 within horizontal boundaries of each lot in C Zone.

(12) Sufficient data acceptable to the Commission to determine readily the location, bearing and length of principal road lines and location of boundary lines, including radii and length of curves and other information sufficient to establish such lines. Such lines should be tied to existing reference points. See Section 10 (b).

(13) Permanent reference points as indicated in Section 8.

(14) Names of all proposed roads, which names shall not duplicate or resemble the names of any existing roads in the Town.

(15) Location of sanitary and storm-sewer lines, water mains, catch basins, culverts and other underground structures, and location of all drainage easements with written approval of the Board of Selectmen.

(16) Lines showing 100-year Flood Hazard Areas as shown on maps prepared by FEMA which are on file in the office of the Town Clerk.

(b) Where road construction is part of the proposed subdivision, road profiles drawn to the standards of the Board of Selectmen, and a drainage analysis map showing the tributary watershed area and downstream area affected by run-off. Drainage computations shall consider the entire watershed area.

(c) A report prepared by a professional engineer of percolation tests and deep pit tests performed on each proposed subdivision lot by or under the supervision of the Health Officer or his agent. This report shall include all test data, as certified by the engineer.

(d) A report from the Health Officer of the Town or his agent, stating his approval of the subdivision plan, and any conditions established by the Health Officer for such approval.

(e) A report from the Board of Selectmen, stating their approval of the proposed subdivision's access to the road system of the Town, and of any roads to be constructed within the proposed subdivision, together with any conditions established by the Selectmen for such approval.

(f) A soil erosion and sediment control plan, in accordance with the Soil Erosion and Sediment Control Regulations for Land Development of the Town of Sherman.

(g) A report from the Sherman Conservation Commission stating:

(1) that the proposed subdivision would have no significant environmental impact, or an environmental impact statement has been prepared by the applicant under the direction of the Sherman Conservation Commission, which may require an evaluation of impact on soils, surface and subsurface water, topography, flora and fauna, air quality, noise levels, or other environmental variables; and

(2) that the proposed subdivision contains no endangered species, as defined by the Connecticut Department of Environmental Protection, and no sites of archeological significance, as defined by the Connecticut State Archeologist, or that appropriate measures have been taken to protect such species or sites.

(h) A report from the Sherman Inland Wetlands & Watercourses Commission together with any conditions established by said Commission. .

(i) Where the subdivider owns or controls land adjacent to the proposed subdivision, and where such adjacent land has not previously been subdivided, a statement of tentative plans for the development of such land, including the prospective road system for such land.

(j) Statements from any Town, state or federal agency determined by the Commission to have information necessary for a decision that serves the objectives of these regulations.

(k) A key map, for the use of the Tax Assessor of the Town of Sherman, that shows the proposed subdivision at a scale of approximately 200 feet to one inch.

(l) A written application on the form provided by the Commission, accompanied by a check for such application fee as shall have been set by the Town.

(m) A performance bond, as provided for in Section 7(f)(1) of these regulations.

(n) Demonstration to the commission that the applicant has considered the use of passive solar energy techniques which would not significantly increase the cost of the housing to the buyer, after considering tax credits, subsidies, and exemptions.

(1) Passive solar techniques and site design techniques which maximize solar heat gain, minimize heat loss, and provide thermal storage within a building during the heating season and minimize heat gain and provide for natural cooling during the cooling season shall be considered. These techniques include: house orientation; street and lot layout; vegetation; natural and man-made topographical features; and protection of solar access within the development.

SECTION 7.

PROCEDURE

(a) Submission of an informal plan

Prior to the submission of a format application for subdivision, subdividers are encouraged to submit an informal plan and to meet in advisory consultation with the Commission. It is the position of the Commission that an informal plan and consultation enables the Commission to assist an applicant by responding to inquiries and proposals, and by indicating topics of possible future concern.

(1) The submission of an informal plan does not constitute an application for subdivision. No fee shall be paid by the applicant with such submission. No decision shall be rendered by the Commission on such submission. The advisory consultation shall in no way prejudice that right of a subdivider to subsequently apply for a subdivision, nor the right of the commission to approve or deny such application.

(2) An informal plan shall include a map or plan prepared according to Section 6(a) of these regulations. Other documents required for a formal subdivision plan may also be submitted for the Commission's comments at this time.

(b) Formal application

(1) An application to the Sherman Inland Wetlands & Watercourses Commission shall be accepted in lieu of the report cited in Section 6(h), provided that the application to said Wetlands Commission is dated not later than the date of the subdivision application to the Commission, and provided that the Commission shall not approve the application unless the report cited in Section 6(h) has been received.

(2) A subdivision application may be accepted, and a public hearing scheduled, even though the Commission finds that minor clerical revisions are required in certain

of the application documents, provided that such revisions shall be completed and made part of the file available for public scrutiny at least one week prior to the date of the public hearing.

(c) Site Inspection

The site of any proposed subdivision shall be inspected prior to approval by one or more members of the Commission, or its agent.

(d) Public Hearing

The Commission shall hold a public hearing on any accepted application for subdivision, and shall not approve an accepted application without such public hearing. The subdivider or his agent shall appear at the public hearing.

(1) Notice of any public hearing shall be provided by mail and by publication, in the form and within the time limits provided by state statutes.

(e) Decision

The Commission shall approve, modify and approve, or disapprove any subdivision application within the time limits provided by state statute. Notification of Commission action shall be made by mail and by publication, in accordance with state statute.

(f) Effectiveness

Within 90 days after Commission approval, the subdivider shall present that final subdivision plan to the Town Clerk for filing in the town records. The Commission may grant a reasonable extension of this time limit, not to exceed 90 days. Any approval given by the Commission shall be void if such final plan is not presented for filing within the time provided. The Commission shall signify its final approval by the signature on the plan of the Chairman or the Secretary of the Commission, and shall permit the plan to be recorded, provided that:

(1) No approval of a plan of subdivision by the Commission shall be deemed final until the subdivider has completed all road and other improvements as required by Section 4 of thee regulations, or alternatively, has filed with the Town a bond in an amount equal to 100% of the costs of roads and improvements and with surety and conditions satisfactory to it, securing to the Town the actual construction and installation of such improvements to the road and that portion of driveways within the road lines, drainage, sewer and water supply and any other improvements required by the Commission, within the period specified in the bond. Such bond shall not be released until the developer's professional engineer has certified completion of the public utilities and improvements in substantial accordance with the requirements, and the road or roads have been legally approved by the Town, and deeds covering land to be used for public purposes, easements and right-of-way over property to remain in private ownership, and rights to drain onto or across private property are submitted in a form satisfactory to the Town Counsel, and a maintenance guarantee in the form of a performance bond to the Town of Sherman in an amount equal to 10% of the cost of roads and

improvements is filed with the Selectmen. The maintenance guaranty shall be held by the Town of Sherman for a period of one year or until the developer corrects any defects in construction occurring during the year following acceptance of the improvements by the Town.

(2) Any conditions imposed by the Commission at the time of its approval have been properly reflected in the final plan, and no other, unapproved changes have been made in the plan.

(3) All recording fees shall have been paid by the subdivision.

(4) All required subdivision corner monuments, lot corner markers, easement boundary markers, and other required reference points shall have been placed on the site by the subdivider.

SECTION 8.

STANDARDS FOR REFERENCE AND MEASUREMENT

(a) Permanent reference points shall be indicated. They shall be set at all corners of the boundaries of the tract to be subdivided, and on one side of the highway at all angle points in road line, intersecting highways, at the beginning and end of all curves, and at such intermediate points as may be required by the Commission.

(b) Monuments shall be of stone or reinforced concrete, not less than 4 inches square and 30 inches long, with a brass or copper plug or drill hole or cross marking point of measurements. If ledge is found within 4 inches of grade surface and such ledge is of sturdy consistency, a disk should be set in a drill hole and held in with concrete. If the ledge is more than 4 inches but less than 30 inches from grade surface, the monument should be broken off and the reinforcing rods driven into solid ledge and held by concrete. The monuments should be set after the construction of the road.

(c) All lot corners shall be marked by iron pipes, 30 inches in length.

(d) All points of intersection between lot lines and the boundary lines of easements granted land trusts and conservation organizations shall be marked by monuments as described above.

(e) All tapes shall be calibrated to government standards and proper correction made for sag and temperature.

(f) Surveying and mapping should agree with Class A-2 survey in accordance with the Code of Connecticut Technical Council, Inc. In addition to the requirements of the Connecticut Technical Code, all points other than controls should have an accuracy of one part in 5,000. It is suggested that subdivisions be surveyed on N.O.S. (C.G.S.) datum and some of the coordinates listed on the final map.

SECTION 9.

VALIDITY

(a) These regulations shall take effect on May 16, 1977.

(b) If any section, subsection, sentence, clause, phrase, or portion of these regulations is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

(c) Any and all subdivision regulations for the Town of Sherman in effect on or at any time prior to the effective date of these regulations are hereby repealed, except as follows:

(1) Any lot on a subdivision map filed with the Town Clerk prior to the enactment of zoning regulations in May, 1937, and any other lot on a subdivision map that conformed to the Zoning and Subdivision Regulations at the time of its filing, shall constitute a legal building lot, provided that any development activity on said lot shall meet the requirements of the Sanitary Code of Sherman and the Sherman Inland Wetlands and Watercourses Commission that are in force at the time such development activity commences.

(d) The Commission may amend these regulations in the manner provided by statue.