

SECTION 4 - Residential Zones, Uses & Regulations**4.1 General**

- A. Uses of land and buildings in the Residential Zones shall be limited to those clearly specified in this Section. All other uses are hereby prohibited unless specifically permitted elsewhere in these Regulations.
- B. No structure shall be erected less than 50 feet from any property line adjacent to any public highway, except permission may be granted by the Zoning Board of Appeals for new buildings to conform with the placement of already existing buildings on the same lot.
- C. No structure shall be erected less than 50 feet from the property line of any adjoining property.
- D. No structure shall exceed 35 feet from the ground to the highest point on the roof, excluding chimneys. No accessory building shall cover more than 1,000 square feet of land area including overhangs and protrusions. Exception is made for barns and silos on premises described in Section 4.3. E., for boarding stables.
- E. Measurement from a structure to a property line shall be from the nearest point on the exterior of said structure to said property line.

4.2 Outside Storage

- A. The outside storage of any materials or objects where such storage is not a customary accessory use to the principal use of the property as permitted by these regulations is hereby prohibited unless such stored materials or objects are screened from view on all sides, by plantings, opaque fencing or other appropriate screening devices. This prohibition shall not apply to:
 - 1. the temporary outside storage of building materials, supplies and equipment being used in any construction on the property on which the same is stored and for which a required permit has been duly issued and is in force, or
 - 2. the temporary storage of farm machinery on the property on which the same is used and the temporary storage of farm produce on the property on which it was produced, or
 - 3. not more than one unregistered motor vehicle and one unregistered camp trailer will be allowed on any lot unless enclosed by a permanent structure.Outside storage shall not extend into required front yards except that, in instances of existing buildings such front yard requirement may be reduced to the existing building line.

4.3 Permitted Uses - Residential Zones

Except as provided in Section 4.3.D.4 of these Regulations, the Zoning Enforcement Officer may issue zoning permits for those uses set forth in Section 4.3.A, B, C, and F. In a residential zone, buildings and premises may be used and buildings may be erected or structurally altered which are arranged, intended and/or designed to be used only for the following purposes provided that the residential character of the property is maintained:

- A. A single family dwelling, (1 per lot), with or without an attached private garage(s).
- B. Detached private garage(s) used as accessory to and in conjunction with the single family dwelling on the same lot.
- C. Accessory buildings incidental to residential occupancy such as a tool shed, workshop, greenhouse, storage shed or barn. Accessory buildings shall not be used as a dwelling unit, and shall not be permitted on a lot without a primary structure, except as provided for as an accessory use in a boarding stable.
- D. Accessory uses incidental to the above uses are permitted in the residence and in accessory buildings which are incidental to the primary use of the property as a residence.
 1. Such uses are limited to the resident and not more than two employees, except as may be provided for under the Connecticut General Statutes for proper operation of family and group day care facilities.
 2. A maximum of two (2) accessory uses and a total of two (2) employees per premises may be permitted in accordance with these Regulations.
 3. Accessory uses shall not give rise to noise, or odors or create a nuisance or other objectionable or unsightly conditions, which are likely to deteriorate property values.
 4. Zoning permits from the Commission are required for uses a, b, c and d as follows:
 - a. Professional Offices. Maximum of 500 square feet and a maximum of 2 client visits at any time are permitted
 - b. Home Occupations, including licensed day care centers, in accordance with Connecticut General Statutes. Includes home based businesses and customary home occupations.

- c. Roadside stands for selling products grown locally, or raised on the premises on which the stand is located. The stand may be a maximum of 100 square feet. The Commission, after consideration of all safety and sightline issues may allow the structure to be located with less than the required setback provided the structure and use are only seasonal in nature.
 - d. The Commission may permit community based gardening upon submission and consideration of a layout plan, traffic safety controls, including parking and a description of the activity including the number of participants.
5. The non-commercial, breeding, raising and keeping of poultry, domesticated animals, including horses and pets and private kennels as defined in Section 1, except as prohibited in Section 6, provided that the owners use best management practices including those for manure management as contained in publications from the Cooperative Extension service, (see appendix A-2) and provided that the animals are the personal property of a resident on the property and are not leased to non-residents of the property.
- E. On premises consisting of more than 3 contiguous acres, (separation by a public highway shall not prevent property from being considered contiguous within the meaning of this Section), the following uses (1-4) are also permitted as of right:
- Note: Best management practices are to be used for all following uses as well. All manure storage areas are to be at least 100 feet from any property line for any of these uses.
- 1. Community based gardening on 3 acres or more. The Commission may permit this use on less than 3 acres if the Commission finds the use is compatible with the neighborhood.
 - 2. Farming as defined in Section 1.
 - 3. Any structure or use related to farming, except as prohibited by Section 6.16, provided that any structure erected or used to house swine or the outside location of any swine pen area must be at least 100 feet from the nearest property line. Silos may exceed 35 feet in height. Barns may exceed 1,000 square feet in area, however if they do they must be at least 100 feet from any property line.
 - 4. Custom farming, as defined in Section 1.2.

- F. Swimming pools, as defined herein, for the personal use of the residents of the premises are permitted provided that all pools shall be protected as required by the State Building Code and that any pool, fixed (above ground) or installed, (inground) shall be subject to the required setbacks for structures as required in Section 3.4. and Section 4.
- G. Applications for earth removal, excavation, filling, stockpiling and grading shall be processed and may be permitted by Exemption, Administrative Permit or by Special Exception only as set forth in Section 8 of these Regulations.
- H. Construction trailers for office and/or storage use, or dumpsters in connection with ongoing construction for which there exist all appropriate valid permits, are permitted on the site during such construction under the following conditions:
 - 1. The Zoning Enforcement Officer shall approve the location of any such trailer. In granting or denying said approval due consideration shall be given to protecting public safety, safeguarding emergency vehicle access, avoiding traffic circulation and sightline problems, and minimizing negative impacts on the desirable residential character of the neighborhood.
 - 2. Any trailer permitted in accordance with the above section shall be promptly removed from such location upon the completion of the construction or upon cessation of the permit for the related construction or upon revocation of the permit by the ZEO or the Commission.
- I. The ZEO may issue a permit for temporary or portable structures for habitation for a period not to exceed 1 year, during reconstruction or repair of an existing dwelling, when:
 - 1. In his opinion the general welfare of the Town and the integrity of these regulations will not be adversely affected, and
 - 2. Provided the Sanitarian gives his approval, and
 - 3. Satisfactory evidence of intent to build within the one year period of time must be furnished prior to the issuance of the permit, with the requirement that
 - 4. Construction of the permanent replacement structure must commence within 180 days of the date of the temporary permit and be actively pursued to completion. If it is not, the permit for the portable structures may be revoked and enforcement pursued.

4.4 Special Exception Uses- Residential Zones

The following uses shall be permitted only as special exceptions upon approval of the Planning and Zoning Commission which after proper application and public hearing may only be approved if the Commission finds the proposed use and structures shall serve the public convenience and welfare and that the proposed use at the proposed location, (subject to such appropriate conditions, modifications and safeguards as the Commission may deem necessary and impose), will not substantially impair the health, safety or welfare of the inhabitants, residents and of owners of nearby properties, particularly with respect to: water supply, drainage, sewage, flooding, fire, panic, traffic, off-street parking, public uses (including schools, parks and playgrounds), and the proximity of other uses, which may be affected.

- A. Educational, municipal, religious, philanthropic, professional or artistic use by a government authority or non-profit organization.
- B. Clubs, lodges and community houses operated on a non-profit basis, provided no alcoholic liquor is sold on the premises and provided further that no activity is carried on customarily as a business and provided the activity is not such as to give rise to noise or other objectionable conditions noticeable outside the premises.
- C. Parks and playgrounds operated by non-profit organizations or by a government authority.
- D. A country club as defined in Section 1.2, serving country club members and their guests provided that the area upon which any such country club may be located shall be not less than 50 acres and that no building forming a part of the premises of the country club shall be within 300 feet of any public road nor within 300 feet of any property line.
- E. Boarding stables, indoor riding rings and riding academies as an accessory use on lots of at least 5 acres, provided all exercise yards and buildings for housing animals as well as all storage of materials and waste are maintained using best management practices and are at least 100 feet from any property line. Operation of this accessory use is limited to residents of the main/principal use and not more than 4 employees.
- F. Temporary or portable structures for dwelling purposes may be permitted for a period not to exceed 1 year, during construction of a residential structure, when the Commission finds:

1. The general welfare of the Town will not be adversely affected, and
 2. The Sanitarian has given written approval, and
 3. Satisfactory evidence of intent to build within a reasonable period of time must be furnished prior to the issuance of the permit, and
 4. Construction of the permanent residence structure must commence within 180 days of the date of the temporary permit and be actively pursued to completion.
- G. Public Utility Substations. Buildings and equipment of corporations regulated as Public Utilities are subject to the approval of the Planning and Zoning Commission. Service yards or the outside storage of supplies shall not be permitted and all buildings shall be in harmony with the general style of architecture of the neighborhood and shall be suitably screened. Telecommunications devices and towers as provided for in these Regulations.
- H. Rear Lots.
1. Purpose and Intent - This section is intended to provide design and development flexibility to promote and enhance the protection of open space and valuable natural resources and to achieve the purposes and intent of the Town Plan of Conservation and Development, where the use of rear lots is practical, reasonable and desirable due to the unusual shape, topography, physical site conditions or natural resource configuration of land.
 2. Authorization - The Planning and Zoning Commission may authorize the establishment and use of a rear lot in the B-I, R-65 and R-130 zoning districts, by approval of a Special Exception and a Site Development Plan, subject to the provisions of this section and the submission requirements and standards of Section 10 of these Regulations.
 3. General Criteria – In reviewing and acting upon any proposal for a rear lot, the Commission shall determine that the following criteria are met:
 - a) Such construction or use shall not, with respect to future occupants of the lot or lots, or abutting landowners or the general community, significantly impair the public health, safety, general welfare, or property values.
 - b) The proposed rear lot(s) shall not interfere with the orderly layout and extension of public roads or the future development of vacant land.

- c) The proposed rear lot(s) shall be deemed to accomplish the best use of the subject land and shall be justified by the configuration, topography, soils or other natural resource characteristics of the property and its surroundings.
 - d) The proposed rear lot(s) shall be in harmony with the surrounding neighborhood and abutting properties and avoid adverse aesthetic impacts due to proximity to neighboring dwelling units, interference with significant views and vistas, excessive removal of natural vegetation, which provides buffering, and screening, or other excessive alteration of the natural landscape.
 - e) The proposed rear lot(s) shall be served with adequate utility capacity and access for emergency vehicles, shall avoid disturbance of steep slopes and sensitive natural resource areas, and shall mitigate potential environmental impacts.
 - f) Each rear lot shall have suitable soils and sufficient area and dimensions to provide for a private water supply system and for the proper layout, installation and future extension of a private sewage disposal system.
 - g) All electrical and other utility service lines shall be placed underground.
4. Separation of Access ways. No rear lot access way shall have frontage on a street within 300 feet of the frontage for any other rear lot access way on the same side of the street, provided that the Commission may approve a lesser spacing and may approve not more than two access ways to be contiguous when traffic safety and convenience will be enhanced or significant natural features of the tract will be conserved, and when the appearance of a multiplicity of driveways to front lots and rear lots is avoided.
 5. Rear Lot Location. No rear lot shall be permitted to be located to the rear of another rear lot (“stacking”) unless the access ways of the rear lots front on different streets.
 6. Common Driveways. Where the Commission requires adjacent rear lots to share a common driveway, the applicant shall provide an agreement, subject to Commission approval and recording on the land records, requiring the users of said common driveway to share in the responsibility for its maintenance. Approval of the Commission in accordance herewith shall not be considered as acceptance of said right-of-way or driveway by the Town for

public purposes such as maintenance repair, or other services normally provided within a public highway.

7. Driveway Standards. In residential districts, the driveway and all utility connections servicing a rear lot shall be installed and maintained within the required access way, or within the adjacent access ways of two rear lots served by a common driveway. The driveway shall be constructed with a minimum twelve (12) foot wide traveled surface and shall not exceed a maximum of 2% grade from the curb line to a point twenty feet from the road right-of-way line, and shall not exceed a maximum of 6% grade for the next forty feet of driveway, with any remainder of the driveway not to exceed a maximum grade of twelve percent (12%), with suitable horizontal alignment and clearances to permit access by emergency vehicles. Regrading necessary to construct the driveway shall not extend beyond the limits of the access way and shall not exceed a slope of 2:1 (horizontal: vertical) and a maximum cut or fill depth of ten (10) feet. Driveway design and construction specifications and sightline requirements shall conform with the standards of Section 10 and all other applicable standards of these Regulations and of the Town of Bethany, as adopted and amended.
8. Lot Area, Width and Yard Requirements. Each rear lot shall comply with all of the requirements of the district in which it is located, except as expressly provided for herein. Subsequent to the adoption of these regulations, each rear lot created in the R-65 zone shall have a total lot area of not less than 97,500 square feet, and each rear lot created in the R-130 zone shall have a total lot area of not less than 195,000 square feet. Subsequent to the adoption of these regulations, each rear lot created in the B-I zone shall have a total lot area of not less than 65,000 square feet, provided that when within a Drinking Water Supply Watershed (WSO) such lot area shall be not less than 87,120 square feet. Measurement of total lot area shall exclude the area of the access way and any portion of the lot with a width less than 50% of the minimum lot width specified in Section 3.4. A straight line, drawn parallel to the public road providing access to the rear lot, shall be used to measure required minimum lot width and shall also serve as the front lot line for purposes of determining the required front yard.

9. Maximum Number of Rear Lots. For the purposes of this section, a "Subject Parcel" shall be any parcel legally existing as of the enactment of this regulation amendment on April 15, 2002. The number of rear lots created from a Subject Parcel shall comply with the following schedule:

<u># of frontage lots</u>	<u># of rear lots allowed</u>
1 – 4	1
5 – 8	2
9 – 12	3
13 – 16	4
17+	1 additional rear lot for every four (4) additional front lots

All lots created from the Subject Parcel shall be counted in calculating the number of rear lots allowed in any subsequent subdivision or resubdivision of any portion of the Subject Parcel.

- I. Living quarters in a horse stable may be permitted for the following purposes and only under the following conditions:
1. The stable is legally existing and is an incidental use to the primary residential use of the property and is located on a parcel of 6 acres or more in size and is at least 50 feet from any property line.
 2. The living quarters may be no larger than 800 square feet and may contain no more than two bedrooms.
 3. At least one of the occupants must be employed by the owner or principle resident of the property, and it is the primary duty of the employee to care for the horses in the stable, and the employees proximity to the horses is required for their safety and proper care.
 4. There shall be no more than one such living quarters on the property. No accessory apartment may be permitted on the property.
 5. No part of the living quarters section of the stable may be more than 35 feet above ground level at any point.
 6. The owner of the property shall provide proof that the stable dwelling unit is permanently deed restricted to the satisfaction of the Commission and that the living quarters and their use comply with all terms and conditions of the permit, which was requested and issued.

7. If any of the above conditions and purposes are not met at any time after the permit is issued, then the permit shall expire and become null and void, and occupancy of the living quarters shall be considered a violation of the zoning regulations, and may be subject to enforcement action.

J. Accessory Apartments.

1. Purpose. In order to provide a mix in the availability of housing types, to serve the needs of the elderly and to provide for affordable housing in the community, a single accessory apartment wholly contained within a residence structure that would otherwise be a single family dwelling may be allowed by the Commission by special exception.
2. Intent. The intent of this regulation in addition to the above purpose is to ensure that in creating an accessory apartment, the character and scale of the resulting dwelling will blend in with the character and scale of the existing surrounding residences.
3. Standards and Requirements.
 - a. The owner(s) of the single family dwelling in which an accessory apartment is proposed and created shall occupy at least one of the dwelling units as their primary residence.
 - b. Only one (1) accessory apartment may be created within a single-family dwelling or as an addition to a single-family dwelling. Only one such accessory apartment may be permitted by the Commission per parcel.
 - c. The accessory apartment shall contain its own kitchen and bath, and no more than one bedroom.
 - d. An accessory apartment may have a maximum floor area of 700 square feet or 25% of the floor area of the single-family dwelling whichever is less.
 - e. The septic system and water supply are subject to review and approval by the Town Sanitarian. If at any time the septic system or water supply system fail to meet existing health standards the Commission may revoke the special exception and, if necessary, begin enforcement proceeding to eliminate use of the accessory apartment for that use.
 - f. Off street parking shall be required at a rate of at least two parking spaces per dwelling for a minimum of four spaces, including a garage.

- g. All requirements of the Bethany Zoning Regulations for a single family residence in the applicable zone(s) must be met. Accessory apartments, under this section are not allowed on non-conforming lots or where a non-conformity would be created.
 - h. The accessory apartment shall be designed so that, to the maximum feasible extent, the exterior of the structure looks like a single-family dwelling. If a separate entrance is provided to the accessory apartment, it shall be separated from and set back from the entrance to the primary residence or located at the side or rear of the dwelling. Landscaping and/or screening shall be required as necessary, to maintain the single-family character of the neighborhood.
 - i. No professional office or home occupation shall be permitted in either unit if the use would involve the presence of employees or generate more than three (3) client or customer trips per day on the property.
 - j. The owner of the property shall provide to the Commission an annual affidavit, supplied on forms supplied by the Commission and due on January 1, to the effect that the accessory apartment continues to be in full compliance with all sections of these Regulations.
4. Application contents.
- The application for an accessory apartment under this section shall contain the following:
- A. Site plan and photographs and/or drawings of the structure and proposed landscaping and screening, to illustrate how the exterior of the structure will look like a single family dwelling and how the single-family character of the neighborhood will be maintained.
 - B. An affidavit certifying that the owner will occupy the premises in either the primary residence or the accessory apartment shall be provided to the ZEO prior to occupancy.
 - C. Written approval by the Town Sanitarian of the well and septic system(s) for such use.
 - D. Any other relevant information deemed reasonable by the Commission to insure that the use will be comported in accord with these Regulations.

5. The special exception for an accessory apartment shall be come null and void and subject to an enforcement action, if any of the following occurs:
 - A. The apartment has not been granted a certificate of occupancy within 1 year of granting of the permit.
 - B. The apartment is found, at any time, to be in non-compliance with these Regulations.
 - C. The premises changes ownership, and is not reapproved by the Commission as is hereby required.

- K. Bed and Breakfast establishments in existing residences. These shall be limited in size to no more than three (3) bedrooms available for transient occupancy by a maximum of six (6) adults. The establishment shall meet the requirements and the standards for size, appearance and parking. Prior to approval by the Commission the establishment shall obtain written approval of the drinking water supply and septic system needs from the Town Sanitarian.

4.5 Special Exception Application

Application for a special exception shall be submitted in writing to the Commission. If the application is regulated by the Inland Wetlands Commission, then an application to that commission must be made no later than the date of the application to the Planning and Zoning Commission, and the Planning and Zoning Commission cannot act until it has received and considered the final report of the Inland Wetlands Commission. The application must be accompanied by:

- A. Statement of use: A written statement describing the proposed use in sufficient detail to determine compliance with the specific use provisions of these Regulations.
- B. A site plan and an architectural plan: The Commission may waive this requirement. Any request for waiver shall be submitted in writing and shall state the reasons for the waiver request.
- C. Either a certificate stating that an application to the Inland Wetlands Agency has been filed or a letter from the Inland Wetlands Agency stating they have no jurisdiction.
- D. The appropriate fee as required by Town ordinance.
- E. Signoff from the Town Sanitarian.

4.6 Performance Bond: Required as contained in Section 12.2.