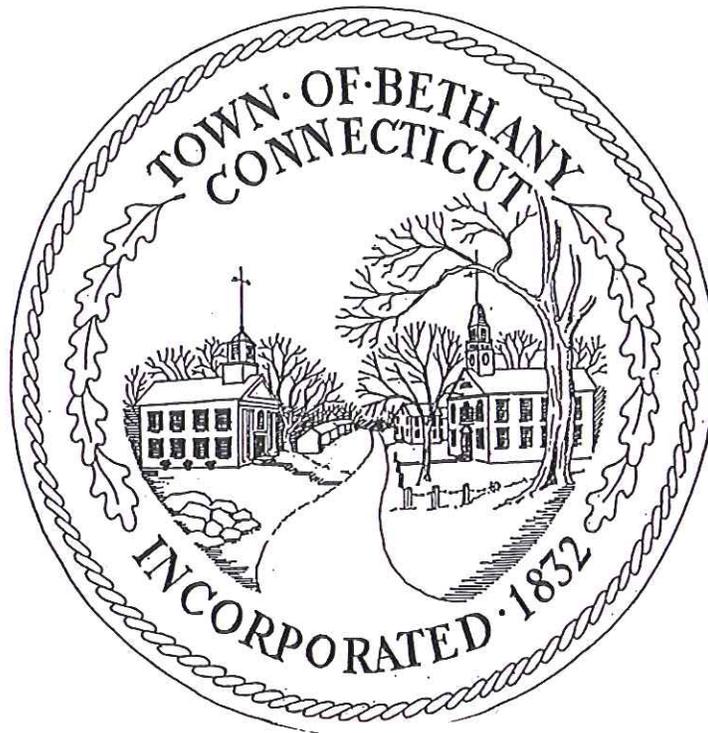


ZONING REGULATIONS

For

Bethany, Connecticut



**Town of Bethany
Planning and Zoning Commission**

Originally adopted April 21, 1952

**Latest Amendment
Amended October 7, 2015, Effective October 30, 2015**

AMENDMENTS

Amended April 18, 2001
Amended March 20, 2002, Effective April 15, 2002
Amended December 10, 2003, Effective January 1, 2004
Amended January 7, 2004, Effective February 1, 2004
Amended January 12, 2005, Effective January 13, 2005
Amended June 29, 2005, Effective July 5, 2005
Amended July 12, 2006, Effective July 31, 2006
Amended August 2, 2006, Effective October 1, 2006
Amended December 5, 2007, Effective December 6, 2007
Amended March 5, 2008, Effective May 1, 2008
Amended July 16, 2008, Effective August 4, 2008
Amended August 27, 2008, Effective September 15, 2008
Amended April 7, 2010, Effective May 1, 2010
Amended June 2, 2010, Effective December 17, 2010
Amended April 6, 2011, Effective April 15, 2011
Amended December 7, 2011, Effective January 1, 2012
Amended June 4, 2014, Effective July 1, 2014
Amended August 6, 2014, Effective August 15, 2014
Amended February 4, 2015, Effective February 27, 2015
Amended October 7, 2015, Effective October 30, 2015

ZONING REGULATIONS

Bethany, Connecticut

Table of Contents

	<u>Page</u>
Preamble and Authority	1
Section 1 - Rules and Definitions	2
1.1 - General Rules	
1.2 - Definitions	
Section 2 - Nonconformities	12
Section 3 - Establishment of Zones and Dimensional Requirements..	13
3.1 Zone Designations	
3.2 District / Zone Boundaries	
3.3 Interpretation of Boundaries	
3.4 Schedule of Height, Area and Yard Requirements	
3.5 Aquifer Protection Area Regulations and Map Area	
Section 4 - Residential Zones, Uses and Requirements	17
4.1 General	
4.2 Outside storage	
4.3 Permitted Uses	
4.4 Special Exception Uses	
4.5 Special Exception Applications	
4.6 Performance Bond	
Section 5 - Business and Industrial Zones	29
5.1 Permitted Uses	
5.2 Uses requiring site plan approval	
5.3 General Regulations	
5.4 Performance Standards and Other Requirements	
5.5 Application and Permit Requirements	

Section 6 - Prohibited Uses	39
Section 7 - Signs, Parking and Loading Regulations	40
7.1 General Requirements	
7.2 Signs in Residential Zones	
7.3 Signs in Business and Industrial Zones	
7.4 Off-Street Parking and Loading Requirements	
Section 8 - Earth Removal	44
8.1 Scope	
8.2 Purpose	
8.3 General Standards and Decision Making	
8.4 Types of Permits	
8.5 Requirements for Administrative and Special Exception Permits	
8.6 Review Procedures	
8.7 Standard Permit and Operating Conditions	
8.8 Release of Performance and Completion Guarantee	
Section 9 - Elderly Housing Regulations	55
9.1 Purpose	
9.2 Permitted Uses	
9.3 Definitions	
9.4 Procedure for Establishing an EHD (Elderly Housing District)	
9.5 Application and Decision Process	
9.6 General Requirements	
9.7 Development Standards	
9.8 Site Plan Requirements	
9.9 Residential Requirements	
9.10 Fees	
9.11 Summary of Items Required by the Commission	
 Section 9A – Housing Opportunity Development (Repealed 8/15/14)	

Section 9B – Housing Opportunity Development District	63
9B.1 Intent and Purpose	
9B.2 Permitted Uses	
9B.3 Eligible Areas	
9B.4 Bulk, Area, Dimensional, and Open Space Requirements	
9B.5 Other Standards	
9B.6 Maximum Density	
9B.7 Traffic Study	
9B.8 Application Requirements	
9B.9 Definitions	
9B.10 Requirements for HOD Homes	
 Section 10 - Site Development Plans, Requirements & Standards ...	 67
10.1 General	
10.2 Standards	
 Section 11 - Erosion and Sedimentation Control Regulation	 78
11.1 Purpose	
11.2 Basic Requirements	
11.3 Definitions	
11.4 Activities Requiring a Certified Erosion and Sedimentation Control Plan	
11.5 Exemptions	
11.6 Erosion and Sedimentation Control Plan Requirements	
11.7 Standards for Issuance or Denial of Certification	
11.8 Certification, Inspections and Reports	
11.9 Bonding	
 Section 12 - Bonding Requirements for Zoning Regulations	 80
12.1 Purpose	
12.2 Performance Bond for Special Exception Uses	
12.3 Bonding for Improvements	
12.4 Bonds in Connection with Site Plans	
12.5 Bond Requirements	
12.6 Types of Acceptable Surety	

Section 13 – Enforcement; Penalties; Administration; Zoning Permits; Disqualification	81
13.1 Enforcement	
13.2 Penalties	
13.3 Administration	
13.4 Zoning Permit Required	
13.5 Conflicts of Interest: Disqualification	
Section 14 - Zoning Board of Appeals	83
14.1 Powers and Duties of the Zoning Board of Appeals	
14.2 Applications	
14.3 Public Hearings	
14.4 Voting Requirements	
Section 15 - Regulation Amendments, Text or Map	88
Section 16 - Temporary Permits	89
Section 17 - Alcoholic Liquors	90
Section 18 - Floodplain Management Regulations	91
18.1 Purpose	
18.2 Area of Applicability	
18.3 Basic Requirements	
18.4 Definitions	
18.5 Standards	
18.6 Administration	
18.7 Duties and Responsibilities of the Building Official	
18.8 Appeals and Variances	
18.9 Effective Date and Filing	
18.10 Notice and Records	
18.11 Appeal to Court	
Section 19 - Saving Clause	104
Section 20 - Repealer	105

Section 21 - Effective Date and Repeal	106
Section 22 - Personal Wireless Telecommunications	107
22.1 Purpose	
22.2 Objectives	
22.3 Definitions	
22.4 General Requirements	
22.5 Permitted Uses	
22.6 Application Requirements	
22.7 Height and Area Requirements	
22.8 Decision Guidelines	
22.9 Discontinuation Use	
Appendices.....	
Appendix 1. Zoning Boundary Description.....	A-I
Appendix 2. Best Management Practices (Horses).....	A-II
Appendix 3. Bethany Driveway Specifications	A-III
Appendix 4. Bethany Water Source Specifications (latest rev.)	A-IV
Appendix 5. Application Requirements (General list)	A-V
Appendix 6. Parking Diagrams	A-VI
Appendix 7. Recommended Plantings For The Business and Industrial Zones	A-VII
Appendix 8 Private Road, Street, Accessway Acknowledgment	A-VIII
Appendix 9 Aquifer Protection Area Regulations and Map Area	A-IX
Appendix 10 Digital Mapping Data Submission Requirements	A-X
Appendix 11 Land Use-Related Application Fee Schedule	A-XI

ZONING REGULATIONS

Bethany, Connecticut

AUTHORITY

These Zoning Regulations have been adopted in accordance with the provisions of Chapter 124 of the Connecticut General Statutes, as amended, for the purpose of promoting the public health, safety and general welfare of the community.

PREAMBLE

The purpose of these regulations is to promote the health safety and general welfare of the Town of Bethany and its residents by preventing the overcrowding of land and avoiding undue concentration of population, and by preventing or lessening congestion of the public highways, and by securing safety from fire, panic and other dangers.

These regulations are also intended to facilitate adequate provision for transportation, sewage disposal, schools, parks and other conveniences and to conserve the value of land, homes and other buildings and encourage the most appropriate use of land throughout the Town.

A basic intent of these regulations is to encourage and aid continued development in such a way that it will perpetuate the rural character of the community as an environment, which is most conducive to wholesome growth and living.

Another basic intent of these regulations is to assist in the implementation of the Plan of Conservation and Development.

No change in any provision of these regulations will be made without the Commission first determining the wishes of the townspeople at a public hearing.

SECTION 1 - Rules and Definitions

1.1 General Rules

For the purposes of these regulations, the rules, definitions and words used herein shall, unless clearly indicated otherwise, be interpreted as follows:

- A. The word person includes a firm, association, organization, partnership, trust company, or corporation as well as an individual.
- B. The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.
- C. The word shall is mandatory not discretionary and the word may is permissive.
- D. The words used or occupied shall include the words intended for, designed for, arranged for and maintained for.
- E. The word property shall include the words tract, piece and parcel. However, the property may not be a building lot.
- F. The phrase these Regulations, shall refer to the entire Zoning Regulations.
- G. Uses of land, buildings or structures not specifically permitted by these Regulations are prohibited.
- H. Fire Suppression Water Source Requirements:
 - 1) When required by the Fire Department, each water source shall be either a 250,000 gallon natural water source or a 30,000 gallon in-ground tank. This requirement may be waived or modified by written approval of the Bethany Volunteer Fire Department, Water Source Officer.
 - 2) The standards for fire suppression water source requirements are found in a document of the Bethany Volunteer Fire Department dated February 20, 2014, as it may be modified.
 - 3) Subdivisions of 3 lots or more shall be referred to the Bethany Volunteer Fire Department for review and recommendation.
- I. Number identification of dwelling units and other structures.
Numbers shall be placed in a prominent location and shall be in accordance with an adopted Town Ordinance so as to insure that safety and emergency services personnel are able to locate structures in case of emergencies.

1.2 Definitions

Aboveground Storage Tanks. Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extend above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.

Accessory Use: A use of land or a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use except as otherwise specifically permitted by these regulations.

Accessory Structure: A structure detached from a principal building and located on the same lot, except as may be specifically permitted by these regulations, but which must be incidental and subordinate to the principal building under the same ownership.

Accessway. An accessway is all that portion of a rear lot having a minimum width of 25 feet for each rear lot, beginning at the fronting road right-of-way line and ending at the point where the lot width measured parallel to the road equals or exceeds the required lot width as specified in Section 3.4. To be acceptable, the accessway must be owned in fee simple and be proven to be able to be utilized to construct a stable driveway from the fronting road to the rear lot building area in conformance with all existing requirements of the Town of Bethany.

Agriculture. Except as otherwise specifically defined and unless otherwise prohibited by these regulations, 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, hoop houses 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 a local zoning authority under chapter 124.

Alteration. Any change in size, shape or configuration of a building or structure, including a change or rearrangement of interior or exterior parts and/or enlargement or moving thereof.

Aquifer. A geological formation that stores and transmits significant quantities of recoverable water.

Barn, Private. A structure not primarily intended for habitation or residential purposes, unless specifically permitted by the Commission under a section of these regulations. A structure used by the owner or resident(s) with no commercial activities. May be used for the private use by the owner or resident for the storage of animals, feed, hay, equipment, tack and/or agricultural vehicles.

Barn, Commercial. A structure not primarily intended for habitation or residential purposes, unless specifically permitted by the Commission under a section of these regulations. A structure used by the owner, resident(s) which has been legally used or permitted by the Commission to be used for commercial purposes.

Bed and Breakfast. An owner-occupied private residence in which lodging and breakfast is provided for compensation for a maximum of six transient persons in not more than three bedrooms of the dwelling.

Best Management Practices. In these Regulations this phrase refers to practices discussed in appendix A-2.

Billboard. Any sign, whether freestanding or attached to a structure, which advertises products, services or events not manufactured, sold or occurring on the premises.

Board of Appeals. The Zoning Board of Appeals of Bethany, Connecticut.

Boarding Stable: A structure which is used by the owner for the commercial boarding of horses. A structure and associated land legally used for the feeding, housing and exercising of horses which may or may not be owned by the owner of the property and for which may be operated by the owner or resident(s) for direct or indirect compensation.

Building. A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

Building Coverage. The area or percentage which the aggregate building area of all buildings on the lot bears to the area of the lot.

Building, Detached. A building separated on all sides from other buildings by open spaces from the ground up on the same lot.

Building Height. The vertical distance from the highest point of the roof to the lowest level of the outside adjacent ground, measured ten (10) feet from the building wall.

Building Lot. A parcel of land which has been approved for issuance of a building permit based upon the fact that it has met all regulations and required standards for a building lot including but not limited to; approval by the Sanitarian and conformance with these Regulations, or the proven status as a legally pre-existing lot or a legally nonconforming lot.

Building Setback Line, (Front, Rear, Side). The line between which and the road right-of-way line or lot line, no building or other structure or any portion thereof, except as provided in these Regulations, may be erected.

Business. An enterprise offering goods or services for sale or hire.

Business/Industrial Permit. A permit issued by the Commission upon application and satisfaction of the requirements for any of the uses set forth in Section 5 of these Regulations.

Business Center. A planned development consisting of three or more business, commercial or industrial establishments on the same lot.

Camp Trailer (Recreational Vehicle). Any trailer or vehicle designed and used for camping or pleasure purposes or for transporting personal property of the owner.

Cemetery. Land including related maintenance buildings used for the burial of the dead, and dedicated for cemetery purposes, may include columbarium's, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Certificate of Zoning Compliance. A certificate issued by the Zoning Enforcement Officer as outlined in C.G.S. 8-3(f).

Commercial Poultry Farming. Large-scale farming whose primary activity is the raising and selling of poultry products.

Commercial Vehicle. A motor vehicle which when registered with the State of Connecticut, under it's regulations, is required to be registered as a commercial vehicle or a vehicle with commercial or combination license plates, and includes a bus.

Commission. The Bethany Planning and Zoning Commission.

Common Driveway. A passable access to a lot or lots, up to a maximum of (3) three, which is constructed or proposed to be constructed in compliance with all applicable Town of Bethany regulations, ordinances and standards. Each lot owner depending upon the common drive for access from the fronting road must either own in fee simple a proportionate part of the common drive, or have a permanently deeded easement over it.

Convalescent Home. A dwelling in which persons, other than members of the family of the person owning or renting such dwelling, suffering from disabling conditions or the infirmities of old age, are provided with lodging, care and meals.

Convenience Store. A commercial operation which sells a variety of common household items such as milk, bread, newspapers and similar items which are generally purchased as part of a brief shopping trip as opposed to a more complete or specialized shopping purchase. Does not include the sale of gasoline or other automotive fuel.

Country Club. An association of persons, incorporated or unincorporated, which offers, in addition to the privileges of a clubhouse and the furnishings therein, activities such as golf, tennis, swimming and riding. A country club may also offer the serving of meals and alcoholic liquors, all of which privileges and activities shall be for the use of members and/or their guests, and may be open to the public.

Custom Farming. Performance of farming services on the premises of others.

Coverage (Total Ground). That amount or percentage of a lot which is covered by buildings, other structures and all impervious areas, such as patios, drives and paving.

Day Care Facility. A facility which offers or provides a program of supplementary care to not less than five (5) related or unrelated children on a regular basis for a part of the 24 hours in one or more days in the week. The term day care facility includes the terms "child day care center" and "group day care home". It excludes "family day care" and such services which are (1) administered by a recognized public or private school, (2) recreation operations such as but not limited to clubs, church-related activities, scouting, camping or community youth programs or (3) informal arrangements among neighbors or relatives in their own dwellings.

Driveway. That portion of a lot used or proposed to be used to provide actual access to the portion of the lot where development is proposed. Must be located in the accessway.

Dump. An area which is used for discarded materials, which can no longer be used for their originally intended purpose. An area of unsightly trash.

Dwelling. A building, generally with a foundation, intended for human occupancy, but not a trailer or a mobile home.

Dwelling (Multi-Family). A dwelling or group of dwellings on one lot, containing separate dwelling units for two or more families which may have joint entrances, services and facilities but separate kitchen and bathroom facilities.

Dwelling (Single-Family). A building designed for and occupied exclusively as a home or residence for not more than one family.

Erosion and Sedimentation Control Plan. A plan as required by these Regulations and compiled in accordance with the standards established for such plans, for the express purpose of controlling erosion, sedimentation and stormwater runoff from a particular area or site from the onset of site development through final site stabilization.

Family. An individual or any number of individuals related by blood or marriage, living together as a single housekeeping unit, or a group of not more than five (5) persons, not related by blood or marriage. Wards and other legal foster children are considered members of the family.

Farm. A tract of three or more acres used as defined by Section 1-1 (q) of the Connecticut General Statutes, but excluding the raising of fur bearing animals and the maintaining of dog kennels.

Fence. A non-living wall or barrier, without a roof, used for enclosing or screening an area.

Garage (Private) (or Carport). An accessory building or portion of the principal building used or designed to be used for the storage of motor vehicles or other items.

Garage (Commercial). A structure used, designed for or intended to be used for housing or working on vehicles other than those of the owner. Requires a license from the State of CT.

Gasoline Filling or Service Station. A building, structure or group of structures designed for dispensing fuel and/or maintenance of vehicles and/or for storing vehicles or parts thereof or performing work on vehicles on the premises for a fee. Requires a license from the State of Connecticut.

Ground Coverage. Total Ground Coverage is defined as the aggregate area of all buildings, structures, paved areas and outside storage areas on the lot, divided by buildable lot area.

Home Occupation (Home Based Business). A business activity which is accessory to the residential use of the property and is conducted on the premises by the residential occupant(s) of the property. Governed by standards of Section 4.

Home Office. An office located in the residence of the user. (see also professional office).

Horse Farm. A farm which is used primarily for the keeping, breeding and boarding of horses. A horse farm may include a barn or barns for various customary accessory uses. A horse farm may be operated as a commercial operation.

Horse Trainer: One who trains, gives lessons, leases, boards, shows, buys and sells horses.

Indoor Riding Arena: A structure which may or may not have stalls for accommodations for boarding or feeding or storage of tack for a horse or horses, but which does have space for indoor riding or indoor training. An indoor riding arena is considered a commercial use under these Regulations.

Industrial Building, Structure or Use. Any use or structure involving the manufacturing, processing, assembling and/or distribution of products or related services.

Junk. Any worn out, cast off or discarded item, article or material which is no longer useful for its originally intended purpose and is ready for destruction or has been collected or stored for salvage or conversion. Material found in a dump.

Junk Yard. A lot, land or structure or part thereof, used for the collecting, storage or sale of junk; or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in operating condition, or for the sale of parts thereof; and including motor vehicle junkyards as defined in the CT General Statutes.

Kennel (Private) (Hobby). A facility for breeding or housing dogs, not to exceed 5 adult dogs over the age of six months (except as prohibited under Section 6), who are the sole property of the owner/ occupant of the property and are bred or kept for pleasure, show, sport or sale.

Kennel (Commercial). A facility for boarding and/ or breeding of dogs, or other domestic pets (except as prohibited under Section 6) whose owners may be other than the occupant of the property, may also include grooming and veterinary hospital services.

Kennel Structure. A fenced enclosure used for confining dogs.

Lot. A parcel of land occupied or proposed to be occupied by a principal building and possible accessory buildings, including required setbacks and such open spaces as may be required by these Regulations.

Lot Area, Total. The total horizontal, contiguous area of the lot lying within the lot lines, provided that no area of land lying within any road right of way line shall be deemed a portion of any lot area. No area of a proposed lot, which is not at least 50% as wide as the minimum lot width, shall count as lot area.

Lot Area (Buildable). That minimum amount of land within the Total Lot Area of a lot which is required for determining whether the lot may be approved as a building lot or not. Buildable area is that contiguous portion of a lot exclusive of land undivided by any areas of wetlands soils and watercourses as defined in Section 22a-38 of the Connecticut General Statutes and does not include any access way land area or land in excess of 25% slope.

Lot, Corner. A lot situated at the intersection of two or more streets having an angle of intersection of not more than 135°.

Lot, Front. A lot which fronts, or shares a property line with the road right-of-way.

Lot Frontage. The length of a lot line measured along the road right-of-way line.

Lot, Rear. Any lot which does not satisfy the minimum lot width, measured along the right-of-way line of a public road or measured along the minimum front building setback line shall be considered a rear lot. Each rear lot shall have fee simple ownership of an access way, which is a minimum of twenty-five (25) feet in width throughout, extending from the lot to the public road providing access to the lot and be proven to be able to be utilized to construct a stable driveway in conformance with the standards of Section 4.4-H (7) and all other existing requirements of the Town of Bethany.

Lot of Record. A lot which is shown on a Planning and Zoning Commission approved subdivision map which has been properly signed and sealed and recorded with the Town Clerk in the Bethany Land Records, or a lot which was created and properly recorded prior to April 21, 1952, or which was legally subdivided prior to June 28, 1957.

Lot Width. The distance established in Section 3.4, which is measured parallel to the road between the side lines of a lot, which establishes the front building setback line.

Mobile Home. A structure designed for human occupancy, but constructed on a frame which when made road ready by the installation of its wheels, may be transported over the public highway.

Motel. Any structure or group of structures having sleeping rooms, with separate outside entrances for each room or suite of rooms, in which lodging is provided for transient guests, for compensation. (A prohibited use).

Motor Vehicle. A self- propelled vehicle intended primarily for use and operation on the public highways, other than a farm tractor or other machinery or tools used in the production, care or harvesting of farm products.

Nonconformity or Nonconforming, Legal, (Use, Lot, Structure or Building). A legally nonconforming use is one which was established prior to the adoption of Regulations or prior to changes in Regulations which disallowed the use. A lot which was created, prior to the adoption of Zoning Regulations by a properly recorded deed or map, or prior to the change in Regulations which made the lot nonconforming in any way*. A building or structure which can be proven to have been established or erected prior to the adoption of Regulations, or in accordance with Regulations in effect at the time of construction, or in accordance with C.G.S. Sec. 8-13a*.

*Or authorized by variance granted by the Zoning Board of Appeals and on file in the Bethany Land Records.

Parking Area. An area other than the road right-of way used for the temporary parking of vehicles.

Parking Space. An off-road space available for the parking of a motor vehicle, including:

- A. Standard Space – An area not less than 10'x20', exclusive of passageways, maneuvering space and driveways appurtenant and giving access thereto, and having direct access to a street, or
- B. Handicapped Space - Shall be 15' x 20' and shall be located as near as possible to the building entrance or walkway, or
- C. Truck Loading Space - A truck loading space shall be a minimum of 15' x 25' and shall not be included when computing required area for parking spaces.

Primary Structure: A structure in which the principal use as established by the zone, or by proven legal nonconforming use, such as residential use in a residential zone or commercial use in a business and industrial zone, takes place.

Principal Building. A building other than a barn or a private garage in which the primary use of the site as permitted by these Regulations or a permitted accessory use is located, or may be carried on.

Professional Office. An office for professionals such as doctors, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers and others who, through training, are qualified to perform services of a professional nature.

Quarry, Sand Pit, Gravel Pit. Property, which has been, used for the purpose of extracting stone, sand, clay, gravel, topsoil, or other earth products.

Recreational Vehicle. A motor vehicle used or intended for relatively short term, recreational purposes such as camping or vacationing.

Riding Academy. A facility used for lessons for the training of horses and/or riders

Riding Stable. A facility where horses are available for public hire.

Road. A public or private way dedicated or to be dedicated to the movement of vehicular traffic and used by more than two adjoining lots. Includes highway, lane, court, drive or other public way.

Road Right of Way Line. The dividing line between the road and the lot.

Sign. Any device on a site, the primary use of which is for visual communication for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or government agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization. Includes signs located in windows.

Sign, Temporary. A sign which is placed for 30 days or less.

Site Plan, Site Development Plan. A site plan shall mean the plan(s) as required by various sections of these Regulations, which plans shall be prepared, signed and sealed by the appropriate relevant professional(s) per the Connecticut General Statutes.

Site Development Area. The total area of a site which will be disturbed by grading and/or tree cutting in the process of developing a site.

Site Plan Approval Permit. A permit issued by the Commission for any physical alterations to a site that include: construction of a new structure, alterations or additions to an existing structure's footprint, drainage, parking and driveway facilities and exterior lighting. These permits shall be filed on the land records as required by Connecticut General Statutes.

Solar Energy Equipment. Items including panels, lines pumps, batteries, mounting brackets, framing and possibly foundations used for or intended to be used for collection of solar energy in connection with a building on residential or commercial property. Solar energy equipment and its use is accessory to the principal use of the property.

Structure. A structure is anything constructed or erected which requires location on the ground, including buildings, fixed or installed swimming pools, signs, towers, tennis courts, storage containers, constructed or assembled kennels and fabric or plastic covered frameworks erected for more than 120 continuous days of the year. Fences or walls used as fences, which are, anywhere along its length, over six feet (6') in height from the pre-existing ground level.

Swimming Pool, or Hot Tub, Fixed. Any above ground pool, regardless of size, which is erected and/or filled with water on a continuing basis throughout the year.

Swimming Pool, Installed. Any permanently installed, below grade pool, regardless of size.

Trailer/Mobile Home. A vehicle, usually without permanent foundations, with or without motive power, for use as temporary construction or business office or for human habitation.

Trailer or Mobile Home Park. A parcel of land on which there is located or intended to be located, two or more trailers or mobile homes for living purposes.

Trespass Lighting, Indirect Lighting. Artificial lighting or lighting effects which emanate from one site and illuminate another without permission to do so.

Tower. A tall generally metal structure of either monopole or lattice framework design, intended to be used to support antennae which receive, send, relay or transmit communication signals for public and/or private purposes and as defined in Section 22 of these regulations.

Use. The specific purpose (activity) for which land or a building is designed, arranged, intended, or for which it is or may be, occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

Window Sign. A sign as defined above which is specifically located on the inside of a building but which is meant to be viewed from the outside, directly through a window.

Yard (Front). The space bounded by the front lot line and the front building setback line extended to the side lot lines. In the case of a corner lot, such lot shall have two front yards bounded by the lot frontage on the existing or proposed road or roads. In the case of a rear lot, the front yard shall be that space bounded by the rear lot line of the lot or lots abutting it at the point where the accessway joins the rear lot and the extended building setback line and the side lot lines.

Yard (Rear). The space bounded by the rear lot line and the rear building line extended to the side lot lines.

Yard (Side). The space bounded by a side lot line and a side building setback line extended to the rear lot line and the front lot line.

SECTION 2 - Nonconformities

- 2.1 Any building or other structure or any use of land or a building legally existing at the time of the adoption of these Regulations or of any amendment thereof which does not conform to the requirements of these Regulations or of such amendment, shall be designated as non-conforming.
- 2.2 A nonconforming use may be extended or expanded only as set forth in this Section. A nonconforming use may be changed to a conforming use. A nonconforming use may be changed to another nonconforming use, which the Commission determines will be more in harmony with the general purpose and intent of the Zoning Regulations and with the character of the neighborhood.
- 2.3 No nonconforming use which the Commission finds was intended to be discontinued shall thereafter be resumed or replaced by any other nonconforming use. Intent to discontinue shall be found when the use has been discontinued for a continuous period of one (1) year and for which the owner has failed to notify the Zoning Enforcement Officer within that one year period, of their intent to continue the use.
- 2.4 All applicable zoning requirements of these Regulations shall apply to any proposal to expand or extend a nonconforming building or use. However, a dwelling and/or structures accessory thereto, located on a lot which is nonconforming in lot size, zone, location or setback requirements may be extended or expanded only if no setback is made more nonconforming.
- 2.5 Any nonconforming building or other structure which is damaged or destroyed by fire or other casualty may be reconstructed or repaired and used as before provided the setbacks and height are not made less conforming, and the cubic content and area occupied by such structure is not increased unless in conformance with these Regulations, and further provided such restoration is begun and actively pursued within one year of the damage or destruction and is completed within two years of the casualty.
- 2.6 When a zone established hereunder is changed, existing uses, lots and structures which become nonconforming as a result of said change shall be subject to the same rules as established in this Section for nonconforming uses and structures.
- 2.7 Nothing in these Regulations shall be deemed to require a change in plans, construction or designated use of any building or other structure for which either (1) a building permit shall have been issued prior to the effective date of these Regulations or (2) a Zoning Permit shall have been applied for prior to the effective date of these Regulations or any amendment to these Regulations which would affect such plans, construction or designated use provided, in each case, actual construction shall have lawfully begun in good faith prior to such effective date and is diligently prosecuted to completion within two years after commencement.

SECTION 3 - Establishment of Zones & Dimensional Requirements:

3.1 Zone Designations:

- A. For the purpose of these Regulations in promoting the public health, safety and general welfare, the Town of Bethany, Connecticut is hereby divided into the following zones or districts:

- R-130 ... Residential Zone
- R-65 Residential Zone
- B-I Business and Industrial Zone
- EH - 6 ... Elderly Housing Zone
- WSO Public Drinking water supply watershed overlay Zone (Section 3.3 D.)

Lot and Building Standards

1. All structures erected or altered after the enactment of these regulations shall conform to the requirements specified for the district(s) in which the structure is located, as set forth in Section 3.4.
2. Any building lot created or any existing lot altered after the enactment of these regulations shall conform to the requirements of Section 3.4.
3. The term Buildable Lot Area as used in Section 3.4 is defined as that contiguous portion of a lot exclusive of and undivided by any areas of wetland soils and watercourses as defined in Section 22a-38 of the Connecticut General Statutes.
4. Any building lot, 50% or more of which is located within the Public Drinking Water Supply Watershed Overlay District (WSO), shall conform to the additional area requirements set forth in Section 3.4.

3.2 District/ Zone Boundaries (General)

- A. The boundaries of zones are established as shown on the Zoning Map, Town of Bethany, Connecticut dated July 12, 1962*(as it may from time to time be amended) and filed in the Office of the Town Clerk, which map is hereby declared to be a part of these Regulations.
- B. Any facsimile map, including the one printed herewith, is not official and is for provided convenience only.
- C. An EH-6 zone shall be established by vote of the Commission only after a duly noticed public hearing has been held in accordance with the requirements of the Connecticut General Statutes and these Regulations. An EH-6 zone may only then be established in accordance with Section 9 of these Regulations.

3.3 Interpretation of Boundaries

- A. For purposes of these Regulations and unless otherwise indicated on the Official Zoning Map by fixed lines or dimensions, the boundaries of zones are either street lines, street lines extended, waterways or lines drawn parallel to street lines and dimensioned as to depth.
- B. Zone boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. In cases of conflict or uncertainty the Commission shall determine the Zone and the location of the Zone boundary.
- D. A more specific description of the zone boundaries is found in Appendix A. 1. of these Regulations.

3.4 Schedule of Height, Area and Yard Requirements.

District	R-130	R-130 (WSO)	R-65	R-65 (WSO)	B-I	B-I (WSO)	EHD***
Lot area min. (sq. ft.)	130,000	130,000	65,000	87,120	65,000	87,120	130,000
Buildable Area min. (sq. ft.)	43,560	87,120	43,560	87,120	43,560	87,120	Variable Sec. 9.3.2
Buildable area must be nonwetland, contiguous land. As defined herein as Lot Area (Buildable).							
Lot Width min. (ft.)	300	300	200	200	200	200	100
Total Building Coverage max. (%)	10	10	10	10	30	30	15
Total Ground Coverage max. (%)	15	15	15	12	75	60	Varies
Front Yard min.(ft.)	50	50	50	50	70	70	50
Side Yard min.(ft.)	50	50	50	50	20*	20*	50**
<ul style="list-style-type: none"> An accessory structure as a shed of up to 200 square feet may be located within 20 feet of a side property line. The shed may have electricity but may not have water service. 							
Rear Yard min.(ft.)	50	50	50	50	50*	50*	50**
<ul style="list-style-type: none"> An accessory structure as a shed of up to 200 square feet may be located within 20 feet of a rear property line. The shed may have electricity but may not have water service. 							
Building Height max. (ft.)	35	35	35	35	35	35	1½ stories or 25 feet which- ever is less

* See also Section 10.2.L.4.b.3. and Sec 5.3.D. Minimum width yard in addition to Buffer Planting Zone where property adjoins or abuts a residence or residence zone.

** Required building setbacks only; Parking setback min. 90 ft. See Section 9.

WSO = Public drinking water supply watershed land.

***Unit density in the EHD, see Sections 9.6.3 and 9.7.2.

The addition to an existing structure of temporary ramps or other handicap access facilities is permitted within the minimum yard or set back

3.5 Aquifer Protection Area Regulations and Map Area

The Aquifer Protection Regulations are hereby established as shown in Appendix 9 and map area as delineated on Zoning Map dated 2001 with subtitle “Aquifer Regulations 6/06” showing the Aquifer Protection Area.

SECTION 4 - Residential Zones, Uses & Regulations4.1 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. An accessory structure as a shed of up to 200 square feet may be located within 20 feet of a side or rear property line. The shed may have electricity but may not have water service.
- C. No structure shall be erected less than 50 feet from the property line of any adjoining property. An accessory structure as a shed of up to 200 square feet may be located within 20 feet of a side or rear property line. The shed may have electricity but may not have water service.
- 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.
- F. An as-built survey to A-2 accuracy shall be submitted to the Zoning Enforcement Officer upon completion of the foundation for any structure for which the proposed setback is within five (5) feet of the required setback of said structure in order to assure compliance with the required setbacks.
- G.
 - 1. Barn, Private: May be permitted administratively by the ZEO with the following written confirmations by the applicant:
 - a. All required setbacks must be clearly confirmed in writing at time of application and after construction. An as-built survey may be required at the discretion of the ZEO.
 - b. All height and bulk standards shall be confirmed after construction as well.
 - c. All proposed uses shall be stated clearly in writing on the application to the ZEO.
 - 2. Boarding Stable or Horse Farm: Special Permit and Site Plan approval by the Commission are required. Site Plan shall clearly show all access, parking circulation, sanitary facilities, maximum number of shows or events per year and maximum hours of operation. Application shall clearly indicate all proposed activities and uses, including number of employees (workers) on the site.
 - 3. Only Private (Non-commercial) Barns are eligible for administrative ZEO approval. Barns containing commercial uses, or which are to be converted to commercial use(s) shall be approved by the Commission.

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 non-commercial barn shall not be used as a dwelling unit and shall not be permitted on a lot without a primary structure, except as may be provided for as an accessory use, unless otherwise provided in these regulations. For example as in a boarding stable.
- D. Accessory buildings located or proposed to be located on a separate parcel which is:
 - a) Either directly abutting (sharing a common property line for some distance) or across the street or road, and
 - b) Which parcel(s) are owned by the same person, party or entity but which do not have a primary (principal) structure on one of the parcels, may be permitted by the Commission by Special Permit after the required public hearing and provided the following standards are met:
 - 1) The properties with the principal use and the accessory use are to be owned and used jointly by the same owner of both properties. The use of the properties and buildings shall not be independent.
 - 2) The Commission during the course of the required public hearing, shall be given adequate information and written evidence to the proposed ownership and use of the properties and structures so as to satisfy the requirements of these regulations and to satisfy the Commission that the

use of the properties will be able to be conducted in a safe manner which is in accordance with these regulations.

- 3) Any permit granted by the Commission for the construction or use of an accessory building shall become null and void and the use of such building shall cease immediately upon the severance of ownership or title of one property from the other. The continued use of an existing accessory building after the property is severed in title from the property containing the principal or primary use shall be subject to all applicable zoning enforcement procedures, penalties and fines.

- E. 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.
- F. The following uses are permitted as of right: Note: Best management practices are to be used for all the 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 gardening, Community based gardening, Community Supported Agriculture, Home gardening.

2. Farming as defined in Section 1. and the Connecticut General Statutes Section 1-1.(q). as follows:
 Except as otherwise specifically defined and unless otherwise prohibited by these regulations, 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, hoop houses 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 a local zoning authority under chapter 124.
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 as defined herein, may exceed 1,000 square feet in area, however if they do they shall be at least 100 feet from any property line.
4. Custom farming as defined in Section 1.2 of these Regulations.

- G. 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.
- H. 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.

- I. 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.
- J. 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.
 5. Any temporary or portable structure to be used for habitation shall be located at least ten (10) feet from any property line.
 6. The property owner may apply to the Planning and Zoning Commission for a one year extension of their permit for a temporary or portable structure used for habitation. An application for such an extension must be submitted at least 30 days prior to the expiration of the current permit.
- K. Use of solar energy equipment as defined in Section 1.2 is encouraged in the Town of Bethany. The placement of the solar energy equipment on roofs of principal buildings is also encouraged.

Zoning permits for roof mounted and ground mounted solar energy equipment which fully complies with required setbacks may be issued by the Zoning Enforcement Officer. Zoning approval for ground mounted solar energy equipment which does not meet established setback requirements for structures in the applicable zone may only be approved by the Commission after submission of information as outlined below.

Placement of Solar Energy Equipment is not permitted within the required front yard setback unless it is adequately screened from view from the public way so as to preclude any glare from the equipment which would adversely impact the vision of motorists on the public way. It is understood that this equipment may on occasion, be visible from the public way even if located in the side or the rear yard.

If the solar energy equipment is unable to be located on the roof of the principal structure as is preferred, placement of ground mounted solar energy equipment in the required side or rear yard may be permitted only if the equipment is located a minimum of one half the required setback for a structure in the subject zone from the property line or a distance equal to the height of the accessory structure whichever is greater. The solar energy equipment must be adequately screened from view of residential neighbors by appropriate vegetative screening or appropriate and adequate solid fencing. Any proposed fencing must comply with all applicable height requirements. Natural colored fencing is preferred.

Roof mounted Solar Energy Equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulations. However, the Zoning Enforcement Officer may permit the Solar Energy Equipment to be ten (10%) percent higher than the permitted roof height on existing structures that have previously obtained a proper zoning signoff and a proper certificate of occupancy.

The Zoning Enforcement Officer, prior to issuing a zoning permit for the placement of any solar energy equipment, shall be provided with any requested information in regard to proving compliance with this section. This information may include, but shall not be limited to:

- a. Sun and shadow diagrams specific to the subject proposed installation which would enable the Zoning Enforcement Officer or the Commission to determine if solar access will be impaired due to the proposed location or to the location of objects which may obstruct the solar access;
- b. Detailed information, including maps, plans or dimensioned sketches, showing the proposed location, including setbacks from property lines or distances from structures which are used for habitation on neighboring properties;
- c. An as-built plan showing the actual location of any installed solar energy equipment. If the equipment is not installed as permitted, the Zoning Enforcement Officer may order its removal and/or relocation as appropriate.

It is the applicant and property owner's responsibility to assure the long term functionality of the solar equipment as it pertains to solar access.

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, as a second business, 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 and one additional horse trainer who operates on site.
- 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 to 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-1 zone shall have a total lot area of no 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 accessway and any portion of the lot with a width less than 50 percent 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 with a measured length between the side lot lines equal or greater than the required lot width as specified in Section 3.4, shall define the point when the accessway ends 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 legally exists 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 employee's proximity to the horses is required for their safety and proper care.
 4. There shall be no more than one such living quarter on the property. No accessory apartment may be permitted on the property.
 5. No part of the living quarter's 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.
- 7. 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.
- L. Section: 4.4. L. Accessory structures (sheds) in residential zones:
 - A. One (1) small storage shed of 200 square feet or less may be approved by the ZEO and located no closer than 20 feet from a side or rear lot line, but may not be located in front of the front setback line based on the following:
 - 1. Applicant is to notify in writing using, certificates of mailing, all abutting and across-the-street property owners within 100 feet of the subject property regarding the nature of the application. All notices must be sent at least two (2) weeks before the ZEO can act to issue the approval.
 - 2. The proposed shed shall not be used for housing any animals.
 - 3. The entrance to the shed shall not face the closest property line.
 - 4. The foundation of the proposed shed shall be only cinder blocks, concrete blocks or solid wood timbers or any other non-permanent foundation.
 - 5. The shed cannot be used for vehicle or equipment maintenance on a regular basis.

6. The shed may have electricity, but may not have sanitation, water or other residential amenities.
 7. If the ZEO has a written indication that any abutting (notified) property owner objects to the shed, then the application shall be submitted to the Commission for review and action.
- B. Sheds which are used for the housing of animals must be at least 50 feet from any side or rear lot line and must conform to all aspects of the existing zoning regulations.
 - C. For any proposed shed, the applicant must also obtain any required wetlands or health district permits.
 - D. Up to two (2) such sheds on a single property may be approved upon application to the Commission based upon the above requirements.

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.

SECTION 5 - Business and Industrial Zones

- 5.1 Permitted Uses – Uses allowed by permit. General requirements.
- A. Uses of land and buildings in the Business and Industrial Zone shall be only those as specified in Section 5 and are subject to the issuance of Permit(s) as defined and set forth in Section 5.5 and Section 8. All other uses are hereby prohibited unless specifically permitted elsewhere in these Regulations.
 - B. The following uses of land and buildings in a Business and Industrial (B&I) Zone may be conducted only when a Business/Industrial Permit for said use or structure has been issued or properly transferred as set forth in Section 5.3.A.
 - 1. All uses permitted in the Residential Zones except residences and their accessory uses, unless otherwise permitted by these regulations.
 - 2. Retail and wholesale businesses.
 - 3. Professional, medical, commercial, real estate or financial offices.
 - 4. Any legal, commercial or light industrial use including manufacturing and assembly not otherwise prohibited by these regulations.
 - 5. Accessory buildings or structures which are incidental to the permitted use may be constructed or structurally altered which are arranged, intended, and designed to be used only as incidental to the permitted use and do not change the use as approved. No accessory building or structure shall be permitted on a lot without a primary building or structure.
 - C. The Zoning Enforcement Officer may issue a permit for the construction or alteration of an accessory building or structure which modifies the site plan of an existing permitted use provided that the proposed building or structure is no larger than 300 square feet and meets all other requirements of these Regulations.
 - D. Use of solar energy equipment as defined in Section 1.2 is encouraged in the Town of Bethany. The placement of the solar energy equipment on roofs of principal buildings is also encouraged.

Zoning permits for roof mounted and ground mounted solar energy equipment which fully complies with required setbacks may be issued by the Zoning Enforcement Officer. Zoning approval for ground mounted solar energy equipment which does not meet established setback requirements for structures in the applicable zone may only be approved by the Commission after submission of information as outlined below.

Placement of Solar Energy Equipment is not permitted within the required front yard setback unless it is adequately screened from view from the public way so as to preclude any glare from the equipment which would adversely impact the vision of motorists on the public way. It is understood that this equipment may on occasion, be visible from the public way even if located in the side or the rear yard.

If the solar energy equipment is unable to be located on the roof of the principal structure as is preferred, placement of ground mounted solar energy equipment in the required side or rear yard may be permitted only if the equipment is located a minimum of one half the required setback for a structure in the subject zone from the property line or a distance equal to the height of the accessory structure whichever is greater. The solar energy equipment must be adequately screened from view of

residential neighbors by appropriate vegetative screening or appropriate and adequate solid fencing. Any proposed fencing must comply with all applicable height requirements. Natural colored fencing is preferred.

Roof mounted Solar Energy Equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulations. However, the Zoning Enforcement Officer may permit the Solar Energy Equipment to be ten (10%) percent higher than the permitted roof height on existing structures that have previously obtained a proper zoning signoff and a proper certificate of occupancy.

The Zoning Enforcement Officer, prior to issuing a zoning permit for the placement of any solar energy equipment, shall be provided with any requested information in regard to proving compliance with this section. This information may include, but shall not be limited to:

- a) Sun and shadow diagrams specific to the subject proposed installation which would enable the Zoning Enforcement Officer or the Commission to determine if solar access will be impaired due to the proposed location or to the location of objects which may obstruct the solar access;
- b) Detailed information, including maps, plans or dimensioned sketches, showing the proposed location, including setbacks from property lines or distances from structures which are used for habitation on neighboring properties;
- c) An as-built plan showing the actual location of any installed solar energy equipment. If the equipment is not installed as permitted, the Zoning Enforcement Officer may order its removal and/or relocation as appropriate.

It is the applicant and property owner's responsibility to assure the long term functionality of the solar equipment as it pertains to solar access.

5.2 Uses Requiring Site Plan Approval

- A. Site Plan approval, subject to the standards of Section 10 – Site Development Plans, Requirements and Standards, shall also be required in addition to a B&I permit, if a proposed use will entail physical alterations to the site including any of the following:
 1. Construction of a new structure, or
 2. Alteration or addition to:
 - a. the footprint of an existing structure
 - b. the site or area drainage
 - c. the required parking and/or driveway facilities and/or change in traffic circulation
 - d. the site or area lighting
 - e. signs as set forth in Section 7.3
 - f. change in outside storage and/or area of display
 - g. a substantial change in number of employees or character of use as determined by the Commission,
 3. Earth removal, excavation, filling, stockpiling or grading but which do not require a special exception as set forth in Section 8.

- B. The following additional uses may be authorized by issuance of a Special Exception, in addition to Site Plan approval pursuant to the standards of Section 10 and a B&I permit from the Commission.
1. New or additions to existing filling stations, commercial garages and truck distribution terminals, provided that any access for motor vehicles shall be not less than 500 feet from any pedestrian or motor vehicle access or egress to a school, playground, church or other place of public assembly. Furthermore no such facility shall be permitted on premises which are located less than 500 feet from a Residential Zone.
 2. Bed and Breakfast Establishments in existing residences located in the B&I Zone. The establishments shall be limited in size to no more than three (3) bedrooms available for transient occupancy of a maximum of six (6) adults. The establishment shall meet the requirements and established standards for size, appearance and parking. Prior to approval by the Commission, the establishment shall obtain written approval of the proposed drinking water supply and septic system from the Town Sanitarian.
 3. Commercial kennels, provided all exercise yards and buildings for housing animals are enclosed, and that all storage of materials and waste are at least 100 feet from any property line and 500 feet from any residential zone. A dwelling unit may be permitted to be occupied by the owner/operator of the kennel as an accessory use to the kennel, only if it is permanently deed restricted to the satisfaction of the Commission. A copy of the restriction is to be filed with the Commission and the ZEO.
 4. The creation or substantial modification of a Shopping Center or Business Center, subject to the following requirements, in addition to the normal Special Exception Permit standards: (Note: Prior to occupancy, reoccupancy or use, a B&I permit is required for each use or change of use in the Shopping Center or Business Center).
 - a. Location and Site Plan approval. A B&I permit for a shopping center and/or business center (or for an addition or an extension thereof) shall be issued after approval in writing by the Commission with or without any special modifications, of the location and site plan specified in such approval. Such site plan approval shall be valid for the work to be completed within one (1) year unless specified otherwise by the Commission in writing in their decision or a modification thereof. No grading or changing of contour of the land shall begin until all modifications are addressed and the permit is issued.
 - b. Traffic safety and ease of access at road or highway entrances and exits of shopping and business center driveways, taking into account grades, sight distances and the distance between such access and egress points and the nearest intersections.
 - c. Safety and adequacy of shopping center driveway layout and circulation, parking and loading areas for patrons and service vehicles for such items as electricity, gas, telephone, laundry, rubbish removal, water, septic, fire or police vehicles. Emergency services access shall be reviewed and signed off by the Fire Marshal.
 - d. Safe and adequate means of sewage disposal and water supply.
 - e. Assurance of proper storm water drainage for the entire site and the immediate area, proper site completion, including proper surfacing of all parking areas, as well as landscaping, determined by the Commission to be adequate.
 5. Restaurants
 6. Earth Removal, excavation, filling, stockpiling and grading shall only be allowed as set forth in Section 8 of these Regulations.

7. The Commission may allow uses which are similar and complimentary to those permitted in these regulations. The Planning and Zoning Commission may upon formal application for a Special Exception Permit, allow other business or industrial uses not specifically permitted in this Section but which are not prohibited in Section 6 of these Regulations, when in its judgment, the public convenience and welfare will be served and appropriate use of the adjoining properties, including those separated by a public highway, and which will not be detrimental to surrounding properties and will not be substantially injured by such use.
8. A dwelling unit which is clearly accessory to a permitted principal use. The accessory residential unit may only be occupied by the owner or operator or a person or persons directly connected to the operation of the permitted principal use on the property. The Commission may modify the site plan requirements to the extent necessary to show the requested accessory use while protecting the integrity of the Business and Industrial zone and the purpose(s) for which it was established.

The above accessory use may only be considered when proposed to take place in the principal building on the same parcel of land as the principal use. No new separate structure(s) used solely or principally for residential use shall be permitted under this section.

The maximum size of any such accessory residential use shall be 1,000 square feet, not including utility room or garage space. The maximum number of bedrooms permitted for the residential use is two. There may be only one (1) such accessory residential use permitted per property under this section.

The accessory residential area may not be rented to a person who is not directly connected to the operation of the principal use on the site.

When the principal use on the subject parcel is changed or discontinued or the ownership is transferred, the Special Permit for the accessory residential use shall expire. The new owner or operator of the principal use on the property may apply to reestablish the accessory residential use in conformance with these regulations.

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 residential unit continues to be in full compliance with all sections of these regulations.

9. Public Assembly. The Commission may permit uses involving the public assembly upon the approval of a Special Exception application which addresses at least the following items:
 - a. Adequate parking, whether dedicated or shared parking, which in the finding of the Commission will adequately serve the number of members of the public which are anticipated to attend events held in the subject venue. Specific, sufficient documentation may be required.

- b. Adequate plans for the space whether it is to be constructed all at one time or phased construction over a period of time, which shows, in adequate detail the fact that the public will be able to be accommodated without potential danger to attendees or others who may need to visit the site for whatever reason.
- c. Adequate provisions for safe site access and accommodation for all attendees and any emergency personnel as may be needed.
- d. Adequate provision for the protection of the health and safety of all abutting property owners, whether on the subject site or on abutting properties.
- e. Adequate provision for site lighting both inside and outside the subject structure. Such lighting shall be determined by the proper officials to be safe but shall not trespass off the subject property. Documentation of this requirement may be required by the Commission.
- f. Other approvals as may be applicable may be required prior to CO for the proposed use. Such approvals may include Fire Marshal, Health District, Water Authority, Building Official and the like.
- g. It should be noted that, depending on the proposed use, a special fee for outside experts maybe required as part of the application review process.
- h. Items as required by Section 5.2.B.

5.3 General Regulations.

- A. In order to properly transfer a Business and Industrial Permit, the new owner shall submit a letter to the Planning and Zoning Commission stating that they have received a copy of the original permit and are aware of any conditions contained in the original permit or any permit applicable to the property.
- B. No manufacturing plant or business establishment shall exceed 35 feet in height, exclusive of chimney and equipment penthouses, which penthouses shall occupy not more than 25% of the roof area and which may be a maximum of 50 feet in height. All rooftop equipment shall be suitably screened with a parapet wall or similar suitable device.
- C. The Planning and Zoning Commission may, after review and approval by the Fire Marshal, permit a maximum of 10% of the footprint of a manufacturing plant to be higher than set out above, but no higher than 50 feet, when after proper application, public notice and public hearing the Commission determines that neither the public welfare and convenience, nor private property values in the area will be adversely affected. All potential environmental effects shall be carefully considered by the Commission.
- D. All buildings shall be at least 70 feet from any property line adjacent to any public highway.
- E. The minimum lot width at the setback line or the property line fronting on any road, drive or lane, public or private shall be not less than 200 feet.
- F. No nonconforming lot in the B&I zone shall be reduced so that after the reduction, the minimum size of the lot with respect to its area, width or dimensions of any of the yards or open spaces shall be made more nonconforming, nor shall any conforming lot be made nonconforming in these respects.
- G. Landscaping, including trees, shrubbery, grasses and ground cover, shall be provided and continuously maintained in accordance with the standards of Section 10.2.-L of these Regulations.

H. Outside storage in the B&I Zone is regulated and permitted as follows:

1. General requirements:

- a. Outside storage and display areas shall not extend into any required front or side yard setbacks unless permitted by the Commission. For example, in the case of existing buildings, such areas may be permitted to extend to the existing building line if deemed by the Commission to be in the best interests of the neighborhood and the intent and purpose of the B&I Zone and as long as the proposal is found to not adversely affect property values, vehicular traffic, sight lines and safety of residents in the area.
- b. The display of new or used merchandise for sale or rent may be permitted during business hours only. At all other times such merchandise shall be placed in a completely enclosed structure or completely screened with vegetative screening or fencing as found appropriate and as may be permitted by the Commission. Any request to lessen the screening requirement shall be reviewed and decided by the Commission.
- c. The area dedicated to or used for outside storage must be clearly indicated on the site plan, if one is required, and shall occupy no more than 30% of the total lot area.
- d. If a site plan is required under this section, it shall be prepared, signed and sealed in conformance with the requirements of Section 10 of these regulations. Said plan shall show the entire site, unless specifically waived by the Commission, and all areas proposed for outdoor storage or displays. It shall include all existing and proposed, landscaping, screening and lighting details. Lighting details are to be reviewed by the Commission and may be approved upon a finding that the proposed lighting does not adversely affect any abutting roadway, or residential property owner. The site plan shall be at a scale of 1"= 40' and must show all areas within 100' of the property lines, including buildings and uses in that area.
- e. All applications for outside storage must, prior to their establishment, be found to be in compliance with all applicable sections of these regulations and shall include a narrative description of the proposed operation and use of the site, including normal hours of operation and all other relevant details.

2. Permitted as of right:

- a. Parking of registered motor vehicles, including employees' vehicles, not exceeding 20,000 pounds GVW, which are used on a daily basis in connection with the functioning of the business on the site.
- b. The temporary, meaning less than 90 days, outside storage of building materials, equipment and supplies which are used in construction on the same property on which they are stored and for which the required permits have been issued and are in force.
- c. The temporary storage of farm produce on property on which it was produced or on other property of the same owner and for which a zoning permit for the sale of same has been issued and is in force.

3. Permitted by Site Plan Review:
 - a. A site plan prepared in conformance with Section 10 of these regulations is required for items requiring a site plan approval by the Commission.
 - b. The temporary display of new or used farm machinery for sale and new or used motor vehicles 20,000 pounds or less, for sale by a licensed dealer for the same location.
 - c. Packaged landscaped material and live landscaping products for retail sale.
 - d. Items used as models or samples of items which are for sale on the site may only be placed on the site in locations approved by the Commission after the submission and approval of a proper site plan as described in Section 10 of these regulations.
4. Permitted by Special Exception:
 - a. All proposed outdoor storage or displays which are not specified above, or for which outside storage is the primary activity of the business or the outside storage exceeds the limitations of 5.3.H.1.c. above.
 - b. Motor vehicles or equipment in excess of 20,000 pounds GVW, which are for sale or rent.
 - c. Stockpiling of unpackaged or bulk landscaping material for sale. Stockpiles of such bulk material shall not exceed 50 cubic yards in size and shall be limited to no more than 4 piles. In addition any such storage must still comply with 5.3.H.1.c above.

5.4 Performance Standards & Other Requirements

- A. Uses in the Business and Industrial zone shall meet the following standards:
 1. No offensive or hazardous wastes shall be discharged into the air or into any wetland, stream or watercourse or any other body of water, or into the ground or on to any adjoining property.
 2. No activity shall be permitted or conducted which is offensive, hazardous, creates a public nuisance or is dangerous to persons or property on or outside the lot on which the activity is conducted. Acceptable lighting levels are to be as referenced in Section 10.2.K. of these regulations and as may be adopted by the Commission. Noise levels are to be in keeping with any local ordinance adopted by the Town.
 3. Failure of a business or industry to exercise appropriate control methods to meet the requirements of these Regulations or any permit granted by these Regulations or any conditions imposed in the grant of any variance by the Zoning Board of Appeals where such a failure results from the inadequacy or the lack of maintenance or repair of required controls, or control methods, or failure to comply with specific limitations or conditions set forth by the Commission, Board of Appeals, or other appropriate regulatory authority shall be subject to all enforcement actions, fines, and penalties authorized by law until the violation is corrected.
- B. Each property shall have its own clear and unobstructed access, owned in fee simple, to a public road. Such access shall be not less than 50 feet in width.
- C. An applicant proposing to construct, transform or expand property into a shopping center use shall submit the plans to the State of Connecticut Department of Transportation and/or the Town Highway Department as appropriate, with a request to review the plans for traffic control and drainage, and shall provide a copy of the request to the Board of Selectmen. The applicant must submit a copy of the approval from the DOT to the Board of Selectmen and

the Commission. The applicant shall be responsible for the construction and maintenance of any such approved or required appurtenances unless the Board of Selectmen agrees to assume all or some of those responsibilities.

- D. The Commission, as part of its approval, may require the posting of a bond with surety sufficient to guarantee the completion of all work commenced shall be properly completed, and that all imposed modifications or conditions shall be met. The security must be in a form acceptable to the Commission. The bond shall insure that the surety shall promptly take any and all steps necessary to insure compliance. See Section 12 for appropriate bonding requirements.
- E. All signs shall conform to Section 7 of these Regulations.
- F. All dimensional requirements shall be in conformance with Section 3.4 and other applicable sections of these regulations.
- G. Off-street parking and loading requirements shall be in conformance with Section 7 of these regulations.

5.5 Application and Permit Requirements for Business and Industrial Zones

For submission and processing of applications for required permits, the following shall apply.

- A. Business/ Industrial Permit. A business/ industrial permit is required for any new use, change of use or addition to a use of a business and industrial site. These permit applications shall be completed and submitted on forms provided by the Commission and shall be accompanied by:
 - 1. A site plan prepared to the standards found in these Regulations with special note to the requirements of Section 5, for the subject site. The site plan shall be reviewed by the Commission, its agents and such other Town Departments and officials, including Fire Marshal as may be appropriate to determine compliance with these Regulations.
 - 2. A written narrative description of the purpose and nature of the proposed use setting forth hours of operation, number of employees, materials to be used, stored or sold on the site along with a description of the proposed operation, including details of any exterior lighting, and sound and noise impacts associated with the proposed use.
 - 3. In the case where a separate permit for site plan approval is required because of proposals by the applicant or requirements imposed by the Commission to insure compliance with these Regulations, no Certificate of Zoning Compliance for the business shall be issued by the Zoning Enforcement Officer until the site has been determined to be in compliance with the approved or modified site plan.
 - 4. The proper fee for the application as established in the Town of Bethany Land Use Fee Schedule Ordinance and the required State land use application fee.
- B. Site Plan Requirements. Site Plan approval, as required by Section 5.2 including any physical alteration to a site, which may include; construction of a new structure, alterations or additions to an existing structure's footprint, drainage, parking and driveway facilities and/ or exterior lighting shall expire within five (5) years from the date of approval in accordance with Connecticut General Statutes Section 8-3.(i) and (j). Site plan approval permit applications shall be submitted on completed forms provided by the Commission and shall be accompanied by:
 - 1. Five (5) copies of a complete set of site plans including or showing at least the following:
 - a. An A-2 survey of the property showing all property lines, required zoning setback lines and any other building or disturbance restriction lines. Topography may be required to be shown to a T-2 degree of accuracy using 2 foot contour intervals. The

- applicant may request a waiver from this requirement. The Commission may, for good cause found and upon vote of 2/3 of members present and voting, waive this requirement in total or in part.
- b. Location and description of all soil deep test pits and all percolation tests conducted on the site, along with well and primary and reserve septic areas.
 - c. All existing or proposed structures including driveways and parking areas, existing and/or proposed lighting, as well as all underground utility services and note as to provision of electric service, telephone and/or cable service if not proposed underground.
 - d. Limits of clearing and grading and all existing and proposed contours.
 - e. Locations of any areas existing or proposed to be used for outside activities such as dining areas, with proposed seating capacities.
 - f. A soil sedimentation and erosion control plan prepared in accordance with Connecticut Guidelines as amended.
 - g. All storm water drainage from the site and treatment thereof so as to achieve a zero increase in the rate of runoff from the site for a 25 year design storm. A copy of the drainage information used to calculate the post development rate of runoff, showing such zero increase, shall also be submitted.
2. The application fee for site plan approval permit as set forth in the Land Use Fee Schedule Ordinance and including the State Land Use Fee as established by CGS Section 22a-27j, and as it may be amended.
 3. If the proposed work involves a new road or modification to a road or highway access, approval from the Town Highway Department or the State Department of Transportation as appropriate, is required.
 4. Approval from the Town Sanitarian and/or the State Public Health Department and/or the Department of Environmental Protection as may be applicable, is required.
 5. Approval of the Fire Marshal, if the work involves alterations to a structure, or a new use or a change of use.
 6. If the application involves a regulated activity in or adjacent to an inland wetland or watercourse regulated under Section 22a-36 to 22a-45 inclusive, of the Connecticut General Statutes, the applicant shall submit an application for a permit to the Inland Wetlands and Watercourses Agency no later than the day the application is filed with the Commission.
 7. If the application involves land which is in the designated drinking water supply watershed as defined in the CGS Section 25-32a, the applicant shall notify the Water Company in accordance with Section 8-3i.
 8. The Commission may require the applicant to submit additional studies or documentation, which in its opinion are needed, depending on the specifics of the site in question.
 9. For all new structures shown on an approved site plan an as-built, class A-2 survey, must be prepared and submitted after the foundation has been completed before further building construction may begin to insure compliance with all required setbacks.
- C. Decisions. Decisions on site plans not subject to a public hearing by the Commission shall be rendered within 65 days of the official receipt of such an application. If taken to a public hearing, the applicant may consent to one or more extensions of such time periods as are provided for in these regulations and the C.G. S. The total time of any such extension(s) shall not exceed statutory specifications. For purposes of this Section, the official date of

receipt of an application shall be the day of the next regularly scheduled meeting of the Commission, immediately following the day of submission to the Commission or its agent of such application, or thirty-five (35) days after such submission, whichever is sooner. The office of the Town Clerk shall act as the agent of the Commission for acceptance of submission of any application, during regular business hours when the Commission office is not open.

- D. Delay of Decision. If an application involves an activity regulated by the IWWA under CGS Sections 22a-36 to 22a-45 and a decision or final report has not been issued by the IWWA, the deadline for action by the Commission is extended as established under CGS Section 8-7d (e).

SECTION 6 - Prohibited Uses

General: Subject to Section 2, the following uses are expressly prohibited in all zones anywhere in the Town of Bethany.

Any use that is noxious or offensive by reason of odor, dust, vapor, smoke, gas, noise, vibration, glare, any exterior or trespass lighting of other than the owners property or radioactive emissions, or electromagnetic interference or other uses which operations may be hazardous to the health safety and welfare of surrounding residents or property.

- 6.1 Abattoir, slaughter house or stock yards.
- 6.2 Explosives or fireworks manufacture.
- 6.3 Fertilizer manufacture or its compounding for sale, including processing of poultry feathers and entrails.
- 6.4 The glue or size manufacture by process involving recovery from fish or animal products.
- 6.5 Incineration, reduction, processing or dumping of offal, dead animals, garbage or other refuse, including septic tank effluent, except when controlled by the Town.
- 6.6 Manufacture and/or disposal of atomic, nuclear, teratogenic, mutagenic, carcinogenic, PCB and any other hazardous wastes.
- 6.7 Rock or stone mill crusher, or quarry, or machinery for exterior screening of organic or inorganic material except as provided for in Section 8 of these Regulations.
- 6.8 Sewage disposal plant, except for the exclusive use of the owner and located wholly on the land of the owner; or when owned by the Town.
- 6.9 Junk yards including those as defined by CGS, and junk businesses.
- 6.10 Wood or bond distillation.
- 6.11 Trailer camps or parking lots for trailers, overnight cabins, mobile homes unless otherwise permitted by these regulations, or mobile home parks.
- 6.12 Airports, including heliports.
- 6.13 Dance halls, permanent amusement park installations such as merry-go-rounds, and pool parlors, and amusement arcades (more than 2 machines).
- 6.14 Public dumps, except as authorized by the Town, and private dump sites.
- 6.15 Commercial piggery or hog farm, or place where garbage or refuse is fed to swine. This shall not affect the keeping of a small number of pigs for home use or as part of a diversified farm operation.
- 6.16 Billboards or portable A- frame type signs, or other roadside advertising signs except as expressly permitted.
- 6.17 Outdoor Drive-in Theatre.
- 6.18 Gun club.
- 6.19 Race tracks.
- 6.20 Storage of volatile materials except as incidental to a permitted use.
- 6.21 Correctional institutions.
- 6.22 Pornography shops or commercial establishments dealing in pornographic materials.
- 6.23 Motels and hotels.
- 6.24 Laundries and dry cleaners which do the cleaning work on site.
- 6.25 Riding stables with horses for rent by the hour or day.
- 6.26 Trespass lighting.
- 6.27 Large scale commercial poultry farming.
- 6.28 Signs with any type of internal lighting or internal illumination.

SECTION 7 - Signs and Parking & Loading Regulations7.1 General Requirements for All Signs

- A. Unless otherwise indicated, all signs permitted herein require a zoning permit from the Zoning Enforcement Officer. Where Commission action is required the ZEO may issue the required permit subsequent to Commission action.
- B. Permits for Temporary signs as allowed by this section may be granted and issued by the ZEO unless otherwise specified.
- C. All temporary signs must be removed upon completion of the event to which they pertain. For permanent uses, signs are to be removed within ninety (90) days of the cessation of the use.
- D. Only the Commission may act upon requests for any illuminated sign.
- E. The Commission or Zoning Enforcement Officer may request information from the applicant in sufficient detail to clearly identify the characteristics of the proposed sign(s), including size, location, material, and proposed lighting type with specifications and intensities. The applicant is required to submit a scaled drawing of the proposed sign(s) in relation to the property's boundary lines and in relation to the building which it is proposed to serve. If the sign is proposed to be illuminated, the times of such illumination shall be stated on the application. Failure to submit the requested and required information may be cause for denial of the application.
- F. No sign or sign lighting shall be placed or directed in such a manner so as to cause danger to drivers of vehicles on the street by obscuring sight lines or impairing visibility.
- G. All signs shall be constructed of weather-proof materials, firmly supported and maintained in good condition and repair.
- H. All signs proposed are considered an accessory use for an activity or use on the same lot unless otherwise specified.
- I.
 - a. Sign size shall be defined as that of the entire area within a single, continuous perimeter that encloses the extreme limits of the sign's surface.
 - b. For a sign painted on, (affixed) or applied to a building, the size shall be defined as the area within a straight line perimeter that includes all lettering, designs, symbols and background of a sign having a different color than the color or finish material of the building.
 - c. For a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, the sign area shall be considered to be that of the smallest rectangle or other straight line shape which encompasses all of the letters and symbols.
 - d. The area of the supporting framework, (for example brackets, posts etc.) shall not be included in the area of the sign if such framework is incidental to the display.
 - e. When a sign has two (2) or more faces, the area of all faces shall be included in determining the sign area, except where two faces are attached to each other, placed back to back and are at no point more than two (2) feet from each other. In this case the sign area shall be considered as the area of the larger of the two faces.
- J. The following signs are prohibited in all zones: Billboards, flashing and/or rotating and/or animated and/or scrolling signs, or red, green or amber illuminated signs.
- K. Signs located in windows of establishments, or within four (4) feet of any window are to be counted as part of the signage on a property.

- L. Traffic directory signs, "Enter and Exit" are allowed and may be a maximum of two (2) square feet each in size.
- M. All signs shall be erected on the same parcel or property as the business to which they refer.
- N. The maximum height of any permanent sign is ten (10) feet from the ground level measured directly below the proposed sign to the top of the sign.

7.2 Signs in Residential Zones

The following signs may be erected, as of right, no permit required:

- A. Official Town traffic signs.
- B. No trespassing signs or signs indicating the private nature of a driveway or premises provided the size of any such sign shall not exceed two (2) square feet.
- C. Real estate, For Sale or For Rent signs with a maximum size of three (3) square feet, one per property. Corner lot, two (2) signs maximum.
- D. Open house real estate signs may be placed for 24 hours maximum, and must be removed at the close of the open house.

Signs which require a permit from the ZEO:

- E. One non-illuminated sign not exceeding four (4) square feet in area, giving the name of the land or building on which is displayed the name of the owner or lessee thereof, or information of historical interest.
- F. A non-illuminated professional or name sign, when connected to a permitted home occupation, not exceeding (4) four square feet indicating the name, profession or activity of the occupant of the dwelling provided that not more than one such sign may be erected per property.
- G. Bulletin boards or signs on Town, church, school or institutional property not exceeding thirty two (32) square feet in total area.
- H. Building contractor's signs located on the property where a building(s) are actually under construction which are no greater than three (3) square feet in area. A maximum of 1 sign per property may be permitted.
- I. The ZEO may permit temporary signs for a period not to exceed two years, which advertise a Commission approved development and which are 32 square feet or less in area. One sign may be permitted for each intersection with a public road. A maximum total of 2 signs per development may be permitted. Sign must be on private property. One (1) sign per property.
- J. The name of a farm and the proprietors thereof, may be attached to or painted on the wall of an accessory building the total area of the sign is limited to thirty-two (32) square feet.

7.3 Signs in Business and Industrial Zones

The Commission may permit the following signs in the B-I Business and Industrial Zones. They are also governed by all the General Requirements of Section 7.1 as well as applicable DOT regulations and policies.

- A. Any sign permitted in a Residential District, may be permitted in the B-I Zone, with the same limitations and requirements.

- B. Roof signs are prohibited, however signs may be attached to the front wall of any building, but may not project more than 12 inches from the wall. No sign on any building shall extend above the top of the main exterior wall nearest the road. The Commission may vary this requirement if:
 - 1. Unique architectural building constraints exist.
 - 2. Topography prevents sign visibility.
 - 3. Building or business location in a complex prevents visibility.
- C. Size: Total area of all signs on the premises shall not exceed 2 square feet per linear foot of actual building frontage. Of this total, not more than 75 square feet may be erected as free standing signs.
- D. One non-illuminated sign not exceeding six (6) square feet is permitted pertaining only to the sale or lease of the land or the building on which it is displayed.
- E. Landscaping: Freestanding signs should be landscaped at the ground level or have landscaping incorporated into the landscape plan for the front yard buffer. A sign or landscaping in a required setback fronting any road shall be located entirely on the applicant's property and shall not obstruct any required sight lines.
- F. Lighting: Lighting for any freestanding sign(s) must be directed downward from the top of the sign and illuminate only the sign. The source of the light shall not be visible from the street or any other lot. Properly installed, full cutoff fixtures shall be used for all sign and site lighting.
- G. Design: All permanent signage for one property or for a business center shall be coordinated and complementary in design to the extent practical, while still meeting all other sign requirements.
- H. Any permanent or temporary signs proposed to be located within the State of Connecticut's right of way shall require the appropriate State permits prior to the erection or placement of the sign.
- I. The illumination of any sign shall cease no later than two (2) hours after permitted business hours.
- J. The Zoning Enforcement Officer is hereby empowered to remove or cause to be removed any sign which has been erected or placed without a proper permit. The Zoning Enforcement Officer shall attempt to notify the owner of the sign or the owner of the property on which the illegal sign is placed to request the sign be removed. If the sign is not removed within the time prescribed by the Zoning Enforcement Officer, the sign may be removed at the direction of the Zoning Enforcement Officer.

7.4 Off-Street Parking and Loading Requirements

- A. The following parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building which after the effective date of these regulations, is erected, enlarged or altered for use for any of the following purposes.
 - 1. Dwelling: At least two outside parking spaces for each dwelling unit.
 - 2. Auditorium, Town Hall, church and other places of public assembly: At least one paved parking space for each three (3) seats based on maximum seating capacity.
 - 3. Restaurant or other eating establishment providing service at tables or counters in the open or under cover: At least one paved parking space for each two (2) seats.

4. Retail stores: At least one paved parking space for each 100 square feet of store floor area, exclusive of space devoted exclusively to storage.
 5. Office buildings and professional offices such as physician's, dentists, real estate and insurance offices conducted from a business building, one space per 250 square feet of floor area.
 6. A home office: At least one (1) paved parking space for each employee plus adequate paved parking spaces for a maximum of four (4) clients.
 7. Industrial or manufacturing establishments: At least one (1) paved parking space for each 400 square feet of gross floor area, or 2 spaces for each 3 employees, whichever is greater. However the Commission may modify this requirement if in its sole discretion it finds there is sufficient evidence submitted with the application to justify the modification.
 8. Country club, pool club, golf club, club, lodge or community house: At least one half (½) space for each fifty (50) square feet of floor area or for each existing or proposed membership unit, or one (1) space for each unit of the facilities capacity, whichever is less.
- B. Business and Industrial establishments shall be required to provide adequate loading space equivalent to one loading space as defined by these regulations, for each 5,000 gross square feet of floor area for each such establishment. If the use routinely receives deliveries by tractor-trailer, the loading space shall be of such size so as to accommodate the tractor-trailer.
- C. No building or use may be expanded or changed or property diminished in size, so as to not meet the minimum parking requirements of the use or the lot on which it stands. The owner shall submit a site plan for review by the Commission. All parking shall be on the same lot as the building it serves unless a plan for documented shared parking is approved by the Commission.
- D. The Commission may alter these requirements and require the number of parking spaces which, at its sole discretion and upon submission of credible evidence substantiating the relevant parking demand to accommodate the specific proposed use.
- E. The Commission may waive the requirement for paving of parking spaces as required above, if it determines that the paved parking spaces are not necessary for control of dust, erosion from a site or for purposes of drainage control.

NOTE: Diagrams of parking space requirements are found in Appendix A-6 of these regulations.

SECTION 8 - Earth Removal, Excavation, Filling, Stockpiling and Grading

- 8.1 Scope: To permit earth removal, excavation, filling, stockpiling and grading only as the minimum required for preparing land for residential, business or industrial development or for maintenance or improvement of bodies of water. These activities may be permitted by exemption, Administrative Permit or Special Exception as set forth in this Section. No other such described activities, except as provided for herein are permitted.
- 8.2 Purpose: The purpose of these Regulations is to:
- A. Prevent or diminish any adverse effect of all earth disturbing operations upon the health safety or welfare of the community, any undue disturbance or annoyance of the occupants of the premises in the general neighborhood of such an operation, any impairment of the usefulness or the value of the properties in the area and to prevent any unwarranted adverse effect upon subsurface water resources in the area.
 - B. Promote the most desirable use of land and development of land and improvements in accordance with a well-conceived and approved plan which minimizes disturbance of Bethany's natural landscapes in concert with the Town Plan of Conservation and Development.
 - C. Protect against detrimental impacts on or significant alteration of historic areas, scenic landmarks or a neighborhood's or the Town's essential characteristics, including significant natural resources and topographic features.
 - D. Regulate earth removal, excavation, filling, stockpiling and grading operations so as to minimize negative impacts upon the use and enjoyment of surrounding properties, by their residents including but not limited to negative effects upon health, safety, property values and the future use of the premises involved.
 - E. Protect areas against fire, explosives, toxic and noxious matter and other hazards and against offensive noise, vibration, dust, smoke, and other objectionable influences.
 - F. Enable the use of such controls and imposition of conditions as are necessary and desirable to achieve the purposes of these regulations.
- 8.3 General Standards for Application Review and Decision Making for all Section 8 Permit Applications.
- A. No natural earth materials, including but not limited to loam, topsoil, sand, gravel, clay, peat, quarry stone, inorganic or organic matter, shall be removed, excavated, filled, stockpiled or graded from or on any premises located in any zone, except as authorized herein.
 1. Plan of Conservation and Development. The proposed activity shall be compatible with the adopted Plan of Conservation and Development; especially its goals, policies and programs.
 2. Historic and Scenic. The proposed activity shall not destroy or deface historic or scenic areas, or landmarks; or otherwise detrimentally affect or significantly alter a neighborhood's or the Town's essential character, including significant topographic features.
 3. Appropriateness of Location. The proposed activity and ultimate use shall be determined to be compatible with the specific zone and neighborhood, including but not limited to, impact on property values, noise levels, traffic, odor, dust, general appearance and surrounding existing and proposed development.

4. Scope of the Application. The excavation proposed must be for the minimum needed to achieve the ultimate intent of the application and must be designed to be in harmony with the neighborhood.
5. Regulatory Conformance. The proposed activity must be found to be in conformity with the Zoning and Subdivision Regulations of the Town of Bethany and all other applicable Town codes and ordinances, and the purposes of these Regulations as set forth in Section 8.2.
6. Safety. The proposed activity shall not adversely affect accessibility for emergency vehicles and equipment, increase fire or traffic hazards, or have the potential to damage Town roads, bridges or other public facilities.
7. Fee. Any application, to be considered complete, must contain all listed and Commission requested items, including the proper fees. Failure to provide a complete application shall be grounds for denial of the application.
8. Requested Additional Information. If the Commission, or its agents find the need for additional information before or during the formal review of the application, the Commission reserves the right to require additional information from the applicant including but not limited to; additional engineering investigations, including borings, soils, ledge or groundwater information.
9. Pre-existing Permits. Any Administrative Permit or Special Exception Permit existing and in effect, on the effective date of these Regulations will remain valid until it expires, however all such permits shall not be eligible for renewal but shall require the filing of a new application pursuant to these Regulations.
10. Inspection and Compliance. During the term of any Permit issued under this Section and until the operation is complete, the Commission or its designated agent may, at any reasonable time, inspect the land to verify compliance with the requirements of the Permit. The applicant and owners shall give to the Commission at the time of issuance of the Permit, a written consent to enter upon and inspect the premises to verify compliance. The Commission may also require the applicant to submit periodic written reports, prepared and sealed by a land surveyor and/or professional engineer, showing the status and progress of the operation.
11. Joint Application. Where two (2) or more adjoining lots are to be considered for a permit, the Commission may treat a joint application as one application and require adequate slope and drainage agreements are provided to allow for necessary coordination of any operations.
12. Enforcement Procedure: When these Regulations are violated or the Commission or its agent(s) are made aware of any noncompliance with the approved plan during the operation, such violation(s) shall be cause for the Commission to proceed with an enforcement action as set forth at Section 8-12 of the Connecticut General Statutes.
13. Insurance. No Permit approved under this Section shall be issued until the applicant has filed with the Commission a certificate evidencing that the applicant has obtained a policy of public liability insurance with a limit of not less than \$500,000 as to personal injury, including death and \$1,000,000 as to property damage, covering all operations to be conducted pursuant to the approved Permit. In the event of cancellation or non-renewal of such insurance, the Permit shall automatically terminate.
14. Possible Actions: The Commission may approve, modify and approve or deny any application made to it under this section.

15. Frequency: The Commission shall not be required to hear any application for a special exception permit relating to the same or substantially the same earth removal, excavation, filling grading or stockpiling activities, more than once in a period of twelve (12) months.

B. Notice Requirements for all Section 8 Applications:

1. Inland Wetlands Commission: If the application involves an activity regulated pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, the applicant shall submit an application to the Inland Wetlands and Watercourses Agency, (the Wetlands Commission), of the Town of Bethany no later than the day the application is filed with the office of the Planning and Zoning Commission. The application to the Planning and Zoning Commission shall clearly indicate when the application was filed with the Bethany Wetlands Commission. If it has been determined by the Wetlands Commission that a wetlands permit is not required, then a letter from the Wetlands Commission so indicating shall be submitted with the application to Planning and Zoning. The final report from the Wetlands Commission is required before the Planning and Zoning Commission may approve any application.
2. Public Water Supply Watershed Notice Requirements: If the land which is the subject of the application is within the designated watershed of any water company as defined in Section 16-1 of the Connecticut General Statutes, and the water company has filed a map showing the boundaries of its watershed on the land records of the Town of Bethany and with the Bethany Planning and Zoning Commission, the applicant shall provide written notice of the application to the affected water company or water companies, which notice shall be mailed not later than the same day as the date of application to the Planning and Zoning Commission. Said notice shall be mailed by certified mail, return receipt requested.
3. Notice to Abutting Property Owners:
Special Exception Permit. The applicant shall notify surrounding property owners within (500) feet of the boundaries of the subject property of the applicant's name and time, date, place and purpose of the public hearing and shall do so by first class mail on forms provided by the Commission. Said notice shall be mailed at least ten (10) days prior to the public hearing date, not including the date of the mailing and the date of the hearing. The applicant or the applicant's agent shall provide a "certificate of mailing" at the time of the public hearing, as part of the applicant's record.
4. Delay of Decision: If an application involves an activity regulated pursuant to Sections 22a-36 to Sections 22a-45, inclusive, of the Connecticut General Statutes, no decision on the application shall be rendered by the Planning and Zoning Commission until the Bethany Inland Wetlands Commission has submitted a report of its final decision to the Commission, in conformance with the relevant time limits found in the Connecticut General Statutes. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant.

8.4 Types of Permits:

A. Exemptions: Except as provided in Section 8.4 (B), the provisions of Section 8 and the requirements to obtain a Permit from the Zoning Enforcement Officer, hereunder shall not apply where the removal, excavation, filling, grading, stockpiling or screening of materials is solely for one or more of the following purposes:

1. All Exempted activities are subject to the Standards and Conditions set forth in Section 8.7 A. 3. c., d., h., l., m., p., q. and r. In addition Section 8.7 A. 3. a. shall also apply except that operation, maintenance or running of machinery in connection with such activities shall be permitted between 9:00 AM and 4:00 PM on Saturdays and between 12:00 noon and 4:00 PM on Sundays, and provided such activity is not on a prohibited day as noted herein.
2. Any removal, excavation, filling or grading, but not the stockpiling of earth materials on any lot, provided such activity involves no more than five hundred (500) cubic yards of earth material and further, provided, that this exemption shall apply only once in any calendar year. Calculations proving the exempt amount shall be provided by a registered professional engineer. This Exemption shall not apply to a parcel for which the Commission has issued an Administrative or Special Exception Permit and which parcel has not been finally reclaimed.
3. Necessary removal, excavation, filling, grading, stockpiling or screening of materials in direct connection with the construction of alteration of a structure, septic system, driveway or other utility on a lot for which all appropriate permits have been issued and which activity involves less than one thousand (1,000) cubic yards of earth material. Calculations proving the exempt amount to be done by a registered professional engineer.
4. The normal maintenance and repair of roads and driveways and the construction of new roads by the Town.
5. Compost heaps and manure piles generated from permitted on-site activities as long as such activities are being properly managed and not causing pollution or a public nuisance or a health hazard.

B. Administrative Reviews and Permits:

1. If a proposed activity meets all of the following required criteria, an Administrative Permit must be applied for prior to conducting the activity. The Commission may, if it deems necessary require that proof or certification from a properly licensed professional engineer and/or surveyor be submitted regarding any aspect of this permit application.
 - a. Necessary removal, filling, excavation, grading, stockpiling or screening of material on a lot in direct connection with construction or alteration of a structure, septic system, driveway or other utility on a lot for which the appropriate permits have been issued and which such activity involves no more than five thousand (5,000) cubic yards of material; and
 - b. The open, unfinished, unreclaimed, unvegetated or unstabilized area, at any one time is less than one acre, and
 - c. The operation shall be started and completed within six (6) months from the date of issuance of the Permit, or

- d. Necessary removal, filling, excavation, grading or stockpiling of material from a lot in order to eliminate a threat to the environment, public health or safety, which involves the movement of no more than five thousand (5,000) cubic yards of material; or
- e. The applicant is under a current, valid order of a federal, state or local government which requires it to engage in the removal, filling, excavation, grading or stockpiling of material on a lot, which involves the movement of no more than five thousand (5,000) cubic yards of material; or
- f. Necessary removal of boulders, stumps or debris and application of top soil and other necessary materials to complete clean up and final reclamation of a site in accordance with a plan previously approved by the Commission, provided that the work involves the movement of a total of no more than five thousand (5,000) cubic yards of material; and
- g. The open area at any one time is less than one acre; and
- h. The operation shall be started and completed within six (6) months from the date of issuance of the Permit.

C. Special Exception Permits:

- 1. All Special Exception Permits are issued by the Commission after receipt of a complete application and after holding a duly noticed public hearing and after review based on the scope, purposes, standards and criteria contained herein.
- 2. Any proposed activity not meeting the criteria for an Exempt Permit or an administrative Permit must make application for a Special Exception Permit as contained herein.

8.5 Application Requirements for Administrative and Special Exception Permit Applications:

- A. Refer to Section 8.3 for General Requirements.
- B. Applications for any permit pursuant to this section shall be submitted on forms provided by the Commission, signed by the applicant and all owners of the land where the activity is proposed to occur. All owners of the land shall be co-applicants.
- C. The application fee for any permit under this section as set forth in the Town of Bethany Land Use Fee Schedule Ordinance, as may be amended from time to time, must be submitted with the application. Failure to pay the application fee shall constitute an incomplete application and shall be cause for denial of the application.
- D. Thirteen (13) copies of a project plan showing the location of the proposed operation shall be submitted with the application. Such plan shall be drawn to a 1" equals 40' scale. The plans shall show at least the following:
 - 1. An overall or final conceptual development plan for the ultimate use of the property must be submitted at this time with the application. Note that if the ultimate use of the property is for subdivision purposes, a subdivision plan must be submitted with the plan for the excavation as well.
 - 2. The quantity and type of earth product to be removed, filled, excavated, graded or stockpiled and the limits of the proposed operation. Any available test boring information shall also be submitted.
 - 3. The total acreage of the land and the length and direction of the present property lines.
Note: An A-2 survey of the property is required for a Special Exception application.

4. Existing and proposed contours. Note: The Commission requires a T-2 survey of the property for a Special Exception application.
5. The estimated starting and completion dates and the proposed hours and days of operation, including vehicle routes.
6. Proposed measures for control of erosion and sedimentation from the site. In addition, plans, which adequately address stormwater management issues and concerns, are also required.
7. A plan with narrative as necessary, which describes final and/ or temporary reclamation of the property, as appropriate.
8. Upon finding of unusual soil conditions or of insufficient data to properly assess compliance with these Regulations the Commission may require the applicant to provide additional information on soils, rock ledge, groundwater conditions, drainage or any other information deemed necessary and appropriate by the Commission.
9. The names and addresses of the present owner or owners of the land and the location and names and addresses of owners of all adjacent property, including property separated from the land by any roads. All names and addresses shall be as shown on the Town Assessor's most current records;
10. A detailed written narrative of the complete project including, the purpose, and objectives of the proposed operation and at a minimum:
 - a. A written itemized estimate of the cost to complete the proposed operation;
 - b. The quantity and type of earth materials to be removed, excavated, filled, graded or stockpiled and the area limits of the proposed operation;
 - c. A description of the proposed vehicular access to the land and location of the proposed work and roadways within the parcel.
 - d. The estimated number and types of trucks and location, if fixed, of all other machinery proposed to be used for the operation.
 - e. The estimated duration of the project including starting and completion dates and the proposed hours and proposed days of operation.
 - f. Details of the existing and proposed drainage plans, including drainage systems, proposed measures for soil erosion and sedimentation control from the site and details of proposed seeding and reclamation for the area of the proposed operation.
11. An A-2 survey of the property, including a minimum of two (2) permanent identifiable bench marks on or near the property.
12. A location key, drawn to a scale of at least one inch equals two thousand feet, (1" = 2,000'), showing the location of the land in relation to surrounding property, all zoning districts, all streets within one thousand (1,000) feet of the property, and the Town line, if it is within five hundred (500) feet of the parcel;
13. Existing and proposed contours at two (2) foot intervals with spot elevations and cross sections at high and low points, extending at least seventy-five (75) feet beyond the limits of the work area, even if it is off the property. Five (5) foot contour intervals are permitted for land where existing slopes are in excess of 10 percent but less than 25 percent slope. Ten (10) foot contour intervals are permitted for land where existing slopes are 25 percent or more. Accuracy and source of information are to be field survey or other acceptable method and must be stated on the plan. Topography must be to a minimum T-2 accuracy for existing conditions.

14. A detailed landscaping / reclamation plan, including a work schedule for completion, shall be prepared by a qualified design professional experienced in the reclamation of property, which will show the type, location and extent of all proposed vegetation to be retained or restored to the land in accordance with the specific requirements of the project using Natural Resources Conservation Service guidelines for reclamation and specifically taking into account the natural vegetation of the area before any excavation, grading or filling was done. Maximum slopes for any reclaimed area are to be 1 foot vertical to 3 feet horizontal.
15. The location and size of any and all existing buildings, streets, monuments, recognized landmarks, rock outcroppings or structures on the land and comparable information on adjacent properties for a distance of seventy-five (75) feet beyond the parcel boundaries. The source of such information is to be stated on the plan.
16. The size, location, invert and surface elevations and flow direction, where applicable, of existing water bodies, water courses, swamps, marshes, flood plains and wooded areas on and adjacent to the land. All wetlands are to be flagged in the field and shown on the plans. Maps approved by the Wetlands Commission are acceptable to meet this requirement.
17. A box on the plan with the words "Permit Approved by the Bethany Planning and Zoning Commission", and a labeled blank line for the signature of the Chairperson or Secretary of the Commission.
18. The Commission reserves the right to request any additional information it deems necessary to properly review and decide the application.

8.6 Review Procedure:

- A. Initial Review: Applications submitted pursuant to this Section shall be reviewed by the Commission's designated review person. The designated review person if appropriate, shall refer the application to the Planning and Zoning Commission for its review, processing and action. The Commission, after review may approve, approve with modifications or deny the application or set a public hearing date if one is required and then act on the Permit. Such Permits shall contain appropriate conditions and standards as dictated by the purposes of this Section.
- B. Decisions:
 1. The Commission within sixty-five (65) days of the official receipt date of an administrative application shall render a decision on the application. The applicant may consent to one or more extensions of such time period, provided the total period of any such extensions shall not exceed sixty-five (65) days.
 2. If the application meets the criteria for a Special Exception the Commission shall set a public hearing date for within 65 days of the official receipt date of the application. The hearing shall be conducted and the decision made within the parameters contained in the Connecticut General Statutes.
- C. Transferability: No Administrative or Special Exception Permit is transferable without the express consideration and decision of the Commission.
- D. Expiration: Administrative Permits shall automatically expire six (6) months after the date of approval, unless the Permit contains a different expiration date specified by the Commission at the time of original approval. Special Exception Permits shall automatically expire after one year unless specified differently by the Commission at the time of approval.

- E. Renewal: No operations are permitted after the Permit expires. The Commission may, at its sole discretion, renew the Administrative Permit for up to six (6) months upon written request for renewal. Such renewal request must be made at least one (1) month, but no more than three (3) months, prior to the expiration of the Permit and be accompanied by the proper fee. A special Exception Permit may be extended by the Commission for up to 1 year, or any time less which the Commission finds desirable.

8.7 Standard Permit and Operating Conditions:

- A. All Permit approvals issued under this Section shall be subject to the following standard conditions in addition to any special conditions the Commission may require:
1. To ensure the performance and completion of the permitted operation in accordance with these Regulations and the approved permit, the owner / applicant shall file with the Commission a Bond with Surety satisfactory to it. The form of surety, which may be provided and accepted by the Commission, may be:
 - a. The pledge of a passbook savings account;
 - b. An irrevocable letter of credit;
 - c. A cash deposit with the Town of Bethany;
 - d. Such other Surety as may be acceptable to the Commission.
 2. The amount of the Bond and the form of Surety shall be determined by the Commission in its sole discretion. Should there be a failure of Surety during the term of the permit or any extension thereof, the permit shall automatically be suspended pending the filing of a new surety by the owner/applicant/operator and acceptance by the Commission.
 3. All permitted operations must comply with the following minimum standards and conditions:
 - a. There shall be no operation, maintenance or running of machinery or vehicles associated with the operation conducted between 5 p.m. and 8 a.m., nor during such additional hours as the Commission may decide, nor on Saturdays, Sundays, New Year's Day, Good Friday, Memorial Day, July 4th, Labor Day, Thanksgiving Day and the following day, and Christmas Day, except with the approval of the Commission. Maintenance of machinery and vehicles is permitted on Saturdays between 9 a.m. and 12 noon, provided that such a day is not a holiday as described above as a prohibited work day. These restrictions do not apply to a retail operation in a Business and Industrial Zone during its normal working hours.
 - b. Truck access to the site shall be so arranged so as to minimize danger to pedestrian and vehicular traffic on or along public highways and so as to minimize negative impacts on surrounding properties. All access to any operation shall be barred by secured and locked gate(s). Cables, ropes, chains or similar barriers are not acceptable.
 - c. At all stages of the operation, and upon completion, proper drainage shall be provided to prevent collection and stagnation of water and to prevent harmful effects upon surrounding properties, except where such collection is part of the approved erosion and sedimentation control plan.
 - d. No water body, watercourse, inland wetland, or existing drainage area shall be altered in any way except as approved by the Bethany Inland Wetlands Commission and / or other appropriate regulatory authority.

- e. A copy of the approved plans and Permit shall be present on the site at all times that work is in progress until work has been completed and the site reclaimed to the satisfaction of the Commission.
- f. Such other standards and conditions as in the opinion of the Commission are required to achieve the purposes of Section 8 and to promote and protect the health, safety and general welfare of the public.
- g. The operation must be carried out in conformity with the project plan as approved and within the limits shown thereon and there shall be an undisturbed buffer zone of one hundred (100) feet minimum from any property line or public road. The Commission may require additional buffer areas depending upon the effectiveness of other controls and conditions in reducing impacts upon surrounding premises. The Commission may change or eliminate the requirement of a 100 foot buffer if it finds that the operation will not have an adverse impact on adjoining parcels.
- h. The Commission, in its sole discretion, may allow screening or sifting of material generated on site if the Commission finds the screening or sifting will be for a short period of time and will not create an undue negative impact on surrounding properties. The applicant shall indicate on the plans the type of machinery to be used and its location on the site. All machinery for screening or sifting used in conjunction with the operation shall be set a minimum of two hundred (200) feet from all property lines. The short term temporary use of machinery for the crushing of boulders generated on the site from the operation may be allowed at the discretion of the Commission if the applicant can demonstrate that it is the most viable means of disposing of such boulders and that the impact on the neighboring property owners will be minimal. The Commission may reduce the required buffer for Special Exception Permit operations which involve screening or sifting or crushing if the Commission finds the adjacent property is not being used for a residence or other use (such as recreation, day care, office building) that might be adversely affected by these operations.
- i. No fixed or permanent machinery, building or structures related to the proposed activity shall be erected or maintained on the land. If temporary structures are proposed to be used, they shall be shown on the submitted plans. The Commission may approve temporary structures if it deems them to be appropriate. All temporary structures must be in compliance with all applicable Town Regulations and shall be removed from the land not later than 30 days after the termination of the operation or the permit whichever is sooner.
- j. When the operation is completed, or work has progressed sufficiently to where reclamation is practicable, the area affected by the operation shall be graded or terraced, in accordance with the plan approved by the Commission, so that banks and slopes in disturbed areas shall be no steeper than 1:3 (vertical to horizontal). Subsoil shall be added as necessary to provide an appropriate base for the topsoil, so as to facilitate vegetation growth. The subsoil will be scarified in order to provide a good bond with the topsoil. Top soiling of the disturbed area shall be done in accordance with the application and materials standards for top soiling as set forth in the Erosion Sediment Control Handbook of the USDA/ SCS, (most recent edition as amended). The area shall be planted with suitable plantings and maintained by mulching, repairing and reseeding until the area is stabilized.

- k. Yellow markers, spaced at a minimum of one hundred (100) feet apart extending a minimum of two (2) feet above ground level at all times, shall be placed around the perimeter of the operation by a licensed land surveyor in conformance with the approved grading plan and shall be maintained throughout the operation.
- l. Proper measures shall be taken to prevent undue negative impacts to neighboring properties from noise, dust, vibration, rock fragments or other unsightly or dangerous conditions. These proper measures may include but are not limited to; wetting of access roads, screening, fencing, matting, soil stabilization, limiting stockpiling and covering loaded trucks leaving the site. In addition the Commission shall require the maximum retention of existing natural buffers, including trees and topography wherever possible to achieve such protection.
- m. Where the excavation or filling results in slopes steeper than one (1) foot vertical to three (3) feet horizontal, or where the depth of fill is ten (10) feet or more, the Commission or its agent may, in the interest of public safety, require a safety fence to be erected, enclosing the fill or excavation.
- n. Access roads shall be temporary and shall be constructed and maintained with a dustless surface using calcium chloride, crushed stone, watering or paving or any other means acceptable to the Commission. A minimum of the first twenty-five (25) feet of the access road extending from the public highway shall be a paved surface, and the next seventy-five (75) feet shall be of 2" crushed stone. The Commission or its agent may vary these requirements based on specific site conditions.
- o. The area being worked in accordance with the Permit shall be kept to an absolute minimum. The Commission shall determine and approve the size, configuration and location of the working area, and at no time shall more than a total of five (5) acres in Business and Industrial Zone or three (3) acres in a Residential Zone be open. It is the intent of these Regulations that the remainder of the property shall be undisturbed land, temporarily stabilized pending reclamation, or stabilized and reclaimed in accordance with the approved plan.
- p. All boulders from the site may be buried. However the burial area shall be approved by the Commission and must be clearly shown on the plan. The burial area may not be enlarged without the permission of the Commission and shall be shown not to impair the suitability of the site for future uses permitted in the zone. All debris and stumps generated on the site shall be removed from the site. The applicant / owner shall supply a letter to the Commission stating where the stumps and debris are to be deposited. These materials must be disposed of in a legal manner.
- q. The introduction of offsite fill is permitted to accomplish finish grades as shown on the approved plan. Such fill must be clean earthen material.
- r. The Commission may require the filing on the land records of the Town of Bethany a mylar showing the location of all burial areas on the site.
- s. Stockpiling operations permitted in the B&I zone must also comply with the following minimum standards and conditions:
 - 1. Every effort shall be made to minimize negative visual impacts of any stockpile(s). The Commission may require changes in location, screening or other appropriate measures to accomplish this goal.
 - 2. No stockpiles shall produce a hazardous condition. The Commission may require the permittee to take suitable steps, such as fencing or enclosures, to prevent the creation or continuation of any such condition.

3. Appropriate controls shall be used to prevent erosion and the uncontrolled spreading and spilling of the material stockpiled.

8.8 Release of Performance and Completion Guarantee: Upon completion of the operation and the restoration of the premises in accordance with the approved plans and applicable regulations and modifications, including the removal of all equipment and temporary structures, the applicant may apply, in writing, to the Commission for the release of the performance and completion guarantee filed with the Commission. The guarantee shall not be released until the applicant's surveyor and engineer have certified to the Commission in writing that all improvements have been completed in accordance with the approved plans. "Record" plans at the same scale as the original application plans, shall include "as-built" project and grading plans, details of restoration measures and any modifications approved by the Commission. Four (4) prints of each plan shall be filed with the Commission.

SECTION 9 - Bethany Elderly Housing Regulations

9.1 Purpose:

The purposes of the Elderly Housing District (EHD) Regulations are: (1) to provide for a variety of housing alternatives, including single family, owner-occupied dwellings and/or certain multifamily dwellings that are well-planned, functional and aesthetically pleasing and are compatible with abutting property zones and uses; (2) to increase the supply of affordable housing options within the town; (3) to provide site design and housing density compatible with Bethany's established rural residential character; (4) to protect the quality of the public water supply; (5) to protect the environment of the area by requiring the use of on-site utilities, including water supply and sewage disposal, and (6) to provide for the allocation of open space for buffers and recreation or conservation areas.

9.2 Permitted Uses:

- 9.2.1 Residential dwelling units of not more than 2 bedrooms, designed and intended for occupancy by elderly persons as defined in Sec. 9.3.5.
- 9.2.2 Accessory structures and uses that are determined by the Commission to be secondary to the above permitted primary residential uses, such as facilities for maintenance, utilities, administration, off-street parking, storage and indoor or outdoor recreation, such as swimming pools and tennis courts.
- 9.2.3 Housing may be in the form of detached and/or attached dwelling units up to a maximum of 3 units per building.
- 9.2.4 A home occupation use may be permitted as a Special Exception use, but non-resident employees are not permitted to work on site.

9.3 Definitions:

- 9.3.1 Affordable Housing. Housing conveyed by deeds containing covenants or restrictions which require that for forty years after the initial occupancy such housing will be sold or rented at, or below, prices which will preserve the units as housing for persons and families paying thirty percent or less of their annual income, where such income is less than or equal to eighty percent or sixty percent of the median income. The number of housing units restricted at the sixty percent median income level shall not be less than the number of units restricted at the eighty percent median income level. Median income means, after adjustments for family size, the lesser of the state median income or the area median income, as determined by the United States Department of Housing and Urban Development. Affordable housing units shall be constructed with floor area, finishes and amenities comparable to the market rate units within the development, and shall be reasonably distributed throughout the project and provided in a mix of unit types, as determined by the Commission.

- 9.3.2 Buildable Area. For purposes of these EHD regulations, buildable area shall consist of the sum of all portions of a development parcel not comprised of wetlands, watercourses or land with a slope greater than twenty-five (25) percent, which portions are contiguous and not less than one acre in area.
- 9.3.3 Dwelling Unit. A group of connected rooms designed and constructed to provide kitchen, sleeping, bathroom and living areas.
- 9.3.4 For-Profit Housing Group. A group which is in the business of providing housing or housing services on a for-profit basis, usually at market rate.
- 9.3.5 Elderly person. A person who is 62 years of age or older or is certified by any federal board or agency as totally disabled.
- 9.3.6 Elderly resident. An elderly person who is qualified and is or will be a resident in the subject development.
- 9.3.7 Elderly Housing. Housing that is designed and developed for occupancy by residents, one of whom is an elderly person as defined in Section 9.3.5.
- 9.3.8 Independent living. Housing designed and developed for occupancy by elderly residents who do not need ongoing daily assistance with normal living requirements.
- 9.3.9 Municipal and Nonprofit Housing for the Elderly. Housing designed, constructed, owned and operated under the authority of the Town or a valid, nonprofit housing group which is determined to be acceptable by the Commission.
- 9.3.10 Open Space and Recreation area. Land, including trails, which are specifically set aside for passive recreation or other open areas such as lawns, fields and undeveloped forests, all of which are specifically designated on a site plan. Driveways, roads, parking areas, detention basins and septic areas will not be considered open space.
- 9.4 Procedure for establishing an EHD:
- 9.4.1 An Elderly Housing District (EHD) is hereby established as a floating zone. An application for an EHD development shall be submitted to the Commission for a contiguous parcel of land, located in any zone that meets all the required standards and requirements set forth and referenced in this section. Such application can only be submitted by the property owner or their designated agent.
- 9.4.2 All development within the approved EHD shall be constructed strictly in accordance with the maps, plans, drawings and documents approved by the Commission after the required public hearing. Any additions or modifications to the approved maps, plans, drawings and documents shall be made only after approval by the Commission. However, the Commission may approve minor additions or modifications without holding another public hearing. Only the Commission may make the determination as to whether an addition or modification will be considered minor.

- 9.4.3 No application for an EHD shall be approved by the Commission unless it finds that:
 - 9.4.3.1 The application includes a current needs study specific to the Town of Bethany, which demonstrates a need for the type of housing proposed;
 - 9.4.3.2 The application provides for the continued protection of safe drinking water supplies from the public drinking water supply watersheds located in the Town; and
 - 9.4.3.3 The topography, soils and other natural features of the property are proven capable of accommodating the proposed development without detrimental impact to the site or area giving specific consideration to the physical configuration and the density of the proposed development;
 - 9.4.3.4 The application and plans conform to the standards and requirements contained herein and/or referenced in Section 9 of these regulations. The Commission may attach conditions or modifications to any EHD approval in order to assure compliance with the above-referenced standards so as to adequately protect the health, safety and welfare of the residents of the development and of the Town of Bethany.

9.5 Application and Decision Process:

- 9.5.1 No application for an EHD may be found complete and approved unless the applicant has paid the application fee and technical consultant fees, which are described in Section 9.10, prior to the public hearing on the application.
- 9.5.2 Application for an EHD shall be made to the Commission in the form of a Zoning Map amendment, Site Plan in accordance with Section 9.8, and Special Exception application, all of which shall all be heard at the same time. The Zoning Map amendment application shall not be approved unless the accompanying Site Plan and Special Exception are also ready to be approved by the Commission as well.
- 9.5.3 In order for the application to be deemed complete, if any affordable housing is contemplated, the applicant shall submit an "Affordability Plan" in accordance with CGS 8-30 (g), which shall:
 - 9.5.3.1 Describe how the regulation regarding affordability will be administered. The plan shall include provisions for administration of and compliance with the provisions of this Section, Section 9.9, notice procedures to the general public of the availability of the affordable units, identification of those units, specific procedures for verification and yearly confirmation of occupant's age and income and compliance with the affordability requirements. Include documents, such as draft deeds of conveyance, which will be used in the administration of the affordability restrictions, and any explanations which are to be provided to the unit occupants concerning such restrictions.

9.5.3.2 The Affordability Plan, as well as the deed to each unit must also include a “right of first refusal” to the Town of Bethany to purchase any and all units that are vacated after the affordability period or at any time the units are offered for sale to anyone other than an eligible individual.

9.5.4 Site Plan preparation shall conform to all requirements of Section 10, Site Development Plans, of the Zoning Regulations unless a requirement is specifically exempted by the Commission, as provided for in these regulations. Applications shall also comply with any other applicable and relevant sections of the Bethany Zoning Regulations.

9.5.5 All EHD applications shall conform to all requirements for a Special Exception found in Section 4.4 and 4.5, including all public hearing and abutting property owner notification requirements to all property owners within 500 feet of any portion of the property.

9.5.6 Decision: After the conclusion of the public hearing, the Commission shall decide, within the time limits set forth in the CGS, whether the application, including the site plan, meets the requirements of these regulations. Upon such a finding it shall approve or deny the request for establishment of the EHD zoning map amendment on the subject property. If the EHD request is approved, the Commission may then approve or modify and approve the site plan as presented.

9.5.7 The Commission may require financial security in a form acceptable to the Town Attorney and Commission and in an amount acceptable to the Commission as specified in these regulations, for work to be performed as shown on the approved site plan, or for any other proposed public improvements.

9.6 General Requirements.

9.6.1 All EHD applications shall be for contiguous parcels of land not larger than twenty-five (25) acres in size. The minimum parcel size shall be three (3) acres.

9.6.2 The Commission may retain outside professional consultant(s) to review and comment on any technical data presented to it in an application. The Commission may require additional specific testing of soils as it deems necessary to make a final decision regarding density of dwelling units for the subject application. The applicant shall pay the costs for this soil testing and analysis, as described in section 9.6.4.3.

9.6.3 The number of bedrooms per buildable acre shall be determined by detailed soil testing and certification by the design engineer that the soils will support the proposed development for the foreseeable future. In no case shall the number of bedrooms per buildable acre exceed four. The maximum density of bedrooms proposed within any Drinking Water Supply Watershed Overlay Zone shall be two bedrooms per buildable acre.

9.6.4 Wastewater Treatment:

9.6.4.1 Applicants are advised that no development shall be designed so as to require the creation or use of a Water Pollution Control Authority as defined by the CGS, at the time of application or at any time in the future.

9.6.4.2 An EHD shall be entirely capable of satisfying all stormwater, wastewater and drinking water requirements on-site, based on the site's verifiable soil and water conditions. Documents required as part of the EHD application shall clearly name the owner as the responsible party for any failure of the wastewater or drinking water systems. Said owner shall be identified as the party solely responsible for the maintenance, repair or replacement of these systems should any such failure occurs. If the owner of the property should ever wish to transfer this responsibility, it must request and receive approval by the Commission prior to any change in responsibility. The Commission may approve of such a transfer upon its receipt of information sufficient to insure these ongoing responsibilities will not fall to the Town. The applicant shall be required to reimburse the Town of Bethany for the cost of a peer review of the site testing and design of the subsurface sewage disposal system by an independent consulting engineer reporting to the Commission. The applicant shall pay the Town of Bethany for the full cost of such peer review prior to the Commission's acting on the application. The proposed design for the treatment of on-site wastewater must be determined by the peer review engineer to satisfy all the technical requirements and current standards of the Connecticut Department of Environmental Protection, Water Compliance Division, that apply to the following aspects of community subsurface sewage disposal systems: construction, installation, maintenance, hydraulic capacity and wastewater renovation.

9.7 Development Standards:

Number of bedrooms: The number of bedrooms per dwelling unit may not exceed two (2). Libraries, dens, studios, lofts and other substantially similar spaces may be deemed bedrooms by the Commission.

Density of Bedrooms: The maximum number of bedrooms per buildable acre shall be determined by detailed soil testing and certification by the design engineer that the soils will support the proposed development for the foreseeable future. Maximum bedroom density shall be governed by the following schedule:

Number of Bedrooms in Affordable Dwelling Units, as percent of total number of bedrooms	Permitted Number of Bedrooms, as percent of maximum permitted per Section 9.6.3
100%	100%
75% to 99%	80%
50% to 74%	60%
30% to 49%	44%
0% to 29%	20%

The subject parcel shall contain a minimum of least 100 feet of property with frontage on a Town road. The minimum width of the property at any point shall be 100 feet.

Coverage: The total maximum building coverage allowed for an EHD is 15% of the parcel.

Stormwater: The applicant must show, by engineering certification at the time of application and prior to the issuance of any certificate of occupancy, that there will be no increase in the rate of stormwater runoff from the subject property to any abutting property and that any runoff to any abutting property will have no increased adverse impact to the abutting property for any storm event.

Setbacks: All structures shall be set back a minimum of 50 feet from any property line. Parking lots may, if adequately screened with vegetation, be set back a minimum of 25 feet from a property line.

Building Height: All building heights, as measured according to Section 1.2 of these regulations shall not exceed 1½ stories or 25 feet, whichever is less.

Parking and Access: The amount of required on-site parking shall be 1.50 spaces for a one-bedroom unit and 2.00 spaces for a two-bedroom unit. Handicapped parking shall be provided, in size number and location, in accordance with the Connecticut Basic Building Code. Driveways shall be arranged in a safe manner and shall provide for adequate access for all emergency type vehicles. Parking areas shall, at a minimum, be suitably landscaped in accordance with the illustration contained in Section 10-1.

Roads and Parking standards: All roads and drives shall be constructed to at least existing Town standards.

Open Space and Recreation Areas: Open space and outdoor recreation areas shall be shown on the site plan and identified as to use and location and shall comprise not less than 33% of the total site area.

9.8 Site Plan Requirements:

- 9.8.1 Site plans submitted as part of an EHD application shall be in compliance with Section 10 of these regulations unless stated otherwise in this section.
- 9.8.2 The site plans submitted as part of an EHD application must contain an overall development plan at a scale not less than 40 feet equals one inch.
- 9.8.3 The site plans must show accurate field measurements of existing and proposed topography and all soils on the site by type. These plans must be signed and sealed by properly authorized professionals.

- 9.8.4 The plans for the structures for an EHD must contain accurate general architectural plans with enough specific detail to show the design, general construction and specific finish materials to be used on all structures in the development.
- 9.8.5 If the applicant has already received approval from the Inland Wetlands Commission, then those approved set of plans must be submitted to the Planning & Zoning Commission as part of their application. If the Inland Wetlands Commission has not acted on an application, then the same set of plans that were submitted to the Inland Wetlands Commission must be submitted to the Planning & Zoning Commission as part of their application.
- 9.8.6 Building and Building Spacing: The minimum construction standards and spacing between buildings shall be in compliance with any applicable local, state or federal building and fire codes. In addition, all buildings shall be ADA compliant.
- 9.8.7 Signs: The number and size of signs allowed shall be in accordance with Section 7 of these regulations.
- 9.8.8 Exterior lighting shall be provided and maintained by the property owner in all areas of the site where needed for safety of the vehicular and pedestrian traffic. All exterior lighting shall be properly installed full cutoff lighting and shall be low level unless a need for other intensity is demonstrated. All exterior lighting glare shall be shielded from roads and abutting properties.
- 9.8.9 Refuse collection areas shall be screened and supplied with covered receptacles.
- 9.8.10 Mail boxes shall be covered from the elements.
- 9.8.11 Sidewalks must be constructed so as to address elderly pedestrian safety issues and must be a minimum of 4 feet wide.
- 9.8.12 All utilities shall be installed underground.

9.9 Residential Requirements

- 9.9.1 Each dwelling unit shall be regularly occupied by at least one elderly person, as defined herein. However, elderly residents may have a resident helper or assistant when needed for an illness or convalescent period to assist with daily living requirements. The Town shall be notified of such a requirement when it occurs.
- 9.9.2 The maximum number of residents will be two persons per bedroom.
- 9.9.3 The owner of the EHD development is responsible for the continuous monitoring of residents eligibility to live in the approved EHD and for providing the Planning and Zoning Commission or its designee with, at a minimum, an annual report of any changes to residents' status that would affect their eligibility to reside in the development. The owner is also responsible for providing prompt, written notification to the Planning and Zoning Commission or its designee of any changes in the status of any resident or unit in the development pertaining to eligibility for residency.

9.10 Fees.

- 9.10.1 Fees are as described in this section and elsewhere (9.6.4.3, 9.10.2, 9.5.1) in these regulations.

9.10.2 The minimum application fee shall be \$750. The Commission may charge additional fees at any time during the application process to retain outside consultants to review any critical aspects of projects and their components. The additional fees may be required for projects whose size, complexity and/or potential impact require specialized assistance and expertise. Said fees shall be determined by the Commission. The Commission may require the applicant to deposit an amount equal to 150% of the estimated Commission's consultant fees. The applicant shall be reimbursed any unused funds.

9.11 Summary of items required by the Commission.

9.11.1 Documents to be submitted at time of application, (12 sets):

- 9.11.1.1 Complete application package including fee.
- 9.11.1.2 Complete site plan.
- 9.11.1.3 Complete narrative explaining the application.
- 9.11.1.4 Affordability Plan, if applicable.
- 9.11.1.5 Complete technical information on soils testing with narrative explanation.
- 9.11.1.6 All required draft deeds, easements and restrictions.
- 9.11.1.7 All required proof of notification to neighbors.
- 9.11.1.8 Bond estimate documents, with backup.

SECTION 9A – Housing Opportunity Development (This Section Repealed – August 15, 2014)

SECTION 9B – Housing Opportunity Development District (Effective July 1, 2014)

9B.1 Intent and Purpose:

This Housing Opportunity Development ("HOD") District is intended to increase in the Town of Bethany the supply of housing that is within the economic means of moderate income households. The HOD District is a separate and independent zoning district, and shall replace, not supplement, the existing zoning district of any property to which it is applied.

9B.2 Permitted Uses:

The following uses shall be permitted on all properties existing within an HOD District, subject to issuance of a Site Development Plan as provided in Section 10, and a Special Exception as provided in Section 4.4:

- (a) Residential homes, with a maximum of three dwelling units per building, as part of a Housing Opportunity Development as defined herein.

The following uses shall be permitted as accessory uses to the principal uses stated in section (a) above:

- (a) Accessory buildings, structures and uses.
- (b) Agricultural or farming uses.
- (c) Common or community buildings to be utilized by residents of the development and their guests and invitees, but not to be used for residential purposes or for temporary or transient residential occupancy or guests.

Such accessory uses may be principal uses on lots without any residential homes.

9B.3 Eligible Areas:

The HOD may only be applied to properties that meet the following criteria:

- (a) The total combined property shall be at least (30) acres in size;
- (b) The combined property shall have frontage on Old Amity Road and Meyers Road;
and
- (c) The combined property shall have been owned by the same person or entity for at least three (3) years prior to application.

9B.4 Bulk, Area, Dimensional, and Open Space Requirements:

The following requirements shall govern an HOD development:

(a)	Minimum front yard setback (exterior of combined lot boundaries)	50 feet
	Minimum front yard setback (interior lot boundaries)	10 feet
(b)	Minimum side yard setback (exterior of combined lot boundaries)	50 feet
	Minimum side yard setback (interior lot boundaries)	10 feet
(c)	Minimum rear yard setback (exterior of combined lot boundaries)	50 feet
	Minimum rear yard setback (interior lot boundaries)	10 feet
(d)	Maximum building height	35 feet or 2 ½ stories
(e)	Maximum building coverage per lot	10% of gross lot area
(f)	Maximum ground coverage per lot	20% of gross lot area

9B.5 Other Standards:

- (a) Private roads:
Where private roads are proposed, they shall be designed and constructed in accordance with the following minimum standards: All roads shall provide safe access for emergency vehicles. Main access roads shall be a minimum of 20 feet in width. Perimeter drives shall be a minimum of 15 feet in width. Surface materials may include gravel, bituminous concrete, or chip seal.
- (b) Parking:
There shall be a minimum of 2.0 parking spaces per home.

9B.6 Maximum Density:

The maximum allowable density within an HOD District shall be one residential home per gross acre of the combined lot area. The maximum allowable density for a lot within an HOD District shall be two residential homes per gross acre.

9B.7 Traffic Study:

A traffic study shall be prepared and submitted to the Commission with regard to the existing and proposed traffic conditions and circumstances.

9B.8 Application Requirements:

- (a) Petition to re-zone the property to the HOD;
- (b) Application for site development plan, as provided by Section 10 of these Zoning Regulations.
- (c) Application for Earth Grading/Excavation activities Special Exception if required by Section 8 of these Zoning Regulations

An application for more than one parcel of land as part of a combined development shall require only one application.

9B.9 Definitions:

- (a) A "Housing Opportunity Development" is a housing development in which not less than thirty percent (30%) of the dwelling units will be held or conveyed by deeds containing covenants or restrictions which shall require, for a period of at least forty (40) years, that such dwelling units be rented and sold at, or below, prices which will preserve the units as affordable housing as defined in Section 8-30g of the Connecticut General Statutes, as amended.
- (b) "HOD Home" means a dwelling unit within a Housing Opportunity Development that is subject to long-term price restrictions that comply with Section 8-30g of the Connecticut General Statutes, as amended.

9B.10 Requirements for HOD Homes:

The following requirements shall apply to HOD Homes:

- (a) HOD Homes shall be of a construction quality that is comparable to market-rate units within the development.
- (b) HOD Homes shall be dispersed throughout the development and built on a pro rata basis as construction proceeds.
- (c) In conjunction with an application for approval of a site plan for an HOD development, the applicant shall submit a "Compliance Plan," as required by Section 8-30g of the Connecticut General Statutes, which shall describe how the regulations regarding affordability will be administered. The Plan shall include provisions for administration of and compliance with this Section; notice procedures to the general public of the availability of HOD Homes; identification of the method for designating HOD Homes; and compliance with affordability requirements.

- (d) A violation of the regulations contained in this Section 9B shall not result in a forfeiture or reversion of title, but the Planning and Zoning Commission of the Town of Bethany or its designated agent shall otherwise retain all enforcement powers granted by the Connecticut General Statutes, including Section 8-12.

SECTION 10 – Site Development Plans, Requirements & Standards

- 10.1 **General:** The use of land, buildings and other structures which are permitted under these Regulations after approval of a Site Plan/ Site Development Plan and the construction, reconstruction, enlargement, extension, moving or structural alteration of buildings or other structures in connection with such use, shall conform to the requirements and standards hereinafter specified. The requirements of this section are in addition to any other provisions of these Regulations applicable to the property or zone in which the use is to be located.
- A. **Application for Site Development Plan:** An application shall consist of at least all the following information:
1. General information form as prescribed by the Commission; and
 2. The appropriate fees; and
 3. The following detailed plans, at a minimum:
 - a. A general location (key) map showing the surrounding property within 500 feet, including all structures, roads, watercourses and names of property owners and other physical features which relate to the proposed development.
 - b. A Site Development Plan in accordance with Section 10.2; and
 - c. Erosion and sedimentation control plan; and
 - d. Drainage and runoff control plan; and
 - e. Landscaping plan; and
 - f. Lighting plan, showing details and aerial extent of lighting; and
 - g. Preliminary architectural plans of all proposed, existing or to be altered buildings, structures and signs including exterior elevations;
 4. Either a certificate stating that an Inland Wetlands application has been filed or a letter indicating no permit is required.
- B. **Waiver:** The Commission may grant a waiver for the submission of any of the requirements of Section 10.1.A.3. above if all of the following requirements are met:
1. The request for a waiver is submitted in writing;
 2. The use will not have a substantial impact on properties in the surrounding neighborhood with regard to such items as, but not limited to, noise, traffic, character of use and compatibility with surrounding uses;
 3. The use will not substantially alter the positive nature of the existing building(s) or other structures;
 4. The use will not be inconsistent with the public welfare or impair the integrity of the Regulations.
- 10.2 **Standards:** The following standards shall apply to those uses which are permitted under these Regulations after the approval of a Site Development Plan:
- A. **Plan of Conservation and Development:** The proposed development and use shall be in conformance with the purpose, intent, policies and programs of the Town of Bethany Plan of Conservation and Development, adopted by the Planning and Zoning Commission as it pertains to the area in which the development and use is to be located, particularly with respect to, but not limited to, the following items:
1. The location and design of and access to and from roads;
 2. The setback, scale, bulk and appearance of buildings and other structures;
 3. The provision for and location of landscaping features.
- B. **Neighborhood:** The development and use of land, buildings and other structures, the location and bulk of buildings and other structures and the development of the lot shall be compatible

with the neighborhood to protect property values and to preserve and enhance the appearance, and rural character of the community.

- C. Access: Provision shall be made for vehicular access to the lot in such a manner as to safeguard against hazards to traffic and non-vehicular traffic on the road right-of-way and on the lot and to avoid traffic congestion on any road. Access shall also conform to the following:
1. For commercial uses, where reasonable alternate access is available, the vehicular access to the lot shall avoid use of roads in Residence Zones.
 2. The road providing access to the lot shall be suitably improved and have the capacity to accommodate the traffic generated by the proposed use and development.
 3. Provisions shall be made for turning lanes and traffic controls within the road right-of-way if deemed necessary by the Commission.
 4. Access driveways shall be of a design and have sufficient capacity to avoid back-up of entering vehicles on any road.
 5. Driveways onto the lot shall be constructed in accordance with the most restrictive of all applicable requirements and specifications and shall meet the travel way of the road in such a manner as to conform to the standards as established for the street as may be specified by the Board of Selectmen.
- D. Existing Roads: Where the lot has frontage on an existing road, provision shall be made for continuation of streets and other improvements, if determined necessary by the Commission.
- E. Parking and Loading: On-site parking and loading shall be provided in accordance with Section 7 of these regulations.
- F. Drainage and Runoff Control: Provision shall be made for the collection and discharge of stormwater on the lot to prevent flooding of on-site parking and loading spaces, to avoid hazards to pedestrian and vehicular traffic on the lot and on any road and to avoid stormwater flow from the lot onto property of others and to protect streams, wetlands and watershed lands from pollution.
1. The design of drainage shall be based on sound engineering practices and judgment based on the best available data, and shall fully consider the predicted volume and rate of stormwater runoff and the capacity of downstream watercourses, channels and other drainage structures to accept the drainage discharge. Calculations of runoff, hydrographs and flow routing shall be performed in accordance with the standards and procedures established by the U.S.D.A. Soil Conservation Service. As a minimum, ten (10) year storm frequency shall be used as the design basis for the proposed on-site drainage systems, as approved by the Commission. However, when indicated by surrounding site conditions, the Commission may require larger design storm up to a 50 year storm. The Standards of the Bethany Road Specifications shall be considered as a guideline for cross culverts under access roads and for natural watercourses.
 2. Provision shall be made for the protection or improvement of existing watercourses, channels and other drainage systems on the lot or downstream from the lot as needed to accept the proposed drainage discharge and taking into account the total watershed runoff and the effect of future development. When deemed necessary to protect downstream areas, the Commission may require the construction of detention structures or other runoff control measures.
- G. Wetlands: Provision shall be made for the protection of swamps, floodplains and other wetlands on the lot.

- H. Sanitation: Proper provision shall be made for the water supply and sewage disposal requirements for the proposed development and use. Any proposed system shall be designed and constructed in accordance with the applicable State laws, regulations and ordinances, prior to the approval of the Site Development Plan. In addition, provision shall be made for the collection, storage and disposal of solid wastes accumulated which will result from the proposed development and use and for the control of litter by means of receptacles, fences or other means as approved by the Commission.
- I. Outside Storage: Outside storage (including without limitation, storage of merchandise, goods, supplies, wastes, machinery, motor vehicles and equipment and processing or assembling of goods) shall be limited as follows unless stated otherwise for the zone:
 - 1. No outside storage area shall extend into the area required for setback from a street line or a Residence District boundary line.
 - 2. No outside storage shall extend into the area required for setback from a property line nor into the area required for a landscaped buffer as may be required by these regulations.
 - 3. The maximum permissible outside storage area shall not be more than 10% of the building area.
 - 4. All outside storage areas shall be enclosed, except for access drives, by buildings and/or fences, walls, embankments or evergreen shrubs or trees in order to screen the storage area from view from any other lot or from any street. The Commission, in its sole discretion, may allow an increase in outside storage of up to 10% of the lot area provided that any hazardous or toxic materials stored on the property are adequately contained to meet D.E.P. standards for storage of hazardous or toxic material.
- J. Total Ground Coverage: Total Ground Coverage is defined as the aggregate area of all buildings, structures, paved areas and outside storage areas on the lot, divided by buildable lot area.

<u>Zone</u>	<u>Max. Coverage as a % of Buildable Lot Area</u> (on a minimum sized lot)	
R-65	15%	(WSO) 12%
R-130	15%	15%
B&I	75%	60%
EH-6	40%	40%

- K. Lighting: The location, height, design and arrangement of outside lighting shall be done so as to avoid trespass lighting and direct glare on any other lot and to avoid hazards to traffic on any road. The source of the illumination (bulb) shall not be visible from off the property. The Commission may require full cut off fixtures.
- L. Business and Industrial Landscaping Requirements
 - 1. Purpose
 - a. The requirements of this Section 10.2-L are intended to:
 - 1. Maintain the rural appearance of the town in the Business and Industrial (B-I) zones;
 - 2. Visually integrate each business with neighboring businesses, residences, recreation areas or open spaces;
 - 3. Make the Business and Industrial Zones attractive to potential businesses to the benefit of the town;
 - 4. Protect property values by providing and preserving screening and landscape vegetation and material;
 - 5. Minimize heat, glare, accumulation of dust, and prevent soil erosion and

pollution of water resources, while promoting the natural recharge of storm water.

- b. The included standards are the minimum required for newly developed properties and are also intended to serve as a guide for the improvement of existing businesses.

2. Landscape Design Plan and Narrative

- a. A detailed landscape design plan and narrative shall be submitted with every site plan application and every special exception permit application filed pursuant to Section 5.2.A and Section 5.2.B of these Regulations. If an expansion of an existing Business or Industrial use that results in an increase of more than 25% in floor space, the entire property shall be brought into full compliance with the landscape standards of this Section 10.2-L. If an existing parking area is relocated or expanded and the total number of parking spaces provided is more than ten (10), the expanded parking area shall be brought into full compliance with the landscape regulations of Section 10.2-L(4)(c).
- b. Applicants are encouraged to consider recommended plantings of Appendix 7 and to discuss their landscape design plan and narrative with, and to obtain a report from the Town of Bethany Conservation Commission and the Bethany Tree Warden prior to officially submitting the plan and narrative. Applicants are strongly encouraged to have their landscape design plan and narrative prepared by a qualified landscape professional or designer.
- c. The landscape design shall be submitted on plans, accurately drawn to scale, and shall contain the following:
 1. The location, grade, and dimensions of all proposed planting areas.
 2. The location, species, size, and number of all proposed plantings.
 3. Any significant, existing, useable vegetation (such as shrubs, plants, and ground cover) and a notation as to whether they will be removed or retained as part of the project. That vegetation which will be retained shall be designated on the plan with a unique symbol.
 4. Existing mature trees that measure over twelve (12) inches caliper and a notation as to whether they will be removed or retained. Trees of this size to be retained shall be designated on the site plan with a unique symbol. If any such tree is to be removed, the applicant shall demonstrate to the commission that its preservation is incompatible with reasonable use of the property for business or industrial development, e.g. the tree is in the way of the only safe location for a driveway, it is in the area of the only feasible location for building or it is diseased or an "undesirable" species.
 5. The location and description of methods to protect trees and other existing vegetation, proposed plantings, and soils from damage during and after construction.
- d. The narrative shall provide the following information:
 1. The existing and proposed uses of the site.
 2. The existing uses of properties that adjoin or are adjacent to the site.
 3. The existing and proposed means of access to the site.
 4. A description of all proposed plantings (including trees), a planting schedule, and a maintenance schedule.

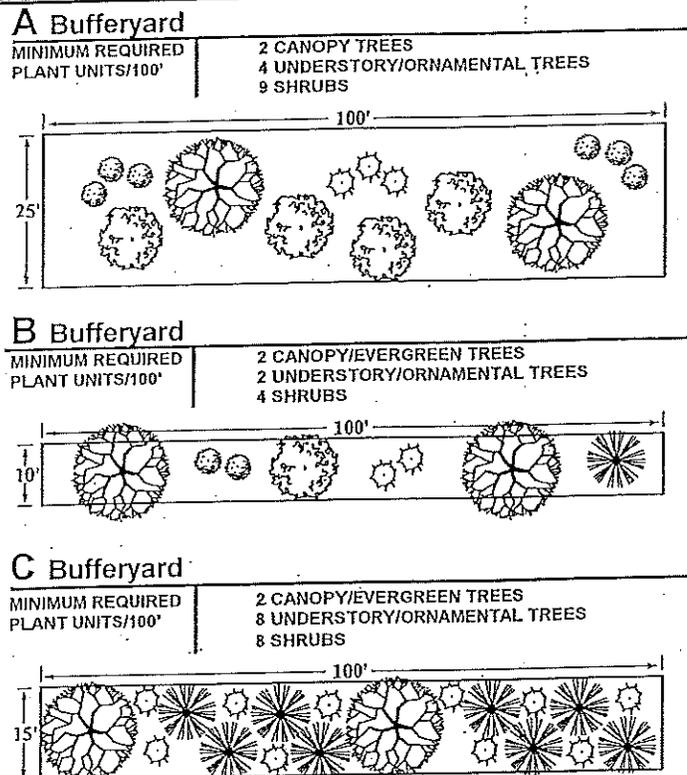
3. Permission to Provide Alternate Landscaping

- a. If conditions unique to the property prevent compliance with the requirements of this Section, the applicant may seek permission from the Commission to provide an alternative landscaping plan, consistent with the purposes and objectives of this Section.
 - b. Such unique conditions include, but are not limited to, the following: Topography; lot dimensions; the existence of wetlands, watercourses, rock ledge, stone walls, the location of mature/significant specimen trees, etc. and road, utility, drainage, or other easement or right-of-way restrictions encumbering the property.
 - c. Alternate landscaping may include, but is not limited to, the following: requiring the landscaping to be provided on a different area of the property; requiring different species, sizes, and number of plantings and/or trees; or requiring fencing, berms, or retaining walls.
4. Perimeter and Parking Lot Landscaping Requirements
- a. General Requirements for Perimeter and Parking Lot Plantings
 - 1. The preservation and protection of the existing natural vegetation and unique features of the site are encouraged whenever practical. Existing natural vegetation to be retained as a part of the project shall be protected during construction through the use of construction fencing at, or beyond, their drip line and other suitable measures. No soils or other material shall be stored during or after construction within areas of natural vegetation to be preserved.
 - 2. All plant materials shall be installed in accordance with good landscaping practices, free of disease and insects, in conformance with the standards and practices of the American Standard for Nursery Stock of the American Association of Nurserymen (ANSI Z60.1-1996), as amended.
 - 3. All landscaped areas shall be covered with grass, mulch or other suitable ground cover. Undisturbed areas of the site are encouraged to remain in their natural state and need not be covered with additional grass, mulch or ground cover.
 - 4. Landscaped areas shall incorporate a variety of plant materials and not more than fifty percent (50%) of the total number of plants shall be comprised of any one species.
 - 5. Trees and plant material that are planted shall be arranged to simulate a natural setting (such as by massing or staggered rows) unless the applicant establishes, to the satisfaction of the Commission, that a more formal arrangement is more consistent with the existing character of the area, the proposed use, or proposed and/or existing structures.
 - 6. Annual color is encouraged in the landscaping plan. Color may be provided by annuals, flowering trees and shrubs, evergreens, deciduous plant materials, bark color, seeds, fruit and berries.
 - 7. Landscaped areas shall be kept free from refuse and debris. Trees and plant material shall be maintained in a healthy growing condition, trimmed, in a neat and orderly appearance, and not overgrown. Any tree or plant material that dies or is damaged shall be repaired or replaced within the current growing season. If this is not possible due to the time of year, such plantings must be replaced during the next growing season.
 - b. Perimeter Landscaped Area Requirements

1. Front Yard – Any lot developed for commercial or industrial use shall provide a continuous landscaped area adjacent to the street with a width of not less than twenty-five (25) feet. The front yard landscaped area shall be planted and other suitable landscaping materials meeting or exceeding the requirements of an “A” Bufferyard as defined in subsection 10.2-L-4-d and as depicted in Illustration 10-1. Please note that a “Corner Lot” is a parcel of property, which has two front yards.
 2. Side/Rear Yards – Any lot developed for commercial or industrial use shall provide a continuous landscaped area along all side and rear lot lines with a width of not less than ten (10) feet. The side and rear landscaped areas shall be planted and continuously maintained with a combination of trees, shrubs, ground cover, lawn and other suitable landscaping materials meeting or exceeding the requirements of a “B” Bufferyard as defined in subsection 10.2-L-4-d and as depicted in Illustration 10-1.
 3. Abutting Residentially Zoned Property – When a required landscaped buffer along any street line adjoins residentially zoned property, the “A” Bufferyard width shall be increased in width to not less than thirty-five (35) feet. When a required “B” Bufferyard along any side or rear property line adjoins residentially zoned property, the landscaped buffer width shall be increased in width to not less than fifteen (15) feet and shall satisfy the requirements of a “C” Bufferyard as defined in subsection 10.2-L-4-d and as depicted in Illustration 10-1.
 4. Perimeter landscaped areas shall not be used for parking of vehicles, outdoor storage or outdoor display as defined in Section 5.3-G of these Regulations. Street-side storm water detention basins are discouraged from being located with the boundary of the required landscaped area. However, mail boxes, approved signs, sidewalks, driveways, fire hydrants, and utility equipment and facilities may be located within boundary landscaped areas. Driveways necessary for access to the site may run generally perpendicular to a perimeter landscaped area. The Commission may approve the location of a connecting driveway between separate parcels in order to promote traffic safety.
 5. Perimeter landscaping shall not interfere with safe sightline visibility for motorists, sight lines for the driveways or accessways of abutting properties, access for pedestrians and vehicles nor with access to mail boxes, signs, sidewalks, etc.
 6. To facilitate snow removal, no plant material, other than grass or ground covers, shall be planted closer than four (4) feet from the edge of pavement or the curb line of any abutting road.
- c. Parking Lot Landscaping Requirements
1. Any lot containing parking facilities for ten (10) or more vehicles shall provide landscaped islands and dividers within the parking lot at a rate of 15 square feet of landscaped area per parking space, landscaped to include a minimum of one canopy tree, as defined in subsection 10.2-L-4-d, for every ten parking spaces or fraction thereof. This landscaping requirement shall be satisfied by landscaped end islands, center islands and/or dividers with a width of not less than ten (10) feet.
 2. No parking areas or driveways shall be less than ten (10) feet from any portion of a building other than its garage entrance or loading area apron. Landscaping provided within this 10-foot area shall not be counted toward satisfying the parking lot landscaping requirement of this section.

3. All plant materials located adjacent to parking areas, loading areas, or driveways shall be protected by barriers, "bio-retention areas", or other means from damage by vehicles and snow plowing.
- d. Landscaped Bufferyards
 1. Landscaped buffers, where required by this section, shall conform to the standards as depicted in Illustration 10-1.
 2. Within bufferyards, canopy trees shall be deciduous shade trees not less than 3 inches caliper at the time of planting with a height at maturity of not less than 35 feet.
 3. Understory trees shall be deciduous shade, ornamental or fruit trees not less than 2 inches caliper at the time of planting with a height at maturity of not less than 12 feet.
 4. Evergreen trees shall be coniferous species not less than 2 ½ feet in height at the time of planting with a mature height of not less than 6 feet, or evergreen species not less than 2 ½ feet in spread at the time of planting.
 5. Shrubs shall be either deciduous species not less than 2 ½ feet in height at the time of planting with a mature height of not less than 6 feet, or evergreen species not less than 2 ½ feet in spread at the time of planting.
 6. Existing plant materials may be used to meet all or part of these landscape requirements. Within bufferyards, existing trees in good condition in excess of twelve (12) inches in caliper shall be preserved unless approved for removal by the Commission.

Illustration 10-1: LANDSCAPED BUFFERYARDS



Illustrations are for display purposes only. When planting, please consider spacing based on the mature width of plantings. Distances of less than 100 feet should be prorated (fractions are to be rounded-up).

5. Certificate of Zoning Compliance
 - a. No Certificate of Zoning Compliance shall be issued unless an as-built landscape plan is filed with the Commission that conforms to the Commission's approval.
 - b. If growing conditions and/or timing prevent the implementation of the landscape plan, the Commission may authorize the issuance of a Certificate of Zoning Compliance provided the applicant posts a bond in an amount and with surety and conditions satisfactory to it securing to the Town the actual implementation of the plan within the period specified in the bond as ordered by the Commission.
 6. Bonding
 - a. As a condition of approval of the landscape design plan, the Commission may require a performance bond as set forth in Section 10.2-P(1) and/or a maintenance bond as set forth in Section 10.2-P(2) of these Regulations.
 - b. The maintenance bond shall cover a period of up to two (2) years to enable the planted materials to take root, stabilize, and become established.
- M. Erosion and Sediment Control: Design and construction in any zone, including any related roads, drainage and other improvements shall be executed so that such activity will not cause erosion, flooding or deposits on the property being developed or on any surrounding properties or to wetlands or watercourses; and
1. Cut and fill slopes shall not be steeper than 1:3 unless stabilized by a retaining wall or cribbing, except as approved by the Commission when unique site conditions exist.
 2. Provisions acceptable to the Commission or its representative shall be made to prevent surface water from damaging the cut face of excavations or sloping surfaces of fills.
 3. Cuts and fills shall not endanger adjoining property, including right-of-way property of the Town of Bethany or property of the State.
 4. Fill shall be placed and compacted so as to minimize sliding or erosion of the soil.
 5. Grading may not be done so as to divert or concentrate the flow of water onto the property of another landowner without the express written consent of that landowner.
- N. Form of Site Development Plan: The Site Development Plan shall be drawn to a scale of not less than 1" = 40'. The Site Plan shall be within a property having a perimeter survey meeting or exceeding the accuracy of a Class A- 2 survey. The survey shall include at least the location of all existing structures and features known to exist, except that the Commission may grant a waiver of the A-2 accuracy requirement when one of the following criteria is met and the Commission determines that such a waiver is in harmony with the general purpose and intent of the Zoning Regulations and will not endanger the public health, safety, convenience, welfare and property values. To qualify for a waiver, an application must meet at least one of the following criteria:
1. The subject property shall consist of a minimum of 20 contiguous acres;
 2. The proposed use shall not involve the use of a building or buildings;
 3. The proposed use shall not involve the erection of a structure or structures, or alteration of the topography within 100 feet of the property line, and shall have no potential off-site drainage impacts;
 4. Proposed uses shall not be conducted within 50 feet of a property line.

- O. Content of the Site Development Plan: The Site Development Plan shall include the following information at a minimum:
1. Name and address of the holder of the record title to the land to be developed and the name and address of the applicant if different from the owner.
 2. Date, scale, north arrow, Town, State, assessor's map and lot number and address of land to be developed, if available.
 3. General location map (key map) showing the location of the site in relation to existing Town roads at a minimum scale of 1 in. = 1000 ft.
 4. Name, address, professional seal or stamp and signature of the individual(s) responsible for preparing the plan;
 5. Existing and proposed property and road lines; adjoining property and road lines; existing structures within 100 ft. of the property line of the property proposed for development; and the names of all property owners within 100 ft. of the property line of the property proposed for development as shown on the current records of the Tax Assessor;
 6. Existing and any proposed relocation, of water courses and streams whether intermittent or continuous flowing, (if such relocation requires the approval of the Department of Environmental Protection, said approval must accompany the application), existing and proposed ponds, easements, rights-of-way, and supporting documents; the location and limits of all swamps, floodplains and other land subject to potential flooding; conservation areas and inland wetlands as shown on the "Inland Wetland and Watercourses Map" of the Town of Bethany.
 7. Existing and proposed contours, with reference to datum and source, at an interval not exceeding two feet based on field or aerial survey or based on U.S.G.S. data. Should any part of the property fall within 1,000 ft. of a State grid coordinate reference point or U.S.G.S. elevation marker, the site plan should make reference to that point.
 8. Existing and proposed permanent buildings and structures.
 9. Principal wooded areas and the approximate location of any large isolated trees; ledge outcrops, stone walls; fences; and any other significant physical features of the property.
 10. Dimensions of all proposed property and road right-of-way lines to the nearest hundredth of a foot and the total acreage of land, to the nearest hundredth of an acre, to be included in the proposed development.
 11. The proposed width of all roads, rights-of-way and easements; the existing and proposed width of all pavement or travelways.
 12. Existing and proposed monuments; municipal boundary lines; the zoning district; and zoning district boundary lines.
 13. Existing and proposed storm drains, catch basins, manholes, ditches, watercourses, headwalls, gutters, curbs and other structures and existing and proposed utilities.
 14. Spot elevations on both existing and proposed roads, drives and parking areas to indicate grading. Grades shall be stated and contours shown. Drainage shall be shown in conformance with all Town standards.
 15. The location of any test pits, borings, percolation test hole location, location(s) for proposed water supply well sites; and the location and dimensions of the on-site sewage disposal and reserve system field areas.
 16. Existing wells and septic system(s) within 100 feet of a property line on adjoining properties.

17. An outline of all existing and proposed deed restrictions or covenants applying to the property.
18. Identification of soils as indicated in the field by a qualified soil scientist.
19. The Commission may by 2/3 vote grant a waiver of any of the above Site Development Plan requirements when it determines that all of the following criteria are satisfied:
 - a. The use will not substantially increase traffic or produce safety hazards;
 - b. The use will not increase parking requirements;
 - c. The use will not have a negative impact on properties in the surrounding neighborhood by elements including, but not limited to, noise, traffic, character of use and compatibility with surrounding uses;
 - d. The use will not substantially alter the nature of the existing building(s) or other structure(s);
 - e. The use will not be inconsistent with the public welfare or impair the integrity of these regulations.
20. The ZEO may grant a waiver of any of the above requirements when reviewing a site plan under his jurisdiction.

P. Bonds:

1. Performance Bonds:

- a. To assure that a proposed development, excluding buildings, conforms to the Site Development Plan and/or Special Exception approval requirements, a performance bond may be required by the Commission. The performance bond shall be posted prior to the filing of the site plan approval on the land records and the issuance of any Zoning Permit. Approval of the plan shall become effective upon the date of filing of the approval of an endorsed final plan and other required documents in the Office of the Town Clerk. No construction work shall begin prior to the receipt of the final approval by the applicant.
- b. A performance bond shall be posted using one or more of the following methods and in a form acceptable to the Commission or its representative.
 1. A cash bond;
 2. A savings bank deposit book;
 3. An irrevocable letter of credit; or
 4. Any other form of surety that the Commission or its representative deems acceptable.
- c. The amount of the performance bond shall be established by the Commission or its agent. Applicants shall furnish the Commission with a listing of the type and estimated quantities of materials needed to complete the improvements as if let-to-bid by the Town without the advantages of onsite building materials or the sale of the removed earth material. In addition, the bond shall include an amount to cover the escalation of all improvement costs over a two year period, or the duration of the permit, whichever is longer.
- d. The amount of the performance bond shall be sufficient to cover the cost of any proposed or required site improvement such as grading, paving, and plantings; the installation of required curbs, gutters, storm drainage facilities, landscaping, monuments, bridges, and culverts; erosion and sedimentation control measures; and all other such improvements that the Commission deems necessary to promote the public health and safety and to safeguard the Town from undue expense in regard to

the future maintenance of said improvements. All improvements shall be designed in accordance with the established standards, rules and regulations of the Town of Bethany applicable to the project. The Commission may require a separate cash performance bond be posted for all erosion and sedimentation control and site stabilization measures.

- e. Upon completion of the proposed and required improvements, the applicant may be required to submit to the Commission:
 1. "As-built" plans of the improvements, supplied by a licensed land surveyor;
 2. Certification of accurate monument location, supplied by a licensed land surveyor;
 3. Easements in a form satisfactory to Town Counsel including a written description of all such easements; and
 4. Proof of fulfillment of any other requirements or conditions.
- f. The bond shall be released upon a surveyor's certification that all required improvements have been completed to the satisfaction of the Commission and other appropriate Town departments. In addition, a maintenance bond covering all site improvements completed for the development may be required by the Commission prior to the release of any performance bond. If an inspection reveals that the improvements are not installed as required by the Commission or its agents, the Commission is under no obligation to accept the work. The Commission may declare the bond defaulted and take the necessary action to call the bond.

2. Maintenance Bonds:

When required by the Commission to assure proper maintenance of all site improvements and structures, a maintenance bond in the amount of 10% of the cost of the site improvements shall be submitted and filed with the Town. The bond shall be posted prior to the issuance of any Certificate of Zoning Compliance. The applicant shall maintain all site improvements within the time frame of the bond as established by the Commission.

During such period, the applicant shall, when notified by the Town, promptly and at his own expense, repair all failures and defects including but not limited to, the construction, drainage structures, appurtenances, bridges and other improvements as may occur during such maintenance period. The applicant shall similarly repair all defects, settlements and irregularities of the structures and appurtenances of drains, pipes, mains, conduits, curbs and gutters, paved surfaces, landscaping or other defective improvements detected during the maintenance period.

If the applicant fails to remedy any such defect within a reasonable time, the Town may, without prejudice to any other remedy, cause the required repairs to be made and paid for with the proceeds of the maintenance bond.

3. Completion of Work: Failure to complete all work associated with an application approved by the Commission within the prescribed amount of time, shall cause the approval to expire and become null and void. Should an application be declared null and void, the Commission may recommend that any posted bond be declared defaulted and take necessary action to call the bond so that the property is adequately stabilized with permanent erosion and sedimentation control measures in place.

SECTION 11 –Bethany Erosion and Sedimentation Control Regulation

11.1 Purpose

The purpose of this regulation is to minimize soil erosion and sedimentation resulting from disturbance of existing ground cover where such disturbance either has or has the potential to cause erosion of earth materials and deposition of sediment into storm drains, streams, watercourses, ponds, roadways or onto the property of others.

11.2 Basic Requirements

No land development or disturbance which is cumulatively more than one-half (1/2) acre in area shall be undertaken in any zone unless certification of compliance with the provisions of this section has first been obtained from the Commission or its designated agent. No Zoning or Building Permit shall be issued until an Erosion and Sedimentation Control Plan has been approved by the Commission or its designated agent or it has been determined by the designated agent that an Erosion and Sedimentation Control Plan is not required.

11.3 Definitions

- A. Certification means a signed, written approval by the Bethany Planning and Zoning Commission or its designated agent as may be required indicating that the soil erosion and sedimentation control plan complies with the applicable requirements of these regulations.
- B. Development in this context means any earth disturbing, construction or grading activities to improved or unimproved real estate.
- C. Disturbed area means an area where the ground cover is destroyed, removed or eroded leaving the land subject to accelerated erosion.
- D. Soil Erosion and Sediment Control Plan means a plan that when implemented will prevent or minimize soil erosion and sedimentation resulting from development and creation of a disturbed area and includes but is not limited to a site plan and narrative.

11.4 Activities requiring a certified Erosion and Sedimentation Control Plan

A soil erosion and sedimentation control plan shall be submitted with any application for development when the disturbed area is cumulatively more than one-half (1/2) acre.

11.5 Exemptions There are no exemptions from these requirements.

11.6 Erosion and Sedimentation Control Plan Requirements

The submission of materials required to obtain certification shall include but not be limited to:

- A. A site plan map at a sufficient scale to show:
 1. the location of the proposed development and adjacent properties;
 2. existing and proposed topography including soil types, wetlands, watercourses and water bodies;
 3. all existing and proposed structures on the project site, if any;
 4. all proposed site alterations showing any and all disturbed areas;
 5. the location and design details for all erosion and sedimentation controls and devices including sizing calculations for any storm water management facilities;
 6. the name, address and telephone number and emergency telephone number of the person responsible for the direct implementation and maintenance of the plan.

- B. A narrative which may be attached to the site plan sheet and describing in appropriate detail:
 - 1. the sequence of all grading, development and construction activities, including a schedule for start and completion dates of all activities;
 - 2. the design criteria for proposed control measures and storm water management facilities;
 - 3. the sequence for installation of all soil erosion and sedimentation control measures as they relate directly to any proposed construction activity;
 - 4. the operations and maintenance program for proposed control measures and storm water management facilities;
 - 5. the sequence and method to be used for final site stabilization.
- C. Any other information deemed necessary and appropriate by the applicant or as may be requested by the designated agent or the Commission.

11.7 Standards for Issuance or Denial of Certification

- A. Plans for the control measures and facilities shall be based on the principles outlined in Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended.
- B. Peak flow rates and runoff volumes shall be determined by using the rational method, the time of concentration method, the tabular method, the unit hydrography method or other such method as may be required by the Commission or its agents as deemed appropriate for the situation.
- C. The Commission may refer any such plan to the Soil and Water Conservation District for review and comment.
- D. The Commission, or its designated agent, shall either certify that the plan as filed, complies with the requirements and objectives of this section or shall deny certification when the development proposal does not comply with this section.
- E. Nothing in this section shall be construed as extending the time limits for the approval of any application submitted to the Commission.

11.8 Certification, Inspections and Reports

- A. Site development shall not begin unless the Erosion and Sedimentation Control Plan has been certified and implemented. .
- B. Inspections shall be made by the Commission or its agent during the development to insure compliance with the certified plan. The Commission or its agent may require progress reports from the permittee to insure that the development is in compliance with the approved plan.
- C. Upon completion of all work specified in the certified plan the permittee shall notify the Commission or the designated agent and submit a report consisting of all necessary maps and materials showing that all aspects of the certified plan have been completed as approved. Upon receipt of the report and inspection by the Commission or its agent, the Commission may release any bond posted upon certifying that the provisions of the plan have been met.

11.9 Bonds may be required by the Commission in accordance with Section 12 of these Regulations.

SECTION 12 – Bonding Requirements for Zoning Regulations

- 12.1 Purpose. The purpose of these requirements is to allow the Commission to place appropriate security and bonding requirements on application permits in order to insure the proper and timely completion of work and the proper installation of improvements associated with an approved permit under these regulations.
- 12.2 Performance Bond for Special Exception uses. As part of an approval for a Special Exception the Commission may require the applicant to post financial security in a form and amount satisfactory to the Commission, as surety to insure the conditions of any approval are carried out to the satisfaction of the Commission, and that in the case of a default the surety shall take timely steps to insure compliance with said conditions. The surety provided shall contain a provision that it will not be released until all work related to the approval has been performed to the satisfaction of the Commission and has so notified the surety in writing. The Commission may also accept a cash bond to insure said work under the same conditions.
- 12.3 Bonding for improvements, (Section 8.7). The Planning and Zoning Commission may require financial security, including but not limited to bonding for proposed improvements which will become public improvements such as roads and drainage. The security must be in a form satisfactory to the Commission as outlined in Section 12.2 above.
- 12.4 Bonds in connection with Site Plans, (See Section 10.2. P.).
- 12.5 Bond Requirements, (All Sections).
- A. Site Development shall not begin unless a bond, if required, has been properly posted with the Commission.
 - B. Upon completion of all work and receipt of a report and final inspection by the Commission or its agent, the Commission may release any posted bond upon certifying that the provisions of the plan have been met.
- 12.6 Types of acceptable surety. For the purposes of these regulations, the form of surety for a bond which may be provided and accepted by the Commission is as follows:
- A. A Bond together with:
 1. The pledge of a passbook savings account, or
 2. An irrevocable letter of credit, or
 3. A cash deposit with the Town of Bethany, or
 4. A combination of any of the above with a minimum of 10% cash, or
 5. Such other surety as the Commission may find acceptable.

SECTION 13 – ENFORCEMENT; PENALTIES; ADMINISTRATION; ZONING PERMITS; DISQUALIFICATION.

13.1 Enforcement.

- A. These Regulations shall be enforced by the Zoning Enforcement Officer. In the performance of his duties, the Zoning Enforcement Officer shall have the authority and shall follow the procedures as set forth in Section 8-12 of the Connecticut General Statutes. In the appropriate case, the Zoning Enforcement Officer may refer any violations to the Town Attorney or other proper authority for action.
- B. The Zoning Enforcement Officer shall file a written quarterly report with the Commission summarizing his actions in the enforcement of these Regulations.
- C. The Planning and Zoning Commission shall approve the qualifications of the Zoning Enforcement Officer and his assistants and make recommendations to the Selectmen concerning their appointment, performance, and termination.
- D. No person shall serve as Zoning Enforcement Officer or Assistant Zoning Enforcement Officer if he is a member of the Zoning Board of Appeals.
- E. The Zoning Enforcement Officer and his assistants shall not act on any matter in which he or she has a personal or financial interest, as described in Section 8-11 of the Connecticut General Statutes.
- F. The Zoning Enforcement Officer may seek the advice of the Commission in the interpretation and application of these Regulations.

13.2 Penalties

Any person who commits, take part in, or assists in any violation of these Regulations shall be subject to the enforcement procedures, fines, and penalties as set forth in Section 8-12 of the Connecticut General Statutes and these Regulations.

13.3 Administration

- A. The Commission or the Zoning Enforcement Officer (and his assistants) shall administer the Zoning Regulations with the exception of Section 18, which shall be administered by the Building Official.
- B. The administrative powers and duties of the Zoning Enforcement Officer or his assistants shall be as follows:
 - 1) Conduct inspections pertaining to any applications filed with him and/or the Commission, if required by the Commission, for any permit required by these Regulations.
 - 2) Issue permits as authorized by, and in accordance with, these Regulations.
 - 3) Issue temporary permits for fairs, carnivals, etc. pursuant to Section 16 of these Regulations.
 - 4) Issue permits for temporary or portable structures for habitation pursuant to Section 4 of these Regulations.
 - 5) Approve the location of construction trailers, etc. pursuant to Section 4.3.H, and by reference, Section 5.1.B.1 of these Regulations.
 - 6) Issue permits for signs pursuant to Section 7 of these Regulations.
 - 7) Issue permits for the construction of accessory buildings or structures pursuant to Section 5.1.B.5 of these Regulations.

13.4 Zoning Permit Required

- A. No land shall be used (except for agricultural purposes) and no building or structure shall be used, constructed, moved, enlarged, or structurally altered (and no building permit shall be issued) until a zoning permit for the proposed work or use has been issued by the Zoning Enforcement Officer.
- B. A zoning permit is not required for repairs or alterations to existing buildings or structures, which do not change the use thereof or increase the existing footprint.
- C. An application for a permit shall be accompanied by the required fee and filed with the Zoning Enforcement Officer on a form to be provided by the Planning and Zoning Commission. For new buildings or structures or external structural changes to an existing building or structure, the application shall include a site development plan, in triplicate, as set forth in Section 10 of these Regulations. However, if the Zoning Enforcement Officer grants a waiver of the requirements of Section 10, the application must include, at a minimum, a plot plan of the premises showing the location and size of the proposed building or structure and all existing buildings and structures, dimensions of the lot, setback lines. Other information may be required by the Zoning Enforcement Officer to enable him to determine whether the proposed project complies with these Regulations or any permit granted by the Planning and Zoning Commission or variance by the Zoning Board of Appeals.
- D. A site permit shall expire if the work described therein is not diligently prosecuted to completion, pursuant to the requirements of Sections 8-3(i) and 8-3(j) of the Connecticut General Statutes.
- E. No zoning permit shall be issued by the Zoning Enforcement Officer for the erection of a new building or structure until a Sanitary Permit shall have been first obtained from the Town Sanitarian or his agent.
- F. No permit shall be issued to place or erect any building or structure abutting any private road, private street, or joint accessway, etc. unless the owner has first recorded a signed acknowledgment with the Town Clerk's office and filed a copy with the Zoning Enforcement Officer (as set forth in APPENDIX 8 of these Regulations).
- G. A notice of zoning permit describing the permitted conduct shall be posted where it is fully visible from a public highway for the duration of the construction.

13.5 Conflicts Of Interest: Disqualification

In the performance of their duties, all members of the Planning and Zoning Commission and the Zoning Board of Appeals shall conduct themselves and follow the prohibitions as contained in Sections 8-11 and 7-148t of the Connecticut General Statutes. In the event of a disqualification, the Planning and Zoning Commission and the Zoning Board of Appeals shall follow the procedures as set forth in Sections 8-11 and 7-148t of the Connecticut General Statutes.

SECTION 14 - ZONING BOARD OF APPEALS

14.1 Powers and Duties of the Zoning Board of Appeals

A. Zoning Enforcement Appeals

1. The Board shall hear and decide appeals where it is alleged that there is an error in any order, requirement, or decision of the Zoning Enforcement Officer or the Assistant Zoning Enforcement Officer in the enforcement of the Zoning Regulations.
2. The Board may reverse, affirm (wholly or partly), or may modify any order, requirement, or decision appealed from in accordance with these Regulations.
3. The Board shall make such order, requirement, or decision as in its opinion should be made regarding the premises and shall have all the powers of the officer from whom the appeal has been taken but only in accordance with Section 8-7 of the General Statutes.
4. If the Board sustains or reverses (wholly or partly) any order, requirement, or decision under review, the Board shall state upon the record the reasons for its decision.

B. Zoning Variances

1. The Board shall 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 zoning district in which it is situated, a literal enforcement of the Regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured.
2. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of these Regulations in the district involved nor shall it grant a variance to allow any use expressly, or by implication prohibited, by the terms of these Regulations in the district involved.
3. The variance application shall contain, at a minimum, the following information:
 - a. The specific section(s) of the Zoning Regulations that is sought to be varied;
 - b. The special conditions and circumstances that the applicant claims exist that are peculiar to the parcel of land involved, that are not generally applicable to other property in the same zoning district, and that do not result from the actions of the applicant;
 - c. The claimed exceptional difficulty or unusual hardship that exists for the property; and
 - d. The claimed reasons why and how the proposed variance will be in harmony with the general purpose and intent of the Zoning Regulations and will not result in injury to the public health, safety, convenience, welfare, and property values.
4. The Board shall not grant a variance if the special conditions and circumstances of hardship result from the actions of the applicant.

5. The Board's decision-making shall be consistent with the following requirements:
 - a. The Board shall state upon the record, and its written decision shall contain, the reasons for its decision.
 - b. The Board shall make the following findings which shall be stated in the Board's decision:
 - 1) Whether or not the variance will be in harmony with the general purpose and intent of the Zoning Regulations;
 - 2) Whether or not the variance will result in injury to the public health, safety, convenience, welfare, and property values; and
 - 3) Whether or not special conditions and circumstances exist that are peculiar to the parcel of land involved, that are not generally applicable to other property in the same zoning district, and that do not result from the actions of the applicant.
 - c. If the Board grants a zoning variance application, it shall state upon the record the section(s) of the Zoning Regulations that is varied and shall specifically describe the exceptional difficulty or unusual hardship upon which the decision is based.
 - d. In granting any variance, the Board shall modify the relief sought so as to grant only the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - e. Approval of a variance shall be conditioned upon the applicant's filing of a copy of the variance in the Town Clerk's Office and the recording of a Board-certified copy of the variance on the Bethany Land Records. The filing and recording shall not be valid until a copy of the variance is filed on the Land Records.
 6. The Board may subject a variance to appropriate conditions and safeguards in conformity with these Regulations. Violations of such conditions and safeguards shall be deemed a violation of these Regulations, subject to enforcement as provided in these Regulations and the General Statutes.
 7. The Board may require the applicant to post a bond to cover the cost of work to be done in connection with the variance approval, including any conditions or special requirements established by the Board. The bond shall be in a form acceptable to the Town Attorney and in an amount acceptable to the Town Engineer.
- C. Construction Within Setback
 Consistent with Section 4.1(B) of these regulations, the Board may permit the construction of a new building in a location which is less than fifty feet from any property line adjacent to a public highway in order to conform with the placement of pre-existing buildings on the same lot.
- D. Floodplain Appeals and Floodplain Variances
1. Consistent with Section 18.8 of these Regulations, the Board has the authority to hear and decide appeals and to grant variances regarding Section 18 "Floodplain Management Regulations" of these Regulations.
 2. Applications for Floodplain Appeals and Floodplain Variances shall be filed and decided in accordance with Section 18 of these Regulations and with this Section 14 (as to Zoning Variances and Zoning Enforcement Appeals) to the extent that this Section 14 does not conflict with Section 18.8.

- E. Other
 - 1. The Board shall have such other powers and duties as provided in the Connecticut General Statutes, as amended.
 - 2. The Board's powers and duties shall be exercised in accordance with this Section 14 and with the pertinent statutory and case law.
- F. The Board shall have no jurisdiction to hear or decide any appeals from any action of the Planning and Zoning Commission, such as, but not limited to, the granting or denial of any zoning permit or special exception permit by the Commission.

Section 14.2 Applications

A. Filing Procedures

- 1. Any person requesting action by the Board shall apply on the official forms adopted by the Board for such purposes, which forms are available at the Office of the Bethany Zoning Enforcement Officer.
- 2. Completed applications shall be filed in the Office of the Bethany Zoning Enforcement Officer.
- 3. For the purposes of this Section, those applications discussed in Section 14.1.A through Section 14.1.E and Section 14.1.H shall be referred to as "zoning applications". Those applications discussed in Section 14.1.F and Section 14.1.G shall be referred to as "location approval applications".
- 4. A complete application shall consist of the following:
 - a. A completed application form, which shall specify the property address and Assessor's map and lot number and shall include a legal description of the subject premises and a statement as to whether the same or a similar application has been previously filed concerning the subject premises. If the owner is not the applicant, the signature of the owner consenting to the application must be included.
 - b. A location map detailing the location of the subject premises in relation to its neighborhood. This map may be an excerpted copy of a street map;
 - c. In the case of a zoning application, the filing fee set forth in Section 129 of the Code of the Town of Bethany, and in the case of a location approval application, the filing fee, costs, and expenses set forth in Section 14-55 or Section 14-322(a) (as appropriate) of the General Statutes;
 - d. In the case of a zoning application, evidence that the applicant has provided written notice of the zoning application to water companies as required by General Statutes, Section 8-3i;
 - e. In the case of a Zoning Enforcement appeal, a copy of the order, requirement, or decision under review;
 - f. In the case of a Zoning Variance application:
 - 1. Ten (10) copies of a Zoning Location Survey, as detailed in Regulations of Connecticut State Agencies, Section 20-300b-2(c)(2), which shall be, at a minimum, a class A-2 survey;

2. If topographic conditions are claimed as a hardship, the applicant shall submit photographs and ten (10) copies of a topographic survey which clearly details the hardship conditions and which survey shall be, at a minimum, a Class T-3 topographic survey; and
 - g. Such additional evidence as the Board determines is necessary to a decision on the application.
- B. Waiver of Survey Requirements
1. The applicant may request a waiver of the A-2 surveyor T-3 topographic survey requirement by filing a written waiver request (which shall include a statement of the reasons for the request) with the application.
 2. A Class D survey shall also accompany a request to waive the A-2 survey requirement, and the Class D survey shall contain the following information:
 - a. Lot dimensions (area; width; front, rear, and side lines; and building setbacks);
 - b. Zoning boundary lines;
 - c. Dimensions and location of buildings (present and proposed); and
 - d. Such other information which clearly defines the relief sought;
 3. The Board, in its sole discretion, may waive the A-2 survey and/or the T-3 topographic survey requirements if it finds that the survey is not required in order to make an informed decision on the application and if each voting Board member has made a site visit to the property.
 4. When deciding whether or not to waive the survey requirements, the Board shall consider the following:
 - a. The type of variance sought;
 - b. The number and degree of the variances sought; and
 - c. The extent to which other information presented to the Board adequately defines the variance sought, the reasons for it, and the conditions and dimensions of the property and buildings at issue.
 5. Four (4) votes in favor are required to waive the survey requirements.
- C. If the Board determines that an application is incomplete because it does not contain all of the information required by this Section 14, the Board may deny the application.

14.3 Public Hearings

- A. The Board shall hold a public hearing prior to deciding the merits of Zoning Enforcement Appeals, Floodplain Appeals, Zoning Variance Applications, Floodplain Variance Applications, and applications for location approvals (except as provided in Section 14.B of these Regulations).
- B. The Board may waive the requirement for a public hearing with respect to a certificate of approval for the location of a motor vehicle dealer or motor vehicle repairer, pursuant to Section 14-55 of the General Statutes, if approval was previously granted for the location or if approval was previously granted for the location and the business is to be enlarged to include adjoining or adjacent property.

- C. The applicant shall notify surrounding property owners within one hundred (100) feet of the boundaries of the subject property of the applicant's name and time, date, place and purpose of the public hearing and shall do so by first class mail on forms provided by the Commission. Said notice shall be mailed at least ten (10) days prior to the public hearing date, not including the date of the mailing and the date of the hearing. The applicant or the applicant's agent shall provide a "certificate of mailing" at the time of the public hearing, as part of the applicant's record.
- D. Public hearings shall be noticed, conducted, and closed in accordance with applicable law, including the Board's Bylaws.

14.4 Voting Requirements

- A. The following actions require the concurring vote of four (4) members of the Board:
 - 1. Decisions pertaining to Zoning Enforcement Appeals and Floodplain Appeals;
 - 2. Deciding in favor of the applicant concerning a Zoning Variance or Floodplain Variance;
 - 3. Deciding in favor of the applicant on any matter upon which the Board is required to pass under any bylaw, ordinance, rule, or regulation; and
 - 4. Waiver of survey requirements pursuant to Section 14.2.B of these Regulations.
- B. Unless required otherwise by law or by Section 14.4.A of these Regulations, Board actions require a majority vote of a quorum of the Board.

SECTION 15 - Regulation Amendments, Text or Map

- 15.1 These regulations may from time to time be amended, changed or repealed as provided in the Connecticut General Statutes. No application for a change in zone boundaries of property or properties shall be received by the Commission unless accompanied by an affidavit that the present owner or owners of record of abutting properties, including those across any road or street, within 500 feet from any portion of the property line of the property proposed for amendment has each been sent notice describing the proposed change and a copy of the application by registered mail return receipt requested. The signed return receipts shall be submitted to the Commission no later than the commencement of the required public hearing on the matter.
- 15.2 Any person circulating petitions in relation to any proposal to be considered by the Commission shall show in writing on the petitions in circulation, the reasons and purposes for such petition support and shall certify under the penalties of perjury, over his signature and address on each petition, that the signature of each person whose name appears on the page is the legally authorized signature and that the circulator either knows each signer personally or that each signer has satisfactorily identified himself to the circulator.
- 15.3 A fee as required by the Town ordinance for such applications shall be submitted to the Commission with the application.
- 15.4 The Commission may request the proposed map or text change be submitted in a particular form or format, or in a particular size or computer compatible text or graphic format. Should the Commission decide to approve the amendment, the regulation, text or map, amendment shall not receive final approval until the amendment is submitted in the required form or format. Any cost to put such amendment into the required form or format shall be borne by the applicant.

SECTION 16 - Temporary Permits

- 16.1 The Planning and Zoning Commission may grant a temporary permit, subject to appropriate conditions and safeguards, to permit the exhibition of livestock and domestic animals in all zones; and to permit the following events if sponsored by a Bethany agency or Bethany non-profit organization. Specifically:
- A. Carnivals, including the use of amusement devices such as carousels, whirligigs, merry-go-rounds and Ferris wheels,
 - B. Flea markets or other tag sales, and
 - C. Shows, fairs and competitions including those for horses, carriages and sleighs, dogs and livestock, and
 - D. Shows for fire trucks and antique vehicles, and
 - E. Regional championship athletic events by the Bethany Park and Recreation Department, the Bethany Athletic Association or the Bethany or Region 5 Boards of Education, for a period not to exceed one (1) week in a B-I Zone if it shall find in all cases that the following conditions are met:
 1. The location and site of the use, the nature and intensity of operations involved in connection with the use, the size of the site in relation thereto and the location of the streets giving access to it, shall not adversely affect the public health, safety, welfare and property values of the neighborhood.
 2. The parking area or areas shall be of adequate size for the particular use and the entrance and exit drives shall be laid out so as to prevent traffic hazards.
 3. Activities proposed shall not produce noise, pollution or traffic at levels which in the Commission's opinion are offensive and would have a significant adverse affect on the residents of the area.
- 16.2 It is understood that regularly scheduled activities by the Bethany Park and Recreation Department, The Bethany Athletic Association, or the Bethany or Region 5 Boards of Education for youth athletic activities such as soccer and basketball practice and games are not subject to this requirement.
- 16.3 If the attendance at such events is proposed to be greater than 500 people a Special Exception is required from the Commission.
- 16.4 The Commission may delegate the issuance of certain temporary permits to the Zoning Enforcement Officer as described elsewhere in these Regulations.

SECTION 17 - Alcoholic Liquors

- 17.1 No structure shall be used for serving alcoholic liquors, and no alcoholic liquors, as defined in the Liquor Control Act of the Connecticut General Statutes, shall be served for consumption on the premises, if the structure or use is located within a radius of 500 feet of a lot having frontage in the Residential Zone in Bethany or any adjacent town or within a radius of 1500 feet from:
- A. a church
 - B. any type of school or child day care center
 - C. a library
 - D. a municipal park or playground

SECTION 18 - Floodplain Management Regulations

- 18.1 Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare and to minimize any public and private losses due to flood events and the resulting conditions in designated flood hazard areas of the Town of Bethany by the establishment and adoption of standards designed to:
- A. protect human life and public health;
 - B. help minimize expenditures of money for costly flood control projects;
 - C. minimize the need for rescue and relief efforts associated with flooding;
 - D. minimize prolonged business and employment interruptions;
 - E. minimize damage to public facilities and utilities;
 - F. help maintain a stable tax base;
 - G. insure that purchasers of property are notified of special flood hazards in those designated flood hazard areas so that they may assume responsibility for their actions; and
 - H. insure continued eligibility of property owners in Bethany for participation in the National Flood Insurance Program pursuant to the rules and regulations published in the Federal Register.
- 18.2 Area of Applicability. This regulation is applicable to the “Special Flood Hazard Areas” (SFHA) designated as Zone A and AE, as identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for New Haven County, Connecticut dated December 17, 2010, accompanying Flood Insurance Rate Maps (FIRM), dated December 17, 2010, and other supporting data applicable to the Town of Bethany, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The SFHA includes any area shown on the FIRM as Zones A and AE, including areas designated as floodway on a FIRM. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. The FIRM and FIS are on file in the office of the Bethany Town Clerk.
- 18.3 Basic Requirement. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, located within a “Special Flood Hazard Area” may be made only in accordance with the requirements of this regulation.
- A. Other Restrictions. This regulation is not intended to repeal, abrogate or impair any easements or other laws, regulations or ordinances, and whichever imposes the more stringent restrictions shall prevail.
 - B. Interpretation. In the interpretation and application of this regulation, all provisions shall be considered as minimum requirements and shall be construed so as to preserve and maintain the purposes and intent hereof.
 - C. Warning and Disclaimer. The degree of flood protection established by this regulation is considered reasonable for Town-wide studies. Larger floods may occur on rare occasions, and flood heights may increase as a result of man-made or natural causes. This regulation

does not imply that land outside the “Special Flood Hazard Areas” will be free from flooding or flood damages. This regulation shall not create liability on the part of the Town of Bethany, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result on this regulation or any administrative decision lawfully made hereunder.

18.4 Definitions.

- A. General. Certain terms and phrases used in writing this regulation are hereinafter defined and explained. Otherwise, the words in this regulation shall have the meaning commonly attributed to them.
1. Addition. Any walled or roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled or roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is considered new construction.
 2. Appeal. A request for a review of the Building Official’s interpretation of any provision of this regulation or a request for a variance from the requirements of this regulation.
 3. Base Flood. The flood which has a one percent (1%) chance of being exceeded in a given year.
 4. Base Flood Elevation (BFE). The elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.
 5. Basement. That portion of a building having its floor subgrade, (below ground level), on all sides.
 6. Breakaway Wall. A wall that is not part of the structural support of the building and is intended, through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.
 7. Building. A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.
 8. Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures; the construction of additions, alterations or substantial improvements to building or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation, drilling operations, or the storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
 9. Elevated Building, A and A1- A30 Zones. A non-basement building, built to have the top (finished surface) of the lowest floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls or by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.
 10. Existing Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of

- concrete pads) is complete, before August 23, 1977, the effective date of the flood plain management regulations adopted by a community.
11. Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
 12. Federal Emergency Management Agency (FEMA). The federal agency that administers the National Flood Insurance Program (NFIP).
 13. Flood or Flooding. A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; and/or the unusual or rapid accumulation or runoff of surface waters from any source.
 14. Flood Hazard Boundary Map, (FHBM). An official map of the community issued by FEMA, where the boundaries of the areas of special flood hazard have been defined as Zone A.
 15. Flood Insurance Rate Map, (FIRM). An official map on which FEMA has delineated both the areas of special flood hazard and the risk premium zones.
 16. Flood Insurance Study, (FIS). The official report from FEMA which contains examination, evaluation and determination of flood hazards and if appropriate, water surface elevation of the base flood.
 17. Floodproofing. Any combination of structural or non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
 18. Floodway. The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1.0 feet anywhere in town. The regulated floodway is delineated on the Flood Insurance Rate Map (FIRM), which is part of this regulation.
 19. Floor. The top surface of an enclosed area in a building, including basement. It is the top of slab in a concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for the parking of vehicles.
 20. Functionally Dependent Use or Facility. A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.
 21. Highest Adjacent Grade. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.
 22. Historic Structure. Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservations programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in

- communities with historic preservation programs that have been certified either; (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.
23. Lowest Floor. The top of the lowest floor of the lowest enclosed area, including easement. An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor.
 24. Manufactured Homes. A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.
 25. Manufactured Home Park or Subdivision. A parcel or contiguous parcel of land divided into two (2) or more manufactured home lots for rent or sale.
 26. Market Value. The market value of the structure shall be determined by the Cost Approach to Value Method, the Segregated Cost Method or the Square Foot Method (certified appraised value) prior to the start of the initial repair or improvement, or in the case of damage, the certified value of the structure prior to the damage occurring.
 27. Mean Sea Level (MSL). For purposes of the National Flood Insurance Program, (NFIP), the North American Vertical Datum (NAVD) of 1988 or other subsequent datum which become the standard to which base flood elevations on a community FIRM are referenced.
 28. New Construction. Structures for which the start of construction commenced on or after the effective date of the Town's entrance into the NFIP, August 23, 1977, and includes any subsequent improvement to such structures.
 29. New Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after, August 23, 1977, the effective date of the floodplain management regulations adopted by the community.
 30. Recreational Vehicle. A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
 31. Special Flood Hazard Area (SFHA). The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. SFHA's are determined utilizing the base flood elevations (BFE) provided on the Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFIs published in the FIS for specific location. SFHA's include, but are not necessarily limited to, the land shown as Zones A, AE, on a Firm. The SFHA is also called the Area of Special Flood Hazard.

32. Start of Construction. Includes “substantial improvement” and means the date the building permit was issued, provided the “actual start” of construction, repair, reconstruction or improvement was within 180 days of the permit date. The “actual start” on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets, roads and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
33. Structure. A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.
34. Substantial Damage. Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.
35. Substantial Improvement. Any combination of repairs, reconstruction, alteration or improvements to a structure taking place during the life of a structure, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure as determined by the Cost Approach to Value, the Segregated Cost Method or the Square Foot Method Market Value shall be:
- a. the certified appraised value of the structure prior to the start of the initial repair or improvement; or
 - b. in the case of damage, the certified value of the structure, prior to the damage occurring.
- For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health sanitary or safety code specifications which are solely necessary to assure safe living conditions.
36. Variance. A grant of relief from the requirements of this regulation which permits construction to proceed in a manner otherwise prohibited by this regulation where specific enforcement would result in unnecessary hardship.
37. Violation. Failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is resumed to be in violation until such time as that documentation is provided.
38. Water Surface Elevations. The height, in relation to the North American Vertical Datum (NAVD) of 1988 or other datum as may be adopted by FEMA for NFIP purposes, of floods of various magnitudes and frequencies in various flood prone, flood hazard areas.

18.5 Standards.

- A. General. In Special Flood Hazard Areas, all development shall conform to all applicable standards hereinafter specified.
1. Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 2. Construction Materials and Methods. All new construction and substantial improvements shall be constructed with materials resistant to flood damage and by using methods and practices that minimize flood damage.
 3. Utilities. All utility systems shall conform to the following:
 - a. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system; and
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from systems into flood waters, streams watercourses or wetlands;
 - c. On-site sewage disposal systems shall be located so as to avoid long term impairment to them or contamination from them during flooding; and
 - d. Electrical, heating, ventilating, plumbing, air conditioning and all other service facilities shall be designed and/ or located so as to prevent water from entering or accumulating within the components during conditions of flooding. No underground fuel storage system shall be installed or replaced within a special flood hazard area.
 4. Building and Floor Location. In all special flood hazard areas where base flood elevation data has been provided, the following provisions shall apply and a registered engineer or architect shall review and /or develop structural design specifications and plans for the construction, and shall certify that the design and methods or construction are in accordance with acceptable standards of practice for meeting the requirements of this section:
 - a. Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least two (2) feet above the BFE level.
 - b. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial or non-residential structure shall have the lowest floor, including basement, elevated at least two (2) feet above the BFE level.
 5. Compensatory Storage and Equal Conveyance
 - a. Compensatory Storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such

compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

- b. Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause and increase in flood stage or flood velocity.
 - c. Aboveground Storage Tanks. Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for infiltration of flood water.
 - d. Portion of Structure in Flood Zone. If **any** portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.
 - e. Structures in Two Flood Zones. If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e. V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks sunrooms or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)
 - f. No Structures Entirely or Partially Over Water. New construction, substantial improvement and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless it is functionally dependent use or facility.
- B. Specific Standards.
1. Floodways. Located within the special flood hazard areas are areas designated as floodways on the community's Flood Insurance Rate Map or as may be determined by competent professional. Floodways are extremely hazardous areas due to the potential velocity of flood waters which cause erosion and may carry debris and projectiles. The following additional standards are applicable to development in relation to floodways:
 - a. There shall be no encroachments, including fill, new construction, substantial improvements, repairs to substantially damaged structures and other developments shall be permitted unless certification, with supporting technical data, by a registered

- professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practices, that encroachments shall not result in **any (0.00 feet) increase in flood levels** during occurrence of the base flood discharge. Fences in the floodway must be aligned with the flow and be of an open design.
2. Manufactured Homes and Recreational Vehicles (RV's). In all Special Flood Hazard Areas (SFHA), any manufactured (mobile) homes to be newly placed, undergoing substantial improvement or repaired as a result of substantial damage, shall be elevated so that the bottom of the lowest floor is at two feet above the base flood elevation (BFE). The manufactured home must also meet all the construction standards per Section 18.5 A. This includes SFHA's outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home as incurred substantial damage as a result of a flood.
 - a. All manufactured homes within a SFHA shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement and hydrostatic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors.
 - b. All manufactured homes within a SFHA shall be installed using methods and practices which minimize flood damage. Adequate access and drainage should be provided. Elevation construction standards include piling foundations placed no more than ten (10) feet apart, and reinforcement is provided for piers more than six (6) feet above ground level.
 - c. Recreational vehicles placed on sites within a SFHA shall either (i) be on the site for fewer than 18- consecutive days, and (ii) be fully licensed and ready for highway use, OR (iii) meet all the general standards of Section 18.5 A. and the elevation and anchoring requirement of Section 18.5 B.2.a.,b.,c. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
 3. Maintenance of Flood Carrying Capacity. The flood carrying capacity of any watercourse affected by any proposed new construction or substantial improvement, shall be maintained and not be diminished by the proposed construction or improvements.
 4. Prohibition of Making Structures Non-Compliant. A structure already in compliance with the provisions of this regulation shall not be made non-compliant by any alteration, repair, reconstruction or improvement to the structure.
 5. Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - a. Designs for complying with these requirements must be certified by a professional engineer or licensed architect and meet the following minimum criteria:
 1. Provide a minimum of two (2) openings in the foundation walls, having a total net area of not less than one (1) square inch for every one (1) square foot of

- enclosed area.
 - 2. The bottom of all openings shall be no higher than one (1) foot above finished grade.
 - 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of flood waters in both directions and do not require human intervention in order to work.
 - 4. Electrical, plumbing and other utility connections are prohibited below the base flood elevation;
 - 5. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles, (garage door) or the limited storage of maintenance equipment used in connection with the premises, (standard exterior door) or entry to the living area, (stairway or elevator); and
 - 6. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- C. Standards for Streams without Established Base Flood Elevations and/ or Floodway.
- 1. Located within the areas of special flood hazard established in this section, where small streams exist but no base flood elevation data has been provided, or where no floodways have been established, the following provisions apply:
 - a. No encroachment, including fill material or structures, shall be located in a special flood hazard area unless certification by a registered professional engineer is provided demonstrating that such encroachments when considered cumulatively with all anticipated development shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - b. If the requirement of the section immediately above is satisfied, all new construction and substantial improvements shall comply with all other applicable standards of this Regulation.
 - 2. Should data be requested and or provided, the Town shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1) foot at any point along the watercourse.
- D. Standards for Subdivision Proposals.
- 1. In all special flood hazard areas the following requirements shall apply. All subdivision proposals shall:
 - a. be consistent with the need to minimize flood damage;
 - b. have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - c. provide adequate drainage to reduce exposure to flood hazards; and
 - d. provide base flood elevation data for all development, including manufactured home parks and subdivisions which are 5 acres or fifty (50) lots, whichever occurs first, and are located in Zone A.
- 18.6 Administration.
- A. The Building Official of the Town of Bethany is hereby designated to administer the provisions of this regulation. The Building Official shall have the responsibility and authority to grant or deny flood hazard area permit applications for development in Special Flood Hazard Areas in accordance with this regulation. The Board of Selectmen may appoint deputies to assist and act for the Building Official. The Zoning Enforcement Officer shall be

responsible to remedy violations of these regulations pursuant to Section 8-12 of the Connecticut General Statutes.

1. Flood Hazard Area Permit. Development, including new construction and the placement of prefabricated buildings, may be made within the Special Flood Hazard Areas only after a Flood Hazard Permit therefore has been obtained.
2. Application for such permit shall be made to the Building Official and shall include at least the following:
 - a. Plans in duplicate drawn to scale showing the nature, location, dimensions and flood elevations of the area in question; and also
 - b. Existing and proposed; contours, structures, fill, storage of materials and drainage facilities; and also
 - c. Elevations in NAVD88 datum, of the lowest floor, including basement of all structures; and
 - d. Narrative description of the extent to which any watercourse will be altered, relocated or affected. As a result of the proposed development; and
 - e. Detailed plans for any walls to be used to enclose space below the base flood elevation level including foundation openings as may be required; and
 - f. A properly prepared statement certifying as to whether there will be dry access to the structure during the 100 year storm event; and
 - g. Where applicable, the following certifications by a registered engineer or architect are required, and shall be provided to the Building Official:
 1. Certification that the design and methods of construction are in accordance with the accepted standards of practice, and with the provisions of this regulation and applicable State and Federal regulations, requirements and policies.
 2. Certification as to floodway heights, as referenced herein.
 3. Certification as to flood levels, as referenced herein.
 4. Certification by the applicant that all necessary permits have been received from those Federal State or Town agencies from which prior approval is required.
2. Construction Stage. Upon completion of the applicable portion of construction, the applicant shall provide verification of the "as-built" lowest floor elevation, or a properly prepared elevation certificate to the Building Official.

18.7 Duties and Responsibilities of the Building Official. Duties and responsibilities of the Building Official in the administration of the regulation shall include but not be limited to the following:

- A. Permit Application Review.
 1. Review all Flood Hazard Area Permit applications to determine that the requirements of this regulation have been satisfied;
 2. Review all such applications to determine that all required certifications have been provided as required.
 3. Require that copies of such permits be provided and maintained on file with the development permit, possibly including, but not limited to, Water Diversion, Dam Safety, Corps of Engineers 404 permits.
- B. Other Base Flood and Floodway Data. When base flood elevation data or floodway data have not been provided as required herein, then the Building Official shall obtain, review and reasonably utilize any base flood elevation and/ or floodway data available from a Federal, State or other source, in order to administer the standards of this regulation.

- C. Information to be Obtained and Maintained.
 1. Obtain and record the actual elevation, in NAVD88, of the lowest floor, including basement of all new or substantially improved structures;
 2. Maintain for public inspection all records including certifications pertaining to the provisions of this regulation; and
 3. Submit an annual report to the Federal Emergency Management Agency outlining activity in the SFHA.
- D. Notifications. Notify the Bethany Wetlands Commission, adjacent towns and the Connecticut Department of Environmental Protection, Water Resources Unit, prior to any allowing any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

18.8 Appeals and Variances.

- A. The Zoning Board of Appeals of the Town of Bethany shall hear and decide appeals and requests for variances from the standards of this regulation. The ZBA shall have the following duties:
 1. To hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Building Official in the enforcement and administration of this regulation.
 2. To issue variances from the standards of this regulation, under the general considerations as set forth in Section 18.8 B. and the conditions for variance as specified in Section 18.8 C.; and
 3. To issue variance for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places and the Connecticut State Inventory of Historic Places without regard to the considerations and conditions of Section 18.8B.; and
 4. Variances may also be issued for new construction and substantial improvement and other development necessary for the conduct of a functionally dependent use provided the structure or other development is protected by methods that minimize flood damage, create no additional threat to public safety and meet the requirements of Section 18.8 C.
- B. General Considerations for Variances. In deciding an application for variance, the Zoning Board of Appeals shall consider the following:
 1. The technical evaluations and studies that are the basis for this regulation;
 2. The standards of this regulation;
 3. The danger that materials may be swept onto other lands to the injury of others;
 4. The danger to life and property due to flooding or erosion damage;
 5. The susceptibility of the proposed development and its contents to flood damage, and the effect of such damage on the individual owner;
 6. The importance of the services provided to the community by the proposed development;
 7. The necessity of the proposed location for the function of the development;
 8. The availability of alternative locations for the proposed development which are not subject to flooding or erosion damage;
 9. The compatibility of the proposed development with existing and other anticipated developments;
 10. The relationship of the proposed development to the Plan of Conservation and Development for the Town and the floodplain management program for that area;

11. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 12. The expected heights, velocities, duration, rate of rise and sediment transport of the flood waters expected at the site; and
 13. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as gas, electrical, water systems, streets and bridges.
- C. Conditions for Variance. The following are applicable to the issuance of a variance by the ZBA under this section:
1. No variances shall be issued for any work within a floodway if **any** increase in flood levels during the base flood discharge will result.
 2. Otherwise, variances may be issued for new construction and substantial improvements to be erected on a lot the area of which is less than the minimum required for its zone when the lot is contiguous to and generally surrounded by lots with existing structures constructed below the base flood elevation, provided the following criteria are met:
 - a. a showing of good and sufficient cause;
 - b. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with other Town laws, ordinances and regulations.
 3. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to accord relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
 4. When issuing a variance, the ZBA may attach such conditions that it deems necessary to further the purpose and intent of this regulation.

18.9 Effective Date and Filing. A variance issued under this regulation shall become effective at such time as is fixed by the ZBA, provided a copy thereof shall be filed in the Office of the Bethany Town Clerk and in the land records of the Town of Bethany in the same manner as required for filing of variances from other Zoning Regulations.

18.10 Notice and Records.

- A. The Clerk of the ZBA shall notify the applicant for variance, in writing, of the following:
 1. That the issuance of a variance to construct a structure below the BFE will result in increased flood insurance premiums; and
 2. That such construction below the BFE increases risks to life and property; and
- B. The Clerk of the Zoning Board of Appeals shall:
 1. Maintain a record of all notices sent to applicants.
 2. Maintain a record of all variance actions, including justification cited by the ZBA in its decision for their issuance; and
 - a. Report any such variances issued by the ZBA as noted in its annual report to FEMA and Connecticut DEP.

- 18.11 Appeal to Court. Any person or persons severally or jointly aggrieved by any decision of the Zoning Board of Appeals acting under this regulation, or any person owning land which abuts or is within a radius of 100 feet of any portion of the land involved in any decision of said Board, or any officer, board or commission of the Town of Bethany, having jurisdiction or responsibility over the flood hazards of the Town, may take an appeal to the Superior Court of the County of New Haven in the same manner as provided under the provisions of Section 8-8 of the Connecticut General Statutes.

SECTION 19 - Saving Clause

- 19.1 Should any section of these regulations be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of these regulations as a whole or any other part thereof.

SECTION 20 - Repealer

20.1 The Zoning Ordinance, revision of January 19, 1994, is hereby repealed and declared null and void.

SECTION 21 - Effective Date and Repeal

- 21.1 The initial effective date of these Regulations is April 21, 1952. The effective date of these Regulations, as amended, shall be October 1, 2006.
- 21.2 These Regulations, and any amendment or change hereto, shall be in full force and effect from the date established by the Commission in accordance with the Connecticut General Statutes.
- 21.3 The Zoning Regulations of the Town of Bethany, Connecticut, previously adopted, and all amendments thereto, are repealed coincident with the effective date of these Regulations. The repeal of the above Regulations, and all amendments thereto, shall not affect or impair any act done, offense committed or right occurring, occurred or acquired, or any liability, penalty, forfeiture or punishment incurred prior to the time such repeal took effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not affected.
- 21.4 The Official Zoning Map dated July 1998, which is on file in the offices of the Planning and Zoning Commission and Town Clerk of the Town of Bethany is also upon adoption of these Regulations, hereby made an integral part of these Regulations.
- 21.5 Revision Dates. Amendments of June 1, 1965, May 1, 1969, February 1, 1977, July 1, 1981, July 26, 1982, July 17, 1989, March 27, 1991, March 25, 1992, August 1, 1993, January 1, 1994, January 19, 1994, April 18, 2001, March 20, 2002, December 10, 2003, January 7, 2004, January 12, 2005, June 29, 2005, July 12, 2006, August 2, 2006, December 5, 2007, March 5, 2008, July 16, 2008, August 27, 2008, April 7, 2010, June 2, 2010, April 6, 2011, December 7, 2011, June 4, 2014, August 6, 2014, and February 4, 2015, have been incorporated.

SECTION 22 - Personal Wireless Telecommunications

- 22.1 Purpose. In accordance with the terms of the Federal Telecommunications Act of 1996, this section of these regulations is intended to accommodate the needs of residents and businesses and the general public while protecting public health, safety and general welfare of the Town and minimizing any adverse visual and operational effects of towers and wireless communications facilities through careful analysis, design, siting and screening.
- 22.2 Objectives
- A. To accommodate the need for public and quasi-public telecommunications facilities, including antennae, while regulating their location and number;
 - B. To minimize the negative effect on adjoining property values;
 - C. To minimize adverse visual effects due to the location of such devices by:
 1. Ensuring optimum design, siting and screening in keeping with the Town's rural character; and
 2. encouraging a grid of minimally intrusive installations such as microcells; and
 3. Avoiding sites of high visibility, including ridgelines and prominences.
 - D. To reduce the number of towers needed to serve the community both now and in the future, by maximizing the use of existing and approved suitable facilities, (including existing towers, buildings and other facilities) to accommodate new wireless telecommunication antennae;
 - E. To avoid injury and potential damage to adjacent properties from tower failure through assurance of high structural standards and setback requirements;
 - F. To minimize any potential for environmental damage associated with the installation or use of such equipment.
- 22.3 Definitions
- A. Antenna - A device used to receive or transmit electromagnetic waves. Examples include, but are not limited to single pole antennas (omnidirectional or whip), panel antennas and satellite or microwave dish antennas (concave or convex).
 - B. Base Components - All the structures or buildings and equipment (except the tower and antenna) associated with daily operation of a Wireless Communications Facility.
 - C. Carrier - A company that provides wireless services.
 - D. An acronym for "Cell On Wheels". A COW does not include mobile motorized transient vans parked less than one day.
 - E. Co-Location - Installation of antennas of two or more Wireless Telecommunications Service Providers at a single Wireless Communications Facility.
 - F. Federal Communications Commission (FCC) - The Federal agency responsible for licensing and regulating wireless communications providers. The FCC has primary regulatory control over carriers through its powers to control interstate communications commerce and to provide a comprehensive national system in accordance with the Federal Communications Act.
 - G. Grid System - A network of Wireless Communications Facilities comprising the geographic service region of a Wireless Telecommunications Service Provider.
 - H. Lattice Structure - A free standing/self-supporting or guyed Tower with three or four surfaces designed as an open steel-lattice space frame.

- I. Monopole - A free standing/self-supporting tubular tower of varying diameter depending upon antenna and equipment loading.
- J. Site - The specific location of a Wireless Communication Facility.
- K. Tower - A structure intended to support equipment used to transmit and/or receive telecommunications signals. Examples of such structures include monopoles, and lattice construction steel structures.
- L. The term shall include all guy lines and other required supporting devices such as platforms. The term shall not include amateur radio operator's equipment, the operation of which is licensed by the FCC and which is not used for any commercial purposes.
- M. Tower Height - The distance from the lowest ground elevation of any portion of the tower to the topmost point of the tower.
- N. The Act - The 1996 Federal Telecommunications Act.
- O. Wireless Communications Facility - The site with a parcel of land or a building (also known as a cell or cell site) where equipment and devices (whether mounted on a tower or not) collect telecommunications or radio signals from a mobile radio communication source and transmit those signals. Radio and television broadcast facilities are also wireless communications facilities.
- P. Wireless Telecommunications Services, Commercial - The operations of a Wireless Telecommunications Service Provider at the location of a Wireless Telecommunication Facility.
- Q. Wireless Telecommunications Service Provider - An entity authorized by the FCC to be a signal carrier for cellular telephones, personal communication services (PCS), specialized mobile radio (SMR) enhanced specialized mobile radio (ESMR), and paging services or other modes of communications as described in the Federal Telecommunications Act of 1996.

22.4 General Requirements. The following information, standards, application requirements, procedures and considerations for approval shall apply to the installation, placement, replacement, expansion, extension of height, setbacks, construction, and screening of telecommunications towers and antennae within the Town of Bethany.

It is strongly recommended that, at the earliest stages of developing a proposal, the applicant arrange to have an informal meeting with the Commission staff or its consultants to discuss these requirements.

- A. Co-Location is encouraged for any telecommunications facility in all applications where feasible. The Commission may require co-location after independent outside evaluation of the feasibility of co-location as determined by a study done for the Commission by a qualified outside professional consultant selected by the Commission at the applicant's expense. The applicant shall incur any and all costs of the study, for which payment shall be made at the time of application to the Commission.
- B. The Commission may require a fence with a height of eight (8) feet around any approved tower and the base equipment.
- C. If the site is not already adequately screened by virtue of its location or natural features so as to protect the rural character of the Town, as viewed from public roads and potential and/or existing private residences, the Commission may require landscaping around the fence which

- accomplishes this. The applicant and the property owner shall be responsible for the maintenance of the plantings to ensure their continued effectiveness.
- D. Only unmanned equipment facilities including buildings shall be permitted and shall not exceed five hundred (500) square feet of area per carrier per location and shall not be more than 12 feet in height. Manned facilities incidental to the site such as a business office, maintenance depot and /or vehicle storage are not permitted under this section and must be applied for and permitted under other applicable sections of these regulations.
 - E. No signage or illumination of any form shall be permitted on the tower or antenna unless required by the FCC, FAA or the Connecticut Siting Council.
 - F. A contact person shall be designated in writing by the applicant as the person to contact regarding any matters concerning the proposed facility if and when constructed. The designation shall include at least the name, address and telephone number of the designated contact person and shall be included with the application and shall also be displayed on a sign mounted at the entrance to the facility. The purpose of this is to designate the person to whom should be reported any electro-magnetic interference with receptor devices on adjoining or nearby properties, with emergency services communications, any violations of these regulations, or any public safety and/or emergency conditions existing at the site. The contact person shall reply in writing within 2 business days to the person making the contact with a copy to the Zoning Enforcement Officer of the Town of Bethany and shall take prompt action appropriate to the nature of the reported condition.
 - G. Directional or panel antennae shall in no case exceed six (6) feet in height or two (2) feet in width. Omni-directional antenna (e) shall not exceed twenty (20) feet in height or seven (7) inches in diameter.
 - H. Satellite and microwave dish antennae shall not exceed two (2) meters in diameter. Building or rooftop mounted antennae shall be located so as not to be visible from abutting public streets or adjoining residences. The Commission may require appropriate screening.
 - I. Any tower and/or antennae shall be designed and certified by a Connecticut Licensed Professional Engineer to withstand sustained winds in compliance with prevailing Connecticut standards while minimizing the height and visual impact.
 - J. Service providers shall submit full information establishing that they have exhausted all technically feasible alternatives for minimizing the size and visual impact of the proposed installation and for sharing space or using an existing facility or structure before any permit for a new tower shall be granted.
 - K. In all cases where the Commission determines that an expert/peer review of the applicant's application, service area, tower sharing, alternative location or other technical issues is reasonably warranted, the applicant shall be required to reimburse the Town for the cost of performing such expert/peer review. This payment shall be made to the Town in accordance with Section 22.6.G. at the time of application. The required deposit will be used for performing the required reviews.
 - L. Where tower location is proposed for a residential zone, the applicant shall fully demonstrate that no locations in a business and industrial zone can fulfill the requirements of the proposed installation.
 - M. The Commission may require the posting of a bond to secure compliance with the approved installation of all towers and/or antennae to ensure the timely and proper removal of said facilities upon discontinuance or cessation of use. The bond shall conform to Section 12 requirements.

- N. Towers must be a non-contrasting blue, gray or other neutral color as approved by the Commission.
- O. An “as-built” certification as to location and all required Connecticut standards shall be submitted to the Zoning Enforcement Officer upon completion of construction.
- P. Any freestanding, ground mounted tower must be surrounded by a minimum of one hundred (100) feet of tree screening.

22.5 Permitted Uses

- A. Uses permitted as-of right; subject to other applicable zoning regulations and permitting requirements.
 - 1. Amateur (Ham) radio facilities, when proposed and used for personal and non-commercial purposes.
 - 2. Dishes for personal use for reception of television and microwave signals, not for rebroadcast, when said dishes are less than 1 meter in diameter.
 - 3. Dishes less than 2 meters in diameter for business use in a B and I zone.
- B. Uses permitted by Administrative Permit from the Zoning Enforcement Officer:
 - 1. Antennae mounted on or in existing structures which are totally screened from view or are architecturally treated so as to blend harmoniously with the architecture of the building and which do not exceed the height restrictions for the structures in the zone where they are located or do not exceed the height of any pre-existing non conforming structure to which they are attached.
 - 2. Additions to existing towers provided that those additions would have minimal adverse visual impact.
- C. Uses requiring Site Plan approval by the Commission: The following uses must meet all general requirements, but shall only be required to comply with Section 22.6. paragraphs A, B, D, F and H.
 - 1. Antennae that comply with Section 22.5. B., except that the total (mount and antenna) height proposed is greater than that allowed for other structures in the zone location proposed but is not higher than fifty (50) feet maximum.
 - 2. Antennae which are a total height, (mount and antenna) of not more than fifty (50) feet, but which are freestanding or attached to an existing utility pole or are architecturally treated or disguised, such as a flagpole.
- D. Uses Allowed Only By Special Exception after compliance with all requirements including all portions of Section 22.6. All applications under section 22.5 D. for a wireless telecommunications facility, tower or site shall require a site plan and special exception application, which may only be approved by the Commission after the required public hearing.
 - 1. All proposed telecommunications applications and uses which do not meet the requirements of A., B., or C. above.

22.6 Application Requirements. In addition to the general requirements, a Site Plan or Special Exception application, as appropriate, shall be submitted and shall be accompanied by the following as required in Section 22.5.

- A. A narrative description and plans including elevations, of the proposed antennae, or antennae mount or tower, associated equipment and stabilizing materials, if any. Height, design features, access roads, power lines and all other pertinent features including landscaping shall be shown and described.

- B. A map showing the extent of existing coverage from sites within the Town of Bethany and any adjacent community and the service area of the proposed facilities.
- C. A topographic profile showing the proposed tower and its associated equipment. This profile shall cover at least twice the proposed service area diameter.
- D. Architectural renderings, accurate photo simulations or similar accurate products showing sightline views, profiles and elevation drawings of the tower from all adjoining properties. Simulation photographs showing the maximum visual impact from all properties from which the tower is visible shall also be submitted for review.
- E. A statement containing a description of the siting criteria and the process by which other potential sites were considered. The application and this statement shall show and propose at least one alternative site for the location of the proposed facility.
- F. The applicant shall be required to fly a balloon at the height of the proposed tower for a period of 14 days at the direction of the Commission during the application process.
- G. The applicant shall provide a deposit of \$10,000 at the time of application for a Section 22.5 D. application and \$2,000 for a Section 22.5 C. application, which shall be used for outside consultant review of the application. Any money remaining from the review shall be refunded to the applicant upon decision and expiration of the appeal period. If more than \$10,000 is required, it shall be paid prior to any approval of the application by the Commission.
- H. A description of technical alternatives and their costs for any proposed tower or other mount.
- I. A detailed statement describing the potential environmental impact of the proposed facility and mitigation measures to be taken.

22.7 Height and Area Requirements

- A. No tower may be proposed which exceeds twenty (20) feet above the average tree height in the area of the tower. However, no tower may be approved which exceeds 100 feet in height.
- B. All existing setback requirements shall govern except as may be noted herein.
- C. No tower may be located on any parcel of land smaller than the minimum lot size for the zone in which it is located, although the tower may be on leased land on a legally sized lot.
- D. No tower may be closer to any property line than 125% of the proposed tower height.
- E. No tower may be located within 1000 feet of an established historic district or a federal, state or locally designated historic structure.

22.8 Decision Guidelines. When deciding upon an application for a telecommunication facility the Commission shall review all the above noted material and in addition shall be guided by the following location and installation preferences. The following are ranked in order of preference with 1. being the most preferred.

Notes: Attempts to mitigate any negative impacts from a proposed tower installation shall be employed most rigorously in the least preferred locations. Preference shall be given to applications for facilities located on Town owned property.

- 1. Totally enclosed within existing structures.
- 2. On existing utility structures such as chimneys, silos, water tanks, utility poles and the like with visual mitigation, a Section 22. 5. C. application is preferred.
- 3. On government or institutional structures including buildings, towers, church steeples, cupolas, and observation decks with visual mitigation.
- 4. On existing approved towers
- 5. On new towers in commercial or industrial zones.

6. On new towers in a residential zone.

- 22.9 Discontinuation of Use. The following shall apply to the removal of discontinued towers, antennae and related appurtenances:
- A. The owner/operator of any antenna (e) shall submit a report annually, on the date of the initial approval, indicating whether the facility is still in active use.
 - B. A facility not in use for more than twelve (12) months shall be removed by the service facility owner. This removal shall be completed within 90 days of notification from the Planning and Zoning Commission to do so. Following the removal the site shall be restored to its original condition.