

## ARTICLE IV

## OVERLAY ZONES

### **Section 400 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 410 Aquifer Protection Area (APA)**

(See Separate Regulations)

### **Section 420 Coastal Area Management Zone (CAM)**

#### **421 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 the Coastal Area Management Act (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.

#### **422 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.

#### **423 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.

#### **424 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.

#### **425 Exceptions**

*A Coastal Area 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.*

## **426 Application**

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

## **427 Impact Analysis**

The Commission or its designated agent may 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 General Statutes.

## **428 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.

## **429 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 that 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 that lies either wholly or partially within the Coastal Area boundary, the Zoning Board of Appeals shall refer review of the Coastal Area Site Plan to the Planning and Zoning Commission to assure compliance with **Section 720** of these regulations and with Section 22a-92 of the Connecticut General Statutes.

## **Section 430 Flood Plain Zones and Special Flood Hazard Areas**

### **430.1 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, as amended, 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.

### **430.2 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.

### **430.3 Provisions for Flood Hazard Reduction**

#### **430.3.1 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 that is altered or re-located is maintained;
- f. Such that accessory structures shall be subject to all general and specific standards contained in Section 430.3.
- 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 accumulation of precipitation.
- h. Such that storm water runoff management in flood plain areas promote
  - i. Renovation of runoff prior to discharge, and
  - ii. Aquifer recharge.
- i. 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.

#### 430.3.2 Specific Standards:

- a. Residential Construction - New construction or substantial improvement to 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, that 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 Zones AI through 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 a 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 Zones AI through 30, AE and AH shall have the lowest floor, including basement, elevated at least two feet above the level of the base flood elevation.

#### 430.3.3 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.

#### 430.3.4 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 that would increase flood level or sediment loads during base flood discharge.

#### 430.3.5 Standards for Stream without Base Flood Elevations, Floodways and/or Flood Mapping (Also See **Section 520.11.9**)

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 430.3**, 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 that will increase base flood elevations more than one foot at any point along the watercourse, when all anticipated development is considered cumulatively with the proposed development.

The Town Planner may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data are provided by an applicant or whenever such data are 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 one foot at any point along the watercourse.

#### 430.3.6 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.

#### **430.4 Flood Plain Development Permit**

A Flood Plain Development Permit shall be required in conformance with the provisions of **Section 430**, 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.

#### **430.5 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 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 **this section** 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's drawings.

#### **430.6 Application Stages**

The administration of Section 430 by the Town Planner shall include:

- 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 430 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, Army 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 this section.

#### **430.7 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 or her submission of Improvement Location Survey for complete construction required for a Certificate of Zoning 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.

#### **430.8 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 440 Open Space Development**

### **440.1 Purpose**

It is the purpose of this provision to encourage flexibility and innovation in the design of residential development 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.

### **440.2 Applicability**

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

- a. A minimum of 10 acres shall be required to enable a site to qualify as 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.

### **440.3 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 single family homes, 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 an R-4 Zone no reduction in 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 set back 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 sub-

division 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 are required by the Subdivision Regulations.

#### **440.4 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 be formed to maintain common areas and/or open space reserved for their use. An alternative maintenance mechanism to a homeowners' association, may be used provided that it is acceptable to the Town Attorney and the Commission and assures 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 approved by the Town Attorney, as to form, and by 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. Each dwelling unit owner shall have a right to and easement of enjoyment in 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 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 Connecticut 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 written 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 the issue 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.

## **450 Village District Overlay Zones**

### **450.1 Spring Glen Village District**

The purpose and intent of the Spring Glen Village District Regulations is to protect the unique character of Spring Glen, which is a primarily residential neighborhood bounded to the North by the Spring Glen School on Whitney Avenue, to the South by Lake Whitney, to the West by the Mill River and the north basin of Lake Whitney, and to the East by the Hartford Turnpike and the North Haven Town Line. The Spring Glen Village District (“SGVD”) extends along both sides of Whitney Avenue from Walden Street to Glendower Road. The SGVD includes in their entirety every first and second property back from this part of Whitney Avenue in Hamden, on both the East and West sides of the Avenue. It includes several properties on Ford Street that are the second property back from Whitney Avenue but located on the east side of Ford Street. The SGVD also includes every property, and structure on a property, that is commercial or mixed use in Spring Glen and every property that abuts these commercial and mixed use properties. (See the Spring Glen Village District Map. This map shall take precedence over the text in determining which properties are included and excluded from the SGVD Overlay Regulations.)

These Regulations are enacted pursuant to C.G.S. §§ 8-2 and 8-2j, as amended, to protect the distinctive character, landscape, and historic structures within the SGVD assuring that new construction, demolition, renovation, substantial reconstruction, and rehabilitation of property or properties within the SGVD and in view from Whitney Avenue will be in keeping with the established architectural features, scale and character of Spring Glen. The SGVD shall be an overlay district, the regulations of which shall be in addition to the regulations applicable to the underlying zone districts.

The SGVD includes several homes of historical significance on Whitney Avenue, exhibiting Colonial, Federal, and Greek revival design. In the 20th century, residential development was primarily in the Colonial Revival style, and commercial architecture in the Tudor Revival style. Spring Glen grew as a result of early suburbanization of the New Haven area from the early 20th century through the 1930s. This growth was supported by public transportation on Whitney Avenue, such as trolleys, and resulted in small residential lot development around a village center. This circular residential neighborhood with a small nodal business district on Whitney Avenue is one of the defining characteristics of the Spring Glen neighborhood.

The fact that the form and size of the Spring Glen business district have remained relatively constant, and not spread down Whitney Avenue or encroached more deeply upon existing residential properties, has helped define Spring Glen as a unique village and walkable neighborhood. The Spring Glen business district has traditionally been the location of retail and service establishments serving the adjacent residential neighborhood. “No physical expansion” of the existing business district in Spring Glen should be permitted, as stated in the “Hamden Plan of Conservation and Development, 2004,” page 131.

In addition to well-defined residential and commercial districts, Spring Glen is home to several religious institutions, private schools, and a public school along Whitney Avenue within walking distance of any home in the neighborhood. These institutions further define the SGVD of Spring Glen. The conversion of these properties to higher density housing than permitted under R-4 zoning regulations or commercial uses would negatively impact the village character, diversity, “walkability,” and the public safety of pedestrians, especially children, of the Spring Glen neighborhood.

In applying these regulations, the Planning & Zoning Commission shall consider the design, relationship, and compatibility of structures and site improvements including: plantings and landscaping, exterior signs, roadways and streetscape, lighting, street furniture, sidewalk paving, public art, fencing in regard to commercial and mixed use properties, and other objects in public view. These Regulations encourage the conservation and preservation of existing buildings and sites in a manner that maintains the historic and distinctive character of

the SGVD. The goals of these regulations are consistent with the distinctive characteristics of the district identified in the Hamden Plan of Conservation and Development (effective September 1, 2004) at pages 118, 125, and 131.

## I. APPLICABILITY OF REGULATIONS

A. These Regulations apply to the following activities: new construction, renovation, substantial reconstruction, or rehabilitation of any structure, property or properties within the SGVD. The scope of application of these regulations includes:

1. The design and placement of buildings;
2. The maintenance of public views, which includes the size and placement of signs;
3. Parking and vehicular circulation;
4. Pedestrian circulation and safety;
5. The hours and manner of operation of businesses; and
6. The uses of buildings and structures, as well as any other element or aspects that the Planning & Zoning Commission deems appropriate in order to protect the distinctive character of the SGVD.

B. The following projects and activities shall be exempt from review under the SGVD Overlay section of the zoning regulations:

1. Repairs, minor alterations, and maintenance of an existing structure, as well as exterior steps, walkways and driveways. These repairs, alterations and maintenance include, painting, choice of paint color, replacing roof shingles or other forms of roofing, adding windows, shutters, siding, stonework, brickwork, utility services, fencing, non-enclosed decks, adding a second story to an existing single story room of a house, or other changes in a structure's features that do not result in a significant impact on the design, function, architectural character or visual appearance of the structure;
2. Exterior architectural modifications that do not substantially alter the existing height, bulk or façade of an existing building or structure (with the exception of activities listed in I.B.1, above) and do not increase the lot coverage or footprint of the building (with the exception of non-enclosed decks);
3. Interior modifications that do not result in a change in use of the building.

## RESIDENTIAL ZONES

### II. PERMITTED USES AND STRUCTURES IN SGVD IN AREAS ZONED R-4

A. The SGVD, as it applies to properties in residential zones, is an overlay district for R-4 zoning. The areas of the SGVD zoned R-4 are primarily used for single-family homes and non-commercial civic institutions, such as schools and religious institutions. Any new construction or modification of existing structures shall not detract from the residential character of the R-4 areas.

1. Allowed by Zoning Permit: Accessory building; Keeping of Animals; Family Day Care Home (Children); Roomers and Boarders; Student Housing; and other uses which are required to be permitted by federal or state law;
2. Allowed by Site Plan: Residence- Single Family, Community Garden; Farmers Market; Telecommunications Facility;
3. Allowed by Special Permit: Cemetery; Civic Club, Lodge or Association (non-profit); Adult Day Care; Child Day Care, Nursery School & Group Day Care Home; Home Occupation; Library and Museum; Place of Public Assembly; Place of Worship; Preservation of Historic Structure; Multi-family Dwellings-Adaptive reuse to

multifamily; College and University (non-profit); Elementary and Secondary School.

B. The following activities in SGVD R-4 zones shall require a special permit unless a property is exempt from such permitting requirements by state or federal law:

1. Any addition to the front or sides of a structure which increases its lot coverage, with the exception of non-enclosed decks (see I.B.1, above).
2. The conversion of any property or structure into a use other than a single-family dwelling;
3. The conversion of any multi-family dwelling into any other use than a single-family dwelling.

### III . LOT AND BUILDING REQUIREMENTS IN SGVD AREA ZONES IN R-4

A. Many lots and structures in the R-4 area of the Spring Glen Village District are non-conforming. The following regulations apply to all new construction and modification of existing structures. Among other goals, these regulations are designed to preserve a small-scale, residential appearance, architectural integrity and pedestrian safety of the neighborhood:

1. Accessory structures shall not be located in front of buildings;
2. No parking lot shall be permitted in any required front or side yards of a single or multifamily residence, or any building that once had a residential use. Note: this provision concerns parking lots but not driveways;
3. No drive-through window is permitted for any purpose, and no kiosk for retail sales or rentals is permitted;
4. No structure, whether by new construction or modification of an existing structure, shall exceed 35 feet in height measured to the middle-peak of the roof-line excluding chimneys, antennas and similar features;
5. All structures must have pitched roofs. Pitch must be at least 6/12;
6. If any structure is destroyed for any reason to an extent exceeding 50% of its assessed value, it may be rebuilt or replaced but in such cases rebuilding or replacement will be considered new construction and subject to all the provisions of the SGVD Overlay that apply to new construction.

### COMMERCIAL/MIXED USE ZONES

#### IV. PERMITTED USES IN SGVD AREAS ZONES FOR COMMERCIAL OR MIXED USE

A. The SGVD as it applies to non-residential zones is an overlay district for a commercial/mixed use district appropriate in uses and scale for Spring Glen.

B. The areas of the SGVD zoned for commercial/mixed use are bounded on the West side of Whitney Avenue by Park Avenue and Harmon Street, excluding the last lot on Harmon Street abutting Whitney Avenue, and on the East side of Whitney Avenue by Gilles Road and Haverford Street, excluding those lots adjacent to the south side of Haverford Street that are R 4. (See the SGVD Overlay Regulations Map for the location of commercial or mixed use areas in the SGVD). The purpose of the SGVD is to encourage appropriate development within Spring Glen's existing neighborhood commercial and mixed use areas by providing for limited retail, service, office, and multi-family development in a mixed-use district.

C. The following are the only uses and accessory uses allowed in the SGVD areas zoned for commercial or mixed use:

1. Allowed by Zoning Permit: Accessory Building; Business and Personal Service less than 1,500sf of gross leasable space; Family Day Care Home (Children); Roomers and Boarders; Student Housing; Retail less than

- 1,500sf of gross leasable space; and other uses which are required to be permitted by federal or state law;
2. Allowed by Site Plan: Accessory Use; Community Garden; Animals/Grooming; Veterinary Hospital; Cemetery; Catering Facility; Home Occupation; Single Family Accessory Dwelling Unit; Residence-Single family; Farmers Market; Telecommunications Facility;
  3. Allowed by Special Permit: Civic Club, lodge or Association (non-profit); Adult Day Care, Child Day Care, Nursery School and Group Day Care Home; Outdoor Café; Restaurant; Rehabilitation Facility-Out Patient less than 10,000sf of gross leasable space, Library and Museum; Bed and Breakfast; Office Building 1,500 to 10,000sf of gross leasable space; Place of Public Assembly; Place of Worship; Preservation of Historic Structure; Public Use and Public Utilities; Public Parking Lot; Recreation and Fitness less than 10,000sf of gross leasable space; Multi-Family Dwellings-Adaptive Reuse to Multi-Family; Multi-Family Dwellings-New Construction; Retail-1,500sf to 10,000sf of gross leasable space; Sale of Alcohol, Package Store; College and University (non-profit); Elementary and Secondary School.

D. The following limitations, which do not apply to currently existing non-conforming uses and structures, apply to all areas zoned for commercial or mixed use in SGVD:

1. A restaurant shall have a minimum seating capacity of 10 persons.
2. No business may operate between 11:00pm and 6:00am unless it is a restaurant that has a permit to serve alcoholic beverages by the drink and thus for consumption on the premises.
3. No drive-through window is permitted for restaurants or food service of any kind. Drive-through windows are permitted for banks, pharmacies and dry cleaners. No kiosk for retail sales or rentals is permitted.

## V. LOT AND BUILDING REQUIREMENTS IN SGVD AREAS ZONED FOR COMMERCIAL AND MIXED USE

A. The area zoned for commercial and mixed use in the SGVD is less homogeneous than the structures in the R-4 areas of the SGVD. In assessing the compatibility of a proposed structure, or modification of a structure, with the Spring Glen neighborhood in regard to such issues as its massing and site orientation, the Planning and Zoning Commission and the Spring Glen Village District Consultant should draw upon the commercial/mixed use district on the West side of Whitney Avenue from Park Avenue to Harmon Street, excluding the last lot on Harmon Street abutting Whitney Avenue. In regard to architectural style, proposed structures should compliment, rather than imitate, the architectural styles found in the commercial/mixed use district on the West side of Whitney Avenue from Park Avenue to Harmon Street, excluding the last lot on Harmon Street abutting Whitney Avenue. The present structures on the East side of Whitney Avenue from Gilles Road to Haverford Street shall not be used as a model or to establish standards for evaluating proposals in regard to such matters as massing, site orientation and style.

B. The following regulations apply to all areas zoned for commercial and mixed use in Spring Glen:

1. No building shall exceed 16,000 square feet in gross space whether it is one or two story, or has one or more than one use.
2. There shall be no more than four dwelling units per acre.
3. Buildings shall have pitched roofs: pitch must be at least 6/12.
4. Structures shall be one or two stories and no structure shall exceed 35 ft measured to the middle-peak.
5. Roof-top mechanical equipment should be shielded from view. The peak of a pitched roof on new structures should enclose roof-top mechanical equipment such as water tanks, air conditioners or elevator bulkheads wherever this is technically feasible. No mast, chimney or other structure shall extend more than 8 feet above a pitched roof.
6. A-frame signs are not permitted. The location of signage which is permitted by underlying zoning regulations

may be altered on the recommendation of the SGVD Village District Consultant in order to protect pedestrian and automotive safety, preserve public views (e.g., of architecturally significant or historically significant buildings) or for other reasons which fall under section I.A, above.

## RESIDENTIAL, COMMERCIAL AND MIXED USE

### VI. THE APPLICATION PROCESS

A. All applications for new construction, renovation, and/or substantial reconstructions of any structure or structures whether occupied or not that is within the SGVD shall be consistent with the distinctive characteristics of the district identified in the Hamden Plan of Conservation and Development, effective September 1, 2004, and subject to review and recommendation by a Village District Consultant who must be a registered architect, landscape architect, or certified planner with relevant experience and who is appointed by the Planning and Zoning Commission after consultation with town staff and neighborhood associations, to serve for a period of one year with the possibility of annual renewal.

B. The Village District Consultant shall review every application made in the SGVD which is not exempt under I.B. and report to the Planning & Zoning Commission within thirty-five days of receipt of the application. If the Village District Consultant finds that the application complies with the letter and intent of the SGVD Overlay Regulations the application shall proceed to the Zoning Enforcement Officer for the normal permitting process provided in the town-wide zoning regulations. If the Spring Glen Village District Consultant determines that an application is not consistent with the SGVD Overlay regulation, or the intent of the regulations, the matter will be referred to the Planning & Zoning Commission for further review. Such report and recommendations shall be considered by the Planning & Zoning Commission and entered into any public hearing record (e.g., a hearing regarding a Special Permit application) prior to the Planning & Zoning Commission making its decision on the application. Failure of the Village District Consultant to report within the specified times shall not alter or delay any other time limit imposed by the regulations.

The Planning & Zoning Commission may seek the recommendation of any town agency, regional agency or outside specialist with which it consults, including, but not limited to: the regional planning agency; the municipality's historical society; the Connecticut Trust for Historic Preservation; and The University of Connecticut College of Agriculture and Natural Resources. Any reports or recommendations from such agencies or organizations shall be entered into the public hearing record.

If the Planning & Zoning Commission grants or denies an application, it shall state upon the record the reasons for its decision. If the Planning & Zoning Commission denied an application, the reason for the denial shall cite the specific regulations under which the application was denied. Notice of the decision shall be published in a newspaper having a substantial circulation in the municipality. An approval shall become effective in accordance with subsection (b) of C.G.S. §§ 8-3c.

### VII. INFORMATION REQUIRED IN APPLICATIONS

A. The following information, in addition to the information listed in Special Permit Uses, sec. 8.6; Site Plan Approval, sec. 8.8; and Zoning Permits, sec 8.29.1, shall be required for all permit applications within the SGVD:

1. Detailed drawings showing site plan, roof plan, floor plans, exterior elevations, sections, and three-dimensional views to determine compatibility with the local architecture and a harmonious relationship with the sur-

rounding neighborhood;

2. Building elevations and façades, including a description of materials, color, and texture of all major building materials including roof treatments;
3. The design, choice of paving materials, and placement of public walkways, roadways, passageways, and open plazas;
4. Pedestrian and vehicular circulation, including a detailed site plan indicating size and species of proposed plantings.

B. In addition, submission of the following information shall be required for all applications in the commercial or mixed use zone:

1. Details showing design, size, color, texture, and type of materials being used for such elements as light fixtures, light poles, street furniture, bicycle parking elements, and walkways, so that such features are complementary with the architecture of the neighborhood;
2. Signs, including details showing design, size, color, texture, and type of materials being used;
3. A pedestrian and automobile circulation plan which includes siting of building(s) to minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties, and pedestrian safety;
4. Utilities, including designs which hide from pedestrian view utilities, loading docks, dumpsters, and other service equipment or service entrances, as well as designs which screen rooftop equipment, including but not limited to, air handling units, satellite dishes, and exhaust stacks;
5. Features related to human activity and safety, ensuring that entrances, porches, balconies, seating, and other elements promote use of the street front and provide places for neighborly interaction;
6. Any other elements that the Planning & Zoning Commission deems are appropriate to review in order to protect the distinctive character of the SGVD.

## VIII. CRITERIA FOR ASSESSING APPLICATIONS

A. Any application for new construction, renovation, substantial reconstruction, or rehabilitation of any structure, property or properties within the SGVD will be evaluated based upon the following criteria:

1. Impact on Public Views. The Planning & Zoning Commission shall consider the design, relationship, and compatibility of structures, plantings, signs, roadways, street hardware, and other objects in public view.
2. Standards in Other Sources. The Planning & Zoning Commission shall follow the conditions and goals identified in the “Hamden Plan of Conservation and Development 2004” (effective September 1, 2004) at pages 118, 125, and 131, and any amendments to the Hamden Plan of Conservation and Development 2004 regarding Spring Glen. In applications the Spring Glen Village District Consultant or the Planning and Zoning Commission deem appropriate, the “Connecticut Historical Commission – The Secretary of Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings” revised through 1990, as amended, may provide criteria of evaluation.
3. Statutory Standards. Applications shall comply with any and all specific standards and criteria set forth in applicable provisions of the Connecticut General Statutes, including but not limited to those in C.G.S. §8-2j.
4. Additional Standards and Criteria. Applications shall also be evaluated by the standards and criteria listed below:
  - a. The scale, proportion, massing, and detailing of any proposed building shall be in proportion to the scale, proportion, massing, and detailing of the district;
  - b. The proposed structure or modification to an existing structure shall be harmoniously related to its surroundings, to the terrain in the part of the SGVD in which it is located, and to the use and architecture of existing buildings in the vicinity that have a functional or visual relationship to the proposed building or modification;

- c. The building and layout of a building and included site improvements shall reinforce existing buildings and streetscape patterns, and the placement and uses of a building and included site improvements shall not adversely impact pedestrian safety;
- d. Proposed private roadways shall connect to the town road network wherever possible, and open spaces within any proposed project shall reinforce open space patterns of the district in form and siting;
- e. The preservation of homes with significant architectural features shall take high priority in evaluating proposals;
- f. The demolition, removal, or any other form of significant disruption or visual obstruction of structures with historical and/or traditional architectural elements shall be avoided;
- g. In the commercial or mixed use zone, exterior signs, site lighting, accessory structures and landscaping shall work harmoniously with the existing architectural styles in the SGVD Overlay zone (which include buildings in the Colonial, Colonial Revival, Greek Revival and Tudor styles), and be compatible with their surroundings;
- h. In the commercial or mixed use zone, utilities and other features shall be screened from pedestrian and most vehicular views where possible.

B. The Planning & Zoning Commission shall state on the record the reasons for any decision and, if the Planning & Zoning Commission denies an application, it shall cite the specific regulations under which the application was denied.

[See Spring Glen Village District map.]

