



# TOWN OF KILLINGLY

## PLANNING & DEVELOPMENT OFFICE

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TO: Connecticut Siting Council (CSC)

FROM: Town of Killingly, Planning and Zoning Commission (PZC)

DATE: October 12, 2016

### Town of Killingly, Planning and Zoning Commission Order of Regulations and Restrictions

**RE: DOCKET NO. 470** – NTE Connecticut, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a 550-megawatt dual-fuel combined cycle electric generating facility and associated electrical interconnection switchyard located at **180 and 189 Lake Road, Killingly, Connecticut**.

Town of Killingly File Number: 16-1151

**WHEREAS**, it is recognized by the Town of Killingly, PZC that the CSC has exclusive jurisdiction over the location and type of electric generating facilities, pursuant to provisions of Section 16-50g et seq. of the CT General Statutes; and

**WHEREAS**, the Town of Killingly, PZC recognizes that under Section 16-50x.(d) they “may regulate and restrict” the proposed facility; and

**WHEREAS**, the Town of Killingly, PZC recognizes that under CT General Statutes, as stated above, the CSC may modify, confirm, or overrule the Order of Regulations and Restrictions as set forth by the Town of Killingly PZC, in whole, in part, or not at all; and

**WHEREAS**, the Town of Killingly, PZC held public meetings regarding the above referenced application currently before the CSC on Tuesday, July 19, 2016; Thursday, September 8, 2016; and Thursday, September 22, 2016 at which time the PZC heard Citizens' Comments regarding the proposed electric generating facility; heard from the Town of Killingly's Consultant, Carl Stopper from TRC Environmental Corp. (TRC); and heard from Representatives of NTE Connecticut, LLC regarding the proposal; and

**WHEREAS**, the Town of Killingly, PZC held two workshops, Monday, October 3, 2016 and Tuesday, October 11, 2016, where no public comments were taken, and at which time the PZC worked on drafting this “Order of Regulations and Restrictions”; and

**WHEREAS**, the Town of Killingly, PZC reviewed the above referenced application to the CSC, "**as if**" it was a request for a special permitted use, and therefore referred to Article III (Definitions); Section 410.1.2 (Special Permitted Uses in Rural Development); Section 450 (Dimensional Requirements); Section 470 (Site Plan Review); Sections 470.9, et seq (Site Plan Objectives); Section 720 (Special Permits – Procedure); Section 720.40 (Review of Site and Architectural Plans); Section 740 (Additional Conditions and Safeguards); and Section 790 (Bonding) of the Killingly Zoning Regulations, and the Plan of Conservation and Development of the Town of Killingly during their review; and

**WHEREAS**, the Town of Killingly, PZC has reviewed all of the information and comments given to them by their Consultant; NTE Connecticut, LLC and the general public they made the following findings:

1) that the proposed site development – and possible future electric generating facility – as presented does not meet certain criteria of the Zoning Regulations of the Town of Killingly; and

2) that the proposed site development – and possible future electric generating facility - as presented does not meet certain criteria of the Plan of Conservation and Development; and

3) that the applicant has provided erroneous and insufficient information with their filing to fully evaluate the impact of all aspects of the proposed development project relative to items 1 & 2 above and the health, safety and welfare of the community and environment;

**WHEREAS**, if the commission were acting solely on its own regulations and policies, a special permit could not be issued for this industrial project in a rural development zone and no order of regulations and restrictions could make this project compliant thereto; and

**NOW THEREFORE**, the Town of Killingly PZC hereby makes the following:

## **ORDER OF REGULATIONS AND RESTRICTIONS**

The following regulations and restrictions are listed under the sections of the Town of Killingly Zoning Regulations for a Site Plan Review that they would apply to.

### **S. 470.9.1 – Public Safety**

#### **Emergency Management Services**

1) That proper access for fire and all emergency response equipment shall be maintained throughout all stages of the construction period, on site and along Lake Road.

2) The owner/operator shall prepare and keep current an emergency response plan and shall maintain at all times a designated team of on-site personnel trained to respond to emergency situations. The plan shall identify Town of Killingly (TOK) fire, police and emergency units, Town Officials, and Town Staff that will be notified in the event of an emergency situation.

3) That the owner / operator put in place an emergency response plan, to include a spill prevention control and countermeasure plan; said plan must be created in conjunction with the proper town staff and emergency personal.

- 4) The Fire Marshal, the Town Manager, and all other appropriate town staff shall be notified as soon as practical within the first hour of occurrence of any spills and/or non-routine, unexpected situations that arise at the facility that may pose a heightened risk to the public.
- 5) The owner/applicant must provide access to an on-site first aid station to all employees during the construction phase of the project.

#### **Water Supply**

- 1) Engineering drawings for the design for the improvements to the water system (from Plainfield) shall be submitted to the Town of Killingly (Engineering Department/Planning Department) for review to verify that there will be enough water in said supply for the proper fire protection through the construction phase and thereafter.
- 2) (1) Water supply improvements from Connecticut Water Company, involving the Killingly system interconnection with the Plainfield system, shall receive permit and other necessary approvals from the CT Department of Energy and Environmental Protection and from the CT Department of Health before any work on the main site shall commence. (2) In addition the plans for installation of water mains shall receive all local and CT Department of Transportation road disruption and restoration permits, including detailed plans for maintenance and protection of traffic before any work on the main site shall commence.
- 3) That the owner/applicant shall confirm to the Town of Killingly (Engineering Department/Planning & Development Department) after construction and all improvements; that there is sufficient water supply to provide for the operation of the plant under all circumstances and for the fire protection for the duration of the project. (Reference is hereby made to the correspondence from CT Water Company, stating the project is to be revisited annually.)
- 4) Appropriate bonds shall be provided to the Town of Killingly to ensure road repair and maintenance and protection of traffic associated with any failure, settlement, defect or other similar associated cost associated with water main installation.

#### **Utilities**

- 1) Plans for the installation of sewer, water main and gas pipelines in Lake Road, including detailed plans for maintenance and protection of traffic, shall require submission to the Town of Killingly (Engineering Department/Planning & Development Department) for review and approval before any site work shall commence.
- 2) Natural gas system interconnection and improvements necessary to supply fuel for the project shall receive all local, state and federal approvals required before any site construction shall commence. All such approvals shall be filed with the Town of Killingly (Engineering Department/Planning & Development Department)
- 3) Appropriate bonds shall be provided to the Town of Killingly to ensure road repair and maintenance and protection of traffic associated with any failure, settlement, defect or other similar associated cost associated with utility installations.

#### **Widening of Lake Road and Traffic**

- 1) The commission would like to see the switchyard be moved across the street (to the north side of roadway) onto the main location of the proposed energy power plant. The reasoning behind this is as follows:
  - a) the removal of high tension lines over the roadway;

- b) less impact on the rural neighborhood;
  - c) minimize the impact on the cemetery that is located on the present switchyard site;
  - d) would allow the minimization of the curve radius on the widening of Lake Road.
- 2) Engineering drawings for the widening and realignment of Lake Road shall be submitted to the Town of Killingly (Engineering Department/Planning Department) for review and approval. The design shall allow safe travel way and sight distance for large tractor trailer trucks/tankers (WB-62 design vehicles) and Town of Killingly fire trucks traveling east of the plant entrance.
- 3) Other signage needed to restrict truck traffic west of the site entrance shall be provided at the Town of Killingly's direction (Engineering Department)
- 4) Any stone walls / fences disturbed by the road realignment shall be restored at a safe distance from the edge of the travel way to maintain the rural character of the road. The owner/applicant shall bear the burden of the cost of said restoration.
- 5) All project construction traffic shall be required to enter from the east and leave to the east toward Attawaugan Crossing Road / I-395 along Lake Road. Traffic shall not be permitted to travel west on Lake Road toward Route 101.
- 6) When traffic volumes and deliveries during construction create traffic issues, the contractor shall be required to comply with the Town of Killingly's request to provide manual traffic control support or modify activities to alleviate congestion and ensure public safety. Non-compliance will result in project shut-down until measures correct the issues to the Town of Killingly's satisfaction. The contractor is required to alert the Town of Killingly of any deliveries of oversize vehicles that may need traffic control.
- 7) The Town of Killingly requires that inspection of all road construction along Lake Road is inspected by either the Town, or in its sole discretion it designated representative, paid for by NTE, (to make sure that all construction is done to the proper standards and that public safety is recognized and properly required traffic controls, and construction matters are in place at all times). The Town shall have the authority to direct the owner/applicant to cure deficiencies in workmanship; non-compliance will result in road construction project shut-down until measures to correct the issues to the Town of Killingly's satisfaction.
- 8) The Town of Killingly will require that the road widening of Lake Road is completed prior to the commencement of site construction activities. Also, owner/applicant must provide the Town of Killingly with a plan on how they are going to acquire the property in order to complete the widening of Lake Road.
- 9) The Town of Killingly will require bonding to ensure that all road work is constructed and completed properly and on time.

#### **Pre-Construction and Construction**

- 1) The Town of Killingly requires a copy of any construction sequencing and management plan to include but not be limited to detailed project schedules for all work activities with weekly work plans, lay down areas, worker numbers, worker parking, traffic management, delivery routes, coordination with local authorities regarding any potentially disruptive deliveries. The Town of Killingly requires they receive a copy of said construction sequencing and management plan, and that said plan be delivered in a prompt and timely manner, including any changes thereto.

2) A pre-construction meeting with key town staff (Engineering Department/ Planning & Development / Building Office / Fire Marshal) is required no less than eight weeks in advance of any proposed construction commencement including initial site clearing and preparation.

3) Notification shall be provided to the Town of Killingly and key town staff (Engineering Department/ Planning & Development / Building Office / Fire Marshal) no less than three weeks in advance of:

- a) Commencement of facility construction;
- b) Commencement of facility testing;
- c) Commencement of commercial operation;
- d) Commencement of any routine maintenance which generates loud or unusual noises; and
- e) Permanent termination of any operation of the project.

4) Notification shall be provided to the Town of Killingly of any unscheduled maintenance which generates loud or unusual noises shall be made as soon as the need is apparent.

5) The Town of Killingly requires copies of any required construction reports submitted to the Siting Council that are part of the Siting Council's regulations and restrictions; including but not limited to: Quarterly progress reports, starting with the commencement of construction and ending with the commencement of commercial operation.

6) The Town of Killingly and key town staff (Engineering / Planning & Development / Building Office / Fire Marshal) shall receive copies, notices and the opportunity to review any other applications, petitions or amendments that may be required in conjunction with this project and/or necessary for its interconnection into the public water supply lines, the electrical transmission grid and/or fuel pipeline, or any other related activity.

7) The Town of Killingly requires that an independent third party engineering/environmental professional be hired by the Town to act as its representative, paid for by the owner / applicant, to be on site every day during the construction period to verify that all proper procedures, regulations, restrictions, etc. on the federal, state and local level are being met and followed by the owner /applicant and its representatives. The third party (town representative) shall have the authority to direct the contractor to cure deficiencies in workmanship, including requiring additional sedimentation and erosion control measures and dust control. If deficiency is not cured the Town of Killingly shall have the authority to shut down the project until the deficiencies are cured.

8) The entire site during the construction phase and after shall be surrounded by security fencing, and said security fencing shall be gated at night to protect the public.

#### **Oil Storage Tank**

1) (1) Eliminate the oil storage tank spill containment berm and change the welded steel tank design to a double wall or "tank-in-a-tank" design. The bottom of the tank shall have a double floor with interstitial leak detection monitoring. The tank bottom shall have an engineered cathodic protection system. Exterior tank coating shall be a neutral beige/tan color to be selected by the Town of Killingly (Engineering Department). The welded steel tank shall be designed and constructed in accordance with API Standards and shall comply with seismic design standards. Hydrostatic and leak testing and inspection shall be under the direction of a competent third party licenses professional engineer. (2) Underground fuel piping shall be double walled with interstitial leak detection sensing. (3) The fuel unloading area shall be

designed and constructed with spill containment suitable to handle the largest tanker capacity used to offload fuel to the storage tank and shall conform to 40CFR112. A Spill Prevention, Control and Countermeasures Plan and Facilities Response Plan conforming to 40CFR112 shall be prepared and implemented. (4) The operator shall and facility personnel shall receive and keep updated all of their required spill response training and shall retain the services of an on-call Connecticut licensed spill response contractor to assist with large spills throughout the lifetime of the power generating plant.

#### **S. 470.9.2 – Storm Drainage**

1) We defer to the Inland Wetlands & Watercourses Commission; we also refer to our consultant's comments on this matter as listed in their attached report.

2) The Town of Killingly also requires that the owner/applicant be held to the standards listed in the "2002 Connecticut Guidelines for Soil Erosion and Sediment Control" (by the Connecticut Council on Soil and Water Conservation in Cooperation with the Connecticut Department of Environmental Protection / now DEEP); and the "2004 Connecticut Stormwater Quality Manual" (by the Connecticut Department of Environmental Protection / now DEEP).

#### **S.470.9.3 – Pedestrian and Vehicular Access**

1) The owner/applicant must provide safe and secure pedestrian access to and from the employee parking lot and the main construction site.

2) That at all times (pre-construction, construction, and post construction) the owner/applicant must make sure that there is an ingress and egress available to emergency services vehicles.

3) No permanent access is shown on any plans with regard to the switchyard if the switchyard stays on the southern side of Lake Road. This is a concern for public health, safety, and general welfare.

#### **S.470.9.4 – Noise Abatement**

1) The State of Connecticut noise standard and the Town of Killingly noise ordinance defines ambient/background sound as the L<sub>90</sub> (not L<sub>eq</sub>) standard. Noise analysis and background noise levels shall be rerun using this standard for compliance. The standard also has a numerical definition for prominent discrete tones that shall also be included in the report. If a prominent discrete tone sound is generated by the project, then the allowable 51 dBA limit is reduced by 5 dBA.

2) The modeling results shall be presented for discrete residential location property lines to show if compliance with the noise standards is achieved, since the ambient measurement locations are not necessarily at the actual residences. The standards apply at the residential property lines.

3) There is no analysis in the application of the potential impact that the modeled operational sound levels may result in non-conformance with noise standards. The analysis shall be expanded to show the modeled project sound levels at discrete residential locations, the measured late night ambient L<sub>90</sub> (not L<sub>eq</sub>) sound levels, and what increases over ambient are expected at night. Showing compliance with the regulatory limits is required, but simply meeting a limit does not necessarily mean that no impacts will occur. A basis or rationale for

determining if the expected project noise levels and/or the increase over ambient conditions are significant shall also be provided.

4) A statement is made that there would not be perceptible change in sound at locations near Alexander Lake, yet, there is no analysis of this within the report. Further, no ambient measurements were conducted near Alexander Lake to support this assertion. NTE indicates the noise contours show Project levels of 27 dBA or lower, and that the lowest nighttime measured anywhere was 26 dBA. However, the contours provided by NTE clearly show Project levels of greater than 30 dBA at Alexander Lake. Increased levels of 3 dBA or more are considered perceptible and applicant's data therefore indicates a perceptible change.

5) It is stated that construction may occur 7 days per week, and that construction could last for 3 years. This would have the potential to result in an adverse impact. Some numerical analysis of construction noise levels shall be provided to support the assertion that no adverse or long-term impacts will occur.

6) The owner/applicant shall provide to the Town of Killingly staff (Engineering Dept. / Planning Dept.) the name and number of the owner/applicant's key personnel to contact that can resolve an issue the Town of Killingly may have with noise.

7) The owner/applicant shall also provide notification to the Town of Killingly staff (Engineering / Planning & Development / Building Office / Fire Marshal) if there is going to be noise for an extensive period of time so the public may be notified.

8) In the event that a noise abatement issue cannot be resolved, in the Town of Killingly's sole discretion in a timely and effective manner; the Town of Killingly shall follow and enforce its existing noise ordinance found in it's Code of Ordinances Chapter 12.5 (Planning and Development) Article VI (Noise Ordinance, Sections 12.5-120, et seq, and as may be amended.

#### **S.470.9.5 – Other Pollution or Related Problems**

##### **Air Quality**

1) The Commission requests that the CT Siting Council review and consider additional analysis regarding the effect of emissions on nearby sensitive receptors. The additional analysis should include an evaluation through the CT Department of Health on the effect that air emission from the plant will have on the incidence(s) of asthma and other respiratory ailments in the Town of Killingly and surrounding communities. The Town of Killingly is concerned with the effects upon young children and the elderly, as there are schools and elderly care facilities all located within an approximately a 2.00 / 3.00 mile radius of the proposed site development. The commission refers the CT Siting Council to the following – Centers for Disease Control (<https://www.cdc.gov/air/pollutants.htm>); and the CT Department of Health (<http://www.ct.gov/dph/cwp/view.asp?a=3137&q=398480>).

2) For the emergency generator and fire pump respectively, Tier 2 and Tier 3 emission standards are proposed. These comply with NSPS IIII. But for BACT, one must consider available and innovative technologies. It is reasonable to reject Tier IV engines, which would typically use SCR. But there are Tier III (Less polluting) engines widely available at the rating specified for the emergency generator.

3) Emission for formaldehyde from the CTG are based upon the MACT floor emission rate determined by USEPA for the National Emission Standard for Hazardous Air Pollutants (NESHAP) Subpart YYYYY, as representative for a CTG equipped with DLN combustors and an oxidation catalyst. Subpart YYYYY applies to major sources of HAPs. The project is an area source. Subpart YYYYY does not apply to duct burners. The application should either use vendor data for formaldehyde emissions, or use AP42 emission factors and the heat input as 59F [2,871 MMBtu/hr (CTG) + 895 MMBtu/hr (DB)] the uncontrolled PTE of formaldehyde would be:  $(2,871 + 895) * 8.760 * 0.00071 / 2000 = 11.7$  tpy. Note that a source with a PTE of 1- tpy of a single HAP is a major source of HAPS. The actual stack concentration (ASC) of formaldehyde would be approximately twice the maximum allowable stack concentration (MASC) [i.e., it would not comply w/ CT air toxics regulations].

4) The Town of Killingly shall be given the opportunity to review Air Permit conditions imposed by the CT DEEP and if there are changes to the plant design and operation, the Town of Killingly shall be given sufficient time to review and respond.

**Erosion and Sediment (E&S) and Dust Control**

1) Phasing and details of the grading activities shall be provided, with additional E&S control information shown for each phase on the drawings. Locations for soil, topsoil and rock stockpiles shall be provided, with appropriate means to control erosion and sedimentation. Location for the placement of rock crushing and screening operations shall be shown along with appropriate means of E&S Control. Total quantities of estimated earth excavation, rock excavation and fill volumes shall be provided. Any soil material brought to the site and used on the project shall be tested at a frequency of 1 sample per 1000 cubic yards for all constituents to determine compliance with the CT DEEP standards for Residential Direct Exposure and GA Pollutant Mobility Criteria.

2) Temporary sediment basins shall be added upgradient of Wetland A1 and A3 and shall be properly sized in accordance with the CT WQM.

3) The CT General Permit for Stormwater for Construction Activities requires that for site disturbances of 15 acres or more the Stormwater Pollution Prevention Plan (SWPP) and stormwater system design must be reviewed and certified by a third-party independent Connecticut Licensed Professional Engineer not connected to the project. This shall be a condition of approval.

4) A detailed plan for dust control and management for site grading and on-site soil/rock processing shall be required. Significant volumes of water will be required to prevent fugitive dust and tracking onto Lake Road. Provisions for water supply, water tanker, sprinklers and equipment water sprays shall be provided and in place before site work begins.

5) The Town of Killingly requires that the applicant shall become familiar with the Town of Killingly Earth Filling and Excavation Regulations (Section 560 – Town of Killingly Zoning Regulations); and that the applicant follow said regulations as a requirement. The Commission requires that the applicant provide the Commission with the detailed plan for dust control and management as noted above.

**S.470.9.6 – Landscaping and Screening**

**Site Plan Conditions/Grading**

- 1) The Town of Killingly requires that within the main plant parcel, the owner/applicant shall move the limits of all grading activities, clearing and disturbance a minimum of 75 feet from all wetland boundaries and maintain the tree canopy in this zone.
- 2) The Town of Killingly requires that the location of the administration building, compressor station, main plant facility, tanks and other site features shall be moved to accomplish the required separation.
- 3) The Town of Killingly requires that slopes should be no greater than two (2) horizontal to one (1) vertical and shall have turf established to stabilize the surface from erosion. Erosion netting or turf reinforcing mat shall be used on all slopes equal to or steeper than three (3) horizontal to one (1) vertical along the north side of the site along the wetlands. (That is, if the CSC allows the slopes to be greater than 2:1).

#### **Landscaping**

- 1) The Town of Killingly requires that NTE provide a complete landscaping plan for the main plant site and the switchyard site prepared by a licensed landscape architect. The plan shall be submitted to the Town of Killingly PZC for review and approval. The plan shall provide adequate tree and shrub plantings to provide an effective visual screen from Lake Road and the residential property abutting on the west. Areas of the site disturbed by site grading activities that are not part of the active facility shall be replanted with trees to reestablish wooded / forested coverage. There must be enough soil (12" – 18" of combined top spoil and sub soil) to sustain such forested coverage.
- 2) The Town of Killingly requires that buffers be doubled (see minimum setback chart attached hereto and incorporated herein by reference) within certain areas of the site, where possible to limit the impact upon the surrounding residential area.
- 3) The Town of Killingly requires that the owner / applicant shall comply with the necessary lighting to adhere to the Town of Killingly's Dark Sky regulations found in the Town of Killingly Subdivision Regulations Article IV Section 17. Lighting – "Outdoor lighting, if proposed and in the Commission necessary, shall be designed to provide the minimum lighting necessary to ensure adequate safety, night vision, and comfort, and shall not create or cause excessive glare on adjacent properties and public street rights-of-way. Streetlights shall be avoided in subdivisions located in rural areas of Town."

#### **S. 470.9.7 – Neighborhood Impact**

- 1) Should the CT Siting Council and/or CT DEEP find that factors and reasons for not moving the switchyard override the PZC's preference for the move, the PZC requires the owner/applicant do research in the graveyard area, outside of the stone walls to verify that the switchyard will not interfere with any possible grave sites located outside of the stone walls.

#### **S. 470.9.8 Architectural and Aesthetic Impact**

- 1) As stated earlier the commission requests that where it can be accomplished that buffer zones be doubled, where they cannot be doubled, that they be maximized, and that plantings / landscaping are put in place that buffers the energy plant from the surrounding area.
- 2) The commission would like the total project to be on one parcel of real estate.

#### **S. 470.9.9 Zoning Regulations**

- 1) The commission requires the owner / applicant must be aware of other Town of Killingly Zoning Regulations that apply to this project and should be followed;
- a) Section 450 et seq.; – Dimensional Regulations
  - b) Section 470 et seq.; – Site Plan Review
  - c) Section 560 et seq.; – Earth Filling & Excavation
  - d) Section 700 et seq.; – Special Permits
  - e) Section 790. – Bonding

The Planning Zoning Commission would like to be informed of the Siting Council's ruling, and the procedure followed to achieve that ruling. Referral back to the Planning Zoning Commission, for review of any modifications to the plans and further studies made by NTE under the requirement of the Siting Council, is hereby requested; any recommendations made by the Planning Zoning Commission will be submitted to the Siting Council for their approval and/or to keep the Siting Council informed of actions taken by the Planning Zoning Commission and the applicant.

Town of Killingly Planning Zoning Commission  
BY:   
Keith Thurlow, Chairman

10/13/2016  
Dated

cc: Killingly Inland Wetlands and Watercourses Commission  
Sean Hendricks, Town Manager  
Town Council  
NTE Connecticut, LLC  
N.A.P.P.



**Public Service Corporation** - any railroad, electric, gas, telephone, telegraph, pipeline, sewage, water, fire, ambulance or community antenna company or corporation; and any vehicle or transportation system, owned or regulated by a governmental agency, used for the mass transport of people. (Effective 02/16/87)

**Public water** - any water supplied by a water company regulated by the State Department of Health.

**Recreational Vehicle** - means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (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 temporary living quarters for recreational, camping, travel, or seasonal use. (Effective 04/14/95)

**Repair shop** - a building used for the repair and maintenance of appliances, equipment or machinery, but excluding motor vehicles and heavy construction equipment. All work and storage areas must be contained within such a repair shop building.

**Repairer** includes any person, firm or corporation qualified to conduct such business in accordance with the requirements of section 14-52a, having a suitable facility and having adequate equipment, engaged in repairing, overhauling, adjusting, assembling or disassembling any motor vehicle, but shall exclude a person engaged in making repairs to tires, upholstery, glazing, general blacksmithing, welding and machine work on motor vehicle parts when parts involving such work are disassembled or reassembled by a licensed repairer.

**Repairer - (Limited repairer)** includes any qualified person, having a suitable place of business and adequate equipment engaged in the business of minor repairs, including repairs and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and repairs, wheel alignment and balancing, and repair and replacement of shock absorbers. For the purpose of this section, the place of business of a limited repairer shall be deemed to be suitable if the building in which the work of the repairer is performed has space capable of receiving at least one motor vehicle at any one time, exclusive of a grease pit or rack, and has adequate space for an office and for the storage of parts and accessories. A person shall be deemed capable of performing the duties of a limited repairer if he is, in the opinion of the commissioner, a qualified mechanic who has a thorough knowledge of the services to be rendered, or has a certificate of completion of a specialized course from a service school approved by the commissioner, or satisfactory proof of previous employment by a licensed repairer for a period of three years, or has successfully passed an examination given by the Department of Motor Vehicles.

**Clinic** includes a single legal entity or establishment for the diagnosis with or without treatment of patients, with no overnight lodging, with more than three licensed staff, or more than three patient/treatment rooms or a total occupancy, including both patients and staff, of more than twelve.

**Restaurant** - a public eating establishment which provides at least four (4) tables and twenty (20) seats or counter service for twenty (20) or a like combination of tables and counter space and waiting on tables. Such establishment may provide take-out service provided that such service shall not constitute more than 20 percent of all business. (Amend. of 4-14-80; Amend. of 7-14-80)

## **SECTION 410. RESIDENTIAL DISTRICTS**

### **RURAL DEVELOPMENT DISTRICT**

~~Section 410.1 Rural Development district (RD).~~ Areas designated as rural development districts present physical obstacles to development such as slopes, wetlands, and soils with only limited capability for accepting on-site sewage disposal, and are distant from existing or planned public sewers and water lines.

These physical restrictions make it necessary to limit permitted uses to low density residential development, agriculture, and other specified non-intensive uses.

**410.1.1 Permitted Uses:** The following uses of buildings and land are permitted by right, requiring only the securing of a zoning permit as specified in Article VI. However, any building, structure, on-site sewage disposal system, grading, excavation, or dumping of fill or materials on slopes of or greater than fifteen (15) per cent shall be subject to a site plan review. In addition, the applicant may, at the discretion of the Commission, be required to file an erosion and sediment control plan if it is determined that special site conditions or constraints (i.e., excessive steep slopes, unstable soils) warrant such a plan. (Amend., Effective 9/8/04)

Finally, the applicant shall be required to submit an Erosion and Sediment Control Plan, under the provisions of Section 590 of these regulations, when the proposed development will result in a disturbed area that is cumulatively more than one-half acre in size (with the exception of a single-family dwelling that is being built on a lot that is not, and never was, part of a subdivision of land).

- a. **Single-family dwelling or two-family dwelling** and accessory uses on lots of 80,000 square feet or more, except single-family dwelling or two-family dwelling and accessory uses shall be permitted by right on the interior lots if said interior lot contains 160,000 square feet or more only, provided:

No building, structure, on-site sewage disposal system, grading, excavating or dumping of fill or other material shall be allowed within 200 feet of any wetlands shown on the Official Wetlands Map of the Town unless a permit for such activity has been issued by the Killingly Inland Wetlands Commission. The Zoning Enforcement Officer may require that an erosion and sedimentation control plan be submitted and carried out where necessary to protect water quality.

Accessory structures in the Rural Development District may include one private amateur radio antenna not exceeding 65 feet in height above ground level, no portion of which shall be located in any required setback. (Effective 11/08/88).

- b. **Agriculture**, with customary accessory buildings, as provided for in Section 585 – Agriculture
- c. **Churches and other places of worship.**
- d. **Cemeteries**, provided there is a 10-foot buffer with planted screening on all sides. (See Article III, Definitions, "planted screening").

e. **Home occupations**, provided all requirements of Section 595. are satisfied. (Amend. of 2-10-86, § 7)

f. **Those municipal and fire district land uses** existing upon the date of adoption of this amendment may be expanded by alteration of in existing building or structure or construction of a new building or structure on the same lot, provided:

Such expansion does not substantially alter the nature of the present land use so that increased traffic, noise, odors, or other detrimental impact will affect the value of surrounding properties;

Such expansion is in conformity with the dimensional requirements of Table A. Article IV of the Zoning Regulations for the zone in which it is located, or has been granted a Variance by the Zoning Board of Appeals.

g. **Outdoor events** as defined by Council Ordinance Regulating Outdoor Events, Town of Killingly, provided that all conditions as set by such Ordinance are met. (Amend. of 7-14-80; Amend. of 9-9-80; Amend. of 2-11-85)

**410.1.2 Special permit use:** In addition to the above, the following uses may be allowed in the Rural Development District after the securing of a Special Permit as provided in Article VII. All stated conditions must be met to the satisfaction of the Commission prior to the issuance of such permits.

When the development of one of the following uses will result in a disturbed area that is cumulatively more than one-half acre in size, the Commission shall require the applicant to submit an erosion and sediment control plan under the provisions of Section 590 of these regulations.

a. **Agriculture Special Permitted uses**, with customary accessory buildings, as provided for in Section 585 – Agriculture..

b. **Dog kennels and veterinary hospital**, provided:

- no animals shall be permanently housed in outside runs or pens.
- buildings in which animals are housed shall be of solid construction of masonry or framed with insulation and shall have finished interior walls.
- in veterinary hospitals, exercise runs shall have finished masonry floors with covered drains and shall be separated by solid partitions at least four feet in height.
- no such facility shall be located within 150 feet of any property line.
- all animals shall be housed so as to avoid the creation of a nuisance due to noise, odor, or other objectionable effect.

c. **Public or private golf courses and country clubs, tennis clubs, or swimming clubs**, provided:

- golf courses shall be located on a lot of not less than 50 acres or, if in combination with tennis, swimming, or similar facilities, not less than 55 acres.
- tennis, swimming or similar facilities alone shall be located on a lot of not less than 5 acres.

- all facilities, including club house, pro shop, restaurant, bar, locker rooms, or recreation hall shall be located not less than 100 feet from any property line.
- the furnishing of meals, refreshments, beverages and entertainment shall be clearly incidental to the conduct of the facility. There shall be no living accommodations except for employees of the club.
- golf courses shall be so designed as to avoid hazards to persons or property off the premises.

**d. Nursery schools and day care centers** located in a dwelling unit or building accessory thereto or on a lot by itself, provided:

- the facility shall comply with all applicable requirements of the health code of the State of Connecticut.
- if located in a dwelling unit, not more than 30 children shall be accommodated at any one time.

**e. Retail shops for the sale of antiques or handicrafts**, provided:

- such shops shall be secondary to the use of the property for residential purposes.
- no outdoor storage is allowed.
- no such shop shall be located in any dwelling having a gross floor area of less than 1500 square feet.

**f. Parks and playgrounds**, historic landmarks operated by a private or governmental unit or a community association. provided:

- the purpose of such facility shall be solely educational or recreational and not for private gain.

**g. Camps, day or boarding**, provided:

- a minimum lot size of 10 acres is provided.
- all sanitary and boarding facilities comply fully with State health and fire codes for such camps.

**h. The following uses when conducted by a nonprofit organization and not as a business or for profit:**

- parish halls, museums, educational, religious, philanthropic, scientific, literary, historical, fraternal and charitable institutions, agricultural and horticultural societies.



**i. Public Service Corporation or municipal land use**, provided:

- the location of such use in this zone shall be necessary for the health, safety, or general welfare of residents of the Town of Killingly.
- Any such use which in the opinion of the Commission is hazardous in nature shall be fenced and/or screened so as to avoid creation of a nuisance attractive to children. When required by the Commission, outdoor storage shall also be fenced and/or screened.

**j. Seasonal tent and camping facilities**, provided:

- minimum lot size shall be 40 acres.
- all applicable provisions of the State health code are complied with fully.
- a buffer of at least 100 feet in width containing trees and vegetation fully screening the facility and containing no camp sites be maintained on all property lines including the street line.

•roads and drives within 100 feet of a property line shall be treated to reduce dust.

**k. Collection centers for recycling operations, provided:**

•such center is accessory to a church or community building and is operated by a nonprofit group or organization such as a church, youth group, or other civic association.

•such center is screened from neighboring land uses and public streets or roads and does not create objectionable odors, noise, or a health hazard. (See Article 111, Definitions, "planted screening").

**l. Home occupations involving the use of buildings in addition to the dwelling unit, provided all requirements of Section 595 are satisfied. (Amend. of 9-9-80; Amend. of 2-11-85; Amend. of 2-10-86. § 7)**

**m. One amateur radio antenna greater than 65 feet in height above ground level may be permitted by special exception as an accessory to a residential use upon the granting of a special permit by the commission, and the applicant demonstrating that the proposed tower is the minimum height necessary to accommodate amateur radio transmission and reception, provided:**

•the tower/antenna structural design shall be certified by a Connecticut licensed professional engineer.

•the tower/antenna design and siting incorporate mitigative measures for ice and other hazards, including additional setbacks and de-icing equipment where necessary to minimize off-site impacts

•there are no aboveground electric, cable TV or telephone lines within a fall zone radius equal to the total length of the structure.

•evidence of communication with the FCC relative to the proposed tower/antenna is submitted with the special permit application

•no portion of any tower/antenna structure or support system shall be located within any required setback. (Amend of 10/17/88, Effective date 11/8/88)

**n. Bed and Breakfast Establishments, provided:**

•the property contains the minimum acreage required for the zone.

•the use is maintained within an owner occupied single family detached residential dwelling or premises.

•a maximum of three guest rooms are allowed.

•the use is created by interior alterations only (if necessary) of existing space. Additions and garage conversions shall be prohibited. Existing accessory outbuildings other than garages may be used upon the determination of the commission.

•guest rooms shall not contain kitchen or cooking facilities.

•The Bed and Breakfast establishment shall meet all applicable Building, Fire, and Public Health Code requirements, with written verification and permits from the appropriate officials.

•one screened parking space per guest room shall be provided. Screening can consist of solid fencing, a coniferous planted buffer, or combination of both, suitable to the commission. Parking areas are not to be generally visible from streets or adjoining residences.

•the provision of meals shall be for facility guests only and not open to the general public.

•guest rooms shall be inspected by the Zoning Enforcement Officer, Fire Marshal, or other Department of Planning and Development personnel on an annual basis to ensure continued compliance with these regulations. (Amend. Effective 11/06/98,12:01 AM)

**o. Cluster Developments – Section 583**

**p. Construction of a Second Dwelling Unit, provided:**

- the subject property contains a foundation of record which both is pre-existing to the establishment of zoning and conforming to current zoning setbacks and dimensional requirements as set forth in section 450 and Table A
- The pre-existing foundation must be structurally evaluated and approved by an independent, licensed structural engineer prior to applying for a special permit application. A letter signed, sealed and certified is required by the town.
- The structure being used to house the second dwelling unit may already exist on the above mentioned pre-existing foundation, or one (1) new structure can be built on the pre-existing foundation, not exceeding the footprint of the pre-existing foundation
- One (1) single family dwelling unit is permitted on the pre-existing foundation and any future additions to the structure may not increase living area
- The lot in its totality shall not contain more than two (2) dwelling units
- All State of Connecticut Health Code and Northeast District Department of Health regulations must be met.

**TABLE A – DIMENSIONAL REQUIREMENTS FOR TOWN OF KILLINGLY**

Referenced Notes -	Rural Dev. 6,8, & 9	Flood Hazard 9	Low Density 3,14 & 17	Medium Density 3,14 & 18	Prof. & Bus. Off. 3,9, & 11	Village Comm. 3 & 9	General Comm. 9	Indus. 9	Lt. Indus. 9	M.U.I. 15	Bus. Park 16	M.U.D.D. See Sec. 445.	ALZOD
Min. lot area in sq. ft.	80,000	80,000*	30,000**	10,000	30,000	20,000	40,000	50,000	40,000		50,000		
Min. lot frontage 1&7	250' 8	150'	100'	80'	100'	100'	150'	150'	125'		None		Existing leased lots shown on Alzod map 10' (20)
Min. setback from street line 10	75' 8	40'	40'	40	30' (12)	40'	50'	50'	40'	50'	100'		6'
Min. setback from side line	25'	25'	20'	12'	20'	12' (4)	25'	25' (5)	25' (5)				
Min. setback from rear line 2	30'	30'	20'	20	20'	30'	30'	30' (5)	30' (5)		50'		15'
Max. height of structure	35'	35'	35'	35'	35'	35'	40'	50'	40'	50'			35'
Max lot coverage	15%	15%	20%	30%	70% (13)	60%	65% (19)	70%	65% 8/9/06	70%	50%		50%

1 Where necessary for improved subdivision design, such as for residential lots fronting on the turning circle of a cul-de-sac, this requirement may be waived provided the width of each such lot at the building line is equal to the required frontage.

2 For a corner lot or one fronting on more than one street, one line, not a street line, shall be designated a rear line.

3 Lots without public sewers shall be increased to 40,000 square feet. Amend. of 10/19/87; Eff. 1/11/9/87

4 Where a proposed commercial development adjoins a residential district, this distance shall be increased to 25 feet.

5 Where a proposed industrial use adjoins a commercial or residential district, a 25 ft. to 50 ft. wide buffer strip is required. See Section 430.2.5

6 The minimum lot area for interior lots only shall be 160,000 square feet.

7 In accordance with Section 620.3, all building lots without the frontage on an accepted public street, a proposed public street, or an approved private street shall have an access strip (or access right-of-way) not less than 50' in width to an accepted public street, a proposed public street, or an approved private street. (Amend. 10-17-83, S.E).

8a Any unbuild lot contained within any complete subdivision application and either submitted to the Commission (and not denied) or approved by the Commission for sale and/or building development purposes prior to the effective date of this amendment (3/14/79) need not conform to these requirements, however, unbuild lots contained within such subdivisions must meet the requirements in effect prior to 3/14/79.

8b These requirements were: (Rural District) Minimums: lot area 40,000 s.f. - frontage 150 feet - setback from street line 40 feet.

Any unbuild lot existing and lawful on the effective date of these Zoning Regulations or as amended, need not conform to the dimensional requirements effective March 14, 1979, however, such lots must meet the regulations in effect prior to March 14, 1979. Amend. of 2/9/87; Effective Date: 2/16/87

9 For interior lots, that area of land designated as an access strip on a proposed subdivision plan or site plan shall not be considered as lot area. This requirement is for all lots with the exception of those zoned Low Density and Medium Density Districts. (See note 14) Amend. 5/4/88; Eff. 5/26/88

In the case of an interior lot, required setback shall be measured from the point at which the width of said lot equals the required frontage for a given district, as measured along a line drawn parallel to the front lot line. Lots whose widths do not meet the minimum frontage requirement shall be prohibited by these regulations. This requirement is for all lots with the exception of those zoned Low Density and Medium Density Districts. (See Note 14) Amend. 5/4/88; Eff. 5/26/88

10 Except as provided in Section 415.1.2j:

11 Except as provided in Section 415.1.2k

12 Except as provided in Section 415.1.2k

13 Except as provided in Section 415.1.3c

14 Interior lots are not permitted in the Low Density and Medium Density Districts. Amend 5/4/88; Eff. 5/26/88

15 See Section 435, Mixed Use Interchange for additional requirements

16 See Section 436, Business Park for additional setback requirements

17 Low Density zone - Two family dwellings - 20,000 s.f. per dwelling unit with public sewers - 30,000 s.f. per dwelling unit without public sewers.

18 Medium Density zone - Two family dwellings - 10,000 s.f. per dwelling unit with public sewers.

19 General Commercial lot coverage - may be increased to 75% with Special Permit approval from P & Z Comm. See section 420.2

20 Front setback for leased lots fronting on a public street shall be in accordance with the underlying zone.

\* Previously 60,000 s.f., Amend. 10/19/87

\*\* Previously 20,000 s.f., Amend. 6/13/88

Sec. 450.2.3. Accessory buildings and structures not over 10 ft. in height and no larger than 140 s.f. in floor space and not for human habitation, motor vehicles, animals or poultry may extend within 6 ft. of any side and rear line.

## SECTION 450                      DIMENSIONAL REQUIREMENTS

Section 450. Dimensional Requirements.

"Dimensional Requirements" are hereby declared to be part of these Regulations

- 450.1     **Lot area, width and frontage.** Except as provided elsewhere in these Regulations, each lot shall have the minimum area, width and frontage as specified in Table A.
- 450.1.1   **With the exception of minimum lot areas specified for the Rural Development, Flood Hazard, General Commercial, Industrial and Light Industrial Districts in Table A, the minimum lot area for lots without municipal sewer facilities shall be 40,000 square feet. (Effective 10/19/87).**
- 450.2     **Setbacks.** No structure shall extend within less than the minimum distances of any street line, side line, rear line or residential district boundary line as specified in Table A.
- 450.2.1   **Signs.** As specified in Section 540, permitted signs may extend within lesser distances of a street or other line.
- 450.2.2   **Projections.** Belt courses, canopies, cornices, eaves, marquees, pilasters and similar architectural features may project three feet into the area required for setback from a street or other line.
- 450.2.3   **Accessory buildings and structures.**  
Detached accessory buildings and structures, including satellite dish antennas, not over 12 feet in height and no larger than 140 square feet in floor space and not used for human habitation or for the sheltering of motor vehicles or for the housing of animals or poultry may extend to within 6 feet of any side or rear line. (Amend. of 2-10-86). (Amend. of 09-01-87)
- 450.2.4   **Lots adjacent to a railroad.** In the case of that portion of lot in a commercial or industrial district where contiguous to a railroad right-of-way, no setback from such a contiguous lot line shall be required.

450.2.5 **Corner Lots.** On a corner lot, any lot line with frontage on a town street or road shall be classified as a front lot line, and building line setbacks shall be provided off each street or road as indicated under Dimensional Requirements, Table A. (Amend. of 12-22-86)

450.3 **Height.** No structure shall exceed the maximum height as specified in Table A, except that such regulations shall not apply to spires, belfries, cupolas, flagpoles, television aerials, water tanks, ventilators, farm silos, elevator penthouses, chimneys or other appurtenances usually required to be above the roof level and not intended for human occupancy provided such structures are incidental to a permitted use located on the same property.

Additionally, sprinklered public and public service buildings, hospitals, institutions, and schools; and churches, temples and other places of worship, when permitted in a district, may be erected to a height not exceeding 50 feet when

1. the required side and rear yards are each increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located, and that
2. the Commission determines the additional height does not interfere with present or reasonably anticipate use of other neighborhood property.

Approved: October 29, 2007 Effective date: November 20, 2007, 12:01AM

450.3.1 **Height in Industrial zones.** Structures in an industrial zone not exempted in Section 450.3 may be allowed under Special Permit to exceed the maximum height as specified in Table A if the Commission determines that the structure is necessary for the efficient operation of the proposed industry and that it does not significantly interfere with present or reasonably anticipated use of other property.

450.4 **Coverage.** The aggregate lot coverage of all structures and impervious surfaces on any lot shall not exceed the percentage of the lot area as specified in Table A.

450.5 **Minimum lot size for lots serviced by municipal sewer and on-site wells.** The Commission may require that minimum lot sizes be increased for those lots serviced by municipal sewer lines and on-site wells. The minimum lot sizes will be determined by the Commission upon review of a Hydrogeological Study submitted by the applicant and accepted by the Commission. By no means shall the minimum lot size of any lot be less than the minimum lot size outlined in these regulations for the particular zoning districts in which the lots are located. (Effective 06-07-88).

450.6 - **Cluster Dimensional Requirements.** A Special Permit for Cluster Development may authorize the creation and use of lots meeting the following dimensional requirements in lieu of the conventional dimensional requirements

**Lot Area.** Each lot shall be at least of a size capable of supporting the construction of a single-family dwelling or primary use structure and its accessory structures in accordance with all applicable state and local regulatory requirements and the purposes of Cluster Development.

**Frontage.** The frontage of each lot for a building site created in a Cluster Development shall be that necessary, in the opinion of the Commission, to provide for adequate access to the lot. Where shared driveways or other circumstances provided adequate access to an individual lot, frontage may not be required.

**Setbacks.** All structures shall be set back a minimum of twenty (20) feet from all lot lines, provided, however, that with respect to lot lines which abut land outside the Cluster Development, setbacks from said lot lines shall conform to the setback requirements applicable to conventional development in the underlying zoning district.

**Density.** The maximum number of lots for building sites in a Cluster Development shall not exceed the number of buildable lots which could be created through conventional development of the site plus any density bonuses allowed. The allowable maximum density shall be based upon the maximum number of buildable lots which may be created through conventional development of the land without substantial waivers from the Commission's Regulations for the Subdivision of Land and in conformance with the conventional dimensional requirements for the underlying zoning district.

## Section 470

## SITE PLAN REVIEW

- 470.1 Prior to the issuance of a zoning permit, all Industrial, Light Industrial, Village Commercial and General Commercial permitted uses shall be subject to a site plan review by the Director of Planning & Development. Site Plan review shall be required for any building or use, or enlargement in size or other alteration of any building or change in use or actual use of any building including accessory structures. Site Plan review is not required for repairs or alterations to existing buildings or structures, provided that such work does not increase the floor area of any building or structure and does not change the actual use thereof. (Amend. of 03-08-82)
- 470.2 **Site plan procedure.** Each applicant for site plan approval shall file with the Secretary of the Planning and Zoning commission: Six (6) blue or black line prints of the proposed site plan, 24"x 36" in size with a scale of 1"=40' or 1"=100'; the required application form; and the required application fees.
- If the Director's approval is granted for said site plan application, a recordable copy of the approved site plan (replete with the Director's letter of approval reproduced thereon and all required modifications), shall be furnished to the Commission for endorsement, and then shall be filed by the applicant (at his expense) in the office of the Town Clerk, and any plan not so filed within ninety (90) days of the date said approved and endorsed plan is delivered to the applicant (except where extensions are granted by the Director in advance of said ninety (90) day expiration deadline), shall become null and void, as shall the approval of said site plan application. No such site plan may be filed or recorded in the office of the Town Clerk until its approval has been endorsed thereon by the Chairman or Secretary of the Planning and Zoning Commission; and not until the applicant has furnished the Director with three (3) complete blue or black line prints of the site plans (replete with the Director's letter of approval reproduced thereon and all required modifications). The filing or recording of a site plan without the Commission's approval endorsed thereon shall render said site plan null and void. The Director shall determine which sheets of the site plan shall be filed in the office of the Town Clerk. A recording fee per sheet shall accompany each site plan. The applicant is encouraged to meet with the Town Planner and Town Engineer prior to submission of formal site plan application. (Amend. of 9-8-86; Amend. of 1-12-87) (Effective 8-16-89) (Amend. of 12/11/00) (Effective 1/10/01)
- 470.3 The Director of Planning and Development shall approve, modify and approve or deny the site plan within sixty five (65) days of its receipt. Said official shall state the reasons for his decision. Failure to act within sixty five (65) days shall be deemed as approval unless an extension is consented to by the applicant pursuant to Section 8.7d(b) of the Connecticut General Statutes. (Amended 12-11-00, Effective 01-10-01).

- 470.4 **Bonding.** The Director may require that applicants post a bond or other acceptable surety to insure completion of the required site improvements such as road or parking area construction, landscaping, grading, storm drainage and any other items, the failure of which to complete would adversely affect the environment and/or health, safety and welfare of residents of the Town.
- 470.5 **Conditions of approval.** Approval of a site plan review application under Section 470 of these regulations shall constitute approval conditioned upon the completion of the proposed development, in accordance with plans as approved and any conditions set forth, within a period of two (2) years after approval is given. However, the Director may require earlier compliance with any conditions, if the Director finds such compliance to be necessary for protection of the public health safety, and/or welfare. The Director shall set a date for final compliance with such conditions. Approval of the application shall become null and void in the event of failure to meet any of the time limits set in accordance with this paragraph, unless an extension of time is applied for and granted by the Director. (Amend. of 1-12-81).
- 470.6 **Revisions.** Any substantial revision of an approved site plan application and any reconstruction, enlargement, regrading, extension, moving or structural alteration of a building or use of land in connection with an approved site plan application, shall require submission of a site plan application as for the original application.
- 470.7 **Contents of site plan.** A site plan drawn to a scale of no more than forty (40) feet to the inch, showing:
- A. Existing and proposed property lines accurate to the standards of A-2 classification as defined in the Code of Practices for Standards of Accuracy of Surveys and Maps adopted December 10, 1975 as amended by the Connecticut Association of Land Surveyors, Inc.
  - B. Names of all abutting property owners and approximate locations of buildings, wetlands, and flood plains within one hundred (100) feet of the property, including across the street.
  - C. Location, elevation and dimensions of all existing and proposed buildings and site features. Uses including but not limited to signs, sidewalks, streets, drives, recreation facilities, parking facilities, utilities, electric, gas sanitary storm and water supply, buffer strips, landscaping, including species and size, open space, trees with a diameter in excess of eighteen (18) inches, ledge outcrops and other physical features.
  - D. Location of all right of ways, easements and the like.
  - E. Title block in the lower right hand corner of the plan showing name(s) of property owners and applicants, date of original plan and any revision dates, zoning district of lot, and use proposed.

- F. North arrow.
- G. Signature block for Planning and Zoning Commission Chairman as follows:
  - Site Plan # (or Special Permit #)
  - Date approved \_\_\_\_\_
  - Planning and Zoning Commission Chairman \_\_\_\_\_
  - Date \_\_\_\_\_
- H. Location of abutting zoning districts.
- I. Location map including zoning districts at a scale of 1" = 1000'
- J. Detail design of signs, lighting, retaining walls, pavement, sidewalks, catch basins, rip rap, erosion control measures, curbing, drainage facilities, etc.
- K. Location of all driveways. Return curbs for drives accessing a town road shall have a minimum radius of 15' for multifamily and offices and 25' for commercial and industrial uses.
- L. Topographic information at two foot intervals in areas of re-grading and five foot intervals in areas of steep slopes. Additional elevations may be required if deemed necessary by the Town Engineer.
- M. Legend giving the "Required" and "Provided" figures for each of the following: Lot area, lot width, front yard setback, side yard setback, rear yard setback, lot coverage (by percent), building height (stories and height), parking requirements.
- N. Conceptual approval letters when applicable from water company, sewer authority, Inland Wetlands and Water Courses Commission, Department of Environmental Protection, Department of Health, Department of Transportation, or any other agency that has jurisdiction over the application.
- O. Seal and original signature of the Connecticut Licensed Professional Engineer and Land Surveyor when applicable.
- P. Soil erosion and sediment control plan.
- Q. Sight distances for proposed drives existing onto any town and state road.
- R. Any other information as required by the Director.

- 470.8 **Architectural plans.** Preliminary architectural plans of all buildings, structures, and signs including:
- General exterior elevations – including type of materials to be used.
  - Generalized floor plans illustrating at least proposed entrances and exits. (Amend. of 10/19/87)
- 470.9 **Site plan objectives.** In reviewing a site plan application the Director shall take into account the public health, safety, and welfare of the public in general and the immediate neighborhood in particular, and may prescribe reasonable conditions and safeguards to insure the accomplishment of the following general objectives.
- 470.9.1 **Public safety.** That all buildings, structures, uses, equipment, or material are readily accessible for fire and police protection.
- 470.9.2 **Storm drainage.** That storm drainage shall be provided for and designed in accord with standard engineering practice by a Connecticut registered professional engineer. The Director shall require that such storm drainage plans be approved by the Town Engineer.
- 470.9.3 **Pedestrian and vehicular access.** That the plans minimize pedestrian- vehicular conflicts by providing for safe pedestrian walks especially in parking areas and adjacent to buildings
- 470.9.4 **Noise abatement.** That all machinery and devices such as ventilation fans, drying fans, air compressors, air conditioning units, etc., shall be shielded and insulated in a manner which shall deaden the noise and deflect sound waves away from abutting premises.
- 470.9.5 **Other pollution or related problems.** That the obstruction of light or air, or the emission of light, smoke, odor, gas, dust or vibration in noxious or offensive quantities shall be minimized.
- 470.9.6 **Landscaping and screening.** That the general landscaping and screening of the site provides adequate tree plantings, ground cover and buffering of adjacent residential districts or other properties with shrubs or fencing as the Director deems necessary.
- 470.9.7 **Neighborhood impact.** That the overall effect on property values and utilization of neighborhood properties do not have a substantial adverse effect.

- 470.9.8 Architectural and aesthetic impact.** That the basic design of the proposed uses, buildings or development; the relationship between the buildings and the land; the relationships between uses and between buildings or structures; the overall physical appearance of the proposed use, building or development shall be in general harmony with the character of the surrounding neighborhood and will not serve to blight or detract from abutting residences or other property.
- 470.9.9 Zoning regulations.** Other sections of the Killingly Zoning Regulations shall apply in the consideration of a site plan review.
- 470.10** Nothing herein shall prohibit the Director of Planning and Development from submitting any such site plan review application to the commission for its review.  
(Effective 01-10-01)

## **SECTION 560. EARTH FILLING AND EXCAVATION**

### **560.1 Intent**

The following Regulations regarding the establishment and continuance of earth filling and excavation operations have been developed to:

- a. Protect the health, welfare, and safety of the citizens of the Town of Killingly.
- b. Preserve and protect the Town's environmental resources, including but not limited to:
  1. Maintaining an adequate supply and quality of surface and underground water.
  2. Preventing the contamination of air, water and soils.
  3. Hydrological stability and control of flooding and erosion.
  4. Wildlife habitat protection.
- c. Protect property values by insuring that, following such activities, land utilized for filling, and/or excavation will be usable for residential, commercial or industrial purposes consistent with the underlying zoning district in which such use is located.
- d. Protect property values and quality of life for those properties neighboring earth filling, and/or excavation operations.

### **560.2 Definitions**

For the purpose of these Regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "Regulations" means "these Regulations."; "shall" is always mandatory; "may" is permissive.

- a. "Agricultural Production Purposes" means activities directly related to the production of agricultural commodities for the purpose of sale.
- b. "Bedrock" means the solid rock that underlies the soil and other unconsolidated material or that is exposed at the surface.
- c. "Bond, Performance" means sums of money placed in escrow by the applicant which may be used by the Town to complete and/or correct

permitted activities provided the applicant does not complete and/or correct the permitted activities as approved. This bonding assures that the Town will not be left with an incomplete or unsafe project should the applicant default or go bankrupt, and it allows the applicant to proceed in an orderly fashion and utilize staged financing.

- d. "Blasting" means the detonation of an explosive device as defined by NFPA 495.
- e. "Boulder" means a large rock of not less than one (1) cubic yard in size.
- f. "Clay" means a mineral soil consisting of particles less than 0.005 to 0.002 millimeters in equivalent diameter, depending on soil classification system.
- g. "Commercial Earth Excavation and/or Processing Operation" means a business engaged in the removal and/or alteration of earth materials on site, including screening, washing and mixing with other approved materials for sale.
- h. "Crushing" means a process by which rock is reduced in size.
- i. "Earth Products" means: natural soil, loam, sand, gravel, clay, rock or any other excavated natural material.
- j. "Excavate" means to sever from the earth's surface or to remove earth materials from the ground.
- k. "Gravel" means a loose mixture or unconsolidated deposit of pebbles and rock fragments sometimes mixed with clay, and other materials, rounded or angular fragments of rock.
- l. "Guidelines for Soil Erosion and Sedimentation Control" means a document (DEP Bulletin 34, ISBN 0-942085-10-8) prepared and amended by the Connecticut Council on Soil and Water Conservation in Cooperation with the Connecticut Department of Environmental Protection.
- m. "Imported Materials" means earth materials brought to a permit area.
- n. "Loam" means a soil consisting of a mixture of clay, silt and sand.
- o. "Overburden" means the surface soil material overlying a desired earth material that must be removed for excavation of the desired earth material to take place.

- p. "Peat" means unconsolidated soil material consisting largely of undecomposed, or slightly decomposed, organic matter accumulated under conditions of excessive moisture.
- q. "Processing" means an alteration of earth materials on site, including screening, washing and mixing with other approved materials.
- r. "Reclamation" means the restoration to conditions similar to what existed prior to the operation or that will be compatible with what existed prior to the operation on the area of land affected by mining under a reclamation plan. This may include but is not limited to, grading and shaping of the land, the planting of trees and shrubs, the seeding of grasses, legumes, or crops for harvest, or the enhancement of wildlife and aquatic resources.
- s. "Reclamation Plan" means a plan which depicts how the project area will be restored, or altered for the productive use of the land, after excavation is complete.
- t. "Rock Quarry" means a commercial surface excavation or pit from which bedrock is obtained by drilling, cutting or blasting for the preparation of marketable rock materials. A rock quarry shall not include the removal of solid rock materials in the preparation of a site as the result of an approved zoning permit.
- u. "Sand" means a soil separate, individual rock or mineral fragments from 0.05 millimeter to 2.0 millimeters in diameter.
- v. "Sand and gravel operation" means any operation the principal product of which is sand, gravel, pumice or any other common variety of material.
- w. "Silt" means a mineral soil generally consisting of soil particle ranging between 0.05 and 0.002 millimeter in size.
- x. "Slope" means the inclination of the land surface from the horizontal, measured as a percentage, as a numerical ratio or in degrees.
- y. "Soil" means the unconsolidated minerals and material on the immediate surface of the earth that serve as a natural medium for the growth of plants.
- z. "Soil analysis" means a chemical testing procedure to determine the nutrient content of soils in a given field.
- aa. "Subsoil" means technically, the B horizon; roughly, the part of the solum below plow depth (The upper part of a soil profile, above the C horizon, in which the processes of soil formation are active).

- bb. "Topsoil" means the upper part of the soil, which is the most favorable material for plant growth. It is ordinarily rich in organic matter and is used to top-dress road banks, lawns, and land affected by mining.
- cc. "Water Table" means the location beneath the ground where water saturated rock or sediment is first encountered.

### **560.3 Existing Operations**

- a. Each permit issued by the Commission dated prior to 12:01 AM, Monday, October 10, 2005, shall continue in effect, and shall be governed and renewed by the Regulations that were in place when the permit was issued.

### **560.4 Permitted Activities**

- a. Residential maintenance purposes such as landscaping, driveway repair, etc. involving  $\leq 100$  cubic yards of material shall be entirely exempt provided that there is no off the premises effect.
- b. Filling of property is permitted in accordance with an approved zoning permit, an approved subdivision plan, or a site plan approved by the Commission. Additional filling is permitted for situations over and above what has already been approved upon review and approval by the Planning and Development Office, when such filling is incidental to an existing structural use on a property so long as such filling does not exceed one thousand (1000) cubic yards.
  - 1. The Planning and Development Office, at their discretion, may forward any such request to the Commission for review.
  - 2. The Planning and Development Office may require such information as set forth in sections 560.6(b) and 560.7 of these regulations, as it deems appropriate to evaluate any such application, including those listed in subsection c of this section.
  - 3. In the event that the volume of fill exceeds one thousand (1000) cubic yards, the zoning permit, special permit, subdivision plan, or site plan shall include a plan for filling as detailed in subsections 560.6(b) and 560.7.
  - 4. Road sweepings as fill material requires a zoning permit and shall be subject to the recommended guidelines of the Connecticut Department of Environmental Protection and may

be further regulated by the Commission, when in their opinion, further regulation is warranted.

- c. Non-commercial excavation and removal of earth products is permitted in accordance with and as part of an approved zoning permit, special permit, an approved subdivision plan, or a site plan approved by the Commission. Additional excavation and removal is permitted for situations over and above what has already been approved upon review and approval by the Planning and Development Office, when such excavation or removal of earth products is incidental to an existing permitted use.
  - 1. The Commission may require such information as set forth in sections 560.6(b) and 560.7 of these regulations, as it deems appropriate to evaluate any such application. In the event that the volume of material to be excavated exceeds one-thousand (1,000) cubic yards, such zoning permit, subdivision plan, or site plan shall include a plan for such excavation as detailed in subsection 560.6(b) and 560.7.
- d. Excavation for agricultural production purposes is permitted, upon review and approval by the Planning and Development Office, when such excavation is essential to the agricultural production process, in the opinion of the Planning and Development Staff, to the farming operation.
- e. Excavation and filling is permitted for the repair or replacement of an on-site septic system.
- f. Commercial excavation and removal from the premises of sand, loam, gravel, peat, stone, topsoil or other earth products shall be permitted in all zoning districts with the exception of those contained in the Borough of Danielson and the Five-Mile River Overlay District upon the issuance of a Special Permit by the Commission in accordance with Article VII of these Regulations, after a public hearing with notice given as required by the General Statutes.
- g. Importation of material for sale or processing shall be allowed in Industrial Zones only, except as otherwise stated in these Regulations.
- h. On-site crushing is allowed:
  - 1. In conjunction with a project that has received Commission approval for on-site crushing as part of that project's required permits;

2. As part of an existing operations performing documented crushing prior to the adoption of these Regulations, or;
  3. In conjunction with new operations located in the Industrial zone only and receiving approval for crushing under these Regulations.
- i. Municipal sewer, drainage and road projects are permitted with pre-notification of the Town Planning Office.

#### **560.5 Prohibited Activities**

- a. Rock quarries are not permitted in any zone.

#### **560.6 Activities Permitted with a Special Permit**

Filling and excavation operations, except as prescribed by section 560.4, may be permitted upon the granting of a Special Permit by the Planning and Zoning Commission in accordance with Article VII of these Regulations and as detailed in this section.

- b. Application for such a permit shall be made by the owner of the property or his authorized agent. Such application shall be accompanied by a map prepared with an accuracy meeting or exceeding standards for a Class A-2 Survey as defined in the Code of Practice for Standards and Accuracy for Surveyors and Maps as published by the State of Connecticut Board of Professional Engineers and Land Surveyors. The map shall be clearly and legibly drawn and shall be submitted on good quality mylar or on other material that would be suitable for filing in the public Land Records on sheets having a size prescribed by Section 7-31 of the Connecticut General Statutes, as amended and as the same may, from time to time, be amended. The map shall preferably be drawn to a scale of one inch equals forty (40) feet but in no case smaller than 1 inch equals two hundred (200) feet. The map and plan, in addition to those requirements stated in Section 470 and Article VII of these Regulations, shall show the following:

Location of the premises, names of abutting owners, property lines, relations to roadway systems, wooded areas, outcrops, existing rivers, streams, watercourses, pond, swamps, and wetlands on or within two hundred (200) feet of the site

An operations statement that includes an estimate of the number of cubic yards of material to be brought to the site, cubic yards of material to be excavated, processed (including materials not originating at the site), or removed – including the rate of removal, which shall be done in phases appropriate to the site and scope of the proposed operation, and estimated time length for the operation including necessary sedimentation and erosion control measures in accordance with the State of

Connecticut "Guidelines for Soil Erosion and Sedimentation Control" as amended and the estimated time length for the operation.

Location of stockpiled material.

Grading plan showing existing contours in the area to be filled and proposed contours for the area after operations. Such plans shall include the area to be filled as well as the surrounding area within two-hundred (200) feet of the filling and shall be drawn at a scale of not less than forty (40) feet to the inch and with contours shown at intervals of not less than two (2) feet.

Existing and proposed drainage of the site (temporary and permanent). Such evaluation shall be based on the recommendation of the Town Engineer and may entail the analysis for a two (2), five (5), ten (10), twenty-five (25), fifty (50), and/or one-hundred (100) year storm.

Delineation of the one-hundred (100) year flood plain (if applicable).

The location and type of any building or fixed machinery to be used.

Details of final grading and planting of the site to prevent erosion of the site at the conclusion of operations made in accordance with the State of Connecticut "Guidelines for Soil Erosion and Sedimentation Control" as amended.

An estimate of the number and types of trucks and other machinery to be used on the site, including: the location and size of refueling pads, and maintenance locations for machinery and vehicles. Proposed truck access – including number of daily trips.

Credible evidence of the presence of an endangered or threatened species, or other natural resources, and/or archeological or historically significant features may require study by appropriate consultants. The results of these studies shall be considered in the approval process and the Commission may stipulate protective measures.

Details, to the satisfaction of the Commission, as to how all noise will be held to the site and not reach an unacceptable level to neighboring properties.

Proposed use and storage of explosives (excavation only). Application should detail the extent of such usage (amount, times to be used, places, circumstances etc.), location of temporary and permanent storage of explosives, and copies of all applicable State and/or Federal licenses/permits.

Proposed fencing, signage and gates.

Geological soundings and/or borings to determine level and drainage patterns of underlying bedrock (excavation only).

A statement and supporting documentation regarding potential impact, if any, of any change in surface or groundwater levels or water quality that may be caused by the proposed activities including impacts on private wells and wetlands habitats.

Other information the Commission deems necessary.

Specific requirements may be waived by the Commission when in its opinion such requirement is unnecessary because of the limited size of the operation, or other valid reason whereby the health, safety and public welfare will not be adversely affected.

#### **560.7 Performance Standards**

The following shall apply, in accordance with Section 560.4 of these regulations:

Screening, sifting, washing, crushing or other forms of processing shall, for commercial extraction and/or processing operations only, be conducted upon the premises between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, Saturdays 7:00 a.m. and 12:00 p.m. There shall be no operational activities Sundays and the following holidays: Christmas, New Years Day, Memorial Day, Fourth of July, Labor Day, and Thanksgiving Day, except by special permission of the Commission.

No fixed or portable machinery used in a commercial operation shall be erected or maintained within two hundred (200) feet of any property or street line and not less than five-hundred (500) feet from any residence.

The location of crushing operations shall be dependant on a noise study performed by a qualified firm at the cost of the applicant.

Measures, to the satisfaction of the Commission, shall be taken to minimize nuisance from noise, dust, vibration and flying debris; all trucks shall be covered for off-site transport; suitable fences or other barricades shall be provide around the excavation to protect pedestrians and vehicles.

The operation shall not result in sharp declivities, pits or depressions or soil erosion, drainage or sewerage problems or conditions which would impair the reasonable reuse and development of the lot for purposes permitted under these Regulations in the District where the site is located.

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

No building except a field office or temporary shelter for machinery shall be erected on the premises except as may be permitted in the Zoning Regulations subject to approval by the Commission.

At all stages of operations, proper drainage shall be provided to prevent the collection and stagnation of water and to prevent harmful effects upon surrounding properties.

No excavation conducted under a Permit issued pursuant to these Regulations shall be:

made below the grade of any abutting highway within one-hundred and fifty (150) feet thereof, unless approved by the commission, or

below the grade of any adjoining property at the property line within fifty (50) feet thereof, or

within one-hundred and fifty (150) feet of any dwelling existing at the date the permit is issued without the written approval of the abutting owner of private property or of the owner of the dwelling to be affected and the approval of the commission.

At no time shall an overhang and/or undercut be permitted on any face. At no time shall slopes in excess of 2:1 (horizontal-vertical) be present on any face except the face where active excavation is being carried on. Fencing may be required at the discretion of the Commission.

Truck access to the excavation shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties. That portion of access road within the area of operation shall be treated to minimize dust.

The use and storage of explosives shall be limited to those times, locations specifically authorized by the Commission.

When filling, excavation and removal operation is completed the excavated area shall be graded so that slope in disturbed area shall be no steeper than one on two (2:1) (horizontal-vertical).

All debris, including but not limited to tree stumps shall be removed from the lot and all loose boulders not conducive to future development shall be removed.

Minimum separation distance between any excavation and the groundwater table shall be not less than six (6) feet, unless it can be demonstrated to the Commission's satisfaction that a smaller separation distance will not adversely impact groundwater and/or neighboring uses or future uses on the site. No excavation or fill shall be made that would reduce the final elevation below flood plain, change the area of the flood plain, or expose groundwater unless, after proper

analysis, it is determined that no pollution or silting of existing watercourses, or increased flood or erosion hazards, or other effect on water supply or purity will result and any necessary permits have been issued by the Killingly Inland Wetlands and Watercourses Agency.

Where necessary to protect the surrounding properties, the Commission may require a landscape buffer and/or an earthen berm of a size, to be determined by the Commission, necessary to protect such properties. Existing vegetation and natural topography shall be preserved where feasible.

Connecticut's "Guidelines for Soil Erosion and Sedimentation Control" as amended shall be followed.

Groundwater quality monitoring wells may be required by the Commission as a means of protecting water quality.

implementation of an erosion and sedimentation control plan.

Following a filling operation there shall be a layer of top-soil applied to the area to a depth of not less than four (4) inches. The area is to be seeded with a suitable ground cover and maintained until the area is stabilized. The depth of topsoil required may be increased at the discretion of the Commission based on the ultimate use of the property. The area is to be limed and fertilized as appropriate. Seeding is to be done between April 15 and June 15 or between August 15 and October 15.

In all cases, material used for filling shall be limited to suitable earth material for construction as approved by the Commission. Use of trash, garbage, or other junk material is expressly prohibited. Burial of stumps is not permitted under any circumstances.

The area disturbed by the excavation is to be restored by the spreading of subsoil and topsoil at depths not greater than those found at the site in its original state - to a maximum of twenty-four (24) inches, and not less than four (4) inches - dependant on the ultimate use of the property. Restoration shall be a continuous operation. The following shall govern all restoration.

a. Topsoil for re-spreading shall be used at a minimum depth of four (4) inches over the excavated area. The depth of topsoil required may be increased at the discretion of the Commission based on the ultimate use of the property. The area for the storage of topsoil shall be shown on the plans approved by the Commission. All stockpiled topsoil shall be seeded with appropriate perennial grasses and surrounded by appropriate erosion controls.

b. Following the re-spreading of topsoil, the area is to be seeded with a suitable ground cover and maintained until the area is stabilized. The area is to be limed and

fertilized as appropriate. Seeding is to be done between April 15 and June 15 or between August 15th and October 15.

Following the re-spreading of topsoil and in addition to the seeding requirements of Subsection 1 and 2 above, the Commission may require the planting of deciduous and non-deciduous trees (which may be root stock at the time of such planting) at a density appropriate for the site and its intended usage. To the extent practical, the trees shall be hardy native species and compatible with the post excavation site characteristics.

If blasting is proposed as part of a permit application, a plan for such activity shall be prepared and submitted to the Town Fire Marshal for review. Such plan shall include provision for monitoring weather conditions for production blasts, including plans to schedule blasting well enough in advance to take advantage of the days when air shock is likely to be at a minimum and to avoid blasting on days during times of unstable air masses and temperature inversions when air shock is more likely to occur. Additionally, the following Blasting Notice, Monitoring, and Damage Complaint requirements shall be in force:

Permittee shall provide the Town Planning Office with notification at least twenty-four (24) hours prior to any anticipated production blast and shall notify other individuals requesting such notification of a production blast.

All production and test blasts shall be monitored with air pressure, seismic, and decibel meters at no fewer than five (5) sites for each blast.

Permittee shall notify, in writing, any property owner who could reasonably be affected by the blasting.

Permittee shall provide, prior to any blasting, Certificates of Insurance written by sureties or insurers licensed in the State of Connecticut. The policies required shall be acceptable to the Town of Killingly. If, at any time, any of the insurance policies shall be or become unsatisfactory to the Town of Killingly in form or substance, or if the surety or insurer issuing any such policies is unsatisfactory to the Town of Killingly, the Permittee shall promptly obtain a new policy and submit a Certificate of Insurance to the Town of Killingly for approval. The Permittee and its insurers shall waive all rights of subrogation against the Town of Killingly and their respective agents and employees for losses arising from work performed under the permit. If any policy is a claims made policy, then following the expiration or termination of this contract contractor will continue such insurance coverage for a period of at least three (3) years or purchase a tail policy reasonably satisfactory to the Town of Killingly.

All work shall be done in phases whereby no more than five (5) acres of land may be disturbed at any one time. The Commission may, at their discretion, increase or decrease the maximum allowable phasing acreage.

Such other information and/or appropriate safeguards as the Commission deems necessary.

#### 560.8 Performance Bond

Prior to the issuance of a permit by the Commission, the applicant shall post a performance bond with the Town in an amount and form and with surety and conditions satisfactory to the Commission and the Town Council, and to Town Counsel, with the following exception: Performance bonds in an amount of five thousand dollars (\$5000) or less do not require review and approval by Town Counsel and may, at the discretion of the Town Planner, be posted at the time that an application for a zoning permit for the work to be covered by the bond is submitted.

The performance bond shall secure to the Town of Killingly the actual construction, installation, and completion of each approved phase of permitted activities in accordance with these Regulations including without limitation soil erosion and sedimentation control, streets, private streets, drainage, inspection and monitoring fees, and any specific requirements of any conditions of approval by the Commission.

The applicant shall submit cost calculations for all permitted activities to be covered by the bond, which will be reviewed by the Town Planning Office and the Town Engineering Office and adjusted to include contingency and inflation factors; monitoring and inspection fee costs, calculated as 5% of the total calculated costs of activities; and revised cost figures as necessary. The bond will cover a period of two years and may be renewed until completion of all approved activities or the expiration of any approvals issued by the Commission.

Performance bonds shall be in the following:

A certified check payable only to the Town of Killingly, a certificate of deposit, a money market account, or a passbook savings account, which account shall be federally insured. The names of the applicant and the Town of Killingly shall be on the account and a signed withdrawal slip shall be provided.

4. The applicant may apply for a partial release of the performance bond. After submittal of an A2 as-built survey of the completed permitted activities and inspection by the Commission and the Town Council, the Commission may, with the agreement of the Town Council, release up to an amount equal to the costs of the completed permitted activities, but no more than 90% of the original bond.

5. If for any reason the performance bond is insufficient to pay for all costs of activities covered by the bond, and the applicant and/or property owner do not complete such activities to the satisfaction of the Commission and the Town Council, the applicant and/or property owner shall remain liable for the costs in excess of the performance bonds.

The performance bond shall be released in its entirety after:

The permitted activities covered by the bond have been completed to the satisfaction of the Commission;

As-built plans and survey, sealed by a land surveyor or engineer licensed to practice in the State of Connecticut, have been filed with the Town Planning Office; and

Waivers of Mechanic's Liens by all parties furnishing materials or services in connection with the project have been filed with the Town Council

#### 560.9 Approval Criteria

After the public hearing, the commission may approve the plan and grant the special permit only when it is satisfied that the following conditions will be complied with in the undertaking of the proposed filling or excavation activity:

That the proposed activity will be carried out in accordance with the maps, operational statements and plans submitted by the applicant and in accordance with these Regulations.

The effect upon the premises and upon the surrounding premises; upon property values, health and any effect upon the future use of the premises involved consistent with the intent of these Regulations as stated in section 560.1.

The Commission or its authorized agents, shall at all times, have reasonable access to the site for the purpose of inspection and determination of compliance with this section.

The Commission may require the applicant to submit periodic reports, prepared by and bearing the seal of a land surveyor or engineer, showing the status and progress of the work.

In order to protect the character of the existing neighborhood or the environment, the Commission may restrict the hours of operation, the type of operation, the types and location of equipment, the use of explosive or any other aspect of the operation which may have adverse impacts on the surrounding properties and provide for increased buffering of surrounding properties.

No permit shall be issued by the Commission for a period exceeding twenty-four (24) months, but upon application, the permit may be renewed by the Commission for an additional twelve (12) month period. Any application to renew or amend an existing permit shall be filed with the Commission at least sixty-five (65) days prior to the expiration date for the permit. Any application to renew or amend such an existing permit shall be made in accordance with these Regulations provided:

The application may incorporate by reference, the documentation and record of the prior application;

The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;

The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;

The application shall describe any changes in facts or circumstances for which the permit was issued;

The Commission may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity.

Failure to comply with the plans and conditions as approved and any deviation therefrom shall be a violation and the Commission may revoke the permit.

If the filling operation, as approved by the Commission is not undertaken within twenty-four (24) months after granting (subject to appeals that may result) of the permit, the permit will be automatically revoked.

Amend of September 19, 2005; Effective 12:01 AM, Monday, October 10, 2005

## **ARTICLE VII.**

### **SPECIAL PERMITS**

#### **Section 700. Special Permits**

The Planning and Zoning Commission may grant a special permit for the establishment of a use requiring such a permit under the provisions of Articles IV and V. All requirements of this section shall be in addition to other requirements applicable in the district in which the special permit use is located. (Amend. of 10-19-87)

#### **Section 710. Intent**

While these Zoning Regulations are based upon the division of the Town into districts, within each of which the use of land and structures and the bulk and location of structures in relation to the land are substantially uniform, it is recognized that there are certain other uses and features that would be appropriate in such districts if controlled as to number, area, location, or relation to the neighborhood so as to promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. Where provided elsewhere in these Regulations, such uses and features shall be treated as a special permit use and shall be deemed to be permitted in their respective districts subject to the satisfaction of the requirements and standards set forth herein in addition to other requirements of these Regulations. All such uses are declared to possess such special characteristics that each shall be considered as an individual case.

#### **Section 720. Procedure**

All applicants for a special permit are urged to familiarize themselves with these Regulations and to consult with the Commission where any clarification is needed. It is recommended that a preliminary sketch plan, indicating property lines and existing and proposed buildings, structures, roads, parking and loading areas be submitted to the Commission prior to the submission of a formal application so that the Commission can inform the applicant of potential problem areas.

Whenever a Special Permit application involves Inland Wetlands and Water Courses, an application shall be submitted to the Killingly Inland Wetlands and Water Courses Commission. The applicant must secure approval from the Wetlands Commission prior to any final action by the Killingly Planning and Zoning Commission.

## **720.1 Application.**

Each application for special permit shall be made to the Commission on forms prescribed by the Commission. The site plan review application shall be included as part of this application. All requirements noted in Section 470 "Site plan review" shall be part of the requirements of the special permit requirements. In addition, the requirements as prescribed below (Sections 720.2 to 790) shall be complied with. (Amend. of 10-19-87)

### **720.1.1 Site plan.**

A site plan drawn to a scale of no more than 100 feet to the inch, showing:

- existing and proposed property boundary lines and the names of all abutting property owners, including those across any street.
- location and dimensions of existing and proposed buildings, structures, streets, drives, sidewalks, recreation facilities, open spaces, easements and/or rights-of-way, parking and loading spaces (and the total number of such spaces), signs, outdoor illumination, outside storage areas and utilities, including water supply, sewage disposal, storm drainage and electrical service.
- where construction or regrading is proposed, existing and proposed grade contours (at 5-foot intervals), including major trees and shrub areas, watercourses and wetlands.
- title block, in lower right hand corner of site plan, showing names of property owner and developer, date of original plan and revisions if any, scale, north arrow, and a blank for the signature of the Commission Chairman.

### **720.1.2 Architectural plans.**

Preliminary architectural plans of all proposed buildings, structures and signs, including:

- general exterior elevations
- generalized floor plans, illustrating at least proposed entrances and exits.

### **720.1.3 Fee**

A fee is to be paid to the Treasurer of the Town of Killingly, to defray the costs of advertising required public hearings. The Commission may by majority vote waive the submission of all or part of the information required in 720.1 if it finds the information is

not necessary in deciding on the application. Unless such a waiver is given, no application shall be considered completed until the above information has been supplied to the satisfaction of the Commission. (Amend. 01-11-88)

#### **720.2 Receipt of application.**

Applications for Special Permits shall be officially received by the Planning and Zoning Commission only at a regular meeting, but must be filed in the Office of the Commission at least seven days prior to such meeting for review and placement on the agenda.

#### **720.3 Review of applications.**

The Commission shall review all plans to determine their compliance with Section 720.1 and .2. Any application judged incomplete will be returned to the applicant prior to the next regular meeting or within 35 days, whichever comes first. Resubmissions of returned applications shall follow the procedure set forth in Article VII.

#### **720.4 Review of site and architectural plans.**

The Commission shall review all plans in order to determine that the proposed use or the proposed extension or alteration of an existing use is in accord with the public health, safety and welfare after taking into account, where appropriate:

- a. The nature of the proposed site, including its size and shape and the proposed size, shape and arrangement of structures.
- b. The resulting traffic patterns, adequacy of proposed off-street parking and loading and avoidance of hazards to pedestrians.
- c. The nature of the surrounding area and the extent to which the proposed use or feature will be in harmony with the surrounding area or will serve as a transition between unlike areas and will protect property values and preserve and enhance the beauty of the area.
- d. The proximity of dwellings, churches, schools, public buildings, and other places of public gatherings.
- e. The avoidance of potential nuisance.
- f. All standards contained in these Regulations.

- g. The Plan of Development for the Town of Killingly and other expressions of the purpose and intent of these Regulations.

### **Section 730. Public Hearing**

Within 65 days of the official receipt of a completed application, the Commission shall hold a public hearing on the proposed Special Permit use. Notice of the time and place of the public hearing shall be published at least twice, at intervals of not less than 2 days in a newspaper of general circulation in the Town, the first such publication not more than fifteen days nor less than ten days, and the second not less than two days before the date of the hearing. At such hearing any party may appear and may be represented by agent or attorney.

The Commission shall decide on an application within 65 days of the public hearing unless the application involves action by the Inland Wetlands Commission. If such sixty-five (65) day time limit elapses prior to thirty-five (35) days after the decision by the Inland Wetlands Commission, the time limit shall be extended to thirty-five days after the decision of the Inland Wetlands Commission. The Commission shall state upon its records the reason for its decision. Notice of the decision of the Commission shall be published in a newspaper of general circulation in the Town by sending a copy thereof to the applicant by registered or certified mail within 15 days of the decision, and by filing a copy thereof with the Town Clerk. Failure of the Commission to act thereon shall be considered as an approval. and a certificate to that effect shall be issued by the Commission upon written demand by the applicant received within 30 days after the expiration of the 65-day period for action. An extension of the 65-day period for action may be had with the written consent of the applicant. (Amend. of 2-8-88)

If Commission approval is granted for said special permit application, a recordable copy of the approved site plan accompanying said application (replete with the Commission's letter of approval reproduced thereon and all required modifications), shall be furnished to the Commission for endorsement, and then shall be filed by the applicant (at his expense) in the Office of the Town Clerk, and any plan not so filed within ninety (90) days of the date said approved and endorsed plan is delivered to the applicant (except where extensions are granted by the Commission in advance of said ninety (90) day expiration deadline), shall become null and void, as shall the approval of said special permit application. No such site plan may be filed or recorded in the Office of the Town Clerk until its approval has been endorsed thereon by the Chairman or Secretary of the Planning and Zoning Commission; and not until the applicant has furnished the Commission with three (3) complete blue or black line prints of the site plans (replete with the Commission's letter of approval reproduced thereon and all required modifications). The filing or recording of a special permit's site plan without the Commission's approval endorsed thereon shall render said site plan null and void. The Commission shall determine which sheets of the site plan shall be filed in the Office of

the Town Clerk. A \$20.00 recording fee per sheet shall accompany each site plan. The applicant is encouraged to meet with the Town Planner and Town Engineer prior to submission of a formal special permit application. (Amend. of 9-8-86; Amend. of 1-12-87)

The applicant shall erect or cause to have erected a sign on the premises affected by the proposed Special Permit application at least ten (10) days prior to the public hearing on such Special Permit.

Signs shall be provided by the Town for each Special Permit Application. Said sign shall be securely fastened or staked, and be clearly visible from the street closest to the affected property and be maintained as such until the day following the public hearing.

A report from the Zoning Enforcement Officer attesting to whether the above described sign was erected and maintained as required shall be made part of the record at the public hearing. Failure of a petitioner to comply with this requirement may be grounds for automatic denial of the Special Permit, with consideration being given to cases where weather conditions or acts of vandalism have destroyed a properly posted sign. This amendment would be applicable to both the Town of Killingly and Borough of Danielson. (Effective date: 3/1/90)

#### **Section 740. Additional conditions and safeguards**

In granting any special permit the Commission shall attach such additional conditions and safeguards as are deemed necessary to protect the neighborhood, such as but not limited to the following:

- 740.1 Requirement of setbacks greater than the minimum required by these Regulations.
- 740.2 Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other devices as specified by the Commission.
- 740.3 Modification of the exterior features or appearance of any structure where necessary to be in harmony with the surrounding area.
- 740.4 Limitation of size, number of occupants, methods or time of operation, or extent of facilities.
- 740.5 Regulation of number, design, and location of access drives or other traffic features including pedestrian ways.
- 740.6 Requirement of off street parking or other special features beyond the minimum required by these Regulations or other applicable codes or regulations.

740.7 Regulation of the number, type and location of outdoor lighting facilities.

740.8 Any data, plans, or drawings, including architect's plans or drawings, voluntarily submitted by the applicant or his duly authorized agent in support of his application and not required by this and other applicable sections of these Regulations may be accepted in whole or in part by the Commission and may be made additional requirements and conditions of the permit when granted.

**Section 750. Condition of approval**

Approval of an application for a special permit under Article VII of these regulations shall constitute approval conditioned upon completion of the proposed development. In accordance with plans as approved and any conditions set forth, within a period of two (2) years after approval is given. However, the commission may require earlier compliance with any conditions, if the commission finds such compliance to be necessary for protection of the public health, safety, and/or welfare. The commission shall set a date for final compliance with such conditions. Approval of the application shall become null and void in the event of failure to meet any of the time limits set in accordance with this section. The commission may by resolution and without public hearing extend its approval for one year periods for good cause shown, and may extend any time limits for compliance with conditions. (Amend. of 1-12-81)

**Section 760. Certificate of Occupancy**

No Certificate of Occupancy shall be issued until it has been determined by the Zoning Enforcement Officer that all provisions of the approval as granted by the Planning Commission have been complied with. In those cases where seasonal conditions prevent compliance with the provisions of the approval before the building is complete, the Zoning Enforcement Officer may authorize issuance of the Certificate of Occupancy on the condition that all provisions of the approval are complied with as the season permits. Noncompliance within that stated time shall make the approval null and void unless further extended for good cause.

**Section 770. Revisions and Extensions**

Any substantial revision of an approved special permit application and any reconstruction, enlargement, extension, moving or structural alteration of an approved special permit use or any building or structure in connection therewith shall require submission of a special permit application as for the original application.

**Section 780. Resubmissions**

No special permit application for which a public hearing has been held and the permit denied by the Commission may be resubmitted for a period of one year unless the Commission finds that substantial change has taken place in the proposed use or other circumstances which were the basis for the denial.

**Section 790.            Bonding**

The Commission may require that applicants post a bond to insure the completion of required site improvements such as road or parking area construction, landscaping, grading, storm drainage and any other items, the failure of which to complete would adversely affect the environment and/or health, safety and welfare of residents of the Town.