

## ARTICLE 9 SPECIAL REGULATIONS

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### Section 9.1 Accessory Apartments

#### 9.1.1 Statement of Purpose

The Town of Portland Planning and Zoning Commission recognizes that economic conditions have made it increasingly difficult for people to obtain housing. In response to this problem, the Planning and Zoning Commission has adopted this Section of the Zoning Regulations in an attempt to provide needed housing opportunities, while retaining the integrity of the single family neighborhood and interests of surrounding properties and homeowners.

#### 9.1.2 Definition – Accessory Apartment

A dwelling unit in a permitted, owner occupied, single family residence that is subordinate to the existing single family dwelling in terms of size, location and appearance, and provides complete housekeeping facilities, including independent cooking, bathroom and sleeping facilities.

#### 9.1.3 Standards Applicable to Accessory Apartments Located within Single Family Dwellings

A zoning permit may be issued to allow the addition to, renovation of, and use and occupancy of a single family dwelling in the RR, R-10, R-15 and R-25 zones subject to the following requirements:

- A. Accessory apartments under this Section may be allowed in the RR, R-10, R-15 and R-25 zones only. Only 1 accessory apartment per single family dwelling may be allowed.
- B. No new entrances shall be installed on the front of the house. A side entrance is permitted on buildings including buildings situated on corner lots.
- C. While exterior materials may be diversified, the application of such diversified material to the building shall not create the appearance of 2 or more dwelling units.
- D. The minimum floor area (measured from the outside of the exterior walls and excluding storage areas, stairwells) of the accessory apartment shall be 500 sq.ft.
- E. The maximum floor area (measured from the outside of the exterior walls and including storage areas, hallways, foyers and stairwells) of the accessory apartment shall be 50% or less of the floor area of the existing, principal dwelling (as measured from the outside of the exterior wall and including storage area, hallway, foyers and stairwells).
- F. An accessory apartment may contain a maximum of 2 bedrooms.
- G. The accessory apartment and the principal dwelling shall be separated by at least 1 wall, common to the interiors of both dwellings. A door providing interior access between the 2 units shall be provided.
- H. An accessory apartment shall be provided with 1 on-site parking space per bedroom.
- I. All parking spaces devoted to the accessory apartment shall be located in the rear or on the sides of the building and shall not be located within the front yard, unless otherwise approved by the Commission.

## ARTICLE 9: SPECIAL REGULATIONS

- J. Prior to the issuance of a zoning permit, the Town Sanitarian shall confirm that the dwelling, including the apartment, has adequate sewage disposal capability and potable water supply.
- K. Height, area and yard requirements shall comply with Section 4.2 Residential Area, Density and Dimensional Requirements of these Regulations.
- L. This Section shall be bound by the requirements of Section 4.1 Permitted Uses Residential Zones of these Regulations.

### 9.1.4 Standards Applicable to Detached Accessory Apartments

The Commission may grant site plan approval to allow for a detached accessory apartment in the RR, R-10, and R-15 and R-25 zones. Detached accessory apartments may be permitted as new construction or as a conversion of an existing accessory structure provided that all appropriate criteria in Section 9.1.3 are complied with, as well as the following:

- A. The detached accessory building will observe all setbacks required of a principal structure; and
- B. The Accessory Apartment shall have a minimum living space of 500 square feet, and a maximum living space of 800 square feet.

### 9.1.5 Procedure

In addition to the Site Plan requirements of Section 10.5 Site Plan Standards and Procedures, the applicant shall submit six copies of architectural plans drawn to a scale of not less than 1/8 inch equals 1 foot showing the following information where applicable:

- A. Principal uses;
- B. Floor areas;
- C. Stairwells/stairways;
- D. Windows;
- E. Interior partitions and doorways;
- F. Exterior doorways;
- G. Exterior drawing of final proposal; and
- H. Exterior materials.

## Section 9.2 Conservation Subdivisions

### 9.2.1 Purpose

The purpose of this section is to provide flexibility in the development of land in order to provide for significant preservation and protection of open space and other valuable natural or man-made resources while permitting a variation in lot design and building requirements.

## ARTICLE 9: SPECIAL REGULATIONS

### 9.2.2 Procedure

- A. Conservation Subdivisions may be permitted as a special permit in the RR and R-25 Zones.
- B. Parcels shall be a minimum of 5 acres to be considered for a Conservation Subdivision.
- C. Plans of the proposed subdivision complying with the Subdivision Regulations of the Town of Portland and with the Regulations for Public Improvements shall be submitted with the Special Permit application.

### 9.2.3 Open Space Areas

- A. A minimum of 30% of the property to be subdivided shall be set aside as open space.
- B. The following land characteristics shall be given preference for preservation:
  - 1. Land occupied by a farming operation including pasture land.
  - 2. Inland wetlands or watercourses as defined by the Inland Wetlands and Watercourses Regulations for the Town of Portland.
  - 3. Structures or landscapes having historic or cultural value including archaeological sites.
  - 4. Land along ridge lines, defined as areas lying in the upper half of the area above the mean elevation of the sub regional watershed that the subject property is located in. The sub regional watersheds are defined on maps prepared by the Natural Resources Division of the Connecticut Department of Environmental Protection.
  - 5. Land containing areas proposed as open space or recreational areas as shown in the Plan of Development.
  - 6. Land containing areas of special concern as identified by the Connecticut Natural Diversity Data Base as prepared by the Connecticut Department of Environmental Protection. Habitats of species that are endangered, threatened, or considered by State or Federal agencies to be significant at the state level; and other ecologically unique or special areas.
  - 7. Land containing one or more specimen trees, defined as trees having a diameter at breast height of 36 inches or more.
- C. The location and configuration of the open space areas shall be subject to the approval of the Commission with due consideration given to the guidelines listed above.
- D. Open space areas shall be preserved through the use of conservation easements or through dedication to the Town of Portland, if requested, or suitable conservation organizations.

### 9.2.4 Permitted, Uses

- A. Single-family dwellings
- B. Playgrounds, recreation areas, parks, open spaces, and natural areas
- C. Accessory uses and structures; such as private garages, swimming pools, clubhouses, recreation facilities, and other structures and facilities; which are customarily incidental and subordinate to the principal uses

## ARTICLE 9: SPECIAL REGULATIONS

### 9.2.5 Utility Requirements

- A. Roads - Main roads within the development shall be public, but cul-de-sacs may be private. All roads shall be built to the structural specifications of the Subdivision Regulations of the Town of Portland, except that the Commission may modify the width of pavement, curbs, and drainage requirements for private cul-de-sacs upon recommendation of the Town Engineer.
- B. Water - A public water supply is required. The Commission may waive this requirement upon recommendation of the Sanitarian.
- C. Sewage - Public sewers are required. The Commission may waive this requirement upon recommendation of the Town Engineer and the Sanitarian.
- D. Other Utilities - All other utilities shall be underground.

### 9.2.6 Land Development Requirements

#### A. Landscaping

A landscape buffer conforming to the requirements of Section 8.1.2 shall be required along the perimeter of the property. Additional buffering may be required in sensitive areas at the discretion of the Commission. However, where variations in topography or natural features, existing vegetation or compatible land uses obviate the need for such buffer, the Commission may modify or waive this requirement. The Commission may require suitable landscaping within the development to assure privacy of individual residential units.

#### B. Lot and Area Requirements

<b>Table 9.2.6 Area, Height, Coverage, Setback and Density Requirements</b>							
<b>Zone</b>	<b>Min Lot Area</b>	<b>Max Stories</b>	<b>Max Height</b>	<b>Max Lot Coverage</b>	<b>Rear Yard</b>	<b>Side Yard</b>	<b>Max Density*</b>
RR	10,000 sq. ft.	2 ½	35'	30%	30'	15'	.73
R-25	10,000 sq. ft.	2 ½	35'	30%	30'	15'	1.2**
* May be rounded up							
** Density factor of 0.73 when not served by public water or sewer.							

#### C. Density

1. The maximum number of building lots permitted in an open space subdivision or resubdivision shall be determined by calculating the net buildable area of the parcel and applying the Density Factor for the underlying zone as contained in Table 9.2.6, or as contained in Section 7.3 for properties located in the Forest Overlay Zone.
2. When application of the density factor produces a fractional result, such fraction may be rounded up to the next whole number.

## ARTICLE 9: SPECIAL REGULATIONS

### D. Building Locations and Setbacks

All buildings shall observe the following location requirements:

1. All buildings adjacent to a public street shall observe the front yard setback requirements established in Table 4.2.1. Buildings adjacent to private streets shall be set back 25 feet from same.
2. Accessory buildings shall be located at least 25 feet from the edge of pavement of any private street, and 10 feet from all other property lines.
3. Porches and decks shall observe the above accessory buildings separation requirements.
4. The Commission may modify the requirements of this section provided that in the Commission's sole discretion, the public health, safety and welfare are safeguarded.

### E. Maintenance

The applicant shall present sufficient information to the Commission to demonstrate that adequate provisions have been made for the sustained maintenance of the development in general and also for the sustained maintenance of the roads and open space.

## Section 9.3 Conversions

- A. Any principal building/structure in the R-10 Residential Zone may, with the granting of a special permit from the Commission, be converted to a residential use for not more than 4 dwelling units provided:
  1. The lot complies with the minimum frontage and lot area requirements of the zone.
  2. The required number of parking spaces are located in the rear yard of the property (parking areas along the street shall not be included when determining the number of parking space required for building conversion).
  3. The building is serviced by Town water and Town sewers.
  4. The square footage of the dwellings complies with the following minimum standards:

Number of Units	Minimum Sq. Ft./Unit	Cumulative Sq. Ft.
1	550	550
2	700	1,250
3	900	2,150
4	1,100	3,250

- B. Conversions of structures located on property with frontage on either side of Main Street, between Middlesex Ave. and Indian Hill Ave. may not exceed 2 units.

## ARTICLE 9: SPECIAL REGULATIONS

### Section 9.4 Special Requirements for Bucktown Hill Condominiums

#### 9.4.1 General

In accordance with these regulations, a deck, porch or shed may be added to a single family dwelling within the Bucktown Hill Condominium located on Freedom Way (“Bucktown Hill”). Bucktown Hill is a common interest community as defined in CGS §47-202, converted to that use from housing formerly owned by the United States Military Services. Bucktown Hill’s housing density, its restricted ground area, and the location of the septic systems serving its dwellings present unique circumstances which justify specific regulations to govern the construction and use of decks, porches and sheds for the individual dwellings.

#### 9.4.2 General Requirements for Decks or Porches

No deck or porch shall be added to a single family dwelling in Bucktown Hill unless the dwelling’s owner obtains a zoning permit and satisfies the special considerations stated in Section 9.4.3 of these regulations.

#### 9.4.3 Special Considerations/Requirements for Decks or Porches

Any application to add a deck or porch to a single family dwelling as described in Section 9.4.1 shall satisfy the following requirements:

1. The deck or porch shall be unheated.
2. The deck or porch shall not be enclosed by full walls. To prevent the entry of insects and/or the elements, the deck or porch may be (a) screened or (b) enclosed by half walls with storm/screen combination windows.
3. The deck or porch may under no circumstances increase the number of bedrooms allowed or already existing in the dwelling.
4. No portion of the deck or porch may be located within five feet of any septic system serving any dwelling in Bucktown Hill; neither may any portion of the deck or porch be built upon an easement enabling the owner of a dwelling in Bucktown Hill to maintain the septic system serving that dwelling.
5. No portion of the deck or porch shall extend further than eight feet from the rear of the building to which the deck or porch is attached. The deck or porch shall extend only along the rear of the building and shall not extend beyond any corner that the side of the building forms with the rear of the building. Decks and porches may have a maximum height of twelve feet but not to exceed the height of the building to which the deck or porch is attached.
6. The deck or porch shall be added to the existing building without removing or knocking down any exterior wall or portion of any exterior wall on the existing building, except that an existing window may be converted to a doorway with an opening no wider than the existing window to allow access from the existing building to the deck or porch.
7. The construction and location of the deck or porch shall conform to the requirements of the State of Connecticut Public Health Code.
8. The application for a zoning permit to add a deck or porch must be submitted to the zoning enforcement officer together with a scaled drawing no smaller than 1” = 50’

## ARTICLE 9: SPECIAL REGULATIONS

depicting the dimensions of the proposed structure and its location with respect to the building and property lines.

9. The proposed deck or porch shall have first received written approval from the executive board of the homeowners' association governing Bucktown Hill (the executive board is now known as the Bucktown Hill Condominium Association). The executive board's written approval shall include without limitation written confirmation that the deck or porch conforms to the requirements of Bucktown Hill's constituent documents. Said written confirmation shall be stamped or inserted upon the scale drawing described above prior to submission to the zoning enforcement officer.
10. The zoning enforcement officer shall receive satisfactory reports from the following officials before acting on the application:
  - a. Town Sanitarian
  - b. Town Building Official
  - c. Executive Board of the homeowners' association governing Bucktown Hill.
11. The character, type and size of the deck or porch shall harmonize with and conform to the character of Bucktown Hill and the building to which the deck or porch will be attached.

### 9.4.4 Requirement for Sheds

A storage shed may be built to service any single family dwelling in Bucktown Hill provided the dwelling's owner obtains a zoning permit and satisfies the following special considerations:

1. The storage shed shall have no more than 80 square feet of floor space and shall not exceed 8 feet in height.
2. The application for a zoning permit to add a storage shed must be submitted to the zoning enforcement officer together with a scaled drawing no smaller than 1" = 50' depicting the dimensions of the proposed storage shed and its location with respect to the building and property lines.
3. The proposed storage shed shall have first received written approval from the executive board of the homeowners' association governing Bucktown Hill. The executive board's written approval shall include without limitation written confirmation that the storage shed conforms to the requirements of Bucktown Hill's constituent documents. Said written confirmation shall be stamped or inserted upon the scale drawing described above prior to submission to the zoning enforcement officer.
4. The construction and location of the storage shed shall conform to the requirements of the State of Connecticut Public Health Code.
5. The zoning enforcement officer shall receive satisfactory reports from the following officials before acting on the application:
  - a. Town Sanitarian
  - b. Town Building Official

## ARTICLE 9: SPECIAL REGULATIONS

- c. Executive Board of the homeowners' association governing Bucktown Hill.
6. The construction and location of the storage shed shall not interfere with the repair or maintenance of any septic system serving a dwelling in Bucktown Hill.
7. The character, type and size of the storage shed shall harmonize with and conform to the character of Bucktown Hill and the building which the storage shed will serve.

### Section 9.5 Earth Material Removal, Filling and Excavation

#### 9.5.1 General Provisions

No owner, developer, excavator or other person shall dig, excavate, scrape or otherwise disturb nor move or cause, allow, permit or suffer to be moved the soil or carry on filling operations on any premises in the Town, unless and until after an application for a Special Permit and Site Plan approval from the Planning and Zoning Commission is obtained. A Special Permit may be granted by the Commission, subject to the requirements of this Section and subject to conditions deemed necessary to prevent damage to other property and to protect the health, safety and general welfare of the public.

#### 9.5.2 Exemptions

A Special Permit is not required in connection with the following excavation, grading, removal or filling operations:

1. Any Subdivision, Special Permit use and/or Site Plan approved by the Planning and Zoning Commission;
2. Any excavation, grading, removal or filling of an area 1/2 acre or less in size;
3. Necessary foundation and trench work on a lot for which a Zoning Permit and a Building Permit have been issued and then not exceeding 1/2 acre;
4. Plowing, spading, cultivating, harrowing of soil or any operation ordinarily associated with the tilling of the soil for agricultural or horticultural purposes;
5. Any operations for the purposes of soil and conservation as defined or prescribed by Soil Conservation Service of the United States Department of Agriculture;
6. Necessary filling, excavation, grading and/or removal in connection with resurfacing of an existing roadway, sidewalk or parking lot, the removal of excess soil resulting from the construction and/or alteration of public streets and ways including sidewalks;
7. Any building or improvement carried out by the Town of Portland;
8. Conduct of a sanitary landfill by the Town of Portland;
9. Stockpiling of street maintenance material required by the Town of Portland;
10. Regrading or filling as part of a landscaping project on an individual residential lot of less than 1/2 acre and when such operation is not for commercial purposes and then not exceeding 100 cubic yards of material in any calendar year.

## ARTICLE 9: SPECIAL REGULATIONS

### 9.5.3 Application Procedure and Requirements

#### A. General Standards

The Commission may, upon application, authorize the issuance of a Temporary Special Permit for earth material removal, filling or excavation. In authorizing the issuance of a Temporary Special Permit, the Commission shall take into consideration the public health, safety and welfare; and shall prescribe appropriate conditions and safeguards to insure the accomplishment of the following objectives:

1. All proposed structures, equipment or material shall be readily accessible for fire, police and other emergency protection.
2. The proposal shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the zone, the neighborhood and the Town; and will not be detrimental to established properties in the area, or conflict with the traffic characteristics of the neighborhood.
3. The location and size of such proposal, the nature and intensity of operations involved in or conducted in connection with such proposal, its site layout, and its relation to access streets shall be such that both pedestrians and vehicular traffic to, from and in the vicinity of the use will not be hazardous, inconvenient or detrimental to the character of the zone or conflict with the traffic characteristics of the neighborhood.

#### B. Application and Procedure

Application for Special Permit and Site Plan approval shall be submitted as required by Article 10. In addition to the requirements of that section, the following shall be submitted with, or as necessary, on the Site Plan:

1. The place or places from which the earth material is sought to be removed or deposited;
2. The number of cubic yards of soil to be removed or filled, the length of time necessary to do so, and a concise statement indicating why it is essential and necessary to the development of the property to remove and/or deposit such amount of earth material;
3. Profiles on the longitudinal axis 200 feet on center or closer if required by the Commission;
4. The nature and extent of landscaping and excavation on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land or buildings or impair the value thereof.
5. The grades of all abutting streets and lands;
6. Proposed slopes and lateral supports at limits of project upon completion;
7. Proposed travel access to the area of the proposed operation;
8. Details of proposed planting for the area of the proposed operation, both to prevent erosion during the course of the operation and at the conclusion thereof;
9. The location and limits of the area of the proposed operation;

## ARTICLE 9: SPECIAL REGULATIONS

10. The proposed details of entry and egress for surface water drainage and of any streams, bodies of water, and watercourses, natural or artificial. Filling operations must be conducted in such a manner as not to alter the course of rivers, streams, or other water bodies unless approved by the Conservation and/or Inland Wetlands Commission or in the case of water bodies with encroachment lines by the State of Connecticut, Department of Environmental Protection;
11. Clearing, grading, vegetative stabilization;
  - a. Areas to be cleared, staging and sequence of clearing;
  - b. Disposal of cleared material;
  - c. Areas to be graded, staging and sequence of grading;
  - d. Areas and acreage to be vegetatively stabilized;
  - e. Planned vegetation with details of plants, seed, mulch, fertilizer planting dates;
  - f. Temporary erosion protection of disturbed areas;
  - g. Temporary erosion protection when time of year or weather prohibit establishment of permanent vegetative cover.
12. Typed narrative addressing the following (written provisions for soil erosion contingency plans):
  - a. Nature, purpose and description of project;
  - b. Potentially serious erosion or sediment problems;
  - c. The stages of development if more than one stage is planned;
  - d. The sequence of major operations on the land, such as installation of erosion control measures, clearing, grading, temporary stabilization, road base, road paving, building construction, permanent stabilization, removal of temporary erosion control measures;
  - e. The time required for the major operations identified in the sequence;
  - f. Maintenance requirements or measures during construction of project;
  - g. Person responsible for maintenance during construction of project;
  - h. Maintenance requirements of permanent measures when project is complete;
  - i. Organization or person responsible for maintenance of permanent measures when project is complete; and
  - j. Certification that neither proposed work nor progress of work will have any impact on an Inland Wetland or that of a previously obtained Inland Wetland permit.

## ARTICLE 9: SPECIAL REGULATIONS

### C. General Requirements

The Commission may grant a Special Use Permit for a maximum period of 2 years, when it is satisfied that the following requirements will be met:

1. The applicant shall be required to section the entire property which is the subject of his permit into areas of not more than 5 acres and he shall so schedule the work of soil removal or filling so that the operation conducted in one section shall be complete and the section shall be at final grade before work shall commence in any other section of the premises.
2. When the operation of each section is completed, or work has progressed sufficiently to where reclamation is practicable, the area affected by the operation shall then be graded so that slopes in disturbed areas shall be no steeper than 1:2 (vertical-horizontal). A layer of topsoil shall be spread over the disturbed area, to a minimum depth of 4 inches after compaction in accordance with the approved final grading plan. The area shall then be seeded with a suitable grass mixture at the minimum rate of 5 lbs. per 1,000 square feet containing at least 75% permanent grasses and maintained by mulching, repairing and reseeded until the area is stabilized and approved by the Commission. Any permitted operation that remains inactive for 30 days or more shall be graded to no steeper than a 1:2 (vertical-horizontal) slope.
3. The operation will be carried out in conformity with the maps and plans as approved. At no time shall any excavation occur below the final proposed grades.
4. Screening sifting, washing or crushing of material native to the site and used for site purposes only, may be permitted by special permit. All other processing shall be restricted to the I-Zone only.
5. No machinery, such as a screener, sifter or crusher, shall be erected or maintained within 100 feet of any property line or street line. Noise decibel levels shall be in accordance with the Town ordinance regulating noise.
6. The existing grade shall be maintained for a distance of 25 feet parallel to the property line from top (cut) or toe (fill) of slope. Excavation occurring from 25 feet to 50 feet of a property or street line shall maintain a slope of 1:3 (vertical-horizontal). When deemed appropriate by the Commission and where a joint agreement between property owners has been filed with the Commission, an excavation may be allowed to adjoin adjacent property when such adjointment will not create a hazard and will provide a more harmonious blend of graded land.
7. No building or other structure shall be erected on the lot during the operation except temporary shelter for machinery and portable sanitary facilities, subject to approval by the Commission.
8. At all states of the operation, and upon completion, proper drainage shall be provided to prevent collection and stagnation of water and the prevention of harmful effects upon surrounding properties through soil erosion or interference with natural watercourses, as specified in the Environmental and Performance Standards of these Regulations.
9. The plans shall provide that all access roads from the project to public highways or streets or to adjoining properties within 500 feet of such highways, residences or streets maintain a combined 50 feet stone and 50 feet paved entrance/egress to minimize the tracking of soil on to Town and State roads.

## ARTICLE 9: SPECIAL REGULATIONS

10. Proper measures, as specified in the Environmental and Performance Standards of these Regulations, shall be taken to minimize the impact on adjacent properties for flying dust or rock, and unsightly or dangerous conditions. Such measures may include, when considered necessary, screening, fencing, limitations upon the practice of stockpiling excavated materials upon the site and shall include covering of truckloads.
11. Whenever any owner, developer or excavator shall remove topsoil in or upon any land in the Town, and is to store said topsoil, provisions shall be made for the storage of said topsoil within the boundary of said property. Disturbance within the preservable section of the area shall be minimized to avoid erosion, loss of vegetation and windblown material products by means of a seeded cover crop or other organic mesh covering or seeding process.
12. Except as hereinafter provided, when topsoil is stored, it shall be uniformly replaced over the entire area or surface of the land on or before the completion date set forth in the soil removal Special Permit so that the final grades of said replaced topsoil shall conform to the proposed final grades shown on the topographical map. In the case of filling operation a layer of topsoil shall be uniformly placed over the area to conform to proposed final grades.
13. There shall be no removal, filling, grading or hauling from any approved project between the hours of 6 p.m. and 7 a.m., nor on Saturdays, Sundays or legal holidays.
14. In land excavation operations, the location of tree stumps and other debris shall be delineated on the Site Plan.

### D. Review Considerations

1. The Planning and Zoning Commission in considering and reviewing the application and in arriving at its decision, shall be guided and take into consideration the public health, safety and general welfare, and particular consideration shall be given to the following factors:
  - a. Soil Erosion by water and wind;
  - b. Drainage (surface and subsurface);
  - c. Soil fertility;
  - d. Lateral support slopes and grades of abutting streets and land;
  - e. Adjacent land values and uses;
  - f. Potential groundwater drinking supplies;
  - g. Suitability of the site at proposed finished grades for uses allowed in the zone;  
and
  - h. Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the Town.
2. In the case of removal of quarry stone and mining operation, the Commission may modify the foregoing requirements where such operations will not endanger public health and safety or be detrimental to the neighboring properties.

## ARTICLE 9: SPECIAL REGULATIONS

3. The Planning and Zoning Commission may require weekly or monthly inspection reports on the operations and maintenance program for the proposed soil erosion and sediment control measures and stormwater management facilities. Such reports shall include:
  - a. Phase of areas to be stripped of vegetation;
  - b. A week's schedule of operations, including starting and completion dates for major improvements, phases such as clearing, grading, paving, installation of drainage features.

### E. Provisions Applicable to Quarry Operations

It is recognized that quarrying operations are materially different from typical earth excavations. Accordingly, the Commission may waive the provisions of this Section that are clearly unrelated to operation of a quarry.

### F. Permitting - Expiration and Renewal

1. Any Special Permit granted under this Section shall expire 2 years from the date of Commission approval, unless specifically granted for a shorter period of time.
2. The Commission may grant renewals of an approved Special Use Permit for a period not to exceed 2 years, provided that the operation is being conducted as approved.
3. All renewal applications shall be applied for and shall be subject to all the requirements of this Section. A renewal application shall be treated as a new application. Site plans for all renewal applications shall include revised spot elevations. Said spot elevations shall be determined in the field by a licensed land surveyor.

### G. Bonds

1. Erosion and Sedimentation Control Bond shall be posted in accordance with Section 11.2 Bonds.
2. Site Restoration Bond
  - a. Prior to the commencement of activity under an initial permit, the applicant shall post a bond for site restoration with the Planning Department in an amount determined by the Town Engineer as is sufficient to guarantee conformity with the provisions of the approved permit. In the case of a renewal of an existing permit, the Town Engineer may determine that a revised or additional site restoration bond shall be posted. The revised bond shall be submitted within 60 days of the date of the renewed permit. Failure to post the revised bond will render the permit void.
  - b. The site restoration bond shall be released when the site is in conformance with the approved plan and is stabilized and planted to the satisfaction of the Commission, the Town Engineer, and Zoning Enforcement Officer. The Commission may authorize bond releases or bond reductions at one of its meetings based upon the recommendation of the Town Engineer. If the applicant fails to restore the site in accordance with the approved Site Plan, the Commission may consider the calling of the bond upon the recommendation of the Town Engineer.

## ARTICLE 9: SPECIAL REGULATIONS

3. Maintenance Bond: Prior to the final release of the site restoration bond, the applicant shall post a maintenance bond for all plantings (trees or shrubs) which have been planted for less than one year. This bond shall be submitted in the form of cash or check in the amount of 20% of the total cost of such landscape plantings and shall be held for one year. If the applicant fails to maintain the plantings to the satisfaction of the Town Engineer during such time, the Commission may consider the calling of the bond upon the recommendation of the Town Engineer.

### Section 9.6 Home Occupations and Home Offices

#### 9.6.1 Definitions

- A. For the purposes of this Section, Home Occupations shall include, but are not limited to the following:
  1. The preparation and sale of the products of arts and crafts actually prepared on the subject premises, such as sewing, painting, wood carving, cabinet making, ceramics, writing, sculpture, ornamental glass and metal working;
  2. The workshops of craftsmen such as plumbers, electricians, carpenters, house painters, paperhangers, and electronics, computer, and radio and television repairmen;
  3. The offices of doctors, dentists, architects, accountants, engineers, psychotherapists, real estate and insurance agents, and other recognized professionals; and
  4. A home based office for businesses and services rendered electronically or at locations other than the premise.

#### 9.6.2 Applications

- A. Home Occupations with not more than 1 non-resident employee and generating less than 5 visits from the public per week are permitted through issuance of a zoning permit
- B. Home Occupations employing 2 non-resident employees and/or generating more than 5 visits from the public per week are permitted through issuance of a Special Permit.

#### 9.6.3 Standards

- A. A Home Occupation may be operated in a dwelling providing it conforms to all of the following standards:
  1. The dwelling must maintain the residential character of the area and there shall be no external evidence of the home occupation.
  2. The Home Occupation must not generate more than 20 visits per week from the public.
  3. Any proposed Home Occupation generating more than 20 visits shall require a Special Permit, in addition to that required in paragraph 9.6.3.A. In acting upon this Special Permit, the Commission shall determine that the additional traffic will not present a safety hazard or be detrimental to the neighborhood.
  4. On site commercial vehicles shall be limited to 1 truck and 1 trailer.

## ARTICLE 9: SPECIAL REGULATIONS

5. A Home Occupation is restricted to not more than 30% of the floor area of the dwelling in which it is located. The principal use of the dwelling must remain residential.
6. Inventory for the Home Occupation must be located within a building.
7. The Home Occupation shall comply with the Performance Standards contained in Section 3.8 Environmental and Performance Standards of these Regulations.
8. Automobile repair, retail sales, and storage/warehousing are specifically prohibited as a Home Occupation use.

### Section 9.7 Home Animal Agriculture

#### 9.7.1 Definitions

- A. For the purposes of this section, animals shall be classified and defined as follows:
  1. Small Animal: A chicken, excluding roosters, a duck, goose, turkey, or a rabbit, as well as similar animals as determined by the Zoning Enforcement Officer.
  2. Medium Animal: A goat, swine and pigs, sheep, llama, or emus, as well as similar animals as determined by the Zoning Enforcement Officer.
  3. Large Animal: A cow, (dairy or beef), mule, or donkey, as well as similar animals as determined by the Zoning Enforcement Officer.

#### 9.7.2 Standards for Small Animals

- A. Home agriculture for small animals is permitted as an accessory use in any residential zone on lots of ½ acre or more subject to the following:
  1. On a lot containing ½ acre, a maximum of 15 caged or cooped small animals or 5 free-range small animals may be kept.
  2. For each additional ½ acre, 15 caged or cooped small animals or 5 free-range small animals may be kept.
  3. No more than 50 small animals may be kept on any lot.
  4. Suitable enclosures shall be provided to restrict the animals to the property. Cages and coops must be placed no closer than 10 feet from rear and side property lines.

#### 9.7.3 Standards for Medium and Large Animals

- A. Home agriculture for medium and large animals, except for pigs and swine, and including roosters, is permitted as an accessory use on lots three (3) acres or more in size and located within the R-25, RR and FP Zones subject to the following:
  1. On a lot containing three (3) acres, a maximum of one (1) large animal or two (2) medium animals may be kept.
  2. For each additional one (1) acre, one (1) additional large animal may be kept, or for each additional half (1/2) acre, one (1) additional medium animal may be kept.
  3. Small animals may be kept in combination with medium and large animals providing that there shall be no more than 50 such animals.

## ARTICLE 9: SPECIAL REGULATIONS

4. Buildings for housing medium and large animals shall be located at least 100 feet from any property line.
5. Manure piles shall be located at least 100 feet from any property line and screened from abutting properties.
6. The keeping of all types of pigs or swine is prohibited less than 300 feet from a property line and on a lot less than five (5) acres in size.

### 9.7.4 Exemptions

The following animals are specifically exempt from this regulation: Dogs, cats, and other customary indoor pets that are kept as companions and housed with human occupants, and no more than three (3) rabbits when kept on a property having a residential use.

### Section 9.8 Horses for Personal Use

- A. Only occupants of a dwelling in an RR, R-25 or FP Zone may be permitted to keep horses for their personal use on the property provided the following standards or conditions are met:
  1. The horses must be owned by the resident-occupants and not for direct or indirect gain.
  2. There shall be one (1) acre as the minimum size lot for the first horse being kept and an additional one-half acre for each additional horse, but there shall not be more than three (3) horses.
  3. Stable manure must not create a health hazard to the community in general or to the persons in the surrounding neighborhood from an air, drainage and water pollution standpoint.
  4. Adequate fencing must be installed and maintained to reasonably contain the horses within the property and shall conform to section 9.15.
  5. No building or other structure shall be located less than 100 feet from the street, side or rear lot lines.
  6. The use of temporary buildings or trailers for the stabling of horses in excess of fifteen (15) days is prohibited. There shall be no storage of supplies outside of permanent buildings.
  7. The area shall be landscaped to harmonize with the character of the neighborhood. The land shall be maintained to not create a nuisance as determined by the Commission. The manure storage area shall be screened and located so as not to be unsightly nor create offensive odors off the premises.
  8. There shall be no external floodlighting that transmits outside of the property from where it originates and no light shall be permitted which is considered objectionable due to brightness or intensity

### Section 9.9 Commercial Stables

- A. Land, buildings, and other structures in an RR, R-25 or FP Zone may be used for the following after granting of a special permit by the Commission: commercial stables, riding academies, livery and boarding stables, animal and convalescent stables, rental and hacking

## ARTICLE 9: SPECIAL REGULATIONS

stables, breeding stock farms, and private club riding stables. The following standards or conditions shall be met before a special permit is granted:

1. The barns, riding rings, corrals, and accessory facilities shall be contained within a parcel or contiguous parcels of land consisting of at least 10 acres.
2. Sufficient off-street parking facilities shall be provided to accommodate all users and visitors to the property, including spectators, for horse shows or other equestrian events. The roads for entering and leaving the property shall be located or placed in such a manner so as not to create pedestrian or vehicular traffic hazards on public streets or highways.
3. Stable manure shall not create a health hazard to the community in general or to the persons in the surrounding neighborhood from an air, drainage and water pollution standpoint. The stabling of horses shall conform to all State and local laws, regulations and codes.
4. Sanitary facilities shall be provided for workers, patrons and visitors in accordance with State and Local health requirements for normal operations as well as for horse shows and similar activities.
5. Adequate fencing shall be installed and maintained to reasonably contain the horses within the property and shall conform to Section 9.15 Walls and Fences.
6. Fire control facilities and/or structures for the barns, buildings, and other amenities used for normal operations as well as for horse shows and similar activities shall be approved by the Town Fire Marshal.
7. The use of Public Address Systems is prohibited.
8. No part of any building, riding ring, corral, or manure storage area used for or in conjunction with the operation shall be located less than 100 feet from the street, side or rear lot lines.
9. The use of temporary buildings or trailers for the stabling of horses in excess of 15 days is prohibited.
10. The premises shall be landscaped to harmonize with the character of the neighborhood. The land shall be maintained so as not to create a nuisance. The manure storage area shall be screened and located so as not to be unsightly or create offensive odors off the premises.

### **Section 9.10 Motor Vehicle Sales, Repair and Related Uses**

#### **9.10.1 Location Requirements**

- A. Any establishment proposing to sell new or used vehicles, repair vehicles to include auto body shops, or dispense at retail motor vehicle fuels shall meet the following Locational requirements. No vehicle entrance to or exit from the lot containing the use may be located within 500 feet, as measured along public streets, of any vehicle entrance to:
  1. Any school giving regular instruction at least 5 days a week 8 months or more a year;
  2. Any hospital maintaining at least 15 beds for patients;
  3. Any public gathering facility with a legal capacity of at least 300 persons; or

## ARTICLE 9: SPECIAL REGULATIONS

4. A public library, or public playground or park.

### 9.10.2 Operational Standards

No unregistered motor vehicle or vehicle registered to the dealer shall be stored or parked closer to the street than the building line.

### 9.10.3 Aquifer Protection Measures

Establishments regulated under this section shall, when located in Level A or Level B Aquifer Protection areas, utilize best management practices for the handling of petroleum and other products with the potential to contaminate groundwater.

### 9.10.4 Other Standards

The location of such uses may be permitted only if the Commission finds that:

1. The use will not increase or create a traffic or fire hazard.
2. The use will not depreciate the value of property in the neighborhood, will not alter the neighborhood's character or be otherwise detrimental to the neighborhood.

### 9.10.5 Special Application Requirements

- A. In accordance with CGS 14-54, an application for a Certificate of Location Approval shall be submitted to the Zoning Board of Appeals by any person who desires to obtain a license for dealing in or repairing motor vehicles in Portland except that this requirement shall not apply to:
  1. A transfer of ownership to a spouse, child, brother, sister or parent of a licensee;
  2. A transfer of ownership to or from a corporation in which a spouse, child, brother, sister, or parent of a licensee has a controlling interest; or
  3. A change in ownership involving the withdrawal of one or more partners from a partnership.
- B. In accordance with CGS 14-321, an application for a Certificate of Location Approval shall be submitted to the Commission by any person who desires to obtain a license for the sale of gasoline or any other product, under the provisions of CGS 14-319, including the alteration or changing of adjoining physical properties for such purposes, except that this requirement shall not apply:
  1. In the case of a renewal of a license by the holder of the license;
  2. To the transfer of the last issued license from one person to another provided no more than 1 year has elapsed since the expiration of such license; or
  3. In the case of the addition or discontinuance of pumps.

## ARTICLE 9: SPECIAL REGULATIONS

### 9.10.6 Proceedings

- A. In reviewing a Certificate of Location Approval application, the Commission and the Zoning Board of Appeals acts as agents of the State of Connecticut, not in a zoning capacity, and the notice provisions and other provisions of CGS Chapter 124 shall not apply.
- B. As an agent of the State of Connecticut, the Commission and the Zoning Board of Appeals serve solely to determine whether a Certificate of Location Approval should be issued based upon such considerations as:
  - 1. Whether the use is permitted in the zoning district;
  - 2. The suitability of the location in view of traffic, intersecting streets, width of highway, effect on public travel, and other conditions;
  - 3. The relationship of the proposed use or operation with respect to schools, churches, theaters, playhouses or other places of public gathering;
  - 4. Whether the proposed use of the location would imperil the safety and welfare of the public;
  - 5. Whether the proposed use of the location would have a detrimental effect on the value of nearby properties or development thereof; or
  - 6. Whether there has been a material change in conditions which might reverse a decision of granting or denying a previous application.

### Section 9.11 Recycling Facility

#### 9.11.1 General Standards

- A. All vehicles queuing must be on site and separated from the main access driveway. The queuing lane must be a minimum of twelve feet wide.
- B. The recycling facility must conform to all environmental performance standards stated in Section 3.8 Environmental and Performance Standards of the Portland Zoning Regulations.
- C. The volume of material processed by the facility shall be dependent on the site, size, location, and proximity to conflicting land uses and the capacity of the nearby roadways.
- D. The structure shall comply with lot coverage, height, setback and landscaping requirements of Section 6.1 Permitted Uses Industrial Zones, 10.5 Site Plan Standards and Procedures and 8.3 Outdoor Lighting of these Regulations.
- E. All recycling activities (including storage and stockpiling of material and equipment) shall be performed entirely within the recycling structure.
- F. Direct access to the site shall be from nonresidential and/or non-residentially zoned streets only.
- G. Access to arterials (Routes 66, 17, 17A) shall be from nonresidential and/or non-residentially zoned streets only.
- H. The Commission reserves the right to deny, approve or modify development proposals based upon direct access requirements cited in paragraphs F and G above.

## ARTICLE 9: SPECIAL REGULATIONS

### Section 9.12 Drive-Thru Window Service and Queue Space Requirements

#### 9.12.1 General

- A. Drive-thru window services shall be designed and located to minimize conflict between pedestrian traffic and vehicular traffic.
- B. Standards: Drive-thru window services shall comply with the following standards:
  - 1. All drive-thru lanes shall be 9 feet wide.
  - 2. All drive-thru lanes shall be designed to allow vehicle queuing on site and shall be physically separated from entrances and exits so as not to obstruct vehicular access/egress.
  - 3. If the site allows, the Commission may require that a landscaped area be placed between the drive-thru lane(s) and the general access lane(s) and parking area.
  - 4. The drive-thru shall be clearly defined by pavement markings and directional signage.

#### 9.12.2 Queue Space Standards

- A. Minimum queue space shall be provided for uses as specified in Table 9.13. Queue space shall be provided in such a manner that the head of the queue starts adjacent to the specified use and extends so as not to obstruct or encroach upon any parking space or aisle. Queue space shall only be provided on the lot and for the use to be served and shall not extend into any street or right-of-way.
- B. Queue spaces shall have a dimension of 9ft (w) by 18 ft. (l).

**Table 9.13 - Required Queue Spaces**

Use	Required Queue Spaces
Automatic Teller Machine (ATM), Drive-up type	2 per machine
Bank Drive-up Window	8 for each window in a separate lane for each window
Gas Pump and Pump Island	2 for each pump and 1 for each pump island lane
Restaurant Drive-up Window	8 spaces for each window
All Other	No less than 3 spaces per window or access or such other number the Commission may prescribe based upon the unique characteristics of the use

### Section 9.13 Seasonal Outdoor Dining Areas

#### 9.13.1 General

Taverns, pubs, cafes, cocktail lounges associated with golf courses, restaurants and other food service establishments which offer indoor patron seating, may establish seasonal outdoor dining areas, ancillary and contiguous to the business by obtaining a Zoning Permit and/or Special Permit approval, as hereafter provided.

## ARTICLE 9: SPECIAL REGULATIONS

### 9.13.2 Permits Required

- A. Outdoor dining areas not exceeding 20% of the interior patron floor area or 250 sq. ft., whichever is less, containing a maximum of 4 tables and 16 chairs, may receive an annual zoning permit after demonstrating compliance with standards in 9.13.3.
- B. Special permit approval is required for outdoor dining areas exceeding the lesser of 20% of the interior patron floor area, or 250 sq. ft.

### 9.13.3 Standards

- 1. The outdoor dining area must be entirely on property owned or leased by the applicant. Public property may not be used for dining areas unless prior approval has been granted by the State of Connecticut, Town of Portland or other public jurisdiction.
- 2. The outdoor dining area will not interfere with or create hazards or visibility problems for pedestrians on sidewalks or for vehicular traffic.
- 3. The outdoor dining area shall be accessible from the main dining building. This does not apply to golf courses.
- 4. Outside tables must be located in such a manner as to maintain access to the building for emergency purposes.
- 5. Areas on which required parking exists cannot be used for a dining area.
- 6. The Zoning Enforcement Officer may require fencing for health and safety reasons. Fencing of the outdoor dining area must comply with the following requirements:
  - a. Fencing may not be solid and should be in harmony with the style of the building. Chain link fences are not allowed.
  - b. The finished side of the fencing must be facing outwards.
  - c. Fencing of the dining area must not exceed 3 feet in height if located in the front of the building.
  - d. Fencing of the dining area must not exceed 4 feet in height if located on the side or rear of the building
  - e. Fencing must not block public view into the dining area.
- 7. The outdoor dining area shall be largely open to the elements, and shall not be enclosed with a roof, walls, or canopy whether permanent or temporary, provided that a roof over an unenclosed deck, patio or porch is allowed. The only exceptions are umbrella tables and the protection of food preparation areas required by State and local health regulations.
- 8. All non-vegetative shading devices shall be of a non-permanent type (umbrellas, retractable awnings, etc.) and shall be safely anchored.
- 9. Symbols or lettering placed on outdoor umbrellas, awnings, tables, trash receptacles or chairs shall be calculated as signage and cannot exceed the maximum signage allowed for the zone. Banners and pennants are expressly prohibited.

## ARTICLE 9: SPECIAL REGULATIONS

10. The dining establishment is responsible for cleanup of all trash generated from outdoor dining area.
11. No outside audio systems are permitted, nor shall indoor audio systems project outside. Entertainment shall occur within the main dining building exclusively.
12. Lighting of dining areas must be full-cut off fixtures, positioned horizontally and must not project off-site. Flood lights are prohibited.
13. All tables, chairs, trash receptacles, etc. (excluding fencing) shall be removed and stored away from public view at the end of each outdoor dining season.
14. The outdoor dining area shall be a seasonal operation not to exceed a 7 month period from April 1 to November 1 of each year.
15. Food service establishments requiring a license from the State of Connecticut, Department of Consumer Protection, and Liquor Control Division must submit all pertinent applications from the State to the Town of Portland Zoning Enforcement Officer for approval and signature.
16. The applicant must receive wetlands approval for a proposed dining area located within 100 feet of a wetlands or watercourse.
17. The applicant must comply with the Performance Standards of Section 3.8.
18. An application for a Zoning Permit shall be accompanied by the following:
  - a. A plot plan as specified in paragraph 11.1.1.C.1;
  - b. A building floor plan demonstrating existing patron area and dimensions of handicapped accessible doors and ramps;
  - c. A copy of a recorded Wetlands Permit, as applicable;
  - d. Verification of local health authority approval;
  - e. Verification of local Fire Marshal approval; and
  - f. Verification of compliance with Americans with Disabilities Act (ADA) from Building Official.

### Section 9.14 Temporary Campground Facility

#### 9.14.1 General

- A. Temporary Campground Facility - The Planning & Zoning Commission may grant a Special Permit to permit temporary campground facilities to be located within the Riverfront Overlay District. Such temporary campground facility shall be located on an area of land which is not otherwise required for parking and/or storage.
- B. Camping shall include self-contained mobile camping vehicles and tents. No open fires shall be permitted except in contained fire rings or sources approved by the Fire Department and maintained by the applicant.

#### 9.14.2 Standards

## ARTICLE 9: SPECIAL REGULATIONS

- A. At least 5 acres, but not more than 15 acres, shall be devoted exclusively to the campground facility.
- B. The number of camp sites shall be limited to 10 per acre.
- C. Road widths shall be 12 feet for one-way and 20 feet for two-way.
- D. Operational periods shall be limited to March 1 through November 30.
- E. Campgrounds shall provide potable water and sanitary facilities
- F. A minimum of 20% of the site shall be devoted to recreational uses such as ball fields, playgrounds, and walking paths.

### 9.14.3 Special Considerations/Requirements

- A. The plan for a temporary campground facility shall designate thereon its compliance with the State of Connecticut Public Health Code, including in its entirety Section 19-13-B97 et seq., as the same may be amended or revised to the date of such plan and FEMA National Flood Insurance Program minimum standards dealing with recreational vehicles, specifically 44CFR59.1 as may be amended from time to time, as they relate to the requirements of these regulations.
- B. The Commission shall receive a report from the following prior to taking action upon the plan:
  - 1. Sanitarian
  - 2. Planning Director/Planning Staff
  - 3. Police Department
  - 4. Fire Department
  - 5. An independent traffic report from a professional traffic consultant provided by the applicant
  - 6. Town Engineer
  - 7. Public Works Department
  - 8. Zoning Enforcement Officer
  - 9. State and Federal Agencies as applicable.
- C. All applications for Special Permit for a campground facility shall maximize the preservation of existing vegetation. A minimum setback from any residential property line of 100 feet to the nearest campsite shall be provided. A minimum setback of 50 feet from any property line on a parcel used for commercial business to the nearest campsite shall also be provided. The Commission may require a landscape buffer and wood fencing be utilized to visually screen a temporary campground facility from abutting property and from any public way.

### Section 9.15 Walls and Fences

Any fence or wall more than 4 feet above ground level may be permitted only after approval of a zoning permit and in accordance with the following provisions:

## ARTICLE 9: SPECIAL REGULATIONS

### 9.15.1 Residential Zones

- A. Fences or walls when installed within front yards shall not exceed 4.5 feet in height above ground level and shall comply with Section 3.6.B.
- B. Fences or walls when installed within side or rear yards may be solid if less than 6.5 feet above ground level when installed providing there shall be access between the front yard and the rear yard by a gate not less than 4 feet wide.
- C. Fences or walls when installed within side and rear yards shall not exceed 6.5 feet in height above ground level.
- D. Fences or walls that are used on a farm or used to enclose horses or livestock are not subject to the above, unless the fences or walls are within the required front yard area.

### 9.15.2 Business Zones

- A. Within front yards, fences up to 8 feet in height above ground level may be approved by the Commission subject to the following conditions:
  - 1. Fences exceeding 6 feet may be approved where the applicant demonstrates a need based on security due to the nature of the business, such as the outdoor storage of goods to be sold or of equipment used in the business.
  - 2. Fences shall not obstruct the visibility of motorists entering or leaving the site.
- B. Solid walls within front yards shall not exceed 4 feet in height.
- C. Fences or walls within side and rear yards shall not exceed 8 feet in height above ground level.

### 9.15.3 Industrial Zones

- A. Within front yards, fences up to 8 feet in height above ground level may be approved by the Commission subject to the following conditions:
  - 1. Fences shall not obstruct the visibility of motorists entering or leaving the site.
- B. Solid walls within front yards shall not exceed 4 feet in height and shall comply with Section 3.7 Corner Lots and Visibility.
- C. Fences or walls within side and rear yards shall not exceed 8 feet in height above ground level.

### 9.15.4 Walls and Fences in All Zones

Walls and fences in all zones shall conform to Section 3.6 Corner Lots and Visibility with respect to corner visibility. Retaining walls may exceed maximum height in any zone when approved by the Building Official and Town Engineer.

**Section 9.16 Multiple-Dwelling Development**

**9.16.1 Purpose**

Notwithstanding Section 3.12.2.B.2, it is the purpose of this section to permit variations in height, bulk, density, and residential use types which would not otherwise be possible; and permit flexible site design so that the development may be constructed in harmony with and preserve natural site features.

**9.16.2 Procedure**

- A. Multiple Dwelling Developments may only be permitted by the Commission as a Special Permit in the following zones: R-10, R-15, R-25.
- B. The Commission shall determine that all the specific conditions of Section 10.4 Special Permit Standards and Procedures are met.

**9.16.3 Permitted Uses**

- A. Single and Multiple-Dwelling Unit Buildings
- B. Playgrounds, recreation areas, parks, open spaces and natural areas
- C. Accessory uses and structures; such as private garages, swimming pools, clubhouses, recreation facilities; and other structures and facilities which are customarily incidental and subordinate to the principal uses

**9.16.4 Area, Height, Coverage, Setback and Density Requirements**

<b>Table 9.16.4 Area, Height, Coverage, Setback and Density Requirements</b>	
Minimum Lot Size	5 Acres
Maximum Density	6 units/net buildable acre
Maximum Building Coverage	15%
Minimum Front Yard	60 feet
Minimum side and rear yard	30 feet excepting that yards abutting land other than multiple dwellings shall be 60 feet
Maximum Height	35 feet

**9.16.5 Utility Requirements**

- A. Roads - Roads shall conform to the applicable section of the Subdivision Regulations of the Town of Portland except that the Commission may modify width of pavement and curbs upon recommendation of the Town Engineer.
- B. Water - A public water supply is required. The Commission may waive this requirement in unusual situations upon recommendation of the Sanitarian.
- C. Sewage - Public sewers are required. The Commission may waive this requirement in unusual situations upon recommendation of the Town Engineer and the Sanitarian.

## ARTICLE 9: SPECIAL REGULATIONS

D. Other Utilities - All other utilities shall be located underground.

### 9.16.6 Land Use Development Requirements

- A. Landscaping - A landscape buffer conforming to the requirements of Section 8.1.2 Buffers shall be provided around the perimeter of the property. Additional buffering may be required in sensitive areas at the discretion of the Commission. However, where variations in topography, natural features, existing vegetation, or compatible land uses obviate the need for such a buffer, the Commission may modify or waive this requirement. The Commission may require suitable landscaping within a Multiple Dwelling Development to assure privacy of individual residential units.
- B. Open Space - Consolidated Open Space, totaling at least 20% of the site, shall be provided within the development. Open Space shall be located so as to preserve significant natural site features and/or maximize the utility of the open space to the residents.
- C. Building Locations - All buildings erected In a Multiple Dwelling Development shall observe the following location requirements:
1. Principal buildings shall be separated at least 30 feet or the height of the building, whichever is greater, from another principal building where either wall has openings; 15 feet or half the height of the building, whichever is greater, from another principal building where neither wall has openings. Principal buildings shall be separated from accessory building by 10 feet or the height of the accessory building, whichever is greater. Principal buildings shall be separated by 25 feet from any interior road, cul-de-sac, or parking area.
  2. Accessory buildings shall be located at least: 25 feet from the edge of pavement of any main interior road, and 10 feet from the edge of pavement of any cul-de-sac, parking area, or other accessory building.
  3. Garages exiting directly onto cul-de-sacs shall have driveways at least 20 feet in length. Garages shall not exit directly onto interior main roads.
  4. Porches and decks shall observe the above separation requirements.
  5. The Commission may modify the requirements of this section provided that, in the Commission's sole discretion, the public health, safety, and welfare are safeguarded.
- D. Sidewalks
1. Sidewalks shall be constructed of a hard surface in order to provide safe and convenient access from on-site parking areas to dwelling units and other project facilities. The Commission may require sidewalks to be installed where they will facilitate pedestrian traffic movements to nearby community facilities. Sidewalks shall be constructed in accordance with the following standards:
    - a. Along a public street, sidewalks shall be at least 5 feet in width and be constructed of Portland cement.
    - b. Sidewalks located within the development shall maintain a minimum width of 4 feet and be constructed of Portland cement, bituminous concrete or other approved hard surface material.

## ARTICLE 9: SPECIAL REGULATIONS

- c. On-site drainage shall be designed so that it prevents the pocketing of surface water on sidewalks through means of grading or the installation of structural facilities.

### Section 9.17 Mixed Use Development

#### 9.17.1 Purpose

In order to provide a procedure which can relate the type, design, and layout of land development to the particular site in a manner consistent with the adopted plan of conservation and development of the Town of Portland as required by the zoning laws of the State of Connecticut and to insure that the increased flexibility of land development allowed by this regulation is subject to greater administrative standards and procedures which will require the development plans submitted hereunder to comport in all respects with the zoning laws and standards of the State of Connecticut, and to encourage the disposition of proposals for land development without undue delay; the following special permit regulation is hereby adopted for application to those areas of land which are to be developed as a Mixed Use Development (MUD). A “Mixed Use Development” shall consist of both residential and commercial uses, as hereafter permitted, in a ratio of not less than one (1) residential unit for each 5,000 square feet of commercial/retail establishment nor more than three (3) residential units for each 5,000 square feet of commercial development. (By way of example, 125,000 square feet of commercial/retail establishment would require that not less than 25 housing units nor more than 75 housing units be included in the MUD.)

#### 9.17.2 Underlying Zone and Use Regulations

- A. Underlying Zone: In the event that a Mixed Use Development Special Permit is granted, the underlying zone shall remain unchanged.
- B. Land Use: The following land uses are recognized and permitted in a MUD:
  1. Building, uses and facilities of the State of Connecticut and Federal Government;
  2. Buildings, uses and facilities of the Town of Portland;
  3. Churches, places of worship;
  4. Clinics: Medical and Dental
  5. Day Care Center;
  6. Drive-thru window service for other than restaurants and other food service establishments
  7. Facilities and uses of philanthropic, charitable, agricultural, historical, and cultural organizations or societies not conducted as a business or for profit;
  8. Financial establishments;
  9. Hotels and Motels;
  10. Indoor theaters and places of public assembly;
  11. Laboratories, dental and optical;
  12. Laundering and clothes cleaning establishments;
  13. Offices: Business and Professional;

## ARTICLE 9: SPECIAL REGULATIONS

14. Package and Liquor Stores (See Section 3.2);
15. Personal Service Establishments;
16. Recreational facilities, other than facilities of the Town of Portland, including gymnasiums, and physical, cultural establishments and studios for dance, musical and theatrical instruction;
17. Restaurants and other food service establishments, including drive-thru window service and including Seasonal Outdoor Dining Areas;
18. Retail Stores other than package stores and liquor stores;
19. Schools, Colleges and Universities;
20. Taverns, pubs and café and including Seasonal Outdoor Dining Areas;
21. Multi-family dwellings;
22. Dwelling, Single Family;
23. Dwelling, Two Family;
24. Accessory Buildings and Uses.

### 9.17.3 Zones and Minimum Tract Size

- A. A Mixed Use Development shall be permitted by Special Permit only in the following zones: Design Business (B-1), General Business (B-2), Central Business District (B-3) and Planned Industrial (IP) Zone.
- B. The size of a tract or contiguous assemblage for which application for a Mixed Use Development may be made shall be not less than ten acres. For the purposes of this section, "contiguous" tracts shall mean tracts sharing a common boundary, but shall not include tracts separated by a town or state highway.
- C. All parcels included within an approved Mixed Use Development Special Permit application shall be legally merged into a single parcel upon the filing of an approved map or plan and/or a declaration committing all parcels in perpetuity to the Mixed Use Development in the Portland Town Clerk's office.

### 9.17.4 General Considerations

- A. Evaluation: In evaluating the appropriateness of the development and any waivers, consideration shall be given to the following:
  1. The recommendations of the adopted Plan of Conservation and Development for the area being considered;
  2. The development's association with or relationship to the Town center,
  3. Preservation of historic and architectural features,
  4. The use of historically significant materials, such as brownstone,
  5. The nature and type of surrounding development,
  6. Access to commercial, recreational and other community facilities,
  7. Availability of existing or potential public transportation,

## ARTICLE 9: SPECIAL REGULATIONS

8. The transitional character of the development to existing or potential developments,
  9. Impact on highways and other public facilities, including utilities,
  10. Preservation of the character of existing neighborhoods, and
  11. Satisfaction of any other standards set forth in this regulation.
- B. Building Design
1. The design of the buildings and site plan shall demonstrate an architectural consistency with surrounding properties and a commitment to maintaining an architectural theme among the buildings to be developed in the MUD.
  2. The design of the buildings and the site plan shall encourage energy-efficient patterns of development, the use of solar and other renewable sources of energy, and energy conservation.
- C. Area Relationships:
1. The proposed Mixed Use Development shall relate properly to proposed land uses, traffic circulation patterns, and utility plans as may be shown in the adopted Plan of Conservation and Development.
  2. The proposed Mixed Use Development shall also relate properly to such land uses and zoning as may exist at the time of the application, and shall protect the property values of surrounding neighborhoods.

### 9.17.5 Standards and Requirements

- A. Waiver: Those sections of the Portland Zoning Regulations which otherwise conflict with this section are deemed to be waived and superseded by the Final Development Plan for the Mixed Use Development when an approval is granted by the Planning and Zoning Commission. In particular, the Commission may waive Minimum Yard requirements, except as otherwise noted in Section 9.17.5.E., buffer requirements (Section 8.1.2), RMD Zone requirements (Section 4.3), Off-street Parking requirements (Section 8.2), and Alcoholic Liquor requirements (Section 3.2) when requested in writing by the applicant and provided that the Commission is provided with information demonstrating that the unique design and mixed uses within the MUD justify the waiving of such regulations without creating hazards for public health, safety or welfare. The applicant shall be required to demonstrate that the development of the MUD shall not create any adverse impacts on abutting residential uses or residentially zoned properties.
- B. Lights: Outdoor Lighting shall be shielded and directed so that the direct light source shall not be seen at the property line of adjacent properties or from the view of streets and highways abutting the property. No direct light shall fall outside the MUD and all indirect light falling outside the MUD shall be less than 1 lumens increase over existing ambient lighting. The lighting plan shall demonstrate compliance with the standards of Section 8.3 of the Regulations.
- C. Drainage: Drainage design and improvements shall comply with Section 8.6 of these regulations.
- D. Building Coverage: Buildings shall cover a total of not more than 40% of the net buildable area of a Mixed Use Development. Net buildable area, for the purposes of this section, shall be defined as the gross land area minus: (1.) Area of land with slopes in excess of 25%; (2.) Area of land containing wetland soils; (3.) Area of land designated as Flood Plain and/or

## ARTICLE 9: SPECIAL REGULATIONS

Flood Hazard Areas; and then from the remaining area subtract 10% for access drives, storm drainage facilities and other infrastructure (excluding parking). The total area of all impervious surfaces shall not exceed 80% of the total area of the site.

- E. **Building Height:** No building shall exceed a height of 35 feet, Section 3.9 of the Zoning Regulations notwithstanding. Provided that the final development plan indicates that not less than 30% of the ground floor of the mixed use building (commercial and residential uses) shall be utilized for commercial uses, and that more than 20% of the total mixed use development site shall be committed as permanent green space, a multi-family, mixed use building shall not exceed 70 feet in height; otherwise the height shall not exceed 35 feet. For each additional two (2) feet in height (to a maximum of seventy (70) feet), the mixed use building with commercial and residential components shall attain an additional one foot of building setback greater than the minimum yard setback for the underlying zone from any abutting residential zone or residential use.
- F. **Maximum Area of any Retail Establishment and Proportionality:** Notwithstanding Section 5.2.B, no single commercial establishment within the MUD shall exceed 65,000 square feet in gross floor area, and no MUD shall contain more than one establishment of maximum size with all other establishments not to exceed 40,000 square feet in gross floor area. The commercial/ retail element of the MUD shall contain opportunities for smaller retail and/or commercial establishments, with not less than 25% of the total retail and commercial element area dedicated to retail establishments of less than 10,000 square feet each. (By way of example, if the total proposed commercial/retail establishment square footage is 125,000 sq.ft. then 31,250 square feet must be shown on the plan as being dedicated to commercial/retail establishments of less than 10,000 sq.ft. each.)
- G. **Green Space:** A minimum area of 20% of the total site for accessible, permanent green spaces (defined as all lawn and landscaped areas) shall be set aside or established, including areas for public use. Adequate provisions shall be made for the maintenance and upkeep of such green spaces, including recreational and public facilities provided therein, by an organization set up by the developer with the power of obtaining assessments through enforceable covenants against privately owned buildings or units within the development. Nothing set forth above shall be construed either as a requirement or obligation on the part of the Town of Portland to make any repairs or improvements subject to these covenants and restrictions or to enforce any covenant or restriction contained therein.
- H. **Inspection Fees and Bonding:** Prior to the commencement of any activities pursuant to the Special Permit for the MUD, the applicant shall provide inspection fees and bonding in accordance with the provisions of Section 11.2 of the Zoning Regulations, as required by the Commission. The Commission may require a separate bond for each phase of the Mixed Use Development.
- I. **Erosion and Sedimentation Control:** As an integral part of the Special Permit application, the applicant shall submit a plan and secure approval in accordance with Section 8.5 of the Zoning Regulations.
- J. **Signage:** The MUD shall be permitted a free standing, internally or externally illuminated, monument sign, identifying the development and its major, anchor tenants (not to exceed three (3) tenants) at each main entrance to the development, to a maximum of two entrances. The combined total maximum area of all entrance signs shall not exceed one hundred twenty (120) square feet. All other signage within the development shall be of the same general style, configuration and illumination to create an overall consistent sign plan that shall comply with the standards of Section 8.4 of the Zoning Regulations.

## ARTICLE 9: SPECIAL REGULATIONS

- K. **Liquor Sales:** All establishments that propose sale of alcoholic beverages shall comply with Section 3.2, except that the Commission may waive the distance requirements of Section 3.2 as part of the Special Permit approval process. All premises that propose the sale of alcoholic beverages shall comply with all applicable State and Federal liquor licensing, permitting and other legal requirements.
- L. **Frontage:** Each MUD site shall maintain minimum frontage of not less than 200 feet on an arterial or collector street or state highway and shall maintain direct access to an arterial or collector street or state highway within the municipal boundaries of the Town of Portland.
- M. **Phasing of Development:**
  - 1. In the event that the developer proposes to develop the MUD in phases, the plan shall identify all phases, the development plan for each phase, a detailed narrative construction sequencing plan, and any other information required by the Commission.
  - 2. The phasing plan of development shall identify the schedule of development of the commercial/retail elements and the residential elements of the plan. The approved plan shall contain a schedule that provides development of both commercial/retail and residential elements concurrently, with neither eligible to receive a Certificate of Occupancy while the other element is less than fifty percent (50 %) completed. This ratio shall be measured by the percent (%) of residential units in proportion to the percent (%) of square footage of buildings to be utilized for commercial/retail. For good cause shown, and following a public hearing, the developer may secure relief from this requirement as a modification to the approved plan provided that the Commission is satisfied that conditions beyond the control of the developer will prevent the execution of the schedule of development as approved.
- N. **Architectural and Landscape Planning:** The applicant shall provide a detailed narrative prepared by a licensed architect describing the architectural details and overall theme of the development. The details shall include elevation views for all buildings within the Mixed Use Development. The applicant shall provide a detailed overall landscape plan, prepared by a licensed landscape architect that details the types and locations of all landscaping elements, including street furniture, for the entire site and streetscape. The plan shall take into account the use of native, non-invasive species of vegetation and shall provide for appropriate outdoor passive and/or active recreational activity areas, and landscaped parking strips, in accordance with Section 8.2.6.C. of the Zoning Regulations.
- O. **Trash Receptacles and Outside Storage:** All dumpster locations and/or outside storage areas shall be clearly identified on the site plan and shall be fully screened with permanent fencing, structures or plantings or a combination thereof. The locations for such facilities shall be determined by the Commission to provide safe, convenient and slightly locations that do not detract from the overall site design. The site plan shall also indicate specific locations for public trash receptacles, boxes for newspapers, and advertising materials.
- P. **Utilities:** Unless the developer demonstrates to the Commission that it is not feasible to place all utilities underground, the plans shall include underground utilities. The developer shall provide a report to the Commission, prepared by a licensed professional engineer, indicating that all utility services, including water and sanitary sewer, are adequate to service the MUD and are available to the site.
- Q. **Public Improvements:** In any circumstance in which access to a MUD is proposed from an existing Town road that does not meet current town design standards, the Commission may negotiate with the applicant to improve said road or roads to conform to the current standard.

## ARTICLE 9: SPECIAL REGULATIONS

The Commission may require the applicant to install sidewalks on adjoining public roadways if they will facilitate pedestrian traffic movements. All sidewalks to be constructed shall meet the standards of 4.3.12.C of the Zoning Regulations and Regulations for Public Improvements.

- R. Fire Protection: The application and plans shall indicate compliance with Section 4.3.12.D of the Zoning Regulations.
- S. Parking and Loading: The applicant shall submit a comprehensive parking plan, including an analysis of parking demands based on current industry standards for the proposed uses within the MUD in order to demonstrate to the Commission that the proposed parking and loading areas will be adequate to provide safe and convenient parking for customers, vendors, patrons and residents of the MUD. All parking and loading areas shall be internal to the site, screened from public roadways by buildings or landscape elements.
- T. If the Commission deems it desirable and of benefit to the public, the Commission may require that the developer grant to the Town of Portland a free license to permit public parking within a portion of the MUD's parking area to accommodate public events and to encourage pedestrian traffic within the surrounding commercial area.
- U. Time Limits for Development: The applicant shall present a schedule of development to the Commission. The Commission may impose a time limit on the development for its phased completion. The Commission has the authority to revoke the special permit if the time limits are not adhered to, provided the applicant is first afforded an opportunity at a public hearing to establish good cause for the delay in completion.

### 9.17.6 Procedure and Application

- A. The procedure of making application for and obtaining approval of a Mixed Use Development Special Permit shall be governed by the laws applicable to Special Permits in the Town of Portland, as more particularly required in Section 10.4 of the Zoning Regulations.
- B. At the time of submission of a plan for a Preliminary Development Plan Workshop; the applicant shall be informed of the estimated schedule of fees and costs covering the application and its processing, including review fees for outside consultants retained by the town, and for any special studies required on behalf of the Town of Portland related to the proposed development. Such fees, as approved by the Planning and Zoning Commission, shall be paid by the applicant at the time of submission of the Final Development Plan.
- C. The Commission reserves the right to request additional special studies at the applicant's expense if the need is determined by the Commission after the filing of the application. The application and all materials may be referred by the Town to Connecticut Department of Environmental Protection, Natural Diversity Data Base; the Portland Historical Society; the State of Connecticut Archeologist; the State of Connecticut, Department of Transportation; and the State Traffic Commission and any other agency deemed to have an interest in the application. The failure of the referring agency to submit a report or response shall not delay the application, nor shall the lack of a report be deemed a negative response to the application.
- D. Preliminary Development Plan Workshop: The applicant may submit eight (8) copies of a Preliminary Development Plan to the Commission for purposes of a workshop review. The purpose of this workshop is to receive input, comments and suggestions from the Commission, which would allow the applicant to decide whether to proceed with the expense of preparation of the Final Development Plan and Special Permit application. The applicant

## ARTICLE 9: SPECIAL REGULATIONS

may return for further guidance from the Commission prior to the filing of a Special Permit application. Any opinions or suggestions expressed by members of the Commission as to the Preliminary Development Plan shall be tentative only, and shall not hinder or preclude such members from making an independent judgment as to the Final Plan of Development based upon all evidence in the record at the time of a final decision.

- E. The plans submitted for the Special Permit shall include or be accompanied by the information as more particularly required in Section 10.4 of the Zoning Regulation and shall also include a traffic study of the area as it may be affected by the proposed development, including present and anticipated traffic counts, flow patterns, traffic speeds, and capacity analysis of present and proposed interchanges, intersections and entrances serving the development shall be prepared by a professional engineer licensed to practice in the State of Connecticut.

### 9.17.7 Findings Required

- A. Because the intent of this regulation is to approve a Mixed Use Development only where specified development proposals are appropriate, the Final Development Plan will be approved or denied as a single approved plan. The Commission may approve the Mixed Use Development provided that a finding is made that the facts submitted with the application establish that:
  - 1. The standards and conditions of these Regulations, including the standards of Section 18, have been met.
  - 2. The developer has provided, where appropriate, for the sustained maintenance of the development in general, and also for the green space in accordance with this Regulation
  - 3. Utilities, drainage and recreational facilities have been so laid out as not to unduly burden the capacity of such facilities, such other facilities presently connected therewith, and such facilities proposed by the adopted Town Plan of Conservation and Development.
  - 4. The streets and drives will be suitable, and adequate to carry anticipated traffic and increased densities that will not generate traffic in such amounts as to exceed the level of service or adversely impact the capacity of the street network in the area.
  - 5. The development will be in keeping with the general interest and spirit of the Portland Zoning Regulations and comprehensive plan.
- B. In acting to approve a MUD, the Commission may impose additional conditions as it deems necessary to protect the health, safety and welfare of the community and to comply with the Zoning Regulations.

### 9.17.8 Modifications of an Approved Plans

After approval of a MUD, no subdivision or resubdivision of the merged single parcel as approved shall be permitted. Changes in any Approved Plan shall be made in accordance with Section 10.4.E of the Zoning Regulations.

## ARTICLE 9: SPECIAL REGULATIONS

### 9.17.9 Site Plan Compliance

- A. To ensure strict compliance with the approved Final Development Plan, certified record drawings shall be submitted by the developer and reviewed and approved by the Planning Department, prior to the issuance of a final Certificate of Zoning Compliance for each phase.
  
- B. Certified Record Drawings: The developer's engineer shall furnish the developer a complete set of prints upon which the developer shall incorporate and update the as-built record of all the approved Final Development Plan improvements, including all underground utilities, on a continual basis as construction progresses. All surveys, measurements, and such other data required for the determination of the as-built records of the construction of all work, shall be obtained under the direction of a Connecticut registered land surveyor and/or professional engineer. These drawings shall be signed and sealed by the registered land surveyor.