

ARTICLE IV

OVERLAY ZONES

Section 4.0 Purpose

The purpose of an overlay zone is to impose additional requirements beyond those of the underlying zone in cases where additional safeguards are necessary.

Section 4.1 Aquifer Protection Zone (APZ)

(See Separate Regulations)

Section 4.2 Coastal Area Management (CAM) (850)

4.2.1 Purpose

The purpose of Coastal Site Plan Review is to assure that development within the Coastal Area is consistent with the goals and policies of Chapter 444, Section 22a-92 of the Connecticut General Statutes and with the goals and policies of the Town of Hamden Planning and Zoning Commission.

4.2.2 Location

The Coastal Area shall be defined as the area of Hamden that lies within the Coastal Area boundaries described in Section 22a-94 (a), (b), (c) and (d) of the Connecticut General Statutes and as shown on a map titled "Coastal Boundary" 1980, as it may be amended from time to time, prepared by Coastal Area Management Program, Connecticut Department of Environmental Protection which is on file in the Planning and Zoning Office and in the office of the Hamden Town Clerk.

4.2.3 Permitted Uses

In the Coastal Area, any use that is allowed in the underlying zone shall be permitted, subject to compliance with the requirements of all pertinent sections of these Regulations and all pertinent sections of the Connecticut General Statutes.

4.2.4 Authority

A Coastal Area Site Plan shall be approved by the Commission as outlined in Section II (b) of the Coastal Area Management Act prior to the commencement of any activity.

4.2.5 Exceptions

A Coastal Site Plan shall be required for any activity or project as defined in Section II (b) of the Coastal Management Act, which is proposed to be located either fully or partially within the Coastal boundary, with the following exceptions:

- a. Minor additions to or modifications of existing buildings or detached accessory buildings such as garages and utility sheds. A minor addition is an addition that does not exceed 10% of the first floor area or one-thousand square feet whichever is less, and which does not require more than a 10% addition to the number of off-street parking spaces in order to comply with the parking requirements;
- b. Construction of new or modifications of existing on-premise fences, walls, pedestrian walks and terraces, underground utility connections, essential electric, gas, telephone, water and sewer service lines, signs and such other minor structures that will not substantially alter the natural character of coastal resources or restrict access along tidal rivers;
- c. Construction of an individual, conforming, single-family residential structure, except in or within one hundred feet of tidal wetlands;
- d. Activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife and other coastal land and water resources;
- e. Gardening, grazing and the harvesting of crops.

4.2.6 Application

An application for approval of a Coastal Site Plan shall be filed with the Commission and shall comply with all provisions of the applicable zone, with **Section ??? [Site Plan Review Section]**, with all other pertinent requirements of these zoning regulations, and with all provisions of Sections 11 and 12 of the Coastal Management Act.

4.2.7 Impact Analysis

The Commission or its designated agent may, in appropriate situations, require the applicant to provide an impact analysis to demonstrate that any potential adverse impacts by the proposed activity is consistent with the goals and policies set forth in these regulations and in Section 22a-92 of the Connecticut Statutes.

4.2.8 Public Hearing

The Commission may, at its discretion, hold a hearing on a Coastal Site Plan. The time limits of Section 8-7d (b) of the Connecticut General Statutes shall be adhered to in acting on a Coastal Site Plan.

4.2.9 Commission Action and Referral

The Commission shall approve, approve with conditions, modify, or deny the application. It shall set forth the reasons for its decision and shall notify the applicant of its decision by certified mail within fifteen days after such decision is rendered. In approving any activity proposed in a Coastal Site Plan, the Commission shall make a written finding that the proposed activity with any conditions or modifications imposed by the Commission:

- a. Is consistent with all applicable goals and policies in Section 22a-92 of the General Statutes, as amended; and
- b. Incorporates as conditions or modifications all reasonable measures which would mitigate the adverse impacts of the proposed activity on both Coastal resources and future water dependent development activities.

Whenever an application for a variance is submitted to the Zoning Board of Appeals for a use, structure or activity which lies either wholly or partially within the Coastal Area boundary, the Zoning Board of Appeals shall refer review of the Coastal Site Plan to the appropriate section of the Planning and Zoning Commission so as to assure compliance with **Section 10.5 [Site Plan Review Section]** of these regulations and with Section 22a-92 of the Connecticut General Statutes.

Section 4.3 Flood Plain Zones and Special Flood Hazard Areas (630)

4.3.1 Applicability

These regulations shall apply to all Special Flood Hazard Areas within the jurisdiction of the Town of Hamden. The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its Flood Insurance Study dated June 15, 1979 with accompanying Flood Insurance Rate Maps and Floodway Maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of these regulations. The Town Planner is hereby appointed to administer and implement the provisions of this regulation.

4.3.2 Permitted Uses

Agriculture, nurseries, truck farms, tree farms, recreation facilities without buildings, siltation ponds, open space, and similar uses are permitted as of right. Other uses involving structural improvements as allowed in the underlying zone shall require a Special Permit.

4.3.3 Provisions for Flood Hazard Reduction

4.3.3.1 General Standards:

When any new development or substantial improvement is located wholly or partially in a designated flood

plain zone as shown on the zoning map of Hamden, or wholly or partially within a Flood Hazard Area, Zones A, A-1 through 30, as shown on the Community Flood Insurance Rate Map, all new construction and/or substantial improvements shall be constructed:

- a. With materials resistant to flood damage, and;
- b. Using methods and practices that minimize flood damage;
- c. Such that electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. Such that new construction and substantial improvements be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- e. Such that the flood carrying capacity of any portion of a watercourse which is altered or re-located is maintained;
- f. Accessory structures shall be subject to all general and specific standards contained in Section 4.2.4.
- g. Such that all storage of petroleum liquids or hazardous materials are to be aboveground and above base flood elevation. Storage tanks should be situated on a curbed impervious surface capable of containing at least 110% of the volume of the tank(s). A roof should be provided to prevent precipitation accumulation.
- h. Such that storm water runoff management in flood plain areas promote renovation of runoff prior to discharge, and aquifer recharge. Stormwater drainage should be pretreated to remove particulate and dissolved pollutants associated with road and parking lot runoff prior to discharge. Infiltration of clean or pretreated runoff should be maximized except in areas subject to an unusually high risk of hazardous material spillage. Open vegetated basins, ponds, artificial/man-made wetlands, and buffer strips are the preferred methods of treating and infiltrating stormwater runoff.

4.3.3.2 Specific Standards:

- a. Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least two feet above the base flood elevation.
- b. Manufactured Homes - Manufactured homes shall be placed on a permanent foundation, at least two feet of elevation above base flood level, which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement, and hydrostatic and hydrodynamic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties.
- c. Recreation Vehicles - Recreation vehicles placed on sites within Zone A and Zone A1-30 shall be on site for fewer than 180 consecutive days and be fully ready for highway use. A recreation vehicle is ready for highway use if it is on wheels, or jacking system, is attached to site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- d. Non-Residential Construction - New construction or substantial improvement of any commercial, industrial, or non-residential structure located in Zone A1-30, AE and AH shall have the lowest floor, including basement, elevated at least two feet above the level of the base flood elevation.

4.3.3.3 Utilities

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.
- c. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them.

4.3.3.4 Floodways

Floodways are located within Special Flood Hazard Areas as identified in the Hamden Flood Insurance Study prepared by the Federal Emergency Management Agency and delineated on Flood Boundary-Floodway Maps

and Flood Insurance Rate Maps.

Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and have erosion potential, no encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall result in no increase in flood levels during occurrence of the base flood discharge. Fences located in the floodway must be aligned with the flow and be of an open design.

In any regulated floodway, no development or encroachment shall be permitted which would increase flood level or sediment loads during base flood discharge.

4.3.3.5 Standards for Stream without Base Flood Elevations, Floodways and/or Flood Mapping

Base flood elevation data shall be provided by the applicant with any application for activity in an A Zone after which the Town Planner shall review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source including data developed pursuant to **Section 4.2.4**, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Town of Hamden's Flood Insurance Rate Map meet the specific standards of these Regulations.

In A Zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevations more than 1 foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.

The Town Planner may request flood way data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or when ever such data is available from any other source (in response to the Town's request or not) the Town of Hamden shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than 1 foot at any point along the watercourse.

4.3.3.6 Additional Requirements

All requirements of this section are in addition to the requirements applicable to the zone in which the proposed development is to be located.

4.3.4 Flood Plain Development Permit

A Flood Plain Development Permit shall be required in conformance with the provisions of **Section 6.2**, after Commission approval and prior to the issuance of a Zoning Permit. When no Commission approval is required, a Development Permit may be issued prior to the issuance of the Zoning Permit. The authority for a Development Permit is the Town Planner.

4.3.5 Application

Such application shall be accompanied by two sets of plans drawn to scale showing, at a minimum, the property lines and location of the parcel; existing and proposed contours; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. The following information shall also be submitted to the Town Planner:

- a. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;
- b. The elevation and area flooded from the runoff of a 100-year design storm utilizing the "Rational" method or other method approved by the Town Engineer and assuming residential development upstream.
- c. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

- d. Any proposed alteration must be accompanied by a report from the Conservation Commission assuring that the flood carrying capacity of the watercourse is maintained, and
- e. F.E.M.A., the D.E.P., adjacent communities and the Regional Planning Agency must be notified of any alteration.
- f. A statement as to whether or not the proposed alterations to an existing structure meet the criteria of the substantial improvement definition;
- g. A statement as to whether there will be dry vehicular access to residential structures during the 100-year storm event;
- h. Certification by a professional engineer that the standards of Section 6.2.4 are met; and
- i. When the application for a Development Permit is a part of another application required by these Regulations, the above information may be incorporated in the other application drawings.

4.3.6 Application Stages

In the administration of Section 4.2, the Town Planner shall:

- a. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- b. Review all development permits to assure that requirements of Section 4.2 have been satisfied.
- c. Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the Development Permit. Such additional permit requirements may include, but not be limited to: Stream Channel Encroachment Line Permit, Coastal Area Management Permit, Water Diversion Permit, Dam Safety Permit, Corps of Engineers 401 and 404 Permits.
- d. Notify adjacent communities and the D.E.P., Inland Water Resources Management Division prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- e. Maintain all records pertaining to the provisions of Section 4.2.

4.3.7 Construction Stage

Upon completion of the applicable portion of construction, the applicant shall provide the Zoning Enforcement Officer with verification of the as-built lowest floor elevation, defined as the top of the lowest floor (including the basement), or in the case of flood proofed buildings, the elevation to which the flood proofing is effective, prior to his submission of as-builts for complete construction required for a Certificate of Zoning Compliance. Compliance. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies in the lowest floor elevations. Failure to submit an acceptable survey or failure to make corrections required hereby shall be cause for issuance of a stop-work order.

4.3.8 Disclaimer of Liability

The degree of flood protection required by these regulations is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Hamden or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made there under.

Section 4.4 Open Space Development (620)

4.4.1 Purpose

It is the purpose of this provision to encourage flexibility and innovation in the design of residential develop-

ment that cannot be achieved through the application of traditional zoning and subdivision regulations. The objectives of this section include:

- a. Maximum reasonable conservation of land and creation of useable open space and recreation areas;
- b. Variety in type and cost of residential development, thus increasing the choice of housing types available to town residents;
- c. Preservation of trees and outstanding natural features and prevention of soil erosion; and
- d. A shorter network of streets and utilities and more efficient use of energy than would be possible through strict application of standard zoning.

4.4.2 Applicability

An Open Space Development (OSD) may be permitted subject to Special Permit, Site Plan and/or Subdivision approvals and the following conditions:

- a. A minimum of 10 acres shall be required to enable a site to qualify for an OSD.
- b. All permitted dwelling units shall be single-family attached and/or single-family detached units, located on either individual lots or a common area, or a combination thereof.
- c. The amount of common area and/or open space to be created shall be a minimum of 30% of the total development site. Said common areas and/or open space shall have a suitable number of pedestrian accessways and shall have shape, dimensions, character and location to accomplish the purpose and intent of this section.
- d. The Commission shall make a finding that the application of standard zoning to the subject site will not be consistent with the objectives set forth in this section. Specifically, the Commission shall find that the overall layout of the development as permitted under this section allows for superior utilization of passive and/or active open space areas, superior protection of natural resource areas, and more functional house sites than possible under a standard subdivision layout.

4.4.3 Determination of Density and Zoning Modifications

In addition to items specifically required in an application for a Special permit, including a Site Plan, the applicant shall submit the following:

- a. A conventional subdivision plan conforming to all applicable requirements of the Zoning Regulations and Subdivision Regulations. The Commission shall use said conventional plan as a basis for determining the maximum number of dwelling units to be permitted in the OSD. In no case shall the total number of dwelling units to be approved exceed the number permitted by the existing zoning of the site.
- b. If the OSD proposes dwellings on individual lots, requirements of the zone in which located for lot area, lot widths, setbacks and yards may be reduced by a percentage not to exceed the total percentage of common area and/or open space to be created as part of the total development site or 60%, whichever is smaller. In the R-4 Zone no reduction of lot sizes or standards will be permitted.
- c. If the OSD proposes a group of dwellings on a single lot or common area, each dwelling or other structure shall be setback from all lot lines a distance not less than the minimum front yard as required by the applicable zone. In addition, unless attached, the minimum distance between dwellings on the same lot shall be 20 feet.
- d. A statement specifically setting forth the nature of the requested modifications, changes or supplementations of existing zoning provisions, the location of the open space, building lots, streets, site easements and recreational facilities, and any other additional information and requirements as determined necessary by the Commission.

Nothing contained in this section shall relieve the owner of a proposed development from receiving final subdivision approval in accordance with Town's Subdivision Regulations if the OSD proposes dwellings on individual lots.

The Planning Section may give consideration to the final subdivision plan simultaneously with the Special

Permit and may conduct a public hearing upon said subdivision plan concurrently with the conduct of a public hearing on the Special Permit and may approve, approve with modifications, or disapprove said plan. In this case the Special Permit Application shall be accompanied by such other data as is required by the Subdivision Regulations.

4.4.4 Common Areas and Open Space

The Commission shall establish such conditions on the ownership, use, and maintenance of common areas, including open space, as it deems necessary to assure the preservation of such areas for their intended purpose. A homeowners' association comprised of the residents of the development shall maintain common areas and/or open space reserved for their use or by any maintenance mechanism acceptable to the Town Attorney and Commission assuring the ownership use and maintenance of the "open space" for the intended purpose.

An OSD shall require and be conditional upon organization and creation of one of the following entities for purposes of assuring maintenance of all common open space:

- a. A homeowners' association approved as to form by the Town Attorney and by the Commission as to substance; or
- b. Any other arrangement so approved by the Town Attorney as to form and the Commission as to substance as satisfying the intent of this section.

Any homeowners' association so approved shall meet the following standards:

- a. The homeowners' association shall be incorporated as a not-for-profit corporation under the laws of the State of Connecticut.
- b. Each dwelling unit owner shall automatically become a member of said homeowners' association, and this requirement shall be placed in the deed to each unit and shall run with the land or dwelling, shall have a right and easement of enjoyment in and to the common area, and shall be subject to a charge for a proportionate share of the expenses for the organization's activities, including the maintenance and operation of the common land and facilities. Each property shall be subject to a lien in the event of non-payment by the owner thereof of this proportionate share of the expenses for the association's activities as aforesaid. Dedication of all common areas to the common use of all the owners of property in the development shall be recorded directly on the subdivision plan or site plan or by reference on the plan to a declaration of covenants, conditions, and restrictions in a separately recorded document, in such fashion and by such instrument as shall reserve the title to the homeowners' free of any cloud of implied public dedication, and such deed restriction or covenant shall specifically prohibit any development for other than open space on the specified open land and/or conservation area; and
- c. Permit the development owner to convey title to the common areas to the homeowners at an approved time.

Prior to recording an approved OSD in the office of the Town Clerk, the owner shall file with the Commission a performance bond to insure the proper installation of all improvements shown on the subdivision plan or site plan and a maintenance of all common areas and open space until the homeowners' association or other acceptable organization is established. The Commission shall approve the amount and period of said bond. The Town Attorney shall approve the form, sufficiency, manner of execution, and surety of the bond. Each approved OSD shall be recorded in the office of the Town Clerk in accordance with the procedures set forth in the General Statutes for the recording of subdivision plans.

The Charter or Certificate of Incorporation of such organization shall contain the following provisions and notice of said provisions shall be specifically given in any brochure or prospectus issued by the owner, namely:

- a. That such organization shall not be dissolved and shall not be relieved of the obligation to maintain any common open space or other common areas, except by transfer to an organization conceived and established to maintain such common open space and other common areas herein above referred to.
- b. That, in the event the organization established to maintain common open space or other common areas, or any successor organization, shall at any time fail to maintain the common open space and other common areas in reasonable order and condition in accordance with approved plan, the Commission may serve writ-

ten notice upon such organization and the residents of the development, setting forth the manner in which the organization has failed to maintain the common open space and other common areas in reasonable order and condition in accordance with the plan, and said notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof, and shall state the date and place of a hearing thereon to be held within 45 days of the notice.

At such hearing, the Commission may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof are not cured within said 30 days or any extension thereof, the Commission, in order to preserve the taxable values of the properties within the OSD, and to prevent the common open space and other common elements from becoming a public nuisance, may institute proceedings to have the Town or its designee enter upon said common space and other common areas and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space or other common areas. Before the expiration of said year, the Commission shall, upon its own initiative or upon the request of the organization responsible for the maintenance of the common open space and other common areas, call a public hearing upon notice to such organization or to the residents of the development, at which hearing such organization or the residents of the development shall show cause why such maintenance by the Town or its designee shall not, at the election of the Town, continue for a succeeding year.

If the Commission determines that such organization is ready and able to maintain said common open space and other common areas in reasonable condition, the Town or its designee shall cease to maintain said open space and other common areas at the end of said year. If the Commission shall determine such organization is not ready and able to maintain such common open space and other common areas in a reasonable condition, the Commission may, at its discretion, continue to have the Town or its designee maintain said common open space and other common areas during the next succeeding year and subject to a similar hearing and determination in each year thereafter.

- c. That the cost of such maintenance by the Town or its designee shall be assessed ratably against the property owners within the OSD. In the event of the failure or refusal of the owners of such property to pay any such charges when due, the unpaid amount thereof shall become a lien against such property, and, together with interest thereon from due date thereof, shall be included in the annual tax levy of the Town upon such property for each fiscal year, and the amount so levied shall be collected in the same manner as other Town taxes.

