

SECTION 52 - SPECIAL EXCEPTIONS (Zoning Commission)

- 52.1 General: In accordance with the procedures, standards and conditions hereinafter specified, the Zoning Commission may approve a SPECIAL EXCEPTION in a district where such uses are listed, except such SPECIAL EXCEPTION uses as are subject to the approval of the Board of Appeals under Section 53. All requirements of this Section are in addition to other requirements applicable in the district in which the SPECIAL EXCEPTION use is to be located.
- 52.2 Purpose: Uses permitted as SPECIAL EXCEPTION uses subject to the approval of the Zoning Commission are deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards of this Section. SPECIAL EXCEPTION uses that may be permitted in a district are unusual uses that under favorable circumstances will be appropriate, harmonious and desirable uses in the district but that possess such special characteristics that each use should be considered as an individual case.
- 52.3 Application: Application for a SPECIAL EXCEPTION shall be submitted in writing to the Zoning Enforcement Officer, shall be accompanied by an APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE and shall also be accompanied by the following:
- 52.3.1 Statement of Use: a written statement describing the proposed use in sufficient detail to determine compliance with the use provisions of these Regulations and the performance standards of Section 61; four (4) copies shall be submitted.
- 52.3.2 Site Plan: four (4) copies of a site plan, in accordance with the provisions of Section 8 and Section 5 1.
- 52.3.3 Architectural Plans: four (4) copies of architectural plans, which may be in preliminary form, in accordance with the provisions of Section 8.
- 52.3.4 Soil Erosion and Sediment Control Plan: four (4) copies of a Soil Erosion and Sediment Control Plan, in accordance with the provisions of Section 67.
- 52.3.5 Modification of Submission: The Zoning Commission, upon written request by the applicant, may by resolution a) determine that the required submission of all or part of the information required under Par. 52.3.2 and 52.3.3 is not necessary in order to decide on the APPLICATION and need not be submitted, or b) determine that such information is deferred for submission and decision at a later date.
- 52.4 Procedure: Upon receipt, the Zoning Office shall transmit the application and accompanying plans and documents to the Zoning Commission; and shall also transmit three (3) copies thereof to the Planning Commission and three (3) copies thereof to the

Architectural Review Board. A copy of any site plan and Soil Erosion and Sediment Control Plan may be transmitted by the Zoning Office to the Middlesex County Soil and Water Conservation District with a request for its technical review and advisory opinion, and for certification in accordance with Section 67; a copy of any site plan and Control Plan pertaining to a lot in a Conservation Zone shall be so transmitted to the District for such review and opinion. Within 45 days after the receipt of a copy of the application, plans and documents, the Planning Commission and the Architectural Review Board may submit advisory reports of its recommendations to the Zoning Commission. The Zoning Commission may request the applicant to submit such additional information that it deems necessary in order to decide on the application. The Zoning Commission shall hold a public hearing on the application, shall decide thereon and give notice of its decision as required by law. The applicant may consent in writing to any extension of the time for public hearing and action on the application.

52.5 Approval: After the public hearing the Zoning Commission may approve a SPECIAL EXCEPTION if it shall find that the proposed use and the proposed buildings and structures will conform to the General Standards, in addition to any Special Standards for particular uses, hereinafter specified. Approval of an application under this Section shall constitute approval conditioned upon completion of the proposed development, in accordance with plans as approved, within a period of two (2) years after the date of approval of the APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE. One extension of such period for an additional period not to exceed one (1) year may be granted by the Zoning Commission for good cause. All SPECIAL EXCEPTIONS may be approved subject to appropriate conditions and safeguards necessary to conserve the public health, safety, convenience, welfare and property values in the neighborhood.

52.6 General Standards: The proposed use and the proposed buildings and conform to the following General Standards:

52.6.1 Character: The location, type, character and extent of the use and of any building or other structure in connection therewith shall be in harmony with and conform to the appropriate and orderly development of the Town and the discourage the appropriate development and use of adjacent property or impair the value thereof.

52.6.2 Fire Protection: The nature and location of the use and of any building or other structure in connection therewith shall be such that there will be adequate access to it for fire protection purposes.

52.6.3 Access: Provision shall be made for vehicular access to the lot in such a manner as to avoid undue hazards to traffic or pedestrians and undue traffic congestion on any street. Provision shall be made for appropriate continuation and improvement of streets terminating at the lot where the use is to be located.

52.6.4 Lot Size: The lot on which the use is to be established shall be of sufficient size and adequate dimension to permit conduct of the use and provision of buildings,

other structures and facilities in such a manner that will not be detrimental to the neighborhood or adjacent property.

52-6.5 Neighborhood: The site plan and architectural plans shall be of a character as to harmonize with the neighborhood, to accomplish a transition in character between areas of unlike character, to protect property values and to preserve and enhance the appearance and beauty of the community.

52-6.6 Other: The site plan and architectural plans shall also conform to the applicable standards of Section 5 1.

52.7 Special Standards: The proposed use and the proposed buildings and structures shall also conform to the following Special Standards:

52.7.1 Roadside Stands: Roadside stands shall be established only for the display and sale of farm products grown on the premises where the stand is located, shall not exceed a maximum ground coverage of 400 square feet, shall observe all setbacks required for buildings and other structures and shall be provided with at least one (1) off-street parking space for each 50 square feet of ground coverage.

52.7.2 Day Nurseries: Day nurseries shall conform to the following Special Standards:

- a. The use shall be limited to daytime group care programs for children.
- b. The application shall be accompanied by a report from the Director of Health of the Town attesting that the proposed location, site plan, buildings and facilities comply in all respects to applicable Town and State health laws and regulations and will be adequate, safe and suitable for the intended use.
- c. The SPECIAL EXCEPTION shall be granted for a limited period of time not to exceed five (5) years.

52.7.3 Convalescent Homes and Hospitals: Convalescent homes, private hospitals and sanatoria shall be licensed by the State of Connecticut and shall conform to the following Special Standards:

- a. In AAA and AA- I Districts, the use shall be located on a lot having a minimum area of ten (10) acres and there shall be no more than one (1) patient bed for each 10,000 square feet of lot area; in AA-2, A, B and B-3. Districts, the use shall be located on a lot having a minimum area of five (5) acres, and there shall be no more than one (1) patient bed for each 5,000 square feet of lot area; in B-4 District, the use shall be located on a lot having a minimum area of ten (10) acres, and there shall be no more than one (1)-patient bed for each 2,500 square feet of lot

area; in I-I Districts, the use shall be located on a lot having a minimum area of fifteen (15) acres and there shall be no more than one (1) patient bed for each 5,000 square feet of lot area.

- b. No building or other structure established in connection with such use shall extend within less than 100 feet of any property or street line.
- c. The use shall be served by public water supply.
- d. The use shall comply in all respects to applicable laws and regulations of the State of Connecticut.
- e. The application shall be accompanied by a report from the Director of Health of the Town attesting to the adequacy of the proposed location, site plan, buildings and facilities for the intended use.
- f. The application shall be accompanied by a report from the Fire Marshall attesting as to the safety of the proposed location, site plan, buildings and facilities.

52.7.4 Clubs: Golf, tennis, swimming or similar clubs shall be located on a lot of not less than 10 acres, and no building, structure or recreation facility established in connection with such use shall extend within less than 100 feet of any property or street line.

52.7.5 Commercial Kennels and Stables: Commercial kennels, livery and boarding stables and riding academies shall be located on a lot of not less than five (5) acres. Dogs shall be kept in buildings, enclosures or runs located not less than 150 feet from any property or street line. Any building in which livestock are kept shall be located not less than 100 feet from any property or street line.

52.7.6 Public Utility Substations: Public utility substations and telephone equipment buildings located in Residence or B-3 Districts shall conform to the following Special Standards:

- a. Any building in connection with the use shall have a design which is in harmony with residential architecture in the neighborhood.
- b. Any equipment or utility facilities not located in a building shall be enclosed on all sides by evergreen shrubs or trees, or by buildings, fences, walls or embankments so as to be screened from view from any other lot or from any street.

52.7.7 B-3 Districts: In Business B-3 Districts, a SPECIAL EXCEPTION use which is to be established by addition to, extension of, or alteration of an existing

building originally designed as a house shall preserve the character of the existing building, as a house.

52.7.8 Conservation Zone: The following shall be applicable to additional height and special setbacks for which a SPECIAL EXCEPTION may be approved in a Conservation Zone:

- a. the building features for which additional height may be approved under Par. 7.3 shall not be used for human occupancy and shall not occupy more than 10% of the area of the roof.
- b. the additional height under Par. 7.3 and the special exemptions under Par. 7.4.9 shall be compatible with the preservation of the natural and traditional riverway scene in the Conservation Zone and the purposes of Public Act 73-349.

52.7.9 Heliports: Any heliport shall be a private heliport for non-scheduled periodic landing and takeoff of rotor-craft, shall be accessory and incidental to another permitted use on the lot and shall conform to the regulations of State and Federal agencies having jurisdiction over aircraft landing and takeoff facilities and use of airspace.

52.7.10 Dwellings for Elderly and/or Handicapped Persons: Dwellings for elderly and/or handicapped persons shall conform to the following Special Standards:

- a. Such dwellings shall be owned by a non-profit corporation, established under the laws of the State of Connecticut for the specific purpose of owning, constructing and operating such dwellings. A copy of the articles of incorporation, as well as a copy of a management plan, shall be submitted with the application for a SPECIAL EXCEPTION.
- b. Such dwellings and dwelling units shall be designed and equipped specifically to meet the special needs of elderly and/or handicapped persons, and each dwelling unit shall be occupied by at least one (1) person who is either 62 years of age or older and/or is physically handicapped. The management plan shall include a provision that a surviving spouse under the age of 62 may be permitted to remain in the complex.
- c. Such dwellings may i) contain not less than two (2) nor more than eight (8) dwelling units or ii) consist of one or more clusters of up to six (6) single detached dwellings per cluster for one (1) family. No dwelling unit shall contain more than two (2) bedrooms. Each one- bedroom dwelling unit shall contain not less than 400 square feet of enclosed floor space and each two-bedroom dwelling unit shall contain not less than 550 square feet of enclosed floor space. No separate dwelling unit

shall be located above any other dwelling unit unless such upper unit has at-grade access (principal door sill not more than 24 inches above the grade of the adjoining land).

- d. Such dwellings shall be located on a lot having a minimum area of two (2) acres that have an average seepage rate of one (1) inch in 10 minutes or less. Dwellings shall be located on suitable building land on the lot, and the total number of dwelling units shall not exceed 12 per acre of land having the above seepage rate. All such dwellings shall be served by public water supply.
- e. No such dwelling, or building or structure accessory thereto, shall extend within less than 25 feet of any street line or property line, and no parking spaces or access aisles in connection therewith shall extend within 25 feet of any street line or within 15 feet of any property line. No such dwelling shall extend within less than 15 feet of any other dwelling on the lot.
- f. The use may include accessory community rooms and facilities for the use of the occupants of the dwellings, as well as utility and maintenance buildings and facilities necessary for support of the dwellings on the lot.

52.7.11 Marine Research Laboratories: Any marine research laboratory for the study of aquatic and marine environment, ecology and resources, to be located in the MC or MCL District, shall also conform to the following Special Standards:

- a. The laboratory activity shall have need for and actually use access from the lot to Long Island Sound or the Connecticut River by boat or other vessels in connection with its primary study activities.
- b. Such access by boat or other vessel to the Sound or River shall be of a type, character and extent that is in harmony with and conforming to the appropriate and orderly use of the Sound or River by boating and fishery uses permitted in the District.

52.7.12 Radio Towers: Radio towers for Standard Broadcasting Radio Stations must be used in connection with a radio station located completely within the Town of Old Saybrook.

52.7.13 Residential Life Care Facility: Any Residential Life Care Facility shall also conform to the following Special Standards:

- a. The Residential Life Care Facility shall consist of a dwelling or dwellings containing dwelling units having one (1) or two (2) bedrooms, and the units shall be designed and equipped specifically to meet the special needs of elderly persons. Each dwelling unit shall be occupied by

at least one (1) person who is either 60 years of age or older. The management plan required under Par. 52.7.13f may include provision that a surviving spouse under the age of 60 may be permitted to remain in the dwelling unit.

- b. The Residential Life Care Facility shall provide the following facilities and services in the dwelling or building on the lot for use by or benefit to of all residents of the facility and their guests:
 - i. a medical facility which shall be equipped to provide medical and other health related services:
 - ii. an on-site convalescent facility providing intermediate and skilled nursing care, said facility to have a minimum bed capacity of 30% of the residential dwelling units. The medical facility will be administered by the Condominium Association and beds will be used by the life care residents. The bed count will have no effect on the twelve (12) units per acre density.
 - iii. common areas shall contain a dining room, kitchen, lobby, library, gift shop, beauty salon/barber shop, craft/hobby shop, chapel and health club. An emergency generator system capable of providing emergency power to both the residential and the medical facility, and a fully equipped physical therapy room available to both residents of the life care building and the medical facility shall be provided on site; and shall include:
 - iv. food service, housekeeping assistance, a full-time health counselor, a full-time social director, 24 hour on-site licensed nursing, a Medical Director or licensed physician on call 24 hours a day, transportation services, home health care or other medical services, and a fully integrated 24 hour Security system and fire alarm system with individual unit as well as full facility alerting capability.
- c. The Residential Life Care Facility shall be located on a lot having a minimum of eight (8) contiguous non-wetland acres. The lot shall have a minimum frontage of 300 feet on a street and shall be of such a shape that a square with a minimum dimension of 450 feet will fit on the lot. The total number of dwelling units shall not exceed 12 per acre of lot area, and the facility shall be served by public water supply.
- d. The Residential Life Care Facility buildings and structures shall exceed neither a height of 35 feet nor two (2) stories plus a half story under a pitched or gambrel roof; when located outside the Conservation Zone,

the total floor area of all buildings and other structures on the lot may be increased to 50% of the lot area outside such zone.

- e. Each one bedroom dwelling unit in the Residential Life Care Facility shall contain not less than 800 square feet of enclosed floor space and each two bedroom dwelling unit shall contain not less than 1,000 square feet of enclosed floor space.
- f. A management plan specifying the occupancy, facilities, services and administration for the Residential Life Care Facility shall be submitted with the application for SPECIAL EXCEPTION. The facility shall be in condominium ownership, and a copy of the declaration specified in Sec. 47-70 and 47-220 of the General Statutes of the State of Connecticut, as amended, and proposed to be filed in the office of the old Saybrook Town Clerk, shall also be submitted with the application.

52.7.14 Bed and Breakfast: A bed and breakfast transient lodging use consists of a room or rooms for overnight accommodation of visitors in a dwelling, including service of breakfast to such visitors, and the use is subject to the following Special Standards-

- a. The dwelling shall be located on a lot in the Residence AA-2 or A District or the Central Business B-1, Shopping Center Business B-2, Restricted Business B-3 or General Business B-4 District.
- b. The owner of the dwelling shall reside on the premises, and the premises shall be the principal place of residence of such owner.
- c. The dwelling shall have a minimum floor area of 2,000 square feet and shall be found to be capable of accommodating such rooms for transient visitors based on interior arrangement, size, structural condition and mechanical equipment. There shall be no more than four (4) such rooms in the dwelling and each room shall be limited to double occupancy. One (1) full bathroom shall be provided for each two (2) rooms for transient visitors. Not less than 750 square feet of the dwelling shall be reserved and assigned as the dwelling unit for occupancy by the owner of the premises.
- d. The Use, including any modification or additions to the dwelling, shall preserve the architectural style and integrity of the building as a dwelling and any stairways for access to floors above ground level shall be located inside the dwelling. In the event that the dwelling is an historic structure as defined in Section 9, the use, including any modifications to the dwelling, shall not preclude the structure's continued designation as an historic structure.

- e. In addition to off-street parking spaces required for other uses on the lot, one (1) off-street parking space shall be provided for each room for transient visitors, and in Residence Districts, no such parking spaces shall be located in the area required for building setback from a street line and in Business Districts such parking spaces shall be located as specified in Par. 62.7.4.
- f. The dwelling shall be served by public water supply. The sewage disposal system, existing or as proposed to be modified to serve the proposed use, shall be approved by the Director of Health of the Town of old Saybrook. The transient lodging occupancy shall be approved by the Town Fire Marshal.
- g. Occupancy of rooms for transient lodging by any person shall not exceed 14 consecutive days in the 90-day period commencing with the day of first occupancy. Meals for occupants Of such rooms shall be limited to breakfast only.
- h. In determining the appropriate number of rooms to be permitted on a lot in a Residence District the Commission shall be guided by the following:
- i. A dwelling on a lot of at least 20,000 square feet may contain no more than two (2) such rooms or a dwelling on a lot of at least 30,000 square feet may contain no more than three (3) such rooms or a dwelling on a lot of 40,000 square feet or more may contain no more than four (4) such rooms.

The Commission may modify the above lot area standards to allow more or fewer rooms based upon, but not limited to, such factors as the size and shape of the lot, the more distant or closer proximity of dwelling on other lots and across the street and the provision for and layout of off-street parking in a manner supporting the residential character of the neighborhood, including screening therefor. In any event, there shall be no more than four (4) such rooms in the dwelling.

- i. No such bed and breakfast transient lodging use is permitted in a dwelling where rooms are rented as provided in Par. 8.7.

In the event of any change in ownership of the lot where an approved bed and breakfast use is located, the new owner, before continuation of the operation of the use, shall submit an APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE and the APPLICATION shall be approved and CERTIFICATE issued by the Zoning Enforcement Officer when the officer determines that the continued use

will be in compliance with these Regulations and the original Special Exception requirements for the lot.

52.7.15 Adult Entertainment Businesses: The purpose of this section is to regulate uses which, because of their nature, are recognized as having potentially serious objectionable operational characteristics, particularly when concentrated under certain circumstances, thereby having a deleterious effect upon surrounding areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These regulations prevent clustering of these uses in any one location and thereby protect health, safety, general welfare, and property values in the Town of Old Saybrook. In addition to conforming to standards elsewhere in these regulations, any Adult Entertainment Business shall also conform to the following Special Standards:

- a. Specific Concerns: An adult entertainment business, as defined in Section 9, Definitions, may be approved by special exception in a Business B-4 District only, provided the following standards and criteria are met in addition to the standards, criteria, and conditions stated elsewhere in Section 52.7.15:
 - i. No lot containing such adult entertainment business shall be located within 250 feet of a district which, pursuant to these regulations and the Zoning Map of the Town of Old Saybrook is classified AAA, AA- 1, AA-2, AA-3, A, B, B-1, B-2, B-3, 1-1, MC, MCL or Saybrook Point District.

No lot containing such adult entertainment business shall be located within 1000 feet of an adjacent municipality.
 - iii. No lot containing such adult entertainment business shall be established within 1000 feet of another such business.
 - iv. No lot containing such adult entertainment business shall be located within 1000 feet of the property line of any public, private, or parochial school, day-care center, library, park, playground, or other recreational facility, whether commercial or non-profit, or any other area where numbers of minors regularly travel or congregate, in any zone. Nor shall any such business be located within 1000 feet of the property line of any church, convent, monastery, synagogue, or other similar place of worship, or cemetery.
 - v. For purposes of this section, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the lot containing or proposing to

contain an adult entertainment business use to the nearest boundary of the uses specified in i, ii, iii and iv above.

- vi. In businesses where the adult entertainment section accounts for less than 10% of a business stock in trade, display space, or floor space, the adult entertainment section of the business shall be secluded from the principle section of the business in a manner acceptable to the Zoning Commission.
 - vii. No accessory apartment or apartments or other dwelling units shall be permitted on the premises of an adult entertainment business.
 - viii. In accordance with Connecticut General Statutes B-6, these regulations (Section 52.7.15, inclusive) shall not be varied by the Zoning Board of Appeals to permit an adult entertainment business.
- b. Application Procedure: Application for a permit for an adult entertainment business shall be made to the Zoning Commission in accordance with sections 34, 51 and 52.7.15, demonstrating compliance with these sections.
- c. Required Renewal: Renewal of adult entertainment businesses is required in January of each calendar year and shall conform to the following standards:
- i. Purchasers of buildings that have had Special Exceptions for adult entertainment businesses who want to continue the Special Exception shall obtain a zoning permit and demonstrate that all conditions prerequisite to obtaining the relevant permit have been met prior to the continued operation of the adult entertainment business.
 - ii. Any such renewal shall be referred to the Zoning Commission for consideration. The Zoning commission, in its sole discretion, may require a new application and a demonstration of compliance with all conditions necessary for a Special Exception prior to the continued operation of the adult entertainment business.