

SECTION THREE  
RESIDENTIAL ZONE REQUIREMENTS

3-00

3-01 RESIDENTIAL ZONE R-80 AND R-40

3-01.1 Permitted Uses

- A. Single family dwellings.
- B. Farming, together with accessory uses as provided in Section 2-01.A.11, including agriculture, orchards, forestry, truck and nursery gardening, dairy farming, livestock and poultry raising excluding the commercial raising of pigs and fur bearing animals, provided that no buildings erected subsequent to the adoption of these Regulations for the purpose of housing livestock or poultry shall be located less than 100 feet from any street or lot line.

3-01.2 Special Permit Uses

Special permit uses may be granted by the Planning and Zoning Commission after public hearing subject to the satisfaction of requirements and standards as set forth in Section 8.

- A. The following uses or additions thereto may be permitted by the Planning and Zoning Commission in any zone district where such uses are determined essential to public convenience or welfare:
  - 1. Governmental facilities and uses including Town, State and Federal;
  - 2. Public utility lines, stations and buildings. Telephone community service cabinets measuring no greater than 8'x3'x6' may be allowed without a special permit, providing site plan approval is granted.
- B. Home Occupations as provided in Section 2-08 H
- C. Family Recreation/Amusement Park subject to the following conditions:
  - 1. Public sewer and water service.
  - 2. The Commission shall require a conceptual site plan of sufficient detail to adequately review the proposal in general, and a detailed traffic report prepared by a licensed engineer registered to practice in the State of Connecticut, providing, inter alia, traffic projections and estimates of traffic flow, the impact on the local and regional road network and recommended improvements where required.
  - 3. The Commission shall require estimates and projected impact on employment, public utilities, police and fire protection during the period of operation.

4. The Commission shall find that the proposed Park will not produce traffic hazards, air or water pollution, or depreciation of the neighborhood, and find that the proposed Park will serve the entertainment needs of the general public.
- D. Medical facilities for the care and treatment of mental and/or nervous disorders, including alcoholism and addiction to drugs.
  - E. The purpose of a parent/grandparent apartment is to facilitate children who desire to help care for their parents or grandparents (i.e., includes in-law parents or grandparents) and provide them with a degree of independence in living within the home of such children. Specific provisions for the creation of a parent/grandparent apartment are listed in Section 11-22 of these regulations.<sup>1</sup>
  - F. The following special permit uses may be granted by the Planning and Zoning Commission, after public hearing and subject to the satisfaction of requirements and standards as set forth in Section 8-00.
    1. Permanent adult or child day-care services or nursery schools in which care is provided for 13 or more clients and subject to the following:
      - A. Compliance with State licensing requirements.
      - B. If located in a dwelling unit as an accessory use. No more than 20 clients shall be accommodated at one time. The maximum number of clients may be waived by a two-thirds vote by the Commission.
      - C. If located in a building in a business zone no more than 25 clients shall be accommodated at one time. The maximum number of clients may be waived by a two-thirds vote by the Commission.
      - D. Except in an R-80 zone where 80,000 square feet shall be required, any children's facility in any other zone shall be on a lot having a minimum area of 40,000 square feet.
    2. Private or public playfields that promote retention of open space including playgrounds, golf courses, ski areas, riding academies and similar recreational areas operated on either a profit or non-profit basis.
    3. Community theater buildings of a duly incorporated non-profit body; or private clubs, restricted to members only, and operated not for profit.
    4. Cemeteries.

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<sup>1</sup> revised, ZA #539, effective 8/24/07

5. Camps: Provided the area of the property involved shall be equal to one-half acre for each camper and each employee, whether the campers and employees are residing therein or elsewhere and all structures on the property shall be located 100 or more feet from any street or lot line.
6. Churches, synagogues and other places of worship subject to the provisions in Sections 11-21, and 12 of these regulations also.<sup>1</sup>
7. Hospitals, convalescent, nursing homes and managed residential communities operated by an assisted living services agency.
8. Private schools and colleges.
9. Commercial golf courses, ski areas, and riding academies which promote retention of open space.
10. Tourist homes and boarding and rooming houses restricted to the letting of rooms and furnishing of board in a dwelling unit may be permitted for no more than six persons, provided that central cooking facilities are shared and no accessory building shall be used for renting of rooms or furnishing of board. Tourist homes and boarding and rooming houses shall be restricted to the Residential R-12, Residential Office (RO) or Residential High Density (R-HD) zoning districts.
11. The Commission may authorize the establishment of a bed and breakfast facility subject to compliance with Section Eight (8) of these regulations and the provisions listed in Section 11-19.<sup>2</sup>
12. Private horse stables which promote the retention of open space and are exclusively for the benefit of the property owner and exists for the explicit purpose of providing a location for sick and aging horses, which cannot be used for riding and other similar purposes. Provided that the operation is for nonprofit, appropriate fencing is provided, that the stable or barn is of appropriate size to house the number of horses allowed. Not more than 8 horses or ponies shall be allowed under this regulation, that a letter from a Dr. of Veterinary Medicine is submitted indicating the conditions of the horses or ponies. This section applies to properties consisting of at least 2.8 +/- ac. exclusive of access.

### 3-01.3 Special Exception

#### 3-01.31

The Zoning Board of Appeals may, after public hearing and subject to appropriate safeguards in harmony with the general purpose of these Regulations, grant a special exception for the following uses:

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<sup>1</sup> revised, ZA #539, effective 8/24/07

<sup>2</sup> revised, ZA #539, effective 8/24/07

- A. Circuses, carnivals or similar types of entertainment of a temporary nature, for local, civic, fraternal or philanthropic purposes only.
- B. The keeping of a family flock of chickens (limit 12), subject to the following conditions:
  - 1. The use shall be confined to an enclosure having a total area of not more than 400 square feet.
  - 2. Any structure used for this purpose is to be located not less than 30 feet from any lot line, and 100 feet from any street line.
  - 3. No roosters.<sup>1</sup>
- C. The sale of alcoholic beverages when part of a bona fide golf course, tennis, country or athletic club operation that is located on nine or more acres, provided that the said use is clearly incidental and subordinate to the principal use, and located within the principal building.
- D. Christmas trees or similar seasonal sales of a temporary nature by a civic, fraternal or philanthropic group.
- E. Adult day care facilities for six or fewer clients in private homes.
- F. Adult or child day care facilities for not less than seven nor more than twelve persons subject to the licensing requirements of the State, and providing said facility is in either an R-80 or R-40 zone.
- G. The sale of wine and beer at restaurants existing on or before October 1, 2012, provided that the said use is clearly incidental and subordinate to the principal use, and located within the principal building.<sup>2</sup>

### 3-02 RESIDENTIAL ZONE R-20/25

#### 3-02.1 Permitted Uses:

- A. Any building or use permitted in R-80 and R-40 Residential zones, Section 3-01.1 hereof.

#### 3-02.2 Special Permit Uses

The Planning and Zoning Commission may, by special permit, allow the following uses or additions thereto subject to the provisions of Section 8 hereof:

- A. Any building or use allowed by a special permit in R-80 and R-40 Residential Zones, Section 3-01.2 hereof.

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<sup>1</sup> New, ZA #564, effective 7/7/12

<sup>2</sup> new, ZA #568, effective 12.8.12

B. Municipal housing for the Elderly, when sponsored by the Housing Authority of the Town of Southington and financed by local, state or federal funds subject to the following conditions and safeguards:

1. Each lot shall have a minimum area of 5 acres.
2. The minimum land area per dwelling unit shall be 5,000 square feet.
3. The lot shall be served by public sewerage and public water supply.
4. No building shall exceed one story in height.
5. The minimum distance between buildings shall be 35 feet.
6. No building shall contain more than 8 dwelling units.
7. Each property line shall be paralleled by a landscape screen at least 20 feet wide, planted to a mixture of evergreen and deciduous trees and shrubs which shall be maintained in proper order.

### 3-02.3 Special Exception

3-02.31 The Zoning Board of Appeals may, after public hearing and subject to appropriate safeguards in harmony with the general purpose of these Regulations, grant a special exception for the following uses:

- A. Any building or use allowed by special exception in R-80 and R-40 Residential Zones, Section 3-01.31 hereof.

3-02.32 The Zoning Board of Appeals may, after public hearing and conditional to compliance with the provisions of Section 9, grant a special exception for the following uses:

- A. Any building or use allowed by special exception in R-80 and R-40 Residential Zones, Section 3-01.31 hereof.

### 3-03 Limited Residential Zone R-12L

#### 3-03.1 Permitted Uses

- A. Any building or use permitted in R-20/25 Residential Zones, Section 3-02.1 hereof; or
- B. Two-family dwellings, except that the minimum land area per dwelling shall be 12,000 square feet.

### 3-04 Residential Zone R-12

### 3-04.1 Permitted Uses

- A. Any building or use permitted in R-20/25 Residential Zones, Section 3-02.1 hereof.
- B. Two-family dwellings except that the minimum land area per dwelling unit shall be 12,000 square feet.

### 3-04.2 Special Permit Uses

The Planning and Zoning Commission may, by special permit, allow the following uses or additions thereto subject to the provisions of Section 8 hereof:

- A. Any building or use allowed by special permit in R-20/25 Residential Zones, Section 3-02.2.A.
- B. Multi-family dwellings, attached and detached single family dwellings subject to the following conditions and safeguards:
  - 1. Each lot shall have a minimum of 80,000 square feet, exclusive of site access, and a minimum width of 200 feet. Contiguous parcels of land appropriately zoned, may be added to an approved multi-family development by special permit, providing any additional land be incorporated with the original development and managed as a single entity.
  - 2. The minimum land area per dwelling unit shall be 10,000 square feet, or in the case of elderly housing, 8,000<sup>1</sup> square feet.
  - 3. The lot shall be served by public sewerage and public water supply.
  - 4. No residential or accessory<sup>2</sup> building shall exceed three stories and 35 feet in height.
  - 5. The minimum distance between buildings shall be 45 feet for multi-family buildings. Duplex and detached single family dwellings may be a minimum of 30 feet apart in a condominium project.
  - 6. No building shall contain more than 12 dwelling units, except that this provision shall not apply in the case of elderly housing which shall be subject to a maximum of 40 dwelling units per building.
  - 7. Applicants proposing to develop elderly housing shall consider incorporating a community center or meeting room for the use and enjoyment of residents. This building must provide or have access to parking equal to one quarter of the

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<sup>1</sup>revised, ZA #539, effective 8/24/07

<sup>2</sup> revised, ZA #539, effective 8/24/07

number of units on site. The applicant may ask the commission to waive this requirement if visitor parking is nearby.<sup>1</sup>

8. Provisions for pedestrian circulation must be provided throughout all developments on at least one side of roadways or internal drives. The commission may require walks on both sides of a roadway or internal drive if it is desirable for pedestrian traffic.<sup>2</sup>
9. Plans shall provide on the same plot of land a play space, enclosed by a fence or other physical barrier,<sup>3</sup> for the children of such dwellings which shall contain not less than four hundred (400) square feet for each family housed, except in the case of elderly housing where said space shall be provided for active or passive adult recreation.

The Commission, in its sole discretion and subject to a two-thirds affirmative vote, may waive or reduce recreational requirements for elderly housing as set forth hereinabove if it finds one or more of the following:

- a) That the proposed use is designed exclusively for elderly housing;
  - b) That all or a majority of the proposed units shall be designed to have no more than one bedroom per unit;
  - c) That the lot is located within a reasonable and safe distance to a public park, public school, or other facility with a reasonable area of land dedicated to recreational usage;
  - d) That the applicant has proposed a community center or meeting room for the use of the residents. However, provision of a community center may not completely eliminate the requirement to provide open space areas for passive recreation and enjoyment of the residents.<sup>4</sup>
10. Each property line shall be paralleled by a landscaped screen at least 35<sup>5</sup> feet wide, planted to a mixture of evergreen and deciduous trees and shrubs, which shall be maintained in proper order.
  11. Each application for multi-family dwellings, in addition to the application requirement of Section 8-03, shall be accompanied by the appropriate fee payable to the Town of Southington.<sup>6</sup>

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<sup>1</sup> new, ZA #539, effective 8/24/07

<sup>2</sup> new, ZA #539, effective 8/24/07

<sup>3</sup> revised, ZA #539, effective 8/24/07

<sup>4</sup> new, ZA #539, effective 8/24/07

<sup>5</sup> revised, ZA #539, effective 8/24/07

<sup>6</sup> revised, ZA #539, effective 8/24/07

12. Control of Issue of Certificates of Occupancy: The issue of Certificates of Occupancy shall be limited to 75% of the dwelling units contained in the project until:

- a) All common and/or public improvements, landscaping or erosion and sedimentation control measures covered by bond have been completed to the satisfaction of town staff. Town staff may support bonding for outstanding improvements due to extenuating circumstances, subject to a 2/3 vote by the Commission. Bonding in lieu of improvements for these developments shall be the exception and not the rule.
- b) As built plans of utilities and public improvements within the development, certified by a registered professional engineer, have been received and accepted by the Town Engineer or his designee.
- c) All recreational facilities shown on the approved final plan have been installed.
- d) The final course of pavement has been installed.<sup>1</sup>

C. Planned Unit Development in accordance with the provisions of Section 10.

### 3-04.3 Special Exception

3-04.31 The Zoning Board of Appeals may, after public hearing and subject to the appropriate safeguards in harmony with the general purpose of these regulations, grant a special exception for the following uses:

A. Any building or use allowed by special exception in R-20/25 Residential Zones, Section 3-02.31 hereof.

B. Conversion of an existing dwelling to a two-family use subject to the following conditions:

1. The minimum required lot area shall be 18,000 square feet.
2. Each dwelling unit shall have a minimum living area of 600 sq.ft. for a 2-room unit, plus an additional 150 sq.ft. for each additional room;
3. Exterior stairs shall be enclosed.

3-04.32 The Zoning Board of Appeals may, after public hearing and conditional to compliance with the provisions of Section 9, grant a special exception for the following uses:

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<sup>1</sup> new, ZA #539, effective 8/24/07



- A. Any building or use allowed by special exception in R-20/25 Residential Zones, Section 3-02.32 hereof.

3-05 RESIDENTIAL-OFFICE ZONE (RO)

3-05.1 Permitted Uses

- A. Any building or use permitted in R-12 Residential Zones, Section 3-04.1 hereof.
- B. The use of buildings existing as of October 22, 1971 for professional office or for the mixed use of both residential and professional offices including financial institutions, insurance agencies, undertaking establishments and beauty and cosmetic salons subject to the provisions of Section 9, provided:
  - 1. That any addition or alterations to the exterior of the building shall not lessen the residential character of the building;
  - 2. Any additions shall not exceed 25% of the base floor area of the existing building, unless for good cause, is waived by the commission;
  - 3. Parking shall be restricted to the rear of the building, unless for good cause is waived by the Commission;
  - 4. The Zoning Board of Appeals shall not have the power to issue parking variances in RO zones.

3-05.2 Special Permit Use

The Planning and Zoning Commission may by special permit allow the following uses or additions thereto subject to the provisions to Section 8 hereof:

- A. Any building or use allowed by special permit in R-12 Residential Zones, Section 3-04.2 hereof
- B. The use of buildings existing as of October 22, 1971 for commercial uses which are permitted in a Central Business Zone in accordance with the provisions of Section 4-01.1 excluding banks, clubs and lodges, food shops, hotels, laundaries, restaurants and eating establishments, self-service laundaries and movie houses and which, in the opinion of the Commission, are not detrimental to the surrounding area and/or adjacent properties, subject to the provisions of Sections 8 and 9 provided:
  - 1. All plans comply with the requirements of Section 3-05.2.B.1-4 of the regulations.
  - 2. Any area used for retail sales or service shall be confined to the first floor of the building.

3. The Commission makes a determination that the location, nature, intensity of operations of the commercial use are in character and harmony with the surrounding areas and adjacent properties,

### 3-05.3 Special Exception

3-05.31 The Zoning Board of Appeals may, after public hearing and subject to appropriate safeguards in harmony with the general purpose of these Regulations, grant a special exception for the following uses:

- A. Any building or use allowed by special exception in R-12 Residential Zones, Section 3-04.31 hereof.

3-05.32 The Zoning Board of Appeals may, after public hearing and conditional to compliance with the provisions of Section 9, grant a special exception for the following uses:

- A. Any building or use allowed by special exception in R-12 Residential Zones, Section 3-04.32 hereof.

### 3-06 RESIDENTIAL, HIGH-DENSITY (R-HD)

#### 3-06.1 Zone Location

Each R-HD zone shall directly adjoin or be directly across a public street from a Central Business Zone or Residential Office Zone and must be within a zoning district designated as R-12 on the current zoning map. In addition, no R-HD zone shall extend more than 2,000 feet radially from the intersection of Main Street and Academy Street or South Main Street and West Main Street. Notwithstanding the above, if any portion of a parcel of land is located within said radius, the entire parcel may be considered for Residential, High Density designation by the Planning and Zoning Commission.

#### 3-06.2 Permitted Uses

- A. Any building or use permitted in R-12 Residential Zone, Section 3-04.1 hereof.
- B. Up to three-family dwellings except that the minimum land area per dwelling unit shall be 8,000 sq.ft.

#### 3-06.3 Special Permit Uses

The Planning and Zoning Commission may by special permit allow the following uses or additions thereto subject to the following uses or additions thereto subject to the provisions of Section 8 hereof:

- A. Any building or use allowed by special permit in the R-12 Residential Zone, Section 3-04.2.A.

B. Multi-family dwellings including apartments may be allowed as a special permit use by the Commission in the R-HD zone, subject to the provisions of Section 8 and the following conditions and safeguards:

1. Each lot shall have a minimum area of 60,000 square feet, exclusive of site access.
2. The minimum land area per dwelling unit shall be 3,000 square feet.
3. The lot shall be served by public sewer and water.
4. The minimum distance between buildings shall be 25 feet. A landscaped buffer of 20 feet shall be provided as practicable around the perimeter of the site. The Commission may waive or lessen this requirement with a 2/3 vote due to unique site characteristics.<sup>1</sup>
5. Each application for multi-family dwellings, in addition to the application requirement of Section 8-03, shall be accompanied the appropriate fee payable to the Town of Southington.<sup>2</sup>

#### 3-06.4 Effective Date

This Section shall be effective for all zone change requests filed on or before December 1, 1994. On and after January 1, 1995, no requests for change of zone for Residential High Density shall be granted.

#### 3-07 OPEN SPACE PRESERVATION SUBDIVISION

##### 3-07.1 General

In accordance with the procedures, standards and conditions hereinafter specified, the Southington Planning and Zoning Commission may grant a Special Permit, subject to the provisions of Section 8 herein, to permit the establishment of Open Space Preservation Subdivisions in R-20/25, R-40, and R-80 Residential Zones involving reduction of lot area and certain lot shape, frontage, and setback requirements in order to substantially accomplish the purposes specified in Section 3-07.2<sup>3</sup> herein. All requirements in this Section are in addition to all other requirements applicable in the underlying zone except that the standards set forth herein shall take precedence over any conflicting requirements of other sections of the Zoning Regulations and the Subdivision Regulations.

##### 3-07.2 Purpose

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<sup>1</sup> new, ZA #539, effective 8/24/07

<sup>2</sup> revised, ZA #539, effective 8/24/07

<sup>3</sup> Revised, ZA #547, effective 5/3/08

The intent of this section is to provide alternatives to residential development permitted under other sections of these Regulations if the Commission finds that the application and the accompanying maps and plans conform to the requirements of these Regulations and that it will substantially accomplish the following purposes:

- a. To conserve and preserve land to assure that its development will best maintain or enhance the appearance, character, natural beauty and historic interest of an area;
- b. To preserve land for park and recreation purposes, for neighborhood amenities, and for the potential for the siting of community renewable energy systems;
- c. To conserve forest, wildlife, agricultural, water supplies, and irreplaceable natural features located in the tract such as, but not limited to watercourses, significant stands of trees, individual trees of significant size, and rock outcroppings;
- d. To encourage controlled flexibility of design and development in such a way as to promote the most appropriate use of land, considering its particular size and topography, to protect natural drainage systems, scenic vistas, streams, rivers, ponds, wetlands, floodplains, and to properly manage for stormwater runoff and erosion and sedimentation control;
- e. To provide for the efficient use of land by providing more flexible road and lot layout resulting in smaller networks of utilities and streets and thereby lowering housing, public maintenance, and energy costs;
- f. To provide design and development of a large tract or tracts of land in a manner which have street patterns, building orientations, landscaping, and south-facing slopes that maximize solar access for optimum solar energy collection and space heating needs.

### 3-07.3 Procedure

- A. It is recommended that the applicant submit a preliminary conventional (standard) and open space preservation subdivision at not greater than 1"=100' to the Planning and Engineering staff and informally discuss its merit prior to submission of any formal application. The applicant may request an informal meeting with the Planning and Zoning Commission as well.
- B. Application for a Special Permit for an Open Space Preservation Subdivision shall be submitted in writing, on a form provided by the Commission, and shall also be accompanied by the following:
  1. A written statement describing the purposes to be accomplished and providing evidence to establish that an Open Space Preservation Subdivision will better serve the purpose set forth in Sec. 3-07.2<sup>1</sup> than a conventional subdivision.

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<sup>1</sup> revised, ZA #547, effective 5/3/08

2. Eight<sup>1</sup> copies of an open space preservation subdivision plan (at 1"=40') and conventional subdivision plan (at 1"=100') meeting the requirements of Section Five of the Subdivision Regulations, which shall provide sufficient detail to measure for fulfillment of requirements and which will clearly present to the Commission the differences in the two proposals. The Commission shall use said conventional plan as a general guide only for determining the purposes to be met per Sec. 3-07.2.<sup>2</sup> The conventional subdivision plan shall not be used to determine the maximum number of lots.
  3. Such other information and data deemed appropriate by the Commission to make a reasonable decision on the application.
- C. The Commission shall hold a public hearing within sixty-five days after submission of an application as required by Section 3-07.3.B<sup>3</sup> preceded by the same notice required for hearings on change of zone applications. The Commission shall render a decision within sixty-five days after the conclusion of the public hearing and may approve the application if the Commission makes findings pursuant to Sec. 3-07.2<sup>4</sup> and the plan conforms to the Design Standards and Conditions of Sec. 3-07.4<sup>5</sup> herein. Notice of its decision shall be in compliance with the appropriate State Statute, as amended.
  - D. The Commission, by resolution, shall have final determination as to the maximum number of lots that can be reasonably permitted based upon the regulations herein, the subdivision regulations, and any special reports or findings submitted at the Commission's request.
  - E. Review Standards - The Commission shall review the application for conformity of the proposed development with the applicable standards of this section. Before approving any application, the Commission shall find that the proposal accomplishes two or more of the purposes set forth in Sec. 3-07.2<sup>6</sup> herein, the proposal incorporates more appropriate land use planning techniques than a conventional subdivision, and that the development will not adversely affect existing or potential development of neighboring properties.
  - F. Recording of Open Space Preservation Subdivision Special Permit - The Special Permit shall become effective upon filing a copy thereof in the Office of the Town Clerk and in the land records of the Town of Southington in accordance with the provisions of Section 8-3d of the Connecticut General Statutes, as amended. Recording of the Special Permit shall be the responsibility of the applicant.

#### 3-07.4 Standards and Conditions

All Open Space Preservation Subdivisions shall conform to the following minimum standards and conditions, unless otherwise noted:

<sup>1</sup> revised, ZA #539, effective 8/24/07

<sup>2</sup> revised, ZA #547, effective 5/3/08

<sup>3</sup> revised, ZA #547, effective 5/3/08

<sup>4</sup> revised, ZA #547, effective 5/3/08

<sup>5</sup> revised, ZA #547, effective 5/3/08

<sup>6</sup> revised, ZA #547, effective 5/3/08

A. General

1. The street layout shall be designed as a loop road, where practicable. Permanent cul-de-sacs shall not service greater than 25% of all lots, unless waived by the Commission for good cause.
2. Individual lots, buildings and streets shall be designed and located to minimize the alteration of those natural site features to be preserved.
3. The suitability of open space preservation subdivision open space intended for scenic value shall be determined by its visibility from a significant number of dwellings and/or length of street.
4. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.
5. Parcels under one ownership but separated by an existing public street may be considered as one area to satisfy the requirements herein.
6. For any tract or tracts of land under more than one zone, the maximum number of lots allowed shall be determined separately for each zone based upon the formula herein. The lot area and design standards applicable herein shall apply to the respective underlying zone.

B. Area of Subdivision -- While there is no minimum lot size for an Open Space Preservation Subdivision the land must be in a single tract or a number of contiguous tracts under one ownership, or consolidated into a single tract by a number of different owners by means of a binding agreement which will assure the uniform treatment of an overall open space preservation subdivision development for the entire tract from the time of application and continuing thereafter, except that the acreage may be less than specified for each respective zone if one or more of the following criteria are met.<sup>1</sup>

1. In the opinion of the Commission, the purposes set forth in Sec. 3-07.2<sup>2</sup> can better be served than by a conventional subdivision; or
2. The application covers land adjoining and which can be integrated with another Open Space Preservation Subdivision that has been approved under this Section; or
3. The open space proposed is contiguous to existing open space land outside the area covered by the application and is suitable for the open space purposes specified in Section Six of the Subdivision Regulations.

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<sup>1</sup> revised, ZA #539, effective 8/24/07

<sup>2</sup> revised, ZA #547, effective 5/3/08

- C. Maximum Number of Lots - The maximum number of building lots to be approved shall be computed by reducing the total (gross) acreage by 10% for street right-of-way purposes and then further subtracting the minimum number of acres required for open space purposes per Section Six of the Subdivision Regulations, and by dividing the remaining area by the minimum lot size requirement, per Section Seven of the Zoning Regulations, of the underlying zone. For computation purposes, gross acreage shall not include any ponds or other substantial bodies of water.

In addition any acreage falling in the following “sensitive areas” may be used for computation purposes as follows:

1. Slopes in excess of 25% : 75% usage.
2. Inland wetland soils as determined by the Inland Wetland Agency: 75% usage;<sup>1</sup>
3. Floodplain area as defined per Sec. 6-01.01 of the Zoning Regulations : 25% usage;
4. Land encumbered with easements or other restrictions : 50% usage.

For any area containing more than one of the above, the more restrictive requirements shall prevail.

- D. Lot Area, Shape and Design Standards - The Commission may, in an Open Space Preservation Subdivision, permit modification in the zoning standards according to the following schedule of any one or more of the following minimum standards which could otherwise apply in order to serve the purposes set forth herein:

1. Minimum area of lot (sq. ft.)

<u>R-80</u>	<u>R-40</u>	<u>R-20/25</u>
43,560	22,500	14,000

- a) Any lot created shall be unencumbered (free and clear) in area by any existing or proposed easement or other restriction a minimum of 75% of the total area of the lot.
  - b) To insure protection of existing residences, the Commission may require that proposed lots abutting lots with existing single family dwellings conform to the area requirements of the adjacent zone.
2. Setback Requirements - It is the intent of this section to encourage the developer to vary the appearance and setbacks of the dwellings to provide the greatest utilization of the lot and at the same time impart individuality. Front and rear yard setbacks of the underlying zone shall be maintained whereas the minimum side yard setback shall be not less than that required for the next lower zone.

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<sup>1</sup> revised, ZA #539, effective 8/24/07

3. Lot Coverage - The aggregate coverage on any lot by buildings and other structure shall not exceed 20%.
4. Lot Width - Each lot shall have a minimum lot width, measured at the front building setback line, as follows:

<u>R-80</u>	<u>R-40</u>	<u>R-20/25</u>
120'	110'	85'

In addition the Commission may allow not greater than 25% of the lots to have a minimum width at the front building setback line as follows, provided that one or more of the purposes specified in Sec. 3-07.2<sup>1</sup> are met:

<u>R-80</u>	<u>R-40</u>	<u>R-20/25</u>
110'	100'	80'

5. Interior (rear) lots

Each interior rear lot created shall have a minimum area, as specified in Section 11-14, of two (2) times the requirement stipulated in Sec. 3-07.4 D.1. In approving interior lots, the Commission shall be guided by the following criteria:

- a. Adequate access to said lots for fire protection shall be provided;
- b. Excessively long driveways shall be avoided;
- c. A sufficient topographic or vegetational buffer shall be maintained or provided to insure privacy between lots; and
- d. The interior lot maximizes the use of solar access.

E. Energy Design Standards - Insofar as practicable, the following design standards shall be required to incorporate maximum use of solar energy for space heating needs and solar energy collection:

1. When few natural constraints exist which limit street layout and location, such as but not limited to steep slopes and unsuitable soils, streets shall have an east-west orientation to the greatest extent possible with acceptable variations of 20 degrees to the southwest in order to provide for orientation of lots and buildings to the south, and thereby to encourage the use of passive solar energy concepts in dwelling design.

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<sup>1</sup> revised, ZA #547, effective 5/3/08



2. The side lot lines of all lots shall be at right angles or radial to the street on which the lot has frontage, unless the purpose of the lot line orientation other than those mentioned is to secure greater solar access or protection or control thereof.
3. Dwellings in the project shall be oriented with their long axis running from east to west with a maximum possible deviation of 20 degrees north of due east to 20 degrees south of due east. Development on these lots shall be as shown on the grading plan and so noted on the approved plot plan.
4. Solar access must be unobstructed throughout the entire heating season for each dwelling unit utilizing solar energy for space heating. For the purposes of this regulation, unobstructed solar access shall mean that the south wall of the dwelling shall be free of significant shadows during the hours of 9:00 a.m. to 3:00 p.m. solar time on December 21. Any lot planned for passive solar space heating as the primary means of heating indoor habitable space or which is planned to utilize a solar energy collector shall contain in its deed a solar skyspace easement, subject to review and approval by the Commission, prior to subdivision approval.

“Free of significant Shadows” shall mean that the south wall and/or the solar energy collector shall not be shaded for greater than 25% of the time between the hours of 9:00 a.m. and 3:00 p.m. on December 21.

As used herein, “skyspace” is defined in area as follows: the eastern and western boundaries shall be 45 degrees east and west of due south of the solar collector; the upper and lower boundaries shall be determined by the altitude (distance above the horizon) of the sun on December 21 and June 21.

#### F. Utility Requirements

##### Zone

- R-80 On-site water and septic provided a favorable report is submitted from a licensed Professional Engineer on percolation rates for each lot.
- R-40 Public water or sewers shall be required as a minimum. Both shall be required, whether available or not as defined by Article 17 of the State Building Code, upon recommendation of the local or State Health Department and/or the Town Engineer. For any percolation rate in excess of 20 minutes, the on-site septic system shall be of special design certified by a Licensed Professional Engineer. For any subdivision proposing on-site wells, evidence deemed satisfactory to the Commission shall be submitted by a licensed well driller or other qualified individual to insure proper well yield and potability prior to subdivision approval.
- R-20/25 Public water and sewer shall be required.

All other utilities shall be underground unless waived by the Commission.

G. Landscaping - The Commission, at its discretion, may require a landscaped or natural buffer around the perimeter of the site and/or a landscaped screen between individual lots to insure privacy between contiguous parcels and within the development. Said buffer and/or screening shall be shown and noted on the grading plan.

H. Open Space

1. The land area not allocated to building lots and streets shall be permanently reserved and maintained as open space for purposes approved by the Commission, shall be shown on the subdivision map and shall be labeled in a manner approved by the Commission on the final plan.
2. The Open Space Preservation Subdivision development shall result in reservation of undeveloped land with suitable access, shape, dimension, character, location and topography to accomplish the purposes specified. The Commission shall have the right to determine the location, dimensions, and numbers of rights-of-way to said open spaces for pedestrian and/or vehicular access. Open space land shall be in one contiguous piece except where the Commission finds that the purposes of Sec. 3-07.2<sup>1</sup> would be more effectively served by separate parcels.
3. If the application is developed and submitted in sections, all open space proposed shall be established in the first phase or section submitted, including suitable access to the site.
4. The open space land shall be preserved and maintained solely for the purposes specified and in such a manner as shall be approved by the Commission. Subject to approval by the Commission, the method for effectuating such preservation and maintenance of the open space shall be as follows:
  - a. The establishment of a homeowners' association made up of all owners of the Open Space Preservation Subdivision each of whom shall have an individual interest in the open space land. Said association shall have the power to assess the members for all necessary costs.
  - b. The conveyance by warranty deed of said open space land to a land trust, or to the Town when the Commission deems such conveyance appropriate, or to such other legal entity organized and empowered to own, operate, and maintain land for the open space purposes approved by the Commission.
5. If a homeowners' association is established, an association must be legally established which fulfills the following requirements prior to subdivision approval:

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<sup>1</sup> revised ZA #547, effective 5/3/08

- a. The homeowners' association shall be incorporated as a not-for-profit corporation under the laws of the State of Connecticut. A copy of the by-laws of the homeowners' association shall be submitted as part of the application.
  - b. Membership must be mandatory for each home buyer and any successive buyers, and this requirement shall be placed in the deed to each unit and shall run with the land. Such legal instrument shall be in a form approved by the Commission and shall contain any and all safeguards and conditions suitable to carry out the purposes contained in these Regulations. Such legal instrument shall also provide that if maintenance preservation and/or use of open space land no longer complies with the provisions herein, the Town of Southington, its agents, servants, and employees may, without liability, enter upon such land held for conservation, park or recreation and take all necessary action to assure compliance and assess against the association all costs incurred by the Town for such purposes.
  - c. The homeowners' association shall not be dissolved nor shall it dispose of the open space area, by sale or otherwise, except to an organization established for the purpose of owning and maintaining such space without first offering to dedicate such open space land to the Town.
  - d. The association must be responsible for liability insurance, local taxes, and the maintenance of the land and any improvements thereon. Each property shall be subject to a lien in the event of nonpayment by the owner thereof of his proportionate share of the expenses for the associations' activities as aforesaid.
  - e. The association must be able to adjust the assessment to meet changed needs.
6. Prior to subdivision approval, the owner or developer shall file with the Commission a performance bond to insure the proper maintenance of all open space areas and any improvements thereon until the homeowners' association or other acceptable entity is legally established.
  7. No building or other improvements shall be established in connection with any of the purposes set forth herein unless a Special Permit therefore is secured from the Commission, in accordance with the provisions of Section Eight, as consistent with and in support of the approved open space purposes.

### 3-08 HOUSING OPPORTUNITY DISTRICT ("HOD")<sup>1</sup>

#### 3-08.1 General

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<sup>1</sup> New, ZA #538, effective 9/22/07

The Housing Opportunity District (HOD) is a class of district that may be established by the Commission and delineated on the Zoning Map upon petition by the owner of property or by any person duly authorized by said owner and after due notice and public hearing as required by law for amendment of these Regulations.

3-08.2 Purpose – The HOD is made part of the Comprehensive Plan of Zoning for the following purposes:

- A. To encourage the construction of housing that is both affordable as defined by State Statutes and is consistent with design and construction standards present in the community.
- B. To assist the Town of Southington in complying with the State Zoning Enabling Act, Connecticut General Statutes § 8-2, as amended by Public Act 91-392, by adopting zoning regulations that promote housing choice and economic diversity, including housing for low and moderate income households.
- C. To utilize existing infrastructure efficiently and to promote neighborhood planning by providing, where infrastructure support is available, a mix of housing types, densities, sizes and prices.

3-08.3 Petition – A petition for a change in zone boundary for the purpose of establishing a HOD may be filed with the commission in accordance with the provisions of Section 14-03. After a zone change is approved, approval of a site plan application is required.<sup>1</sup>

3-08.4 Area of HOD – The area to be zoned HOD shall consist of not less than 30 acres in a single tract by a number of contiguous tracts under one ownership, or consolidated into a single tract by a number of different owners by means of a binding agreement which will assure the uniform treatment of an overall development for the entire tract from the time of application and continuing thereafter.

3-08.5 Permitted Uses

- A. Multi-family dwelling units for rental use or for sale, subject to the following requirements:
  - 1. Each multi-family dwelling shall be served by public sewer and water.
  - 2. No building shall contain more than 6 dwelling units.
  - 3. The minimum distance between multi-family buildings shall be 45 feet. Duplex and detached single-family dwellings may be a minimum of 30 feet apart in a common interest act community.<sup>2</sup>

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<sup>1</sup> revised, ZA #543, effective 6/6/09

<sup>2</sup> revised, ZA #543, effective 6/6/09

4. The minimum setback from the road shall be 25 feet.<sup>1</sup>
  5. The minimum side yard setback shall be 40 feet.
  6. The minimum rear yard setback shall be 40 feet.
  7. The minimum distance between the rear of the units shall be 45 feet. The minimum distance between the sides of units shall be 45 feet. Duplex and single-family dwellings may be a minimum of 30 feet apart in a condominium project.
  8. Decks and patios shall not be in the building setback.
  9. No residential or accessory building shall exceed three stories or 35 feet in height.
- B. A lease or sales office, recreational facilities and garages for the private use of the residents and their guests;
- C. One or more swimming pools and such buildings as are reasonably associated with the use of swimming pools. Swimming pools must be fenced in with a locking gate for safety.
- D. Active and passive recreational uses, including, but not limited to, walking trails, tot playlots, and picnic areas. Plans shall provide on the same parcel of land adequate playspace for the children of such dwellings<sup>2</sup>, except in the case of elderly housing units where such space shall be provided for active or passive adult recreation. The Commission in its sole discretion, if subject to a two-thirds affirmative vote, may waive or reduce recreational requirements for elderly housing set forth herein above, if it finds that the proposed use is designed exclusively for elderly housing, that all or a majority of the proposed units shall be designed to have not more than one bedroom per unit and that the lot is located within a reasonable safe distance to a public park, public school or other facility with a reasonable area of land dedicated to recreational usage.
- E. Signs, as provided in Section 13;
- F. Other accessory uses customary with and incidental to the aforesaid permitted uses.

3-08.6 Development Density – Dwelling unit density in the HOD shall not exceed eight (8) dwelling units per acre of land. For purposes of computing allowable density, the minimum required area of the HOD shall exclude the area of ponds, marshes and other wetlands and other areas with a natural slope in excess of 25 percent.

<sup>1</sup> revised, ZA #543, effective 6/6/09

<sup>2</sup> revised, ZA #543, effective 6/6/09

- 3-08.7 Affordability Requirement – Not less than thirty percent (30%) of the dwelling units in the HOD development (and each phase of the development) shall be subject to deed restrictions that shall require that such dwelling units be sold or rented at or below prices that will preserve the units as affordable housing, as defined by Connecticut General Statutes § 8-30g, with fifteen percent (15%) reserved for persons and families whose income is at or below eighty percent (80%) and fifteen percent (15%) reserved for persons whose income is at or below sixty percent (60%), as applicable, of the area median income for Southington or the statewide median income, whichever is less, as determined by the United States Department of Housing and Urban Development. Such restrictions shall remain in effect for at least forty (40) years after the initial occupation of the proposed development. Those units to which deed restrictions will apply shall be designated with the submission of the final site plan.
- 3-08.8 Procedure – In addition to the materials required to be submitted under Section 9 as part of a site plan application, the applicant shall submit an “Affordability Plan” that complies with the requirements of Connecticut General Statutes § 8-30g.
- 3-08.9 Adequate Parking and Access: At least two and one-half (2.5) off-street parking spaces shall be provided for each HOD dwelling unit. Parking spaces in front of garages shall be counted towards this requirement. The parking and loading facilities shall be deemed to be adequate and properly located, and the entrance and exit driveways are laid out to achieve reasonable safety.
- 3-08.10 Each property line along which residential units are proposed shall be paralleled by a screen of naturally existing vegetation at least 20 feet wide, or shall be landscaped by planting a double row of pine trees. All landscaping shall be appropriately maintained. Applicants shall avoid clearing existing vegetation where possible, but may propose additional plantings where necessary to improve screening. Such landscaping is not required in areas where utilities are proposed or where wetlands or watercourses are located.<sup>1</sup>
- 3-08.11 Mechanicals and outside generators that serve the entire community<sup>2</sup> and dumpsters shall be screened with a lightproof fence. In the case of dumpsters, a detail of the proposed dumpster enclosure shall be included on the plans and a note shall be added to the plans stating that the top of the dumpster shall be no higher than the top of the fence. A lightproof fence shall be required.
- 3-08.12 If a community center is proposed, the community center shall have one parking space for every 200 s.f. of gross area of the community center in accordance with Section 12-01.1 of the Zoning Regulations.<sup>3</sup>
- 3-08.13 Full cutoff light fixtures and recessed lenses only shall be used on the property and no light shall be positioned so as to cause a nuisance external to the site from excessive

<sup>1</sup> revised, ZA #543, effective 6/6/09

<sup>2</sup> revised, ZA #543, effective 6/6/09

<sup>3</sup> revised, ZA #543, effective 6/6/09

glare.

- 3-08.14 Design Standards for Transportation Network: A grid street pattern or interconnecting loops shall be required for the purposes of ensuring adequate public safety access and effective traffic circulation. For developments over 25 units in density, applicants shall provide two entrance/exits from the development.
- 3-08.15 Adequate Public Utilities: That the water supply, the sewage disposal, and the storm water drainage shall conform with accepted engineering criteria, comply with all standards of the appropriate regulatory authority, and that such utilities have, or can be improved by the developer to have, adequate capacity for the proposed use.
- 3-08.16 A Phase I Environmental Report must be submitted to verify there are no environmental concerns and no potential environmental equity concerns.
- 3-08.17 Adequate Streets for Use: Streets providing access to the proposed use or development shall be adequate in width, grade, alignment and visibility, and shall have adequate capacity for the additional traffic generated by the proposed use.<sup>1</sup> The Commission may deny any proposed development which causes the level of service (LOS) on a roadway or roadway to fall below LOS D<sup>2</sup>. Alternately, offsite roadway improvements or signalization may be required to ensure the adequacy of the local roadway system and public safety. Provisions shall be made for vehicular traffic to enter and exit the site which do not create an undue traffic hazard and/or cause undue traffic congestion. All access points shall accommodate two lanes of traffic entering and exiting the site unless the Commission deems it in the interests of public safety and the welfare of the general public, due to the existing conditions, to permit alternative access to the site including but not limited to restricted turning movements and shared access.
- 3-08.18 The property and proposed parking areas shall be suitably landscaped with a combination of trees, shrubs and other plant materials to filter and screen the view of the proposed development from the surrounding area and adjacent properties and enhance the appearance of the proposed development. The Commission may require as a condition of approval a performance bond to assure the completion of any site and/or public improvements.
- 3-08.19 The proposed use, proposed buildings and structures and other site features are to be designed and maintained in such a manner as not to impose an unacceptable risk to aquifers and public water supplies.
- 3-08.20 Environmental Protection and Conservation: That the proposed plans shall provide for the reasonable conservation of natural features,<sup>3</sup> the utilization of best management practices to minimize degradation of storm water run-off, and the utilization of landscape and/or buffer areas to protect environmentally sensitive portions of the site.

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<sup>1</sup> revised, ZA #543, effective 6/6/09

<sup>2</sup> revised, ZA #543, effective 6/6/09

<sup>3</sup> revised, ZA #543, effective 6/6/09

3-08.21<sup>1</sup>

Control of Issue of Certificates of Occupancy: The issue of Certificates of Occupancy shall be limited to 75% of the dwelling units contained in the project until:

- a. All common and/or public improvements, landscaping or erosion and sedimentation control measures covered by bond have been completed to the satisfaction of town staff. Town staff may support bonding for outstanding improvements due to extenuating circumstances, subject to a 2/3 vote by the Commission. Bonding in lieu of improvements for these developments shall be the exception and not the rule.
- b. As built plans of utilities and public improvements within the development, certified by a registered professional engineer, have been received and accepted by the Town Engineer or his designee.
- c. All recreational facilities shown on the approved final plan have been installed.
- d. The final course of pavement has been installed.

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<sup>1</sup>New, ZA #543, effective 1/5/08